IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DIVISION, COUNTY DEPARTMENT

STEVEN DANIEL ANDERSON, *et al.*	)	
	)	
Petitioners-Objectors,	)	**Case No. 2024 COEL 000013**
	)	
v.	)	
	)	**Hon. Tracie R. Porter**
DONALD J. TRUMP, *et al.*,	)	
	)	**Calendar 9**
Respondents.	)	
	)	

OBJECTORS' RESPONSE IN OPPOSITION TO RESPONDENT/CANDIDATE DONALD J. TRUMP'S MOTION TO STAY

INTRODUCTION AND BACKGROUND

On January 4, 2024, Petitioners-Objectors filed their petition objecting to the validity of Candidate Donald J. Trump's ("Trump" or "Candidate") nomination papers on the basis that the undeniable and largely undisputed facts show that he is disqualified from holding the Office of the President of the United States under Section Three of the Fourteenth Amendment of the United States Constitution because he engaged in insurrection by inciting, encouraging, facilitating, and allowing the January 6, 2021 attack on the U.S. Capitol in an effort to interrupt the certification of the electoral vote and the peaceful transfer of power.

Following expedited briefing and evaluation of a robust evidentiary record, Judge Clark Erickson (Ret.), serving as Hearing Officer for the State Officers Electoral Board ("Electoral Board" or "Board"), found that the evidence "proves by a preponderance of the evidence that President Trump engaged in insurrection . . . and should have his name removed from the March, 2024 primary ballot in Illinois." C-6673 V12 (Hearing Officer's Report and Recommended Decision at 17). Judge Erickson also recommended, however, that the Electoral Board reserve making that decision, which he believed must come from the courts. C-6668 V12 **(***Id.* at 12.) On January 30, 2024, the Electoral Board followed his recommendation, as well as a recommendation the Board's General Counsel surprisingly made for the first time just before the vote, and issued a decision finding: (1) that Objectors were required under the Election Code to show that Candidate Trump acted *knowingly* when he falsely swore that he is qualified for the office of the Presidency; and (2) in the alternative, that the Electoral Board lacks jurisdiction to determine whether Trump is disqualified for engaging in insurrection under Section Three because it required the Board to construe and apply a provision of the United States Constitution. *See* C-6717-18 V12 (Board Decision 2-3); C-6678 V12 (General Counsel Recommendation). Both of the Board's findings are

in complete contravention of controlling Illinois law and if accepted would preclude electoral boards from exercising fundamental duties. Objectors filed their petition for judicial review on the same day, immediately following the vote.

Armed with this improper decision from the Electoral Board, Candidate Trump has strolled into Objectors' appeal, urged that everything slow down, and employed similar tactics he has in other legal proceedings. Only this time, instead of misrepresenting to the Court that the events of January 6th mainly comprised walking, talking, and listening to the song "YMCA," (1/26/2024 Hearing Transcript forthcoming), or blatantly flouting Illinois procedural rules for affidavits (C-6581-86 V12 (Objectors' Reply Br. at 18-12)), he asks the Court to maintain a patently inaccurate, legally unsustainable new status quo. Ignoring looming ballot deadlines, he argues there is no reason to expedite this case and that, instead, this Court should fully stay proceedings pending the U.S. Supreme Court's decision in *Trump v. Anderson*, No. 23-719. Objectors oppose this request on multiple grounds.

Most obviously, even if the U.S. Supreme Court resolves all the federal constitutional issues involved in this Objection, it will not and cannot resolve the critical mistake of Illinois election law the Electoral Board adopted. ***Regardless of the U.S. Supreme Court's decision, absent a ruling from this Court in time for the March 19, 2024 primary, Donald Trump will remain on the ballot because the Electoral Board found he did not "knowingly lie" when he swore he was qualified for office—and this new "knowingly lie" standard will become the new precedent for all Illinois election challenges, including those having nothing to do with Trump.*** In other words, under the Board's manifestly incorrect ruling, even if the Supreme Court finds that Trump engaged in the insurrection of January 6 and is disqualified to run for president, he will remain on the ballot. This erroneous decision *must* be addressed on an expedited basis, both to

ensure ballot accuracy for the presidential primary and to protect Illinois voters from a wholly improper and newly articulated legal standard that will preclude electoral boards from safeguarding voters from wasting votes on unqualified candidates, as electoral boards are mandated to do by the Election Code.

Even beyond this critical point, which alone should require denial of the stay request, the Supreme Court's decision will not be issued "soon" for purposes of this expedited election appeal (Mot. at 2), and there is no certainty that it will even resolve the constitutional issues in this case, let alone resolve them in Trump's favor, circumstances that each caution against a stay. Finally, a stay would create an untenable burden on election officials and Illinois voters, who would face the consequences of last-minute resolution through uncertainty, last minute ballot updates, confusion, and miscast votes. In sum, this Court should decline Candidate Trump's invitation to temporarily ignore a precarious, newly created legal standard and act quickly to protect the integrity of Illinois ballots.

