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COMMONWEALTH OF MASSACHUSETTS  
Supreme Judicial Court

SUFFOLK, SS.

No. SJ-2024-0032

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BRUCE CHAFEE *et al.*,  
*Petitioners*,

v.

MASSACHUSETTS STATE BALLOT LAW COMMISSION; DONALD JOHN  
TRUMP; WILLIAM FRANCIS GALVIN, in his official capacity as  
Secretary of the Commonwealth of Massachusetts; and the  
MASSACHUSETTS REPUBLICAN PARTY (“MASS GOP”),  
*Respondents*.

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**MASSACHUSETTS STATE BALLOT LAW COMMISSION  
AND SECRETARY GALVIN’S RESPONSE TO  
PETITIONERS’ EMERGENCY PETITION FOR RELIEF**

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ANDREA JOY CAMPBELL

*Attorney General*

Anne Serman, BBO No. 650426

Phoebe Fischer-Groban, BBO No. 687068

*Assistant Attorneys General*

Government Bureau

One Ashburton Place

Boston, Massachusetts 02108

(617) 963-2589

email: [phoebe.fischer-groban@mass.gov](mailto:phoebe.fischer-groban@mass.gov)

## **INTRODUCTION**

Unlike for other state and federal offices, where ballot access can be achieved only by gathering signatures on nomination papers, Massachusetts law provides three ways a candidate can be placed on the presidential preference portion of the primary ballot: a potential candidate can file nomination papers with sufficient signatures; the Secretary of the Commonwealth (the “Secretary”) can determine that the candidate is generally advocated or recognized in national news media; or the chair of the candidate’s state party committee can submit the candidate’s name on a written list for placement on the presidential primary ballot. If a candidate has satisfied one of these three methods, the Secretary must place that candidate’s name on the presidential primary ballot. Massachusetts law affords the Secretary no discretion in executing his statutory duty to place these candidates on the presidential primary ballot.

In addition, state law grants the State Ballot Law Commission (the “Commission”) only narrow jurisdiction over presidential primary challenges, which is limited to matters pertaining to the nomination papers presented by candidates who are placed on the presidential primary ballot through that route. Because Donald

Trump's name has been placed on the Massachusetts presidential primary ballot by letter from the Chair of the Massachusetts Republican Party, rather than by nominating papers, there is no mechanism in Massachusetts law to bar him from the ballot.

This Court need not, and should not, accept Petitioners' invitation to wade into the factual and legal questions regarding Donald Trump's constitutional eligibility to serve as President under the 14<sup>th</sup> Amendment to the United States Constitution. State law provides no vehicle for doing so in the context of a presidential primary, and for good reason. Unlike primary elections for other state and federal offices, where each party's nominee is determined solely by the results of the primary, in a presidential primary, the presidential primary does not determine the party nominee. Instead, it determines the allocation of delegates sent by the state party to its national party convention. What happens at that convention need not, and often does not, reflect the preference of the Commonwealth's voters. Indeed, in both 2000 and 2008, the candidate preferred by voters at the Massachusetts Republican presidential preference primary failed to gain his party's nomination, resulting in a different Republican candidate's name appearing on the general election ballot in

November. Because there is no state law procedure for barring Trump from appearing on the presidential primary ballot, there is no basis to grant any of the relief the Petitioners seek, and the Petition should be denied.

### **FACTUAL BACKGROUND**

On January 4, 2024, Petitioners Chafee, Janey, Brodin, Bartholet, and McKusick filed an objection and complaint against Trump with the State Law Ballot Commission. Ex. 1.<sup>1</sup> An identical objection and complaint, filed by Plaintiffs Robertson, Batt, Mason, and Sanchez, followed on January 8, 2024. Ex. 2. Both complaints (together, the “Objections”) asked the Commission to: (1) find that Trump is disqualified from holding the office of President of the United States under § 3 of the Fourteenth Amendment to the United States Constitution; and (2) order the Secretary of the Commonwealth to remove Trump’s name from the Massachusetts presidential primary ballot as a candidate for the Republican nomination for President of the United States.

