

Colorado Supreme Court Disqualifies Trump from 2024 Ballot, Setting Up Supreme Court Challenge

By [Zero Hedge](#)

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The Colorado Supreme Court has disqualified Donald Trump from Colorado's 2024 presidential election ballot, and in a 4-3 ruling has effectively blocked Trump from seeking the presidency because of his role in the Jan. 6 Capitol attack, citing the post-Civil War-era 14th Amendment to the US Constitution that bans insurrectionists from holding public office. The Colorado case was the first constitutional challenge to Trump's 2024 run to go through a full trial.

Voters, represented by the advocacy group Citizens for Responsibility and Ethics, had argued he should be barred from the ballot for inciting the Jan. 6, 2021 attack on the US Capitol.

Colorado's highest court - whose seven-member bench was entirely appointed by Democratic governors - overturned a ruling from a district court judge who found that Trump incited an insurrection for his role in the Jan. 6, 2021, attack on the Capitol, but said he could not be barred from the ballot because it was unclear that the provision was intended to cover the presidency.

In its ruling, the Democrat-controlled court found that Trump engaged in insurrection by inflaming his supporters with false claims of election fraud and directing them to the Capitol. The state justices determined that the office of the president is covered under the insurrection clause, which specifically lists those who previously took oaths to support the Constitution as "a member of Congress," "officer of the United States," "member of any State legislature" or an "executive or judicial officer of any State." The district court had previously ruled that the office of the president was not covered under the clause.

The majority opinion was unsigned but joined by four of the seven justices.

Those who voted for fascism are the following four Democrat-appointed judges:

[Justice Monica M. Márquez](#)



Monica M. Márquez was sworn in as Justice of the Colorado Supreme Court on December 10, 2010. She was appointed by Governor Bill Ritter, Jr. Before joining the Court, Justice Márquez served as Deputy Attorney General at the Colorado Attorney General's Office, where she led the State Services section in representing several state executive branch agencies and Colorado's statewide elected public officials. Justice Márquez also served as Assistant Solicitor General and as Assistant Attorney General in both the Public Officials Unit and the Criminal Appellate Section. Before joining the Attorney General's Office, Justice Márquez practiced general commercial litigation and employment law at Holme Roberts & Owen, LLP.

Justice Márquez grew up in Grand Junction, CO. She earned her bachelor's degree from Stanford University in 1991, then served in the Jesuit Volunteer Corps as a volunteer schoolteacher and community organizer in Camden, NJ, and Philadelphia, PA, before earning her law degree from Yale Law School in 1997. Upon graduation, she clerked for Judge Michael A. Ponsor of the United States District Court for the District of Massachusetts in Springfield, MA, and for Judge David M. Ebel of the United States Court of Appeals for the Tenth Circuit in Denver, CO.

Justice Márquez is a member of the American Law Institute, the American Bar Association, the Colorado and Denver Bar Associations, the Colorado LGBT Bar Association, the Colorado Hispanic Bar Association, and the Colorado Women's Bar Association. She has also served as chair of the Colorado Supreme Court's Task Force on Lawyer Well-Being. Before joining the Court, Justice Márquez served on the boards of multiple bar associations and the Latina Initiative, as well as Chair of the Denver Mayor's GLBT Commission.

[Justice William W. Hood, III](#)



Justice Hood was sworn in as a member of the Colorado Supreme Court on January 13, 2014, following seven years as a judge on the Denver District Court. In 2014, the Colorado Chapter of the American Academy of Matrimonial Lawyers gave him its Distinguished Jurist Award. In 2011, he received the Denver Bar Association's (DBA's) Judicial Excellence Award.

Before moving to the bench, Justice Hood was a litigation partner at Isaacson Rosenbaum P.C. in Denver and served as a prosecutor for ten years in Colorado's 18th Judicial District (encompassing Arapahoe, Douglas, Lincoln and Elbert Counties). At different times, he was a chief trial deputy and the chief appellate deputy.

In 1990, Justice Hood graduated from the University of Virginia School of Law where he was a member of the *Virginia Law Review*. In 1985, he received his B.A. *magna cum laude* with honors in International Relations from Syracuse University and was inducted into Phi Beta Kappa.

Justice Hood is a member of the American, Colorado and Denver Bar Associations. He is a fellow of the American and Colorado Bar Foundations. He has served as a member of the Executive Council of the CBA and the Board of Trustees for the DBA. He is a 2007 (inaugural class) graduate of the CBA's leadership training program (COBALT). He has taught several courses related to advocacy as an adjunct faculty member at the University of Denver, Sturm College of Law.

[Justice Richard L. Gabriel](#)



Career

Appointed by Governor John Hickenlooper to the Colorado Supreme Court June 23, 2015. Judge, Colorado Court of Appeals (2008-2015). Private practice (1988-2008): Partner (1994-2008) and Associate (1990-94), Holme Roberts & Owen LLP, Denver, CO; Associate, Shea & Gould LLC, New York, NY (1988-90). Practice focused on commercial, intellectual property, probate, and products liability litigation, all including appeals. Also served as City Prosecutor for Lafayette, Colorado. Judicial clerkship (1987-88): Law clerk, Hon. J. Frederick Motz, U.S. District Court, District of Maryland, Baltimore, MD.

