

January 19, 2024

VIA HAND DELIVERY

The Hon. William Francis Galvin  
Secretary of the Commonwealth  
Elections Division  
1 Ashburton Place, Room 1705  
Boston, MA 02108

**RE: Chafee, et. al. v. Donald John Trump  
Robertson, et. al. v. Donald John Trump  
SBLC Docket Numbers 24-1 and 24-2**

Dear Secretary Galvin:

Enclosed for filing, please find the Respondent, Donald John Trump's, Supplemental Memorandum in Support of Motion to Dismiss.

Thank you for your attention to this matter.

With best regards,

Marc R. Salinas

Enclosures

cc: Shannon Liss-Riordan, Esq.  
Ronald Fein, Esq.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

STATE BALLOT LAW COMMISSION  
COMMISSION Docket No. 24-1 and 24-2

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BRUCE CHAFEE, KIM JANEY, MARK  
BRODIN, ELIZABETH BARTHOLET,  
and AUGUSTA MCKUSICK,  
Objectors,

v.

DONALD JOHN TRUMP,  
Respondent.

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MICHAEL S. ROBERTSON, JR., KEVIN  
BATT, THERESA MASON, and  
STEPHANIE SANCHEZ,  
Objectors,

v.

DONALD JOHN TRUMP,  
Respondent.

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**RESPONDENT, DONALD JOHN TRUMP'S, SUPPLEMENTAL  
MEMORANDUM IN SUPPORT OF MOTION TO DISMISS**

Now Comes the Respondent, Donald John Trump ("President Trump"), and respectfully submits the following supplemental memorandum in support of dismissal of the above-referenced Objections and Complaints. President Trump incorporates herein by reference his motion to dismiss filed with the Commission on January 17, 2024.

## FACTUAL AND PROCEDURAL BACKGROUND

The Massachusetts Secretary of State is the chief election official within the Commonwealth. Within the Secretary of State's Office is the Elections Division which is the filing office for nominations for Federal and State elections. In Massachusetts, there are three ways by which a candidate may be placed on a presidential primary ballot: (1) The Chairperson of your political party can place an individual on the ballot; (2) nomination papers may be filed with the Elections Division; and/or (3) the Secretary of the Commonwealth can put an individual on the ballot.

President Trump was placed on the presidential primary ballot at the request of the State Republican Party ("MassGOP") pursuant to M.G.L. c 53 sec. 70E. On or about January 4, 2024, an objection under M.G.L. c. 55B was brought by the individuals named in this action objecting to President Trump appearing on the Republican Party presidential primary ballot.

President Trump filed his Motion to Dismiss with the Commission on January 17, 2024. President Trump moved to dismiss both Objections and Complaints on the following grounds: First, the case is not ripe for adjudication because President Trump has not yet been "nominated" within the meaning of G.L. ch. 55B sec. 4. As such, the Commission lacks jurisdiction to decide this matter. Second, the Objectors failed to serve all necessary parties as required by the Code of Massachusetts Regulations. Third, even if the Commission were to reach the merits of these claims, Section Three of the Fourteenth Amendment does not apply to these Objections.

A Pre-Hearing Conference was conducted by the Commission on January 18, 2024. The Commission requested and considered oral arguments on the sole issue of jurisdiction raised in President Trump's Motion to Dismiss. At the conclusion of the Pre-Hearing Conference, Objector's Counsel requested leave to file a written memorandum to address the jurisdictional issues raised in President Trump's Motion to Dismiss. The Commission permitted the parties to file any additional briefings regarding the issue of jurisdiction by 5:00 p.m. on January 19, 2024. ("Exhibit A")

**I. Ripeness for adjudication**

President Trump seeks the Republican nomination for President of the United States at the Republican State Primary to be held on March 5, 2024. Since President Trump has not yet qualified to have his name printed on the General Election ballot, this matter is not ripe for adjudication, and consequently, the Commission does not have jurisdiction to conduct a hearing on the merits.