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<sup>1</sup> Exhibit citations are to the exhibits to the Emergency Petition for Relief.

The Commission issued a Notice of Pre-Hearing Conference on January 12, 2024 in both matters. Ex. 4.

On January 16, 2024, the Objectors filed a Motion for Summary Decision, arguing that Trump is legally barred from appearing on the presidential primary ballot in Massachusetts and that the Commission should adopt the factual findings to that effect that were previously entered in similar proceedings in Colorado and Maine, leaving no triable issue before the Commission. Ex. 5.

For their part, on January 17, 2024, Respondents Massachusetts Republican Party and Trump each filed motions to dismiss. Exs. 6-7. Respondent Massachusetts Republican Party's motion argued that the Objections should be dismissed for failure to comply with the Commission's regulations regarding service. *See* 950 C.M.R. § 59.02(10). Respondent Trump argued that the Objections should be dismissed for lack of jurisdiction and because § 3 of the 14<sup>th</sup> Amendment does not apply to the Objections.

On January 18, 2024, the Commission held a pre-hearing conference, where it heard argument from the parties on the Commission's jurisdiction. The parties were granted leave to submit additional memoranda on jurisdiction after the hearing. Accordingly,

the same day, the Petitioners filed an Administrative Motion Requesting State Ballot Law Commission to Rule on Jurisdiction and Determine Promptly Whether this Matter will be Set for Hearing or Disposed of Through Objectors' Motion for Summary Decision. Ex. 9. The following day, Petitioners filed an Opposition to Respondent's and Massachusetts Republican Party's Motions to Dismiss and a Memorandum of Law in Support of the State Ballot Law Commission's Jurisdiction. Ex. 10. Respondent Trump filed a Supplemental Memorandum in Support of his Motion to Dismiss. Ex. 12.

On January 22, 2024, the Commission issued a decision dismissing both Objections for lack of jurisdiction, along with a Statement of Reasons. Ex. 19. In the Statement of Reasons, the Commission outlined the basis of its decision, finding that no provision in G.L. c. 55B gave the Commission jurisdiction over an objection to the constitutional qualifications of a presidential primary candidate who did not submit nomination papers. The Commission further noted that even if it had jurisdiction over the Objections, the Objections were subject to dismissal for the additional reason that the

Objectors had failed to comply with the notice requirements in G.L. c. 55B, § 5, and 950 C.M.R. §§ 59.02(4)(a) and (10).

Petitioners ask this Court to: declare that Trump is ineligible to appear on the Massachusetts presidential primary ballot; order the Secretary to remove Trump's name from the Massachusetts ballot; and order that the Commission has jurisdiction to decide Petitioners' objections and must set a hearing and render a decision on Petitioners' objections by January 29, 2024. Emergency Petition for Relief at 47.

### **LEGAL BACKGROUND**

#### **I. Ballot Access for the Massachusetts Presidential Primary.**

Access to the presidential primary ballot in Massachusetts is governed by G.L. c. 53, § 70E. Under this statute, there are three ways a candidate's name is required to be printed on the presidential primary ballot in Massachusetts. The first two are not at issue here, and require the Secretary to place on the ballot any candidate who, (1) the Secretary has determined "to be generally advocated or recognized in national news media through the United States"; or (2) who has submitted adequate nomination papers signed by at least 2,500 voters. G.L. c. 53, § 70E.

Third, the Secretary must print a candidate's name on the presidential primary ballot where that candidate's "name[] appear[s] on written lists signed by the chairman of the state committees of the political parties." *Id.* Section 70E requires that the chairs of the state committees of the political parties submit their list of candidates no later than the first Friday in January and must notify each candidate of their presence on the list. Section 70E further provides: "No name shall be removed from said lists, nor from the ballot, unless such candidate shall file with the state secretary an affidavit stating that he does not desire his name printed upon said ballot at the forthcoming presidential primary." Trump has not submitted such an affidavit.