Education

B.A. *cum laude* in American Studies from Yale University (1984); J.D. from University of Pennsylvania School of Law (1987). Articles editor, University of Pennsylvania Law Review (1986-87). Winner, Keedy Cup Moot Court Competition (1987).

Professional

Admitted to state bars of New York (1987) and Colorado (1990) and to numerous federal district and appellate courts, including the U.S. Supreme Court. Member: American, Colorado, Denver, and New York Bar Associations. Honors: Champion for Children, Rocky Mountain Children's Law Center (1997); Forty Under 40, Denver Business Journal (2002); Richard Marden Davis Award, Denver Bar Foundation (2002); Colorado Super Lawyer (2007-08); Chambers' Leading Lawyers for Business (2007-08); Intellectual Property Lawyer of the Year, Law Week Colorado (2007); Named as a Lawyer of the Year, Lawyers USA (2007); Denver Bar Association Award of Merit (2014); In the Pursuit of Justice Lifetime Achievement Award, Rocky Mountain Children's Law Center (2019); DeMuth Volunteer of the Year Award, Colorado Judicial Institute (2022).

[Justice Melissa Hart](#)



Governor John Hickenlooper appointed Justice Melissa Hart to serve on the Colorado Supreme Court in 2017. An active member of the Colorado legal community, she is the court's liaison to the Colorado Access to Justice Commission, the Pathways to Access Standing Committee, the Standing Committee on Family Issues, the Court Services Division of the State Court Administrator's Office, and the Ralph Carr Judicial Learning Center. Justice Hart also serves as a member of the Council of the ABA Section of Legal Education and Admission to the Bar and the Colorado Women's Bar Association Foundation Board. She was a founding Board member of Legal Entrepreneurs for Justice (Colorado's affordable law practice incubator) and of the Sonia Sotomayor Inn of Court. In addition to her role at the court, Justice Hart is an adjunct professor at both the University of Colorado Law School and the University of Denver's Sturm College of Law.

Prior to joining the Court, Justice Hart was a professor at the University of Colorado Law School, where she directed the Byron R. White Center for the Study of American Constitutional Law. Throughout her years as a professor, Justice Hart maintained an active pro bono practice, writing amicus briefs in appellate courts and representing clients through Metro Volunteer Lawyers. Her teaching and scholarship focused on access to justice, constitutional law, judicial decision making, legal ethics, employment discrimination, and civil procedure.

Justice Hart grew up in Denver, graduating from East High School. She earned her bachelor's degree from Harvard-Radcliffe College, spent a year teaching at a high school in Athens, Greece, then returned to Harvard for law school. At Harvard Law, she was the Articles Editor for the *Harvard Law Review* and Book Review Editor for the *Harvard Women's Law Journal*. After graduating in 1995, she clerked for Judge Guido Calabresi of the U.S. Court of Appeals for the Second Circuit and for Justice John Paul Stevens of the United States Supreme Court. Following her clerkships, she practiced law for several years in Washington, D.C., including as a Trial Attorney at the U.S. Department of Justice.

Three justices dissented from Tuesday's decision: [Chief Justice Brian Boatright](#), [Carlos Samour](#) and [Justice Maria Berkenkotter](#). Each wrote separate dissents taking issue with how the plaintiffs brought their 14th Amendment lawsuit using a provision of Colorado election law.

Berkenkotter wrote that "the majority construes the court's authority too broadly."

"The questions presented here simply reach a magnitude of complexity not contemplated by the Colorado General Assembly for its election code enforcement statute," wrote Boatright. "The proceedings below ran counter to the letter and spirit of the statutory timeframe because the Electors' claim overwhelmed the process."

Samour similarly wrote that Colorado's election law provides no "engine" for such a lawsuit, also noting that no federal legislation existed to enforce the 14th Amendment's insurrection clause.

"Even if we are convinced that a candidate committed horrible acts in the past—dare I say, engaged in insurrection—there must be procedural due process before we can declare that individual disqualified from holding public office. Procedural due process is one of the aspects of America's democracy that sets this country apart," Samour wrote.

Ironically, all this ruling will do is further cement Trump's status as leading presidential candidate as it not only affirms his status as target #1 of the Biden Department of Justice and liberal court system, but will test the Conservative-dominated Supreme Court appeal over its interpretation of the 14th Amendment, which according to many including a Colorado District court, [does not apply to the Presidency](#).