LEGAL STANDARD

"A party seeking a stay must justify it by clear and convincing circumstances outweighing potential harm to the party against whom it is operative." *Kaden v. Pucinski*, 263 Ill. App. 3d 611, 616 (1st Dist. 1994) (cleaned up) (quoting *Zurich Ins. Co. v. Raymark Indus., Inc.*, 213 Ill. App. 3d 591, 595 (1st Dist. 1991)). "Thus, the party seeking a stay must make out a clear case of hardship or inequity in being required to go forward, if there is even a fair possibility that the stay for which he prays will work damage to someone else." *Id.* (internal alteration and quotations omitted) (quoting *Zurich Ins. Co.*, 213 Ill. App. 3d at 595). To prevail on a motion for a stay, the movant must "present a substantial case on the merits and show that the balance of the equitable factors weighs in favor of granting the stay." *Stacke v. Bates*, 138 Ill. 2d 295, 309 (1990). "If the balance of the equitable factors does not strongly favor movant, then there must be a more

substantial showing of a likelihood of success on the merits." *Id.*; *Tirio v. Dalton*, 2019 IL App (2d) 181019, ¶¶ 63-69. Here, both the balance of equitable factors as well as the likely outcome on the merits support denial of the stay.

ARGUMENT

I. THE U.S. SUPREME COURT WILL NOT RESOLVE ALL THE ISSUES PRESENTED IN THIS CASE AND MAY NOT ADDRESS TRUMP'S QUALIFICATIONS UNDER SECTION THREE, AND, EVEN IF IT DOES, IT IS LIKELY TO RULE IN FAVOR OF OBJECTORS.

For multiple reasons, this Court should not wait for a ruling from the U.S. Supreme Court in *Trump v. Anderson* to decide this case. First, there is no telling when the U.S. Supreme Court will issue its ruling. The Court is not even holding argument until February 8, the day early voting and vote-by-mail begins in Illinois. Thus, as explained below in Section II, each day spent waiting for a ruling from the Supreme Court is a day that deprives Illinois election officials of time to react to a decision that impacts ballots and other voting protocols and may disenfranchise voters who will vote in the Republican primary on March 19, or before by mail or early voting. Second, as discussed below in Section I(A), the U.S. Supreme Court will not "authoritatively decide the issues in this case," as Trump asserts (Mot. at 3), because essential issues of Illinois state law will remain no matter how the Supreme Court rules. Third, it is quite possible—indeed likely—that the Supreme Court's ruling in *Anderson* will either not dispose of the issues in this case or will not dispose of them in Trump's favor, in which case the delayed resolution here—and the resulting adverse consequences—will have been for nought. *See* Section I(B).

A. The U.S. Supreme Court Decision Will Not Resolve Central Issues in This Case That Require Immediate Review.

1. The Supreme Court's Decision Timing Is Uncertain and May Not Dispose of the Constitutional Issues in This Case.

Despite Trump's assurances that the timing of the Supreme Court's decision in *Anderson*

will come "very soon" (Mot. at 2), there are no guarantees when the Court will rule, and "soon" means something different in an expedited election case. *See Goodman v. Ward*, 241 Ill. 2d 398, 405 (2011) (deciding merits of appeal and recognizing prompt resolution of election matters is necessary to avoid "uncertainty in the election process which inevitably results when threshold eligibility questions cannot be fully resolved before voters begin casting their ballots"). Trump casually suggests the decision is just around the corner, making a "brief" stay of no consequence. Not so. He hopes to delay an outcome of this case past critical upcoming Illinois election deadlines to secure a place on the ballot, regardless of whether the U.S. Supreme Court resolves his appeal in his favor. While the Court has scheduled oral argument for February 8, 2024 (which already is the first day Illinois counties can send out vote-by-mail ballots), it has *not* committed to a decision date. *See Trump v. Anderson*, No. 23-719, 2024 WL 61814, at *1 (U.S. Jan. 5, 2024). And even Trump acknowledges that the Supreme Court may slow the expedited briefing schedule in this case following oral argument, and issue a decision *possibly* by March. *See* Mot. at 2-3. In the meantime, election deadline after election deadline will pass in Illinois, placing both voters and election officials in a precarious position (*see infra.* Sec. II) as they wait for even initial decisions in this case, which will likely require Illinois Supreme Court review.

