

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

ROY L. PERRY-BEY,
CARLOS A. HOWARD,

Case No.

1:23CV1165

Petitioners,

v.

DONALD JOHN TRUMP,

Respondent.

COMPLAINT AND REQUEST FOR DECLARATORY RELIEF

Petitioners now come before this honorable Court seeking declaratory relief on the specific issue of whether candidate Donald John Trump is indeed constitutionally prohibited from seeking a second term as President of the United States. Encompassed within this request for declaratory relief is a further determination as to whether candidate Trump is indeed even eligible to participate in the upcoming Virginia Republican Party Primary scheduled for next spring in 2024.

In bringing this request for declaratory relief Petitioners have carefully studied the specific provisions of the Constitution which govern whether an individual who participates in an overt insurrection or rebellion against the U.S. government is effectively disqualified from service in the federal government, whether as a Representative, U.S. Senator, Vice-President or President of the United States.

For purposes of standing, Petitioners "electors" registered voters assert that they had actively participated in past Presidential elections dating back to 1977 when they cast their vote being over the age of eighteen.

It should be noted that in the course of these past Presidential elections, Petitioner has cast their vote for both Democratic and Republican tickets and was a registered Independent for many years. Petitioners are legal residents of the state of Virginia and U.S. citizens by birth.

The facts of this case are undeniably simple. Donald J. Trump served as the 45th President of the United States having won the election in 2016 and was inaugurated on January 20, 2017. He served for four years until he lost the 2020 Presidential Election to Joseph R. Biden, Jr. who took office on January 20, 2021. President Trump chose not to appear at the inauguration of his successor. Having left for his estate in South Florida while the ceremony was taking place.

On January 6, 2021, after giving a speech to a throng on the Ellipse near the Capitol, President Trump exhorted the throng to march to the Capitol and told them that he would be right there with them. After he was finished with his speech, Trump returned to the White House and watched the later events unfold on television. As we are well aware, the throng marched on the Capitol, forced their way into the Capitol building, ransacked the rotunda area, and even made their way into several offices of representatives and senators. As the confirmation of the results of the election were being undertaken in the House, alarms went off and the members scurried into safe tunnels and secure rooms in the basement of the Capitol. Of note, Vice President Mike Pence missed being reached by some of the throng by a matter of seconds as he made his way down the stairwell to a secure area. Eventually, several high-ranking members of the government were shuttled to a safe area at Fort McNair in SW Washington.

Of note, President Trump had sent out a tweet the day before claiming that “January 6th will be wild”.

TAKE NOTICE: “The former president’s efforts to overturn the 2020 presidential election, and resulting attack on the U.S. Capitol, place him squarely within the ambit of the disqualification clause, and he is therefore ineligible to serve as president ever again. J. Michael Lutting, Federal Appellate Judge & Laurence H. Tribe, Law Professor

Trump also later remarked that the insurrectionists who had breached the Capitol were “special” and that “we love you”. He also later remarked that had Vice-President Pence simply done his job and refused to certify the results of the election that everything would have been fine. Not for several hours were the National Guard called in to quell the insurrection as allegedly President Trump refused to do so and had been mesmerized by the events that were taking place on his television at the White House.

Since the events of January 6th, hundreds of insurrectionists have been charged and tried and convicted on charges ranging from simple mischief, seditious conspiracy, obstruction of an official proceeding to assault and battery upon Capitol police officers. A number of individuals actually lost their lives that day as a result of the mayhem.

Recently, the Special Counsel, Jack Smith, who had been appointed by the U.S. Attorney General, submitted his findings on the events of January 6th, to an empaneled grand jury in D.C. which returned indictments against former President Trump for, among other things, rebellion or insurrection against the U.S. federal government. Trump was arraigned on these charges and now awaits trial March 4, 2024. See: D.C. Grand Jury Returned Indictments Exhibit(s) B.

It should be noted at least cursorily that Trump has also been formally indicted on charges of holding top secret classified documents at his home in Palm Beach, Florida, which is a federal offense, and has also been indicted by the City of Manhattan and State of Georgia for other election related theft crimes, rape, hush money payments, and falsifying business records related to hush money payments he'd made. However none of these other crimes have the effect of preventing former President Trump from seeking reelection in November, 2024. Of note, The Jan. 6 select House committee voted to refer former President Donald John Trump to the Department of Justice for criminal investigation and potential prosecution for trying to overturn the 2020 election. The criminal referral of Trump accuses him of obstructing an official proceeding, conspiracy to defraud the government, and inciting or assisting an insurrection or rebellion.

**THE LAW ON THE MATTER OF INCITING INSURRECTION
AGAINST THE FEDERAL GOVERNMENT**

The Fourteenth Amendment to the U.S. Constitution was ratified in 1868 in the shadow of the Civil War and was designed to represent a new birth of freedom for previously disenfranchised citizens. Of particular note, Section 3 of the 14th Amendment, automatically excludes from future office and position of power in the U.S. government and as well, from any office and position of power in the sovereign states and their many subdivisions, any individual who has previously taken an oath to support and defend our Constitution and after which acts so as to rebel against that charter, either via overt insurrection or by giving aid or comfort to the Constitutions' enemies.

In carefully analyzing this language embedded in the Constitution, numerous legal scholars have wrangled with the preeminent issue of whether an actual conviction is necessary to trigger the prohibition of running for office. This so-called "disqualification clause" has been determined to operate completely independently of any pending criminal proceedings and also independent of any impeachment proceedings or congressional legislation. Former federal judge Michael Luttig of the U.S. Court of Appeals for the Fourth Circuit and noted legal scholar Laurene Tribe have both come to the inescapable conclusion that the "disqualification clause" was designed to operate directly and immediately upon this certain individuals who betray their oaths to the U.S. Constitution, whether by taking up arms to overturn our government or by waging war on our federal government by attempting to overturn the results of a presidential election through a bloodless coup.