As set forth in President Trump's Motion to Dismiss, the objections before the Commission allege that President Trump is not "qualified" to be nominated for President, and therefore he cannot appear on the primary ballot. This same issue was previously considered by the Commission in Collins v. Gorman, SBLC Docket No. 06-01. In Collins, the Respondent was a republican candidate for the office of County Commissioner in Norfolk County. An objection was filed challenging the Respondent's eligibility to have his name printed on the state election ballot because there was already a duly elected Norfolk County Commissioner from the same town as the Respondent. Id. at 1. G.L. c. 54 sec. 158 (2004 ed.) prohibited more than one county commissioner being elected from the same city

or town as a currently serving commissioner. However, the Commission held that because the primary had not yet occurred, the issue of whether the Respondent was qualified to appear on the general election ballot was premature, and not ripe for adjudication. There was no legal basis to deny the Respondent access to the primary ballot, even though he may be disqualified due to residency requirements. *Id.* at 4. Jurisdiction should be resolved no different here than in Collins.

Further, even if the disqualification argument had some merit – and it does not – that does not preclude President Trump from access to the primary ballot. State law prohibits a disqualified candidate from holding office. It does not prohibit the candidate’s placement on a primary ballot at the request of their political party.

## **II. Proper service of process is a necessary element of “Jurisdiction”.**

President Trump contends that insufficiency of service of process also falls under the umbrella of “jurisdiction”. While not directly addressed at the Pre-Hearing Conference, the Commission cannot invoke jurisdiction over the Objections and Compliant until all necessary parties are served with process.

The Code of Massachusetts Regulations require that “Simultaneously with the filing of any and all paper with the Commission, the party filing such papers shall send a copy thereof to all other parties to the proceedings” 950 CMR 59.02(10). Parties are defined as “...the objector, the respondent, all other candidates for the office (but at a primary for nomination), and the state committee of any affected political party”. 950 CMR 59.01(3)(g). Failure to comply with these rules “shall be ground for refusal by the Commission to accept papers for filing.” 950 CMR 59.02(10).

As evidenced by the Certificate of Service appended to the Objection and Complaint, the Objectors failed to timely serve all necessary parties including “all other candidates for the office” and the “state committee” of the affected political party (the Massachusetts Republican Party).

**III. The Colorado Supreme Court’s decision in *Anderson v. Griswold* has no bearing on “jurisdiction” and has no preclusive effect here.**

The Objector’s seemed to suggest at the Pre-Hearing Conference that the Colorado Supreme Court’s decision in *Anderson v. Griswold* is a relevant consideration for the Commission in resolving the jurisdiction controversy. It is not.

First, it does not resolve any question relating to this Court’s jurisdiction under Massachusetts law.

Second, to the extent that it purports to resolve other issues raised by President Trump, it is not a final judgment and is therefore not entitled to preclusive effect here. Issue preclusion does not apply because the Colorado Supreme Court’s decision in *Anderson v. Griswold* is not final. The decision is stayed until a final order of the U.S. Supreme Court, *Anderson v. Griswold*, 2023 Colo 63, 2023 LEXIS 1117, \*\*8 (2023), which granted President Trump’s petition for certiorari and has scheduled oral argument on his appeal for February 8, 2024.

Under Colorado law, “for the purposes of issue preclusion, a judgment that is still pending on appeal is not final.” *Rantz v. Kaufman*, 109 P3d 132, 141 (Colo. 2005). Under the Full Faith and Credit Clause, Massachusetts courts give a Colorado judgment only the “same force and effect” as it would be given by its home court, not more as Objectors appear to be

arguing for. *See, e.g., Wright Machine Corp. v. Seaman-Andwall Corp.*, 307 N.E.2d 826, 692 (Mass. 1974); *Smith Barney, Harris Upham & Co., Inc. v. Connolly*, 887 F. Supp. 337, 344 (D. Mass. 1994) (“Under Massachusetts law, ‘the judgment of a State court which had jurisdiction of the parties and the subject matter in suit, shall be given in the courts of every other State the same credit, validity and effect which it has in the State where it was rendered, and be equally conclusive upon the merits....’”). Thus, because there is no final judgment in Colorado, there is no basis for the Objectors to obtain a judgment based on issue preclusion here.

### CONCLUSION

The Commission should dismiss the Objections and Complaints for the foregoing reasons.

Respectfully submitted this 19<sup>th</sup> day of January 2024.

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CERTIFICATE OF SERVICE

I, Marc R. Salinas, do hereby certify under the penalties of perjury that on this 19<sup>th</sup> day of January 2024, I served a true copy of the within document via first-class mail, postage pre-paid, to the following counsel of record and interested parties:

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With Hand-Deliver to Shannon Liss-Riordan, Esq. listed above.

  
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Marc R. Salinas