Moreover, ***the U.S. Supreme Court cannot and will not resolve the critical issues of Illinois election law that are not before it and which undergird this appeal***. That fact distinguishes this case from other cases in other states that have paused proceedings (*see* Mot. at 2). And further, the Supreme Court may not even resolve the Colorado Section Three challenge in a manner that disposes of the constitutional issues here.[1]

[1] Trump mischaracterizes previous filings by Free Speech for People in Michigan, Minnesota, and Oregon challenges to his candidacy, which referred to the Supreme Court's ability to render a "final decision" on Section Three (Mot. at 4) only to make the uncontroversial and accurate point

Even if the U.S. Supreme Court were to rule in Trump's favor and reverse the Colorado Supreme Court, it is quite possible that the Court would do so by determining, as Trump has requested, that Trump's removal from the Colorado ballot was inappropriate as a matter of Colorado *state law* and thus invalid under the U.S. Constitution's Electors Clause. *See* Br. for Petr. Trump at 46-47, *Trump v. Anderson*, No. 23-719 (U.S. Jan. 18, 2024), *available at* https://www.supremecourt.gov/docket/docketfiles/html/public/23-719.html (arguing the Colorado Supreme Court's ruling is inconsistent with Colorado law and in violation of the Electors Clause because the state law provision by which Trump was removed from the ballot limits only the political parties, and not the candidates, that may participate in primary elections); *see also* U.S. Const. art. II, § 1, cl. 2 (requiring states to appoint presidential electors "in such Manner as the *Legislature* thereof may direct") (emphasis added). Two of the three justices who dissented from the Colorado Supreme Court's opinion did so exclusively on the basis that removing Trump from the ballot was inconsistent with the procedures mandated by Colorado's Election Code. *See, e.g.*, *Anderson v. Griswold*, 2023 CO 63, ¶¶ 258-272 (request to disqualify under Section Three not a proper cause of action under Colorado's election code) (Boatright, C.J., dissenting); *id.* ¶¶ 351-398 (Colorado election code does not authorize courts to make Section Three disqualification determination) (Berkenkotter, J., dissenting). And, of course, a reversal based, ultimately, on the

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that the political question doctrine does not bar state courts from deciding Section Three challenges because the U.S. Supreme can resolve conflicts in different state courts' interpretations of the U.S. Constitution. Those filings occurred before the Colorado Supreme Court decided *Anderson*, before the scope of the Supreme Court appeal was known, and are totally immaterial to the Illinois state law questions at issue in this case. Put another way, it is uncontroversial that the U.S. Supreme Court *can* resolve the federal constitutional issues in this case, but there is no guarantee that it *will* do so, nor *when*—and it is equally uncontroversial that the U.S. Supreme Court *cannot* resolve the Illinois state law issues in this case.

interpretation of Colorado state law would provide absolutely no guidance to this Court; the Court would have delayed this critical ballot challenge for nothing.

The Supreme Court could also issue other rulings that would resolve the appeal in *Anderson* without disposing of any issue here. Even if the Court does not conclusively decide as a matter of law that Trump engaged in insurrection under Section Three, it may still, for example, leave resolution of the matter up to individual sovereign states based on application of each state's own laws and procedures. *See* U.S. Const. art. II, § 1, cl. 2 ("*Each* State shall appoint, in such Manner as the Legislature *thereof* may direct, a Number of Electors . . . .") (emphases added); *Hassan v. Colorado*, 495 Fed. Appx. 947, 948 (10th Cir. 2012) (Gorsuch, J.) ("a state's legitimate interest in protecting the integrity and practical functioning of the political process *permits* it to exclude from the ballot [presidential] candidates who are constitutionally prohibited from assuming office") (emphasis added); Brief of Amici Curiae Professors Akhil Reed Amar and Vikram David Amar in Support of Neither Party at 4–5, *Trump v. Anderson*, No. 23-719 (U.S. Jan. 18, 2024) (arguing that the Constitution allows each state to adopt different standards and modes of proof for resolving Section Three challenges).

2. This Appeal Presents Important and Time-Sensitive Issues of Illinois Law that Are Not Before the U.S. Supreme Court.

Candidate Trump's representation that "[o]nly if the Supreme Court rules against President Trump on every ground will this Court need to review the Electoral Board's dismissal on state grounds" (Mot. at 4.) is clearly false. No matter what happens in the U.S. Supreme Court, this Court will need to issue a decision on the newly minted and utterly invalid objection review standard adopted by the Electoral Board, requiring a candidate to "knowingly lie" about their qualifications to be disqualified, even if they objectively fail to meet the qualifications for office.

The "knowingly lie standard," created from whole cloth by the General Counsel and adopted by the Board, imposed a new scienter requirement not set forth in the text of Section 7-10 (governing candidate objections), elsewhere in the Illinois Election Code, or supported by the relevant case law. It limits the Board's review of Trump's Statement of Candidacy to whether he "*knowingly lied*" when swearing he was qualified for office, rather than determining whether he is *actually qualified*—a standard that, if left in place, could extend to electoral board review of candidate qualifications across Illinois. C-6686 V12 (Summary Sheet at 9) C-6717-18 V12 (Board Decision 2-3); *see also* Objectors' Motion to Grant Petition for Judicial Review (forthcoming) at Section I(A).[2] Finding inadequate proof of Trump's perjurious intent, the Board deemed that even if Trump is disqualified from the Presidency under Section Three for engaging in insurrection, he is nonetheless allowed on ballots in Illinois under their reading of Section 7-10.

