

US Supreme Court unanimously rules in favor of Trump, restoring him to Colorado primary ballot

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The US Supreme Court issued a unanimous decision in favor of former Republican President Donald Trump on Monday, reversing a decision by the Colorado state Supreme Court to remove him from the ballot for the Republican Party primary in Colorado, which takes place on March 5.

On December 19, Colorado's highest court ruled that Trump was not constitutionally eligible to be placed on the ballot because he had engaged in "insurrection." The court ordered him removed and any write-in votes not counted, but it stayed its own ruling pending an appeal to the US Supreme Court.

While all nine justices on the US Supreme Court agreed to overturn the Colorado ban on Trump appearing on the ballot, the far-right majority went much further than the issues that were actually presented in the Colorado case, handing down a ruling that attempts to preemptively shield Trump as well as other insurrectionist Republicans from all future attempts to challenge their eligibility.

This majority decision was so extreme in its overreach that it prompted separate concurring opinions from one of Trump's own appointees, Amy Coney Barrett, and the three-justice nominally liberal bloc of Sonia Sotomayor, Elena Kagan and Ketanji Brown Jackson.

Monday's decision is also a milestone in the legitimization of the fascist far right, which attempted to violently overthrow the Constitution on January 6, 2021 and install Trump as president in defiance of the 2020 presidential election. Instead of being jailed for his attempted coup, together with all of his co-conspirators, three years later Trump finds himself able to command the votes of all nine Supreme Court justices, who voted to guarantee the most favorable conditions for him to participate in the 2024 elections.

The Colorado case was filed in September on behalf of a group of voters who contended that Trump was ineligible to seek the office of president in light of Section 3 of the Fourteenth Amendment to the US Constitution, which prohibits government officers who "engaged in insurrection or rebellion" from subsequently taking office. This provision of the Fourteenth Amendment, enacted immediately after the Civil War, was designed to prevent a return to power, in the words of

one congressman at the time, of those "yelling secessionists and hissing copperheads" who had led the slaveowners' rebellion.

The fact that a constitutional measure enacted in the period of the Civil War is even under discussion on the Supreme Court in relation to a front-running presidential candidate, after a century and a half during which that provision was largely dormant, is in itself an indication that the crisis of the entire American political system has reached a temperature unprecedented since the 1860s.

The disqualification of Trump as an "insurrectionist" by the Colorado Supreme Court was followed in December by a parallel decision by Maine Secretary of State Shenna Bellows, a Democrat. More recently, a judge in Cook County, Illinois, made a similar determination for that state. All of these determinations are effectively overruled by the Supreme Court's decision Monday.

The Supreme Court's opinion attempts to downplay the significance of Trump's coup attempt, merely writing that the Colorado voters who brought the case "contend" that Trump "disrupted the peaceful transfer of power by intentionally organizing and inciting the crowd" to disturb congressional proceedings in Washington.

In fact, Trump's efforts at insurrection went far beyond unleashing a violent mob of far-right thugs, including neo-fascist Proud Boys, in an effort to disrupt a joint session of Congress on January 6, 2021. As has been established in public hearings of the House Select Committee on the January 6 Attack, Trump's January 6 coup plot was a "sophisticated seven-part plan" that, in addition to the violent attack on the Capitol building, included fabricating allegations of election fraud, conspiring with Republicans in Congress to block the certification of electoral votes, pressuring officials in Republican-controlled states to alter election results in Trump's favor, and sending fake "alternate" slates of electors to Congress. The aim of this plot was nothing less than keeping Trump, who lost the election by a substantial margin, in power in violation of the Constitution.

The Colorado Supreme Court concluded that Trump did, in

fact, engage in “insurrection.” Meanwhile, outside of a number of individuals who physically participated in the violent storming of the Capitol building, the overwhelming majority of the senior participants in the conspiracy, including Trump himself, remain at-large, preparing their next attempt.