## **II. The State Ballot Law Commission.**

The State Ballot Law Commission has limited authority, which is set forth in the first two paragraphs of G.L. c. 55B, § 4. Under the first paragraph of this statute, the Commission "may investigate upon objection made in accordance with the provisions of this chapter the legality, validity, completeness and accuracy of all nomination papers and actions required by law to give candidates access to a state ballot or to place an initiative or referendum on a state ballot." Under the second paragraph of this statute, the Commission



shall have jurisdiction over and render a decision on any matter referred to it, pertaining to the statutory and constitutional qualifications of any nominee for state, national or county office; the certificates of nomination or nomination papers filed in any presidential or state primary, state election, or special state primary or election, the withdrawal of nomination for any state, county, or federal office after the time to do so has expired or any ineffective withdrawal; the filing of nomination papers under a false name, or fictitious nominees; and the fraudulent or forged signing of statewide initiative or referendum petitions, or any other objection relating to the signatures on such petitions.

G.L. c. 55B, § 5, which is at issue here—because Trump did not submit nomination papers—allows for objections to “certificates of nomination and nomination papers for candidates at a presidential primary.”

### **III. The Role of the Presidential Preference Primary.**

Unlike the primaries for other state and federal offices, Massachusetts’s presidential primary does not result directly in the nomination of a candidate for President. Instead, under G.L. c. 53, § 70B, “[i]n any year in which candidates for presidential electors are to be elected,” the state party committees shall select delegates and alternate delegates to the national party conventions, “provided . . . that the distribution of delegates . . . shall reflect the preference expressed by the voters on the presidential preference portion of the

ballot at the presidential primary.” G.L. c. 53, § 70B. In other words, at the presidential primary, the voters express a preference for possible nominees. Then, the state party committee selects, using its own process, a slate of delegates to the national convention that reflects the preference expressed by Massachusetts voters.

Once at the national convention, the procedure by which the delegates vote and select the party’s nominee is governed by the national party’s internal rules. *See Cousins v. Wigoda*, 419 U.S. 477, 489-90 (1975) (recognizing that “[t]he States themselves have no constitutionally mandated role in the great task of the selection of Presidential and Vice-Presidential candidates” and noting the importance of “the National Party Convention as a concerted enterprise engaged in the vital process of choosing Presidential and Vice-Presidential candidates – a process which usually involves coalitions cutting across state lines.”). The candidate who becomes a party’s nominee, and therefore will appear on the general election ballot, may not be the same candidate for whom the Massachusetts voters expressed a preference at the presidential preference primary (and may not be a candidate who was on the Massachusetts ballot at all). Indeed, in recent history, the national convention’s nomination

has deviated from the expressed preference of the Commonwealth on multiple occasions. For example, at the 2000 presidential preference primary, Massachusetts voters expressed a preference for John McCain, *see* Massachusetts Election Statistics, Public Document 43, accessed at <http://tinyurl.com/mu4nadbx>, but ultimately, George W. Bush was nominated by the Republican Party and therefore appeared on the Massachusetts general election ballot, *see id.* at <http://tinyurl.com/5xd825s8>. In 2008, the preferences of Massachusetts voters in both the Republican and Democratic primaries—for Mitt Romney and Hillary Clinton, respectively—did not match the ultimate nominations of John McCain and Barack Obama at each party’s convention. *See id.* at <http://tinyurl.com/3er8ccjk>. Following the selection of a nominee at the national convention, the state party committee issues a certificate of nomination to each state reflecting the candidates nominated for both President and Vice President. G.L. c. 53, § 8; *Libertarian Ass’n. of Mass. v. Secretary*, 462 Mass. 538, 542 (2012) (describing “the ease with which a recognized political party may place its candidates on the ballot for the general election” as it “need only submit a certificate of nomination to the Secretary bearing the surnames of the

party's chosen candidates" by the statutory deadline before the general election). It is that certificate that determines whose name appears on the general election ballot as the party nominee.