Without a ruling from this Court and ultimately the Illinois Supreme Court on the Board's brand-new "knowingly lied" requirement, *even if the U.S. Supreme Court determines that Trump is in fact disqualified from the Presidency under Section Three*, under the Electoral Board's rule, he will have to remain on the Illinois ballot because the Board deemed that he did not "know" he was disqualified. In other words, even with a decision from the U.S. Supreme Court that Trump is

[2] As described in detail in Objectors' forthcoming motion, the standard adopted by the State Officers Electoral Board fully contravenes Illinois law requiring electoral boards to limit ballot access to candidates who are *actually* qualified for the office they seek. Creating an exception that allows unqualified candidates who genuinely but incorrectly believe they are qualified to hold office blows up electoral boards' function as gatekeepers for preserving election integrity and would create an absurd and unworkable standard to enforce. *See, e.g. Geer v. Kadera*, 173 Ill. 2d 398, 406 (1996) ("The purpose of [10 ILCS 5/7-10] and similar provisions is to ensure an orderly procedure in which only the names of qualified persons are placed on the ballot."); *Goodman*, 241 Ill. 2d at 408 (recognizing legislature's intent to "require candidates to meet the qualifications for the office they seek" by creating requirement for a sworn statement of candidacy); *Muldrow v. Mun. Officers Electoral Bd. for City of Markham*, 2019 IL App (1st) 190345, ¶ 20 ("[i]f a candidate's statement that he or she is qualified for the office sought is *inaccurate*, the statement fails to satisfy statutory requirements") (emphasis added).

constitutionally barred from the Presidency, Illinois election officials will still be required to print and distribute ballots containing the name of the constitutionally disqualified candidate unless this Court overturns the Electoral Board's decision. This quite likely scenario would leave Illinois voters lost as to how to select a candidate and confused about the impact of their vote. Illinois voters who cast their ballot for Trump—a disqualified candidate—would be unwittingly disenfranchised. This issue needs to be resolved—without waiting for a decision from the U.S. Supreme Court—to avoid this confusing and chaotic scenario.

And even if the U.S. Supreme Court does somehow deem Trump constitutionally qualified for the Presidency, this Court still must rule on the validity of the purported "knowingly lied" requirement and should do so quickly. While the dispute *could* become moot as to Trump, under the public interest exception to the mootness doctrine, this Court, and the Illinois Supreme Court, will be authorized to decide—and remedy—this issue before any adverse impact on Illinois elections. "The public interest exception to the mootness doctrine allows a court to reach the merits of a case which would otherwise be moot if the question presented is of a public nature, an authoritative resolution of the question is desirable for the purpose of guiding public officers, and the question is likely to recur." *Jackson v. Bd. of Election Comm'rs of City of Chicago*, 2012 IL 111928, ¶¶ 43-44.

As the Illinois Supreme Court has held, "a question of election law" is "inherently a matter of public concern" that requires swift court rulings to "aid election officials . . . in promptly deciding such disputes in the future, thereby avoiding the uncertainty in the electoral process which inevitably results when threshold eligibility issues cannot be fully resolved before voters begin casting their ballots." *Id.* Moreover, the question is likely to recur in nearly every ballot challenge until the Board's grave error is corrected. Without court intervention, electoral boards at all levels

of government across the state will see no end to unqualified candidates defending objections by claiming that they *believed* they satisfied the requirements—candidates who "believe" they actually reside in the district; convicted felons who "believe" they are not barred from office; among other examples. Thus, no matter the outcome at the U.S. Supreme Court, this Court—and likely the Illinois Supreme Court—will need to decide this as well as the corollary issue presented in this appeal on the scope of Illinois electoral board authority to apply Illinois and U.S. Constitutional law when evaluating election objections.

B. The Merits of Trump's U.S. Supreme Court Appeal Do Not Warrant a Stay.

Even beyond the decisive state law issues and even if the U.S. Supreme Court were to reach the constitutional questions at issue in this case, a stay would only be justified if the Supreme Court were *likely* to reverse the Colorado Supreme Court. That is because of the strong equities in Objectors' favor. *See Stacke*, 138 Ill. 2d at 309 ("[i]f the balance of the equitable factors does not strongly favor movant, then there must be a more substantial showing of a likelihood of success on the merits"). If this Court stays the case and the Supreme Court then affirms that Trump is disqualified under Section Three, there will be considerable adverse consequences for both Illinois voters and election officials, as discussed below in Section II. Despite Trump's bravado, *see* Exhibit A (compiling recent Trump posts from Truth Social), a reversal of the Colorado Supreme Court in the U.S. Supreme Court is far from a sure bet and certainly cannot be construed as *likely*.