The Supreme Court unanimously determined that Trump’s ineligibility to participate in a federal election was not an issue that could be decided by Colorado. According to the Supreme Court, allowing the state of Colorado to make that determination would result in a chaotic “patchwork,” implying that Republican-controlled states like Texas and Florida would retaliate by removing Democratic candidates from their ballots.

The nominally “liberal” bloc of justices—Sotomayor, Kagan and Jackson—accepted this argument and invoked it to justify ruling in favor of Trump. “Allowing Colorado to do so would, we agree, create a chaotic state-by-state patchwork,” they wrote, “at odds with our Nation’s federalism principles.”

This concurring opinion in favor of Trump is a stark indication of the profoundly decayed state of what remains of American “liberalism.” In effect, they state: “If we don’t rule in favor of the fascist, his lunatic accomplices will respond with escalatory provocations and create chaos. Therefore, we have no choice but to rule in favor of the fascist.”

The far-right majority, meanwhile, bent over backwards not only to shield Trump himself from future challenges to his participation in elections, but to shield all of Trump’s accomplices from similar challenges.

“Although only an individual State’s action is at issue here, the majority opines on which federal actors can enforce Section 3, and how they must do so,” wrote Sotomayor, Kagan and Jackson in their opinion. “The majority announces that a disqualification for insurrection can occur only when Congress enacts a particular kind of legislation. ... In doing so, the majority shuts the door on other potential means of federal enforcement.”

The ruling Monday is also noteworthy for the speed with which the Supreme Court reached a decision, while the numerous other proceedings involving Trump are mired in endless procedural delays. At the oral arguments in January, the justices constituting the far-right majority functioned effectively as additional attorneys for Trump, engaging in what amounted to a friendly conversation with the attorney representing Trump about the most effective way to rule in his favor.

As of today, the far-right insurrectionist forces gathered around Trump have captured de facto control of the judicial branch of the federal government in the form of the Supreme Court, effectively represented by five or six of the nine justices, three of them having been appointed by Trump himself. This far right-dominated Supreme Court has been on a rampage against democratic rights and reforms, including its abolition of the right to abortion in the *Dobbs* case in the summer of 2022, which in turn paved the way for attacks on decades of judicial

decisions across the board.

The decision Monday is tainted in particular by the participation of Justice Clarence Thomas. While Thomas has been exposed as accepting undisclosed bribes from wealthy far-right Republican patrons while on the Supreme Court, his own wife, Ginni Thomas, is personally implicated in the January 6 coup.

It is significant that the concurring opinion by Sotomayor, Kagan and Jackson references the *Bush v. Gore* decision from 2000, which handed the election to Bush. The opinion cited from a dissenting opinion by Stephen Breyer, who wrote, “What it does today, the Court should have left undone.” The implication of this not-so-subtle citation is that the Supreme Court is taking a step with similarly far-reaching historical implications.

Throughout American history, the Supreme Court largely functioned as a bulwark of reaction, upholding slavery in the Dred Scott case (1857), defending Jim Crow racial segregation in *Plessy v. Ferguson* (1896) and opposing the New Deal reforms of the 1930s. For a brief period associated with Earl Warren, who was chief justice from 1953 to 1969, the Supreme Court was associated with a number of belated and qualified reforms under conditions of the Cold War and ideological conflict with the Soviet Union.

However, since the *Bush v. Gore* decision stealing the 2000 election, the Supreme Court’s lurch to the right has reflected the evaporation of any significant constituency in the American ruling class for the defense of democratic norms and a growing constituency, now embodied in the figure of Trump, for an open break with those norms.

Throughout this process, as reflected in Monday’s decision, the remnants of what was once called American “liberalism,” having long ago abandoned any commitment to progress toward social equality, have exuded a mixture of complacency, complicity and cowardice, fearing an aggravation of class tensions far more than a principled showdown with the far right.

Trump responded to the unanimous ruling Monday with all caps and exclamation points on his social media platform, calling it a “BIG WIN FOR AMERICA!!!”



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