

As court defeats multiply

Trump continues drive to nullify election

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President Donald Trump continued to press his efforts to overturn the 2020 election result and suppress millions of votes, despite a series of legal defeats and political setbacks in six closely contested states won by Democrat Joe Biden.

Trump announced he would appeal a devastating federal court ruling in Pennsylvania, where a conservative federal district judge—a former Republican Party official—denounced the Trump campaign for seeking to disenfranchise more than six million voters on the basis of zero evidence.

Judge Matthew Brann granted a request from Pennsylvania Secretary of State Kathy Boockvar to dismiss the Trump suit, issuing a 37-page opinion that characterized Trump’s legal arguments as a “Frankenstein’s Monster” stitched together from irreconcilably opposed legal theories without any effort to reconcile them.

“This Court has been presented with strained legal arguments without merit and speculative accusations, unpled in the operative complaint and unsupported by evidence,” Brann wrote. “In the United States of America, this cannot justify the disenfranchisement of a single voter, let alone all the voters of its sixth most populated state. Our people, laws, and institutions demand more.”

“This Court has been unable to find any case in which a plaintiff has sought such a drastic remedy in the contest of an election, in terms of the sheer volume of votes asked to be invalidated,” he continued, “One might expect that when seeking such a startling outcome, a plaintiff would come formidably armed with compelling legal arguments and factual proof of rampant corruption... That has not happened.”

While Trump’s lawyers sneered that Brann was an “Obama-appointed judge,” he is actually a former Republican Party chairman and member of the conservative Federalist Society, appointed under the auspices of Senator Pat Toomey, the state’s lone Republican statewide officeholder. Toomey praised Brann as “a longtime conservative Republican whom I know to be a fair and unbiased jurist.”

The Trump campaign filed notice with the US Court of Appeals for the Third Circuit in Philadelphia against Brann’s decision. Chief Trump attorney Rudy Giuliani said the case should ultimately be decided by the US Supreme Court, which has a 6–3 right-wing majority, including three justices appointed by Trump himself.

The appeal will not stop the state of Pennsylvania from

certifying Biden’s victory in the state, with its 20 electoral votes, most likely on Monday, when county election officials formally report their results to Secretary of State Boockvar. Biden won Pennsylvania by more than 80,000 votes, twice Trump’s margin when he carried the state in 2016 against Hillary Clinton.

As in several other court actions it has filed, the Trump campaign in Pennsylvania dispenses with the wild claims of massive fraud made by Giuliani and other lawyers at press conferences. Instead, it focuses on the fact that counties used different standards in treating mail-in ballots, particularly in allowing voters to “cure” technical errors such as a failure to sign the outer envelope of the mail ballot.

The purpose of this legal argument is to invoke the “equal protection” doctrine devised by ultra-right Justice Antonin Scalia in the notorious *Bush v. Gore* decision, which awarded the presidency to the Republican candidate in 2000. Scalia claimed that the court could step in and suppress vote-counting in Florida on the grounds that different counties had used different standards in the handling of ballots with “hanging chads.”

This argument was so specious that the 5–4 right-wing majority insisted that it should not serve as a precedent for any future decision. But Trump’s attorneys have frequently sought to invoke it this year, since it provides a means for the Supreme Court to intervene and overturn the actions of state authorities in certifying their electoral votes.

Another tactic is being employed in Michigan, which Biden won by an even larger majority, more than 150,000 votes. Trump and the Republican Party are putting enormous pressure on Republican members of the Board of State Canvassers, which meets today to receive and approve the certification of the votes by the state’s 83 counties.

The Trump campaign has sought to elevate minor discrepancies in vote tallying in Wayne County, the state’s most populous county, in order to invalidate the nearly 800,000 votes cast there. The discrepancies are truly minor—357 votes out of 250,000 cast in the city of Detroit. Notably, one Republican official offered to certify the votes in the largely white Wayne County suburbs—which have similar small discrepancies—so long as the votes in Detroit, which is 80 percent African American and 95 percent Democratic, were thrown out.

The Trump campaign hopes that the two Republicans on the four-member state panel will force a 2–2 deadlock. Republican National Committee Chair Ronna McDaniel and the state

Republican Party appealed to the board to postpone action for two weeks, which would take it perilously close to the Dec. 8 deadline for certifying Michigan's 16 votes in the Electoral College.

During this period, further pressure would be applied to the leaders of the Republican-controlled state legislature to nominate a pro-Trump slate of electors, which would be substituted for the Biden slate elected by the voters. Trump met with Michigan state legislative leaders Friday but so far has not gained their support for this brazenly unconstitutional and anti-democratic maneuver.