The Colorado Supreme Court's ruling that Donald Trump engaged in insurrection on January 6, 2021, and is therefore ineligible for the office of the Presidency under Section Three of the Fourteenth Amendment, is thoughtful, thorough, and correct. *See generally Anderson*, 2023 CO 63. And in his opening brief before the Supreme Court, Trump does not even contest that January 6th constituted an insurrection under Section Three. *See* Br. for Petr. Trump at 33-38,

Trump v. Anderson, No. 23-719 (U.S.).[3] As to whether Trump engaged in the insurrection, the Colorado trial court found so by "clear and convincing evidence" after hearing five days of live testimony, *Anderson v. Griswold*, No. 23CV32577, ¶¶ 241, 298 (Dist. Ct., City & Cnty. of Denver, CO Nov. 17, 2023), and the Supreme Court could reverse those findings only if they were clearly erroneous. *See Glossip v. Gross*, 576 U.S. 863, 882 (2015) ("Where an intermediate court reviews, and affirms, a trial court's factual findings, this Court will not 'lightly overturn' the concurrent findings of the two lower courts."). The Supreme Court is unlikely to find clear error, especially when no other factfinder to consider the issue—including the Secretary of State in Maine and Judge Erickson below—has reached a contrary finding, and where the record establishes that Trump laid the groundwork for the January 6, 2021 attack, propagated the lie that the 2020 election was somehow "stolen" from him, incited his armed supporters to storm the Capitol, encouraged and supported their efforts to disrupt and endanger Congress while the violent attack was underway, and then sat back and watched the attack on live television, failing for over three bloody hours to call off the attack, until well after the attackers had succeeded in overtaking the Capitol and disrupting certification of the 2020 presidential election. And when he finally did direct the mob to leave the Capitol, he did so with "love." Given these damning and undeniable facts, it is not surprising that Trump has not offered any of his own testimony in the Colorado proceedings (or elsewhere, including here) to rebut the finding that he engaged in insurrection, and thus the finding is, to say the least, more than highly likely to stand.

In addition, the litany of arguments Trump presses for why he should remain on the ballot

[3] In his Motion, Trump describes the issues before the Supreme Court by improperly citing to his Petition for Certiorari rather than his actual merits brief, which focuses on whether Trump engaged in insurrection, as opposed to whether the January 6 attack was an insurrection under Section Three—a critical issue that influences the question of engagement.

despite Section Three's disqualification are all stunningly weak:

- Trump absurdly argues that Section Three somehow bars every oath-taking insurrectionist from holding subsequent office *except for the president*. *See* Br. for Petr. Trump at 20-33, *Trump v. Anderson*, No. 23-719 (U.S.). This reading of Section Three is not only nonsensical, but is also completely at odds with the provision's plain text, which expressly applies to *any* "officer of the United States."

- Trump argues that only Congress may enforce Section Three's disqualification provision, *id.* at 38-40, but that is simply not what Section Three says. On the contrary, Section Three establishes a mandatory qualification standard for holding office, and it gives Congress authority to *remove* a disqualification under Section Three by a two-thirds vote. Section Three says nothing at all about the necessity of any congressional act to enforce the disqualification in the first instance.

- Trump also asserts that insurrectionists who are barred from holding office under Section Three should still be permitted to run for office. The argument is facially absurd. There is simply no reason to allow a candidate to run for an office they are disqualified from holding, and then-Judge, now-Justice Gorsuch rejected the very same argument Trump advances here in *Hassan v. Colorado*, 495 Fed. App'x. 947 (10th Cir. 2012).

In short, it seems likely that if the Supreme Court reaches the merits of the case, it will rule against Trump. But in any event, it is *far* from certain that if the Supreme Court decides the case, the ruling will, as Trump says, "immediately dispose of this case and allow a voluntary dismissal or a stipulated outcome without the need for further substantial proceedings." Mot. at 4. This Court should not delay resolution of this case, leaving voters and election officials in utter limbo, based purely on the hope the U.S. Supreme Court will neatly dispose of this matter. That misplaced hope is likely to leave election officials scrambling when the Supreme Court does rule on this matter—whenever that may be.

II. A STAY WILL CAUSE SEVERE PREJUDICE AND WILL NOT PROMOTE JUDICIAL EFFICIENCY.

Indeed, a stay of this action would create an untenable outcome both for election officials, who must prepare for vote-by-mail and in-person voting across the state, and for Illinois voters who seek to cast votes in the March 19, 2024 Republican primary.

Briefing in the U.S. Supreme Court won't be complete until the date of this filing, February 5, 2024. *Trump v. Anderson*, No. 23-719, 2024 WL 61814, at *1 (U.S. Jan. 5, 2024). Oral argument won't occur until February 8, 2024. *Id.* And after that, there is no deadline for a decision by the U.S. Supreme Court. *Id.* In Candidate's most optimistic estimation, the Supreme Court's decision "*should* be issued before the end of February." (Mot. at 3) (emphasis added). But in truth there is no telling how long the Supreme Court will take to weigh, determine, and announce its decision. What is known is that the Supreme Court will not issue a decision until far past critical election deadlines and the corresponding time period for election officials to print ballots and make other statutorily required preparations for the March primary election.