### **ARGUMENT**

Massachusetts election law provides no basis for any of the Petitioners' requested relief. First, as described below, there is no basis upon which to "declar[e] that Trump is ineligible to appear on the Massachusetts primary ballot" because Trump has satisfied one of the three methods of gaining access to the presidential primary ballot, and neither G.L. c. 231A (the declaratory judgment statute) nor G.L. c. 56, § 59, offer any independent basis for the Court to make such a declaration. Second, there is no statutory basis for this Court to order the Secretary to remove Trump's name from the presidential primary ballot where it is undisputed that Trump has satisfied the statutory prerequisite for ballot access and the Secretary has performed his mandatory duty to place Trump's name on the ballot. Finally, there is no basis in law upon which the Court could order the State Ballot Law Commission to either order the Secretary to remove Trump's name from the ballot, or order the Commission to set a hearing and render a decision on the Objections, because the plain language of G.L. c. 55B

makes clear that the Commission has no jurisdiction over the Objections.

**I. G.L. c. 53, § 70E, Requires the Secretary to Place Trump’s Name on the Presidential Primary Ballot, and the Secretary Has No Discretion to Remove Trump’s Name.**

Petitioners concede, as they must, that the Chair of the Massachusetts Republican Party submitted Trump’s name on a written list to the Secretary. Because of this submission, the plain language of G.L. c. 53, § 70E, provides that “[t]he state secretary *shall* cause [Trump’s name] to be placed on the official ballot for use at presidential primaries.” The statute affords the Secretary no discretion to decide otherwise or to refuse to place Trump’s name on the presidential primary ballot. *See Hashimi v. Kalil*, 388 Mass. 607, 609 (1983) (“The word ‘shall’ is ordinarily interpreted as having a mandatory or imperative obligation.”). The statute is similarly explicit that “[n]o name shall be removed from said lists, *nor from the ballot*, unless such candidate shall file with the state secretary an affidavit stating that he does not desire his name printed upon said ballot at the forthcoming presidential primary.” G.L. c. 53, § 70E (emphasis added). As Trump has not filed an affidavit requesting removal from

the presidential preference portion of the primary ballot, Massachusetts law requires that his name remain.

**II. Neither the Declaratory Judgment Statute nor G.L. c. 56, § 59, Provides a Basis To Remove Trump Where It Is Undisputed That He Has Satisfied the Ballot Access Requirement for the Massachusetts Presidential Primary.**

Petitioners contort both G.L. c. 231A and G.L. c. 56, § 59, to suggest that those statutes grant the Court authority to do something otherwise not permitted under Massachusetts law—declare that Trump is ineligible to appear on the presidential primary ballot, or order the Secretary to remove Trump’s name from the presidential primary ballot. But neither statute provides a means to grant their requested relief.

G.L. c. 231A, § 1, permits the Court to “make binding declarations of rights, duty, status and other legal relations.” Here, however, Petitioners do not want this Court to make a declaration of the parties’ rights, duty, or status under Massachusetts law, but instead ask this Court to enter a declaration that is contrary to plain statutory language. Where it is undisputed that Trump has satisfied one of the means of achieving ballot access under G.L. c. 53, §70E, and there is no allegation that he has failed to meet any other Massachusetts

statutory requirement for ballot access, there is no basis for declaring that he is ineligible to appear on the presidential primary ballot.

Nor does G.L. c. 56, § 59, provide any basis to order the Secretary to remove Trump's name from the ballot. Section 59 provides a vehicle by which a court can "enforce the provisions of chapters fifty to fifty-six, inclusive, and may award relief formerly available in equity or by mandamus." But the Petitioners do not—and cannot—identify any provision in Chapters 50 to 56 of the General Laws that supports their claim that Trump should be removed from the presidential primary ballot. Instead, G.L. c. 53, § 70E, requires that the Secretary place Trump's name on the ballot, and prohibits removal of his name from the presidential preference portion of the primary ballot absent a request from the candidate. Petitioners seek an order contrary to that statutory mandate—which is the opposite of what G.L. c. 56, § 59, provides a vehicle for this Court to do.<sup>2</sup>

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<sup>2</sup> Plaintiffs also reference G.L. c. 249, § 5, the mandamus statute, but do not offer any substantive argument as to the basis for mandamus relief. Such relief would be inappropriate for the same reasons relief is not available under G.L. c. 231A, § 1 and G.L. c. 56, § 59: because the Petitioners seek an order contravening, not enforcing, a statutory mandate.

