

# US Supreme Court to decide whether Trump is eligible to appear on the ballot

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On Friday, the US Supreme Court agreed to hear a legal challenge to a decision by the highest court of the state of Colorado barring former president Donald Trump from appearing on the ballot for the Republican primary election in the state.

The decision by the Supreme Court to intervene in the case marks a further aggravation of the political and constitutional crisis in America. It is no exaggeration to state that at this point it is not clear whether the candidates nominated by each of America's two establishment parties will appear on the ballot in every state. It is also unclear whether the loser will accept the result, or, for that matter, under what conditions the election will actually take place, if it takes place at all.

On December 19, citing Trump's violent effort to retain the office of president on January 6, 2021, having lost both the popular vote and the Electoral College vote in the November, 2020 election, Colorado's Supreme Court barred Trump from appearing on the state ballot. The court based its decision on a constitutional provision from the Civil War era that prevents any individual who has served as "an officer of the United States" and has previously taken an oath to support the Constitution from holding office again if that person "engaged in insurrection or rebellion."

This constitutional provision in question, Section 3 of the Fourteenth Amendment, has been largely dormant since the aftermath of the Civil War, at which time it was originally used to bar those who had supported the slaveholders' Confederacy from holding office. It was invoked again in 1919, in the aftermath of the October Revolution in Russia, to bar Wisconsin socialist Victor L. Berger, representing a district in Milwaukee, from the federal House of Representatives. The resort to this provision now, more than a century later, points to the extremity of the crisis now convulsing the American political establishment.

The Colorado Supreme Court decision was followed a week later by a unilateral decision to remove Trump from the Maine ballot by Secretary of State Shenna Bellows, a Democrat. Meanwhile, state officials and courts in

Michigan, New Hampshire and California have declined to remove Trump from the ballot. There are currently challenges to Trump's ballot access pending in various procedural configurations in at least a dozen states.

Republican officials aligned with Trump have responded to efforts to remove him from the ballot with provocative threats to retaliate by removing Democratic candidates from ballots in states they control, such as Texas and Florida.

Speaking in Iowa Friday, Ron DeSantis, the fascistic Florida governor and a candidate for the Republican nomination, suggested that Biden could be removed from the ballot in Florida for allegedly allowing an "invasion" of immigrants. "You could make a case—we're actually, I'm actually looking at this in Florida now. Could we make a credible case that Biden, because of the invasion of eight million?"

Biden, the Democratic front runner, and Trump, the Republican front runner, are both massively unpopular. However, Trump is currently ahead of Biden in several national polls, with support for Biden dropping in part as a result of his role in the ongoing genocide in Gaza. A Morning Consult survey published Wednesday showed Trump with 42 percent of the vote, against 41 percent for Biden.

The Supreme Court's order accepting the appeal of the Colorado case on Friday is only a paragraph long and is unsigned. The order merely schedules the oral argument for February 8 and does not address any of the substantive issues in the case.

The briefs for Trump and his supporters are due January 18, the briefs in opposition are due January 31, and Trump's reply is due February 5. The Supreme Court usually decides the cases for each term by June, but this schedule suggests the case will be fast-tracked for a speedier decision.

Because the US Supreme Court has agreed to hear the appeal, the Colorado Supreme Court has agreed to a "stay" of its own decision, permitting Trump to appear on the Republican Party primary ballot in Colorado, at least while the case is pending.

The Colorado case, which is now titled *Donald Norma Anderson, et al.* in the Supreme Court, started out on September 6, 2023 as a challenge by legal activists representing six Colorado voters to Trump's eligibility to appear on the ballot. This original lawsuit presented overwhelming factual evidence of Trump's role in the January 6, 2021 coup attempt, and argued on that basis that Trump should be disqualified as an "insurrectionist" under Section 3 of the Fourteenth Amendment.

A judge from a lower Colorado court ruled initially that Trump could be legally categorized an insurrectionist in light of his role in the January 6 events, but ruled in favor of Trump on a technicality, finding that Section 3 did not apply because the phrase "officer of the United States" did not include the president. However, the Colorado Supreme Court, on appeal, overturned the lower court decision and found both that Trump was an insurrectionist and that he could be excluded from the ballot on that ground.

The US Supreme Court is currently in the grip of a far-right faction of the American ruling class, with three justices out of the nine having been appointed by Trump himself. This faction abolished the constitutional right to abortion last summer, paving the way for a massive rollback of democratic rights.

Under traditional principles of judicial ethics, the three justices appointed by Trump might be expected to recuse themselves from the Colorado case, in which Trump personally is a party, but so far none of the justices have given any indication that they intend to do so.

The Supreme Court is also currently in the midst of a historic corruption scandal implicating multiple justices. Justice Clarence Thomas, the most egregious by far, has been exposed as having received lavish gifts and favors from ultra-rich supporters, including far-right Republican megadonor Harlan Crow, a collector of Nazi memorabilia.

Nevertheless, it is by no means clear which way the Supreme Court will rule in the Colorado case. One thing that is certain is that a decision either way will only intensify the political crisis in America.

A brief filed on behalf of the entire Republican Party in the Supreme Court called the case "a constitutional crisis, national in scope," insisting that Trump be returned to the ballot.

Meanwhile, officials for the State of Colorado are arguing in the Supreme Court that "Trump's intentionally mobilizing, inciting, and encouraging an armed mob to attack the United States Capitol on January 6" qualifies as "engaging in insurrection."

In Trump's own legal filings, he compares his January 6 coup attempt with the Black Lives Matter movement, which he accuses of being "violent," while he insists that he urged

his own supporters to lay siege to the Capitol building "peacefully and patriotically."

Trump's exclusion from the ballot in Colorado would result in a qualitative acceleration of the factional fragmentation of official American politics, with insurrectionist Republicans likely being excluded from the ballot in Democratic-controlled states and Republicans attempting to exclude Democrats in retaliation. This could produce an election so irregular that it would not be accepted as legitimate either within the United States or internationally.

However, a victory for Trump in the Supreme Court would be no less destabilizing. It would further embolden the most ferocious and fascist layers that Trump has gathered around himself, in open defiance of American political norms.

At the same time, a decision in favor of Trump would be widely viewed as illegitimate, given that Trump did, in fact, "engage in insurrection" on January 6, 2021, if that phrase is to be assigned any legal meaning at all. His victory would be seen as the product of his having stacked the Supreme Court with his own corrupt political operatives, who ruled in his favor not based on the law but based on their own political loyalties.

As a result of the Biden administration's efforts to achieve bipartisan "unity" behind Washington's imperialist military operations and plans in the Middle East, Eastern Europe and Southeast Asia, the leading Republican politicians and officials who supported Trump's January 6 coup attempt have been spared serious accountability or consequences. Those same Republicans now denounce the Biden administration in extremely violent language, and if given the opportunity are entirely capable of making a second and even more determined attempt to install Trump as a presidential dictator.

On the same day that the Supreme Court issued its decision to hear the appeal, Trump posted a series of messages to his Truth Social platform declaring himself "second" only to Jesus Christ, and claiming that "God gave us Trump" to lead the country and "fight the Marxists."

The post read: "God had to have somebody willing to go into the den of vipers, call out the fake news with their tongues as sharp as serpents, the poison of vipers is on their lips ... so God made Trump."



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