February 8, 2024 is the first day for an election authority to mail a ballot to vote-by-mail voters, 10 ILCS 5/19-4, and it is the first day for early voting at the office of the election authority, 10 ILCS 5/19A-15. Over a third of Illinois voters rely on early or mail voting to cast their ballot.[4] Every day a stay is in place, local election authorities will issue the Presidential Primary ballot to vote-by-mail voters and early voters with Candidate Trump's name included. If the U.S. Supreme Court upholds the Colorado Supreme Court decision that Section Three precludes Trump from reelection to the Presidency, any votes cast for Trump during that waiting period will necessarily be disregarded. *Every single voter who cast a ballot for Trump will have lost their opportunity to cast a vote for a viable candidate in the presidential primary election.* These voters in the Republican primary would suffer incurable harm.

[4] Patrick Andriesen & Jon Josko, *Record Number of Illinois Voters Cast Ballot by Mail in 2022 Midterms*, ILLINOIS POLICY (Jan. 11, 2023), https://www.illinoispolicy.org/record-number-of-illinois-voters-cast-ballot-by-mail-in-2022-midterms/ (reporting that in Illinois early voting and mail ballots accounted for 39% of total votes in the 2022 midterms).

Indeed, if the Court agrees with Trump's request, in a best-case scenario the U.S. Supreme Court issues its decision by the end of February. That leaves a mere *nineteen days* for: (1) the parties to brief the Illinois law issues, and any others that remain, before this Court, (2) the Court to hold a hearing; (3) the Court to issue a decision; (4) appeal of the decision; (5) the parties to brief the issues for the Illinois Supreme Court; (6) oral argument; and (7) the Illinois Supreme Court to issue a decision. Only *after* all that occurs, can election authorities begin to react to the decision and alert voters to necessary ballot updates.

If, on the other hand, this Court reverses the Electoral Board's decision and sustains the Objection, it need not order Trump's name removed from all ballots. It could, instead, exercise a middle-ground option to order local election authorities to hold their remaining vote-by-mail and early voting ballots until the U.S. Supreme Court and the Illinois Supreme Court resolve the matter. To the extent necessary, once before the Illinois Supreme Court, the parties could react quickly with any necessary briefing or supplementary briefing after the U.S. Supreme Court's decision, primed to fully resolve this case. This approach would preserve the integrity of the democratic process, prevent disenfranchisement, and protect voters' right to cast their vote for a viable candidate.

III. EXPEDITED CONSIDERATION, RATHER THAN A STAY, SHOULD BE GRANTED HERE.

Candidate Trump spills significant ink analyzing whether Section 10-10.1 of the Election Code even permits the Court to stay this case. *See* Mot. 5-7. Those arguments are beside the point. Expedited proceedings are needed, and a stay should not be granted, because Objectors, along with voters and election officials, will suffer prejudice otherwise. That distinguishes this case from others where the petitioning party neither requests nor establishes that waiting 30-plus days for a decision will result in adverse consequences.

During the February 2, 2024 hearing before this Court, Candidate Trump's counsel suggested that by filing a motion to expedite this Section 10-10.1 proceeding, Objectors have asked for relief beyond the statute. To the contrary, as Candidate Trump undoubtedly knows, petitioners in Section 10-10.1 proceedings regularly ask Circuit Court judges to enter further fast-tracked briefing schedules and hearings due to upcoming election deadlines and expected appeals. And judges frequently grant them without issue, condensing an initial hearing, briefing, and merits hearing into 7-10 days. There is good reason to move faster than the 30-day floor that the statute requires: Section 10.1 has not been amended since 2010—before early voting and vote by mail exploded in Illinois. *See supra* n.4 (in the 2022 midterm election, early voting and mail ballots comprised 39% of total votes); 10 ILCS 5/10-10.1; P.A. 96-1008, § 5, eff. July 6, 2010. Now that significant percentages of Illinois voters cast votes via mail and early voting, the earlier deadlines that impact those ballots have added importance. For that reason, and because this case also will almost certainly require an appeal to the Illinois Supreme Court, an updated version of Objectors' requested briefing and hearing schedule should be granted.

CONCLUSION

For these reasons, the Court should: (1) deny Candidate Trump's motion to stay proceedings; (2) grant Petitioners-Objectors' pending Motion for Expedited Consideration of Petition for Judicial Review, with updated briefing and hearing dates.

Dated: February 5, 2024

PETITIONERS-OBJECTORS

By: /s/ Caryn C. Lederer
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CERTIFICATE OF SERVICE

Pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned, an attorney, does hereby certify that Objector's Response in Opposition to Respondent/Candidate Donald J. Trump's Motion to Stay was filed with the Clerk of the Circuit Court using the File & Serve E-Filing System and served on all counsel of record listed below by email on February 5, 2024.