Attempting to obscure this clear law, Petitioners posit an incorrect and unsupported “catch-all” argument. Specifically, they suggest that the Supreme Judicial Court held in *Thacher v. Cook*, 250 Mass. 188 (1924), that candidates on the presidential preference portion of the primary ballot must be qualified to hold office.

*Thacher* involved neither the Commission’s jurisdiction under G.L. c. 55B, § 4, nor a primary ballot, let alone a presidential preference primary ballot. In that case, the two Republican candidates who received the most votes at the state primary to be the Republican nominees for two county commissioner seats were from the same town. *Id.* at 190. Under state law in effect at the time, each county commissioner had to be from a different town. *Id.* The Court held that the Secretary should place on the general election ballot the candidate who had received the most votes at the primary, and the candidate who had received the third highest votes at the primary, both from different towns. The Court held that G.L. c. 53, § 1, which permitted the parties to “nominate as many candidates for each office for which it has the right to make nominations therein as there are persons to be elected to that office, and no more,” must mean that “at a primary of any political party for the nomination of candidates where two or



more persons are to be elected to an office” the party may only nominate candidates “who are capable under the law of being elected.” *Thacher*, 250 Mass. at 191. Thus, the Republican party could not nominate two county commissioner candidates from the same town who could not both be elected. *Id.*

Here, by contrast, the presidential preference primary does not nominate anyone. Instead, it dictates the state party’s allocation of delegates to a national presidential nominating convention. G.L. c. 53, § 70B. At that national convention, rules set by the national party will control the ultimate nomination. *Cf. Democratic Party of the U.S. v. Wisconsin*, 450 U.S. 107, 123 (1981) (“A political party’s choice among the various ways of [operating] . . . the party’s national convention is protected by the Constitution”).

Also unlike this case, *Thacher* did not involve the Commission’s jurisdiction to hear objections. And, most importantly, *Thatcher* did not address whether, and certainly did not hold that, all of the candidates on a primary ballot must be “capable under the law of being elected” in the sense that they meet constitutional requirements to serve in office. That precedent in no way justifies the relief sought here.

### **III. The Commission Lacks Jurisdiction Over the Objection.**

The Commission properly concluded that it lacks jurisdiction under G.L. c. 55B, § 4, to render a decision on Trump’s placement on the presidential primary ballot.

Under G. L. c. 55B, § 4, the Commission’s jurisdiction over the presidential primary is limited to issues pertaining to the nomination papers presidential primary candidates may file with the Secretary under G.L. c. 53, § 70E. Under the first paragraph of G.L. c. 55B, § 4, the Commission may “investigate upon objection made” the “legality, validity, completeness, and accuracy” of nomination papers filed with the Secretary under G.L. c. 53, § 70E. Under the second paragraph, the Commission shall “render a decision” on matters referred to it “pertaining to” those nomination papers. As Trump did not submit nomination papers to appear on the presidential primary ballot, the Commission properly concluded it lacked jurisdiction to investigate or render a decision on the Petitioners’ Objections.

#### **A. The Commission Does Not Have Jurisdiction Under Paragraph 1 of G.L. c. 55B, § 4.**

The first paragraph of G.L. c. 55B, § 4, does not grant the Commission jurisdiction over the Petitioners’ Objections because Trump did not submit nomination papers to appear on the presidential

primary ballot. The first paragraph of G.L. c. 55B, § 4, grants authority to the Commission to:

investigate upon objection made in accordance with the provisions of this chapter the legality, validity, completeness and accuracy of all nomination papers and actions required by law to give candidates access to a state ballot or to place an initiative or referendum on a state ballot.