Indeed, as Vivek Ramaswami observed, the 14th Amendment was part of the "Reconstruction Amendments" that were ratified following the Civil War. "It was passed to prohibit former Confederate military and political leaders from holding high federal or state office. These men had clearly taken part in a rebellion against the United States: the Civil War. That makes it all the more absurd that a left-wing group in Colorado is asking a federal court to disqualify the 45th President on the same grounds, equating his speech to rebellion against the United States."

And there's another legal problem: Trump is not a former "officer of the United States," as that term is used in the Constitution, meaning Section 3 does not apply. As the Supreme Court explained in *Free Enterprise Fund v. Public Company Accounting Oversight Board* (2010), an "officer of the United States" is someone appointed by the President to aid him in his duties under Article II, Section 2. The term does not apply to elected officials, and certainly not to the President himself.

The Framers of the 14th Amendment would be appalled to see this narrow provision—intended to bar former U.S. officials who switched to the Confederacy from seeking public office—being weaponized by a sitting President and his political allies to prevent a former President from seeking reelection. Our country is becoming unrecognizable to our Founding Fathers.

The court put its ruling on hold until Jan. 4, so Trump can first seek review from the Supreme Court, which he will. Until then, Trump's name automatically remains on the ballot until the justices resolve the appeal.

"We do not reach these conclusions lightly," wrote the court's majority. "We are mindful of the magnitude and weight of the questions now before us. We are likewise mindful of our solemn duty to apply the law, without fear or favor, and without being swayed by public reaction to the decisions that the law mandates we reach."

Naturally, Trump's campaign immediately denounced the ruling.

"Unsurprisingly, the all-Democrat appointed Colorado Supreme Court has ruled against President Trump, supporting a Soros-funded, left-wing group's scheme to interfere in an election on behalf of Crooked Joe Biden by removing President Trump's name from the ballot and eliminating the rights of Colorado voters to vote for the candidate of their choice," a campaign spokesman, Steven Cheung, said.

"We have full confidence that the U.S. Supreme Court will quickly rule in our favor and finally put an end to these un-American lawsuits."



- December 19, 2023 -

Trump Campaign Statement on The Colorado Supreme Court Ruling

"Unsurprisingly, the all-Democrat appointed Colorado Supreme Court has ruled against President Trump, supporting a Soros-funded, left-wing group's scheme to interfere in an election on behalf of Crooked Joe Biden by removing President Trump's name from the ballot and eliminating the rights of Colorado voters to vote for the candidate of their choice. Democrat Party leaders are in a state of paranoia over the growing, dominant lead President Trump has amassed in the polls. They have lost faith in the failed Biden presidency and are now doing everything they can to stop the American voters from throwing them out of office next November. The Colorado Supreme Court issued a completely flawed decision tonight and we will swiftly file an appeal to the United States Supreme Court and a concurrent request for a stay of this deeply undemocratic decision. We have full confidence that the U.S. Supreme Court will quickly rule in our favor and finally put an end to these unAmerican lawsuits."

—Steven Cheung, Trump Campaign Spokesman

Constitutional law scholar Jonathan Turley, who previously [said the case has no solid legal basis](#), also responded to the decision:

"My first impression remains that same. The court is dead wrong in my view... ..It is striking that the court relies on Schenck v. U.S., where the Court upheld the denial of core free speech rights of a socialist opposing a war. The opinion of the Colorado Supreme Court is so sweeping that it would allow for tit-for-tat removals of candidates from ballots."

Others was just as harsh in their assessment, with many agreeing that this witch hunt will only boost Trump. Some, such as presidential candidate Vivek Ramswami, pledged to withdraw from the Colorado primary unless Trump is reapproved, and urged all other Republican candidates to do the same.

"Democracy" now means the right of the people to vote for candidates approved by liberal judges.

— David Sacks (@DavidSacks) [December 20, 2023](#)

This is what an *actual* attack on democracy looks like: in an un-American, unconstitutional, and *unprecedented* decision, a cabal of Democrat judges are barring Trump from the ballot in Colorado. Having tried every trick in the book to eliminate President Trump from running in...

— Vivek Ramaswamy (@VivekGRamaswamy) [December 19, 2023](#)

Finally, here is Matt Taibbi's kneejerk reaction:

By now most readers will have heard that Donald Trump was disqualified from the ballot in the state of Colorado, by the Colorado State Supreme Court, for what amounts to a criminal offense neither proven nor charged. Fifth Amendment, Schmifth Amendment, apparently.

This is a major escalation of the lawfare phenomenon that's zoomed from simmer to boil in the seven short years since Trump was first elected in 2016. The glee of #Resistance dolts like Robert Reich and Dean [Obeidallah](#) at this decision shows that this was a move dreamed up at the very center of the bubble-within-a-bubble-within-a-bubble that is the blob of the modern Democratic Party. Racket readers, I had a piece planned for later on a quasi-related subject, but I'll try to get it out in the day or so now.

What a crazy effing country this is...

[Here is the Colorado Supreme Court Decision in its entirety.](#)

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Featured image: Donald Trump on the campaign trail in March 2016. Credit:Windover Way Photography

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