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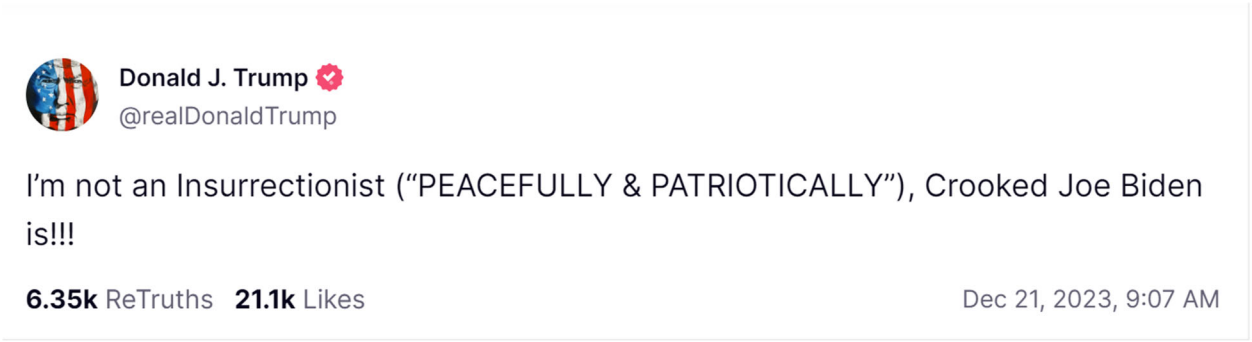
Exhibit A

(Compilation of Truth Social Posts)

December 21, 2023

9:07 AM



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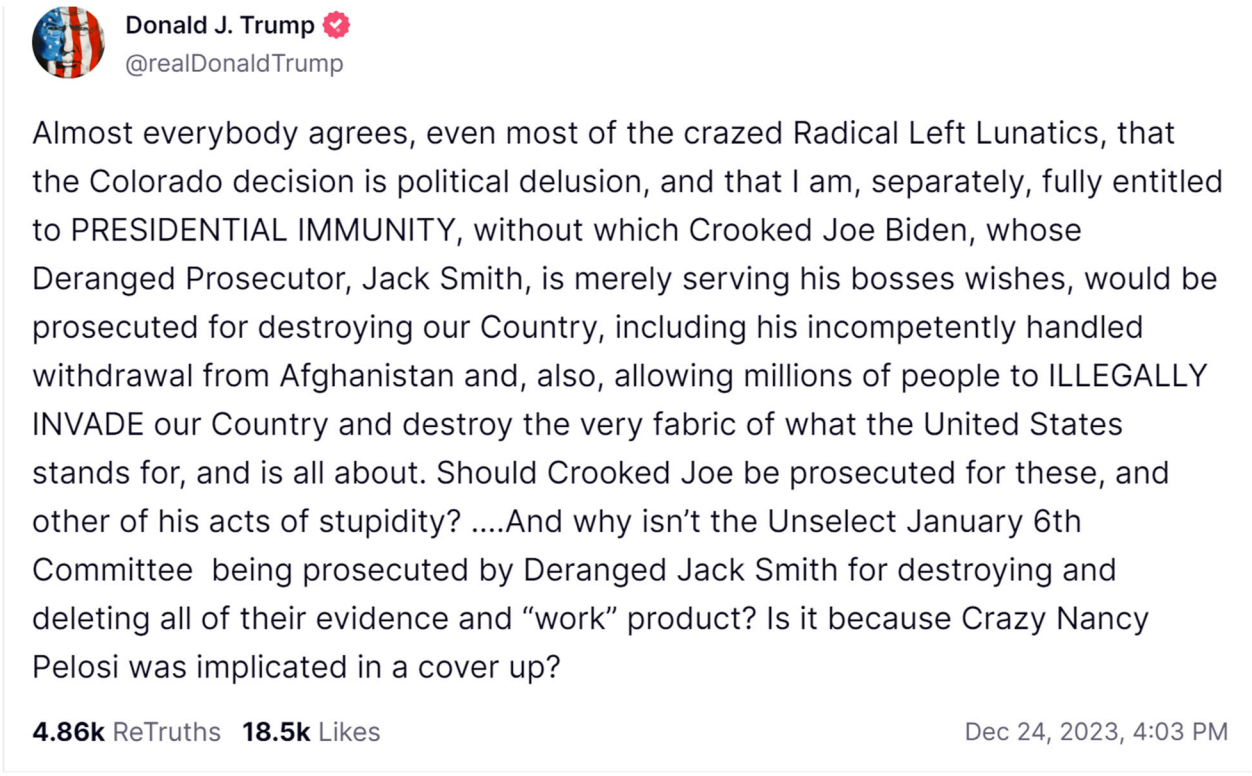
December 24, 2023