But Trump has not submitted nomination papers.<sup>3</sup> Thus, the Commission has no jurisdiction under the first paragraph of § 4 to investigate the “legality, validity, completeness and accuracy” of nomination papers that do not exist.

In addition to the authority to investigate nomination papers, the first paragraph of § 4 also grants the Commission the authority to

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<sup>3</sup> Petitioners are wrong that “nomination papers” could be interpreted to include the written list of presidential candidates submitted to the Secretary by state party committee chairs under G.L. c. 53, § 70E. First, it is clear on the face of the statute that “nomination papers prepared and furnished by the state secretary, signed in the aggregate by at least [2,500] voters” are not the same thing as “written lists signed by the chairman of the state committees of the political parties.” Second, Chapter 53 of the General Laws defines and describes in detail the contents and use of “nomination papers” for the presidential primary. *See, e.g.*, G.L. c. 53, § 45 (contents of nomination papers), G.L. c. 53, § 46 (deadline to provide nomination papers for presidential primary to registrars and for registrars to complete signature certification), G.L. c. 53, § 47 (Secretary shall furnish nomination papers), G.L. c. 53, § 48 (deadline to submit nomination papers for presidential primary to Secretary).

“investigate upon objection” the “legality, validity, completeness and accuracy” of other “actions required by law to give candidates access to a state ballot or to place an initiative or referendum on a state ballot.”<sup>4</sup> But “actions required by law” does not refer to the presidential primary because, as the second paragraph of § 4 makes clear, for the presidential primary, the Commission only has jurisdiction to render decisions on matters pertaining to nomination papers. G.L. c. 55B, § 4.

But even if “actions required by law” in the first paragraph could be interpreted more broadly to include something beyond nomination papers, it cannot include the Petitioners’ Objections, because Petitioners do not challenge the “legality, validity, completeness and accuracy” of either of the two “actions required by law” that would give Trump “access” to the presidential primary

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<sup>4</sup> While “state ballot” is not defined, it is not clear that it would include the presidential primary ballot. Elsewhere in the General Laws, the Legislature has used different phrases to refer to the presidential primary ballot. *See, e.g.*, G.L. c. 53, § 70B (referring to “the presidential primary ballot”); G.L. c. 53, § 70E (referring to “the official ballot for use at presidential primaries”). *But see* G.L. c. 50, § 1 (defining “state election” as “any election at which a national, state, or county officer or a regional district school committee member elected district-wide is to be chosen by the voters, whether for a full term or for the filling of a vacancy”).

ballot. First, they make no challenge to the Massachusetts Republican Committee's inclusion of Trump's name on a written list signed by its chairperson. *See* G.L. c. 53, § 70E. They do not contend that Trump did not appear on the Republican Party Committee's written list of candidates, or that the Republican Party Committee's written list was not signed by the committee chair, or identify any other defect in the manner in which Trump's name was submitted to the Secretary.

Second, the Petitioners do not challenge the Secretary's performance of his mandatory duty under § 70E to place Trump's name on the presidential primary ballot. Instead, the purpose of this petition is to order the Secretary *not* to comply with his duty under § 70E by preventing him from placing Trump's name on the presidential primary ballot. *See also* G.L. c. 53, § 70E ("No name shall be removed from . . . the ballot, unless such candidate shall file with the state secretary an affidavit stating that he does not desire his name printed upon said ballot at the forthcoming presidential primary.").