In a tweet Saturday night, Trump openly embraced this stratagem. "Hopefully," he wrote, "the Courts and/or Legislatures will have the COURAGE to do what has to be done to maintain the integrity of our Elections, and the United States of America itself."

But the conservative *Detroit News* published an editorial calling on the Board of State Canvassers to certify Biden's victory and only 75 Trump supporters turned out for a rally at the state Capitol Saturday.

In the four other states where Trump is seeking to overturn Biden's victory at the polls, both legal and political moves appear to have failed.

In **Georgia**, a hand recount concluded Friday with the certification of a Biden victory by a narrow but significant margin, 12,670 votes. Georgia Secretary of State Brad Raffensperger and Georgia Governor Brian Kemp, both Republicans and Trump loyalists, signed off on the vote count as reflecting the will of the voters, certifying the state's 16 electoral votes for Biden. The Trump campaign immediately filed for a second recount, to be conducted at state expense.

In **Wisconsin**, recounts began in Dane County (Madison) and Milwaukee County, the state's two most populous and most heavily Democratic counties. The Trump campaign, which paid for the recounts, tried to bog down the proceedings by objecting individually to every mail ballot—the vast majority of those cast. Local election officials decided to record a general challenge to all ballots in order to complete the review in time for the state's certification deadline of Dec. 1. Biden won Wisconsin by more than 20,000 votes.

In **Arizona**, the Republican-controlled Board of Supervisors in Maricopa County, where two-thirds of the state's population lives, voted unanimously Friday to certify the county's election results after all of the Trump legal challenges were rejected by the courts. Biden won the state by just over 10,000 votes, thanks in part to a 40,000-vote majority in Maricopa County.

"It's time to dial back the rhetoric, conspiracies and false claims," said Clint Hickman, the Republican board chairman. "In a free democracy, elections result in some people's candidate losing." The county results go to Secretary of State Katie Hobbs, a Democrat, who will certify them on Nov. 30 and award Arizona's 11 electoral votes to Biden.

In **Nevada**, all counties completed canvassing their votes last week and forwarded the results to Secretary of State Barbara Cegavske, a Republican. According to state law, the Nevada Supreme Court will canvass the vote on Tuesday, Nov. 24, and Governor Steve Sisolak will then issue a proclamation awarding the state's six electoral votes to Biden. Trump can then seek a

recount, but Biden won Nevada by more than 33,000 votes.

The Pennsylvania court decision had a significant political impact. Senator Pat Toomey declared that Trump had exhausted all plausible legal challenges and should now accept the result of the election. He said, "I congratulate President-elect Biden and Vice President-elect Kamala Harris on their victory. They are both dedicated public servants and I will be praying for them and for our country."

While such statements are generally made within hours of a US election result, the vast majority of Republican senators, representatives and governors have not publicly admitted that Biden is the winner of the presidential election and should be accorded the status of president-elect, with access to federal resources for his transition.

With the announcement over the weekend that Senator Rick Scott of Florida and Senator Kelly Loeffler of Georgia have contracted COVID-19, more Republican senators have acknowledged testing positive for coronavirus (eight) than have acknowledged Biden as president-elect (seven).

The most forceful criticism of Trump from within official Washington came from Senator Mitt Romney, the 2012 Republican presidential nominee, who denounced the president for "overt pressure on state and local officials to subvert the will of the people." He declared, "It is difficult to imagine a worse, more undemocratic action by a sitting American president."

Romney's words went well beyond anything said by President-elect Biden or any other leading Democrat. The Democratic Party policy is to downplay the significance of Trump's refusal to concede and cover up the dangers to democratic rights. They fear that Trump's coup attempt could provoke a massive upsurge among working people and youth that would threaten not only the Trump cabal, but the capitalist system as a whole.

The White House and the Trump campaign are both clearly in deep crisis, and not only politically. Trump announced that his son, Donald Trump Jr., had tested positive for COVID-19. Trump Jr., with characteristic fascist arrogance, said he would make use of the quarantine period to clean his guns.

Giuliani's son, Andrew, who works at the White House, also tested positive for COVID-19. As a result, Giuliani did not attend Trump's Friday meeting with the delegation of Michigan legislators.

Late Sunday came the announcement that attorney Sidney Powell, who made the most inflammatory charges at a Trump campaign press conference Thursday, claiming a Chinese-Venezuelan conspiracy to subvert the US elections, was no longer working for the Trump campaign.



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