



Written by [Bob Adelman](#) on January 30, 2024

Supreme Court “Fast-tracks” Trump Ballot Question

The Supreme Court, in a rare move, agreed to hear Trump’s complaint over the ruling by Colorado’s Supreme Court [during its normal “break” period](#).

The high court’s term runs from early October through the end of June the following year, with a breather taken between late January and the middle of February. This year is different, thanks to a gross misreading of the 14th Amendment by Donald Trump’s enemies, who are moving Heaven and Earth to keep him out of the White House for a second term.



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On January 5, the Supreme Court agreed to hear Trump’s complaint in [Anderson v. Griswold](#), with oral arguments scheduled for February 8.

Numerous complaints were filed in various courts in failed attempts to keep Trump off the primary ballot in a number of states. All were dismissed except for Colorado. A lower court ruled that Section 3 of the 14th Amendment didn’t apply to Trump, but on appeal the state’s high court overturned that ruling.

To be clear, the six plaintiffs in the case against Trump were recruited by the far-left Citizens for Responsibility and Ethics (CREW). Other attempts by CREW have failed in other states, but in Colorado their case found traction in a court that was willing to break the rules, ignore history, and distort the original intended meaning of the 14th Amendment.

That is what makes the high court’s ruling against Colorado and for Trump almost inevitable.

First, the case takes precedence over several other high-profile cases the Supreme Court is considering this term, including a Texas case concerning so-called red flag laws, a New York case concerning the abuse by state officials who pressured financial institutions to not do business with the National Rifle Association (NRA), and cases in Texas and Florida contesting whether states can bar social-media companies from censoring online content.

Second, the abuse of the language from Section 3 of the 14th Amendment to make the case against Trump is so transparent that the high court should be able to make short work of the matter, well before Super Tuesday. On March 5, 16 states hold their primaries, and the high court will have its decision announced long before that date, thus ending debate on the matter across the land.

Here is the contested Section 3 language from the 14th Amendment:

Section 3: Disqualification from Holding Office

No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial



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officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Here's the relevant part that CREW hoped to use to keep Trump off Colorado's primary ballot:

No person shall ... hold any office ... under the United States ... who, having previously taken an oath ... as an officer of the United States ... shall have engaged in insurrection or rebellion against the same.

According to CREW, Trump held the office of president. He took an oath. He engaged in insurrection. Game over. The Deep State can relax.

However, there's more to be said about the flaws in this argument. Much more. From the complaint:

QUESTION PRESENTED

The Supreme Court of Colorado held that President Donald J. Trump is disqualified from holding the office of President because he "engaged in insurrection" against the Constitution of the United States — and that he did so after taking an oath "as an officer of the United States" to "support" the Constitution.

The state supreme court ruled that the Colorado Secretary of State should not list President Trump's name on the 2024 presidential primary ballot or count any write-in votes cast for him.

The question presented is: Did the Colorado Supreme Court err in ordering President Trump excluded from the 2024 presidential primary ballot?

Trump's attorneys, including Harmeet Dhillon and Scott Gessler, challenged the basic underlying assumption in CREW's case:

On December 19, 2023, the Colorado Supreme Court ordered President Donald J. Trump — the leading Republican candidate for president — removed from the presidential primary ballot based on a dubious interpretation of section 3 of the Fourteenth Amendment.

Efforts are underway in more than 30 states to remove President Trump from the primary and general-election ballots based on similar rationales.

Yet it is a "fundamental principle of our representative democracy,' embodied in the Constitution, that ... 'the people should choose whom they please to govern them.'" [Case cited]

They called out CREW for its disingenuous efforts to remove Trump:

The Court should put a swift and decisive end to these ballot-disqualification efforts, which threaten to disenfranchise tens of millions of Americans and which promise to unleash chaos and bedlam if other state courts and state officials follow Colorado's lead and exclude the likely Republican presidential nominee from their ballots.



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They summed up their position:

The Court should reverse the Colorado decision because President Trump is not even subject to section 3, as the President is not an “officer of the United States” under the Constitution.

And even if President Trump were subject to section 3 he did not “engage in” anything that qualifies as “insurrection.”

The Court should reverse on these grounds and end these unconstitutional disqualification efforts once and for all.

They laid the wood to CREW’s claim that President Trump was an “officer” of the United States, as that word is used in the Constitution:

The Constitution’s text and structure make clear that the president is not an “officer of the United States.”

This phrase “officer of the United States” appears in three constitutional provisions apart from section 3, and each time the president is excluded....

The president does not (and cannot) appoint or commission himself, and he cannot qualify as an “officer of the United States” when the Constitution draws a clear distinction between the “officers of the United States” and the president who appoints and commissions them.

But didn’t Trump take an “oath”?

Then there is the fact that section 3 applies only to those who took an oath to “support” the Constitution of the United States — the oath required by Article VI. [See U.S. Const. art. VI, § 3 (“The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution”).

The president swears a different oath set forth in Article II, in which he promises to “preserve, protect, and defend the Constitution of the United States” — and in which the word “support” is nowhere to be found.

Wasn’t there an “insurrection?”

The Court should also reverse because President Trump did not “engage in insurrection.”

The Colorado Supreme Court tried to impute the conduct of others to President Trump. But the Anderson litigants [the plaintiffs recruited by CREW] needed to show that President Trump’s own conduct qualified as “insurrection,” and they cannot make that showing when President Trump never participated in or directed any of the illegal conduct that occurred at the Capitol on January 6, 2021.

In fact, the opposite is true, as President Trump repeatedly called for peace, patriotism, and law and order...



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The Court should also reverse because nothing that President Trump did in response to the 2020 election or on January 6, 2021, even remotely qualifies as “insurrection.”

No prosecutor has attempted to charge President Trump with insurrection under 28 U.S.C. § 2383 in the three years since January 6, 2021, despite the relentless and ongoing investigations of President Trump.

And for good reason: President Trump’s words that day called for peaceful and patriotic protest and respect for law and order.

The attorneys made other forceful and persuasive arguments in their lengthy brief, but these are the salient points that the Supreme Court is most likely to use in tossing this attack on Trump and on Americans’ right to vote for the candidate of their choice.



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