The plain text of G.L. c. 55B, § 4, is clear that the Commission lacks jurisdiction to decide Petitioners' objections. The Commission decisions Petitioners cite miss the mark because those decisions,

which discussed the inhabitancy requirement for the offices sought by those candidates, all involved the residence information on the nomination papers the candidates had filed to appear on the primary ballot. That issue, unlike the one presented here, fits squarely within the Commission’s jurisdiction under G.L. c. 55B, § 4, to decide matters pertaining to nomination papers. *See Dwyer v. Sarnowski*, SBLC 22-01 (June 23, 2022) (objection to accuracy of residence of state primary candidate for the office of State Representative) (Ex. 14); *Bean v. Uytterhoeven*, SBLC 20-04 (June 16, 2020) (same) (Ex. 15); *Cote v. Meas*, SBLC 18-01 (June 22, 2018) (same) (Ex. 16); *Thompson v. Romney*, SLBC 02-05 (June 25, 2002) (objection to accuracy of residence of state primary gubernatorial candidate) (Ex. 13).

**B. The Commission Does Not Have Jurisdiction Under Paragraph 2 of G.L. c. 55B, § 4.**

The Commission properly concluded that it lacks jurisdiction to adjudicate the Objections under the second paragraph of G.L. c. 55B, § 4, because the Objections do not pertain to “the statutory and constitutional qualifications of any *nominee* for state, national or county office,” since Trump is not currently a nominee for the presidency or any other office. *See* G.L. c. 55B, § 4 (emphasis added).

Nor does the Commission’s jurisdiction over “certificates of nomination . . . filed in any presidential . . . primary” apply, as there has not been—and cannot yet be—any certificate of nomination for Trump, since the Republican National Convention where the Republican party will select its nominee for President is still nearly six months away. *Id.*

The plain language of the statute setting forth the mechanism by which Trump’s name was placed on the presidential primary ballot makes clear that such placement makes him merely a candidate for nomination, not a nominee. G.L. c. 53, § 70E, provides that “[t]he state secretary shall cause to be placed on the official ballot for use at presidential primaries . . . the names of those *candidates or potential candidates for nomination* for president whose names appear on written lists signed by the chairman of the state committees of the political parties.” (emphasis added). Nor is G.L. 55B, § 70E, the only statutory section whose plain language makes clear what it means to be a nominee for office. Indeed, G.L. 53, § 2, provides that a candidate can only become a nominee after a primary or caucus: “candidates of political parties for all elective offices, . . . shall be nominated . . . in primaries or caucuses.” It requires no canons of

statutory interpretation or resort to dictionary definitions to conclude that a candidate for nomination is not a nominee.

This straightforward reading of the statutory language comports with common sense and the role of primaries and the presidential preference primary. If appearing on a primary ballot made a candidate a nominee, then the six other Republican candidates whose names will appear on the Republican presidential primary ballot in Massachusetts—Chris Christie, Ryan Binkley, Vivek Ramaswamy, Asa Hutchinson, Ron DeSantis, and Nikki Haley—would also be nominees. Indeed, every candidate whose name appears on a primary ballot would then be a nominee without regard to the primary results. But not only are the candidates who appear on the presidential primary ballot not nominees, even the winner of the presidential primary in Massachusetts will not necessarily become their party’s presidential nominee; each party’s nominee will be selected at that party national convention. *See Cousins v. Wigoda*, 419 U.S. 477, 489-90 (1975) (recognizing that “[t]he States themselves have no constitutionally mandated role in the great task of the selection of Presidential and Vice-Presidential candidates” and noting the importance of “the National Party Convention as a concerted



enterprise engaged in the vital process of choosing Presidential and Vice-Presidential candidates”).

Petitioners attempt to escape this plain language by surmising that the state party’s submission of Trump’s name to the Secretary for inclusion on the presidential primary ballot is a “certificate of nomination” because “by necessity the Secretary’s placement of a political party’s requested candidate(s) on a primary ballot [sic] requires the party to convey a ‘certificate of nomination.’” Emergency Petition for Relief at 33. But neither the parties nor this Court need to guess or deduce from context what a “certificate of nomination” is, because it is described in detail in G.L. c. 53, § 5:

Every certificate of nomination shall state such facts as are required by section eight and shall be signed and sworn to by the presiding officer and by the secretary of the caucus or convention, who shall add to their signatures their residences. The secretary shall within the seventy-two hours succeeding five o’clock in the afternoon of the day upon which the caucus was held or the session of the convention terminated, and within the time specified in section ten, file such certificate at the place specified in section nine.

