

THE SHADOW DOCKET

One of the few perks I have here at Emptywheel is being able to say what I think. I think you should go buy and read *The Shadow Docket* by Steve Vladeck.

Mr. Vladeck has been intoning this for a long time. Here he was back in November 2019:

“But insofar as this description is accurate, it is not obvious that it is a positive development. Among other things, such an approach is radically out of kilter with the Court’s approach to the rest of its docket. The Justices have repeatedly emphasized, especially lately, that “[o]urs is ‘a court of final review and not first view,’”²⁰ and for good reason. By waiting for most cases to go through multiple layers of review by lower courts (and, often, multiple cases going through those multiple layers), the Court gives itself the benefit of multiple rounds of briefing and argument – and, usually, lower court rulings – on which to base decisions to grant certiorari and, if necessary, analysis of the merits. To abandon this norm only in cases in which the federal government is the complaining party is to invite serious objections grounded in fairness and equity – and to necessarily tilt the Court’s limited resources toward an undoubtedly important, but importantly narrow, class of disputes. Worse still, such a shift gives at least the appearance that the Court is showing favoritism not only for the federal government as a party, but for a specific political party when it’s in control of the federal government.”

True then, and increasingly so now. In the age of the internet, books are given short shrift.

But they are still vital and important. Sales of books, especially early, are vitally important. This is a book that is important, and quite affordable. If you can, please go give Steve a bit of support, he is a pretty decent chap and, hopefully, a friend.