4:03 PM



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December 27, 2023

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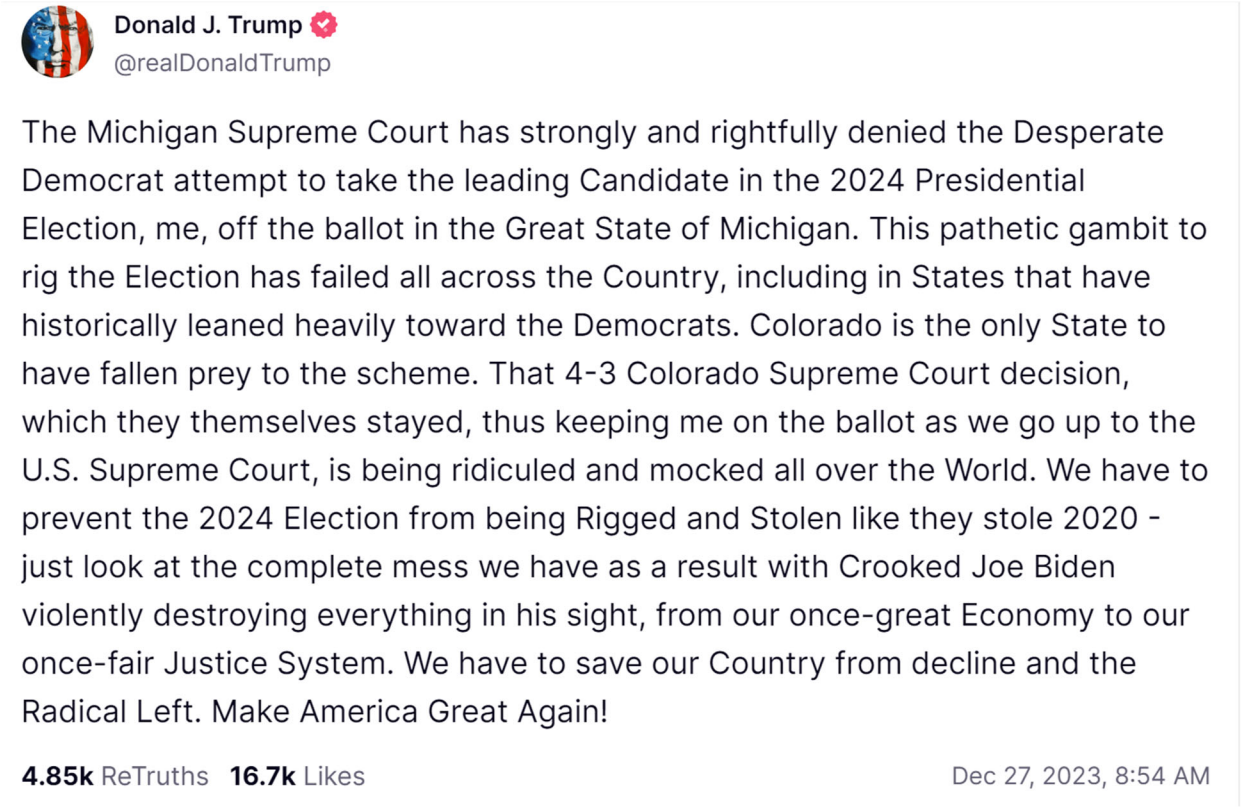

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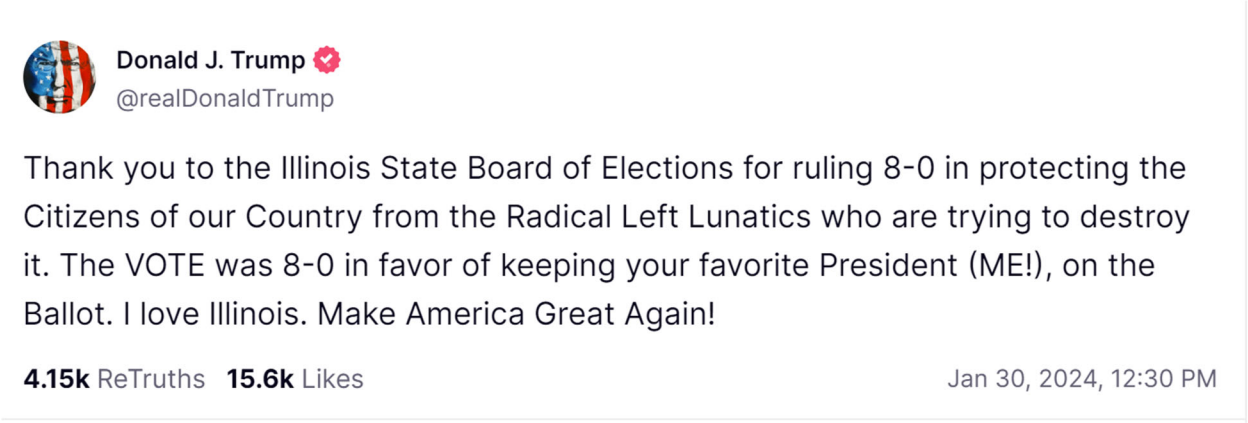

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