President Trump's efforts both in Washington, as well as in Georgia and perhaps other states, as well as the consequential assault on the US Capitol, put Trump at the center of the disqualification clause, and as a result of which, make him ineligible to ever serve in federal

office again. Now given that the facts seem to be crystal clear that Trump was involved to some extent in the rebellion or insurrection that took place on January 6th, the sole remaining question is whether American jurists who swear an oath to uphold the US Constitution upon their entry to the bench, will choose to follow the letter of the Constitution in this case. The January 6th 117th U.S. Congress Second Session Final House Report 117-000, and D.C. Grand Jury Indictments that is hereby incorporated herein and made a part hereof by reference as if set forth in full attached hereto as Exhibit(s) A & B.

Of particular note in this regard is that during his one term in office, President Trump had the opportunity to appoint three new Supreme Court justices to the high court. Each of these three jurists, Justice Neil Gorsuch, Justice Brett Kavanaugh and Justice Amy Coney Barrett are viewed as conservative jurists who err on the side of a strict construction of the US Constitution. In their decision to overturn the long standing case law of Roe v. Wade, the justices found that there was no "right of privacy" imbued in the Constitution and none could be fashioned out of whole cloth. Rather the most difficult decisions that the Court is forced to make such as whether a woman has the inherent right to abort her unborn child, is one that must be decided by looking at a very strict construction of the Constitution as our Founding Fathers saw fit to provide.

Interestingly enough, Section 3 of the 14th Amendment, which provides for the disqualification of an individual who commits insurrection against our government has remained on the books for some one hundred and fifty plus years without ever facing question as to its legitimacy. While one can certainly argue that it has not been thoroughly tested, that fact is only because we have not faced an insurrection against our federal government such as the one while we faced on January 6, 2021. It should also be noted that President Trump has since made statements to the effect that should he be elected, he would advocate the total elimination of the US Constitution and the creation of a new charter more in line with his personal values.

The 14th Amendment was promulgated and subsequently ratified in the context of post Civil War America when even after losing the Civil War, southern states were sending men to

Congress who had held prominent roles in the Confederacy and supported acts of insurrection against the U.S.

Any number of top legal scholars, including but not limited to Judge Luttig and Laurence Tribe conclude that Section 3 requires absolutely no legislation, criminal conviction or other judicial action to enforce its command. In legal terms, Section 3 is completely “self-executing”. They conclude that disqualification subject to Section 3 does not constitute a punishment or a deprivation of any “liberty” or “right” as much as one who fails to satisfy the Constitution’s qualifications does not have an absolute right to serve in a public office much less the presidency. Lastly, the scholars conclude that Section 3 is expansive and all-encompassing is what it regards as “insurrection or rebellion” against the constitutional order of the United States.

Taken along these same lines, had it been conclusively proven that Barack Obama had not been born in Hawaii but rather outside of the U.S., the Constitution would have conclusively barred him from seeking the Presidency. And Petitioner is convinced that there would have been no “wobble room” to allow him to escape that Constitutional requirement. Furthermore, had President Trump merely been thought by many individuals to have engaged in an insurrection against the federal government, that would not have sufficed to trigger Section 3 of the 14th Amendment. However, the mere fact that he has been formally indicted for various felonies including insurrection against the federal government mandates that Section 3 of the 14th Amendment be triggered.


The bottom line here is that President Trump both engaged in an insurrection and also gave aid and comfort to other individuals who were engaging in such actions, within the clear meaning of those terms as defined in Section Three of the 14th Amendment. Assuming that the

public record to date is accurate, and we have no evidence to the contrary, Trump is no longer eligible to seek the office of the President of the United States, or of any other state of the Union. See: U.S. House of Representatives Final Report Select Committee To Investigate January 6th Attack On The United States Capitol Exhibit(s) A


As such, this Court having the innate power to rule as to the tenets of the U.S. Constitution, is abjectly required to find that Donald John Trump's actions with respect to the January 6th uprising, and specifically the fact that he has been indicted for said acts, have effectively disqualified him from seeking the office of the President of the United States, and effectively barred him from participation in the Virginia Republican primary for President next spring. While Petitioners fully understand that their seeking this declaratory judgment places great pressure on the jurists who will be tasked with hearing this case, we believe that the law is abundantly clear as to the issues at bar and that if the jurists are ready to follow the specific language of the US Constitution in this regard, the decision should be a relative easy one.

WHEREFORE, Petitioners respectfully asks this honorable Court to enter a declaratory judgment such that Donald John Trump is barred from seeking the office of President of the United States and further, is barred rom participating in the Republican Presidential primary in Virginia in the spring of 2024.

Respectfully submitted,



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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
DIVISION

Roy L. Perry-Bey
Carlos A. Howard

Plaintiff(s),

v.

Civil Action Number:

2023 AUG 31 P 2:51
1:23 CV 1165

Donald John Trump

Defendant(s).

LOCAL RULE 83.1(M) CERTIFICATION

I declare under penalty of perjury that:

No attorney has prepared, or assisted in the preparation of DECLARATORY RELIEF.
(Title of Document)

Roy L. Perry-Bey
Name of Pro Se Party (Print or Type)

[Signature]
Signature of Pro Se Party

Executed on: 08/31/23 (Date)

OR

The following attorney(s) prepared or assisted me in preparation of _____.
(Title of Document)

(Name of Attorney)

(Address of Attorney)

(Telephone Number of Attorney)
Prepared, or assisted in the preparation of, this document

(Name of Pro Se Party (Print or Type)

Signature of Pro Se Party

Executed on: _____ (Date)