No such certificate of nomination, except for presidential electors, shall be received or be valid unless the written acceptance of the candidates thereby nominated shall be filed therewith.

G.L. c. 53, § 8, contains additional specificity about the content required in a certificate of nomination: “All certificates of nomination . . . shall, in addition to the names of candidates, specify as to each, (1) his residence, with street and number, if any, (2) the office for which he is nominated, and (3) . . . the political designation, if any, which he represents.” It is plain that the letter from the Massachusetts Republican Party placing Donald Trump’s name on the presidential primary ballot is not a “certificate of nomination” within the statutory meaning of that phrase.

The precedent on which Petitioners rely for their conclusion that the party committee letter “must” be a “certificate of nomination” illustrates the precise opposite of Petitioners’ point. Those cases all refer to a certificate of nomination being conveyed *after a party convention*. See *Attorney Gen. v. McOsker*, 198 Mass. 340 (1908); *Independent-Progressive Party v. Secretary of Commonwealth*, 266 Mass. 18 (1929); *Libertarian Ass’n of Mass. v. Secretary of Commonwealth*, 462 Mass. 538 (2012). The settled precedent, plain language of our election statutes, and common sense all lead to the same conclusion: that no document issued thus far, including the letter from the Chair of the Massachusetts Republican Party placing

Trump's name on the ballot, satisfies the statutory requirements to constitute a certificate of nomination.

**CONCLUSION**

For the reasons described above, Respondents Massachusetts State Ballot Law Commission, and William Francis Galvin, in his official capacity as Secretary of the Commonwealth of Massachusetts, respectfully request that the Petition be denied.

Respectfully submitted,

MASSACHUSETTS STATE BALLOT  
LAW COMMISSION and WILLIAM  
FRANCIS GALVIN, in his official  
capacity as Secretary of the  
Commonwealth of Massachusetts

By their counsel,

ANDREA JOY CAMPBELL  
ATTORNEY GENERAL

*/s/ Phoebe Fischer-Groban*  
Anne Serman, BBO No. 650426  
Phoebe Fischer-Groban, BBO No. 687068  
Assistant Attorney General  
Government Bureau  
One Ashburton Place  
Boston, Massachusetts 02108  
(617) 963-2589  
phoebe.fischer-Groban@mass.gov

Date: January 25, 2024

## CERTIFICATE OF SERVICE

I hereby certify that on January 25, 2024, I filed with the Supreme Judicial Court and served the attached Response to Petitioners' Emergency Petition for Relief of Massachusetts State Ballot Law Commission and William Francis Galvin, in his official capacity as Secretary of the commonwealth of Massachusetts, in *Chafee v. Trump*, No. SJ-2024-0032, by email on the following:

Shannon Liss-Riordan  
Jack Bartholet  
Samuel Davis  
LICHTEN & LISS-RIORDAN, P.C.  
729 Boylston Street, Suite 2000  
Boston, MA 02116  
(617) 994-5800  
sliss@llrlaw.com  
jbartholet@llrlaw.com  
sdavis@llrlaw.com

Ronald Fein  
John Bonifaz  
Ben Clements  
Courtney Hostetler  
FREE SPEECH FOR PEOPLE  
1320 Centre St. #405  
Newton, MA 02459  
(617) 244-0234  
rfein@freespeechforpeople.org  
jbonifaz@freespeechforpeople.org  
bclements@freespeechforpeople.org  
chostetler@freespeechforpeople.org

Marc Salinas  
4 High Street, Suite 302  
North Andover, MA 01845  
marc@silvasalinas.com

/s/ Phoebe Fischer-Groban  
Phoebe Fischer-Groban  
Assistant Attorney General  
One Ashburton Place  
Boston, MA 02108  
phoebe.fischer-groban@mass.gov  
(617) 963-2589