SUPREME COURT OF THE UNITED STATES

23–719

DONALD J. TRUMP, PETITIONER	**v.**	**NORMA ANDERSON, ET AL., RESPONDENT**

on writ of certiorari to the Supreme Court of Colorado

June 24, 2023

AUTO GENERATED OPINION SUMMARIES

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PER CURIAM OPINION

SUPREME COURT OF THE UNITED STATES

DONALD J. TRUMP, PETITIONER
Petitioner
V.
NORMA ANDERSON, ET AL.
Respondent

on writ of certiorari to the Supreme Court of Colorado

March 4, 2024

NARRATIVE SUMMARY OF PER CURIAM OPINION OF THE COURT

PRODUCED BY CereBel LEGAL INTELLIGENCE USING GENERATIVE AI

A group of Colorado voters argues that Section 3 of the Fourteenth Amendment prevents former President Donald J. Trump from seeking the Republican Party's Presidential nomination this year. The Colorado Supreme Court concurred, ordering the Colorado secretary of state to exclude Trump from the Republican primary ballot and ignore any write-in votes for him. Trump disputes this decision on several grounds. As the Constitution assigns Congress, not the States, the duty of enforcing Section 3 against federal officeholders and candidates, we reverse.

I

In September, six months prior to the 2024 Colorado primary, four Republican and two unaffiliated voters filed a petition against former President Trump and Colorado Secretary of State Jena Griswold. The respondents argue that Trump, after his 2020 defeat, disrupted the peaceful transfer of power by inciting the Capitol breach on January 6, 2021, making him constitutionally ineligible to serve as President again. They base their argument on Section 3 of the Fourteenth Amendment.

The respondents assert that Section 3 applies to Trump because he incited the Capitol breach to retain power after taking the Presidential oath in 2017. They argue he is not a qualified candidate and should not be placed on the primary ballot. After a trial, the state District Court found Trump had “engaged in insurrection” but denied the respondents’ petition, stating that Section 3 did not apply to the Presidency.

In December, the Colorado Supreme Court partially reversed and affirmed the decision by a 4 to 3 vote. The majority concluded that the Presidency is an office under the United States for purposes of Section 3. The court also affirmed that the Colorado Election Code permitted the respondents' challenge based on Section 3 and that the political question doctrine did not preclude judicial review of Trump's eligibility. The court ordered Secretary Griswold not to list Trump's name on the 2024 presidential primary ballot or count any write-in votes for him.

The ruling was automatically stayed pending this Court's review. We granted Trump's petition for certiorari, which asked: "Did the Colorado Supreme Court err in ordering President Trump excluded from the 2024 presidential primary ballot?" We conclude that it did and reverse the decision.

II
A

Proposed in 1866 and ratified in 1868, the Fourteenth Amendment "expand[ed] federal power at the expense of state autonomy" and "fundamentally altered the balance of state and federal power struck by the Constitution." It bars states from depriving any person of life, liberty, or property without due process of law or denying equal protection of the laws. Section 5 gives Congress power to enforce these prohibitions.

Section 3 restricts state autonomy differently, aiming to prevent former Confederates from returning to power post-Civil War. It bars from office those who, after swearing an oath to the Constitution, rebelled against the U.S. Government. It imposes a penalty—disqualification from holding office—on certain individuals. As Chief Justice Chase and the Colorado Supreme Court recognized, it's necessary to ascertain which individuals are affected by this provision.

The Constitution empowers Congress to prescribe how these determinations should be made. Section 5 enables Congress, subject to judicial review, to pass legislation to enforce the Fourteenth Amendment. As Senator Howard stated, Section 5 casts upon Congress the responsibility of ensuring all sections of the amendment are carried out in good faith.

Congress's Section 5 power is critical for Section 3. During a debate on enforcement legislation, Sen. Trumbull noted that despite Section 3, hundreds of men were holding office in violation of its terms. The Constitution provided no means for enforcing the disqualification, necessitating a bill to give effect to the fundamental law. The enforcement mechanism Trumbull championed was later enacted as part of the Enforcement Act of 1870, "pursuant to the power conferred by §5 of the [Fourteenth] Amendment."

B

This case questions if States, like Congress, can enforce Section 3. We conclude that States can disqualify individuals from state office, but lack constitutional power to enforce Section 3 for federal offices, particularly the Presidency.

“In our federal system, the National Government possesses only limited powers; the States and the people retain the remainder.” Bond v. United States, 572 U. S. 844, 854 (2014). States have the power to “order the processes of its own governance.” Alden v. Maine, 527 U. S. 706, 752 (1999). The Fourteenth Amendment doesn't withdraw this authority. After its ratification, States used this power to disqualify state officers. See, e.g., Worthy v. Barrett, 63 N. C. 199, 200, 204 (1869) (elected county sheriff); State ex rel. Sandlin v. Watkins, 21 La. Ann. 631, 631–633 (1869) (state judge).

However, this power doesn't extend to federal officeholders and candidates. Powers over their election and qualifications must be “delegated to, rather than reserved by, the States.” U. S. Term Limits, Inc. v. Thornton, 514 U. S. 779, 803–804 (1995). The Constitution doesn't delegate States any power to enforce Section 3 against federal officeholders and candidates.

The respondents argue that States can enforce Section 3 against candidates for federal office. But the Fourteenth Amendment doesn't delegate such power to the States. It speaks only to enforcement by Congress. The Amendment “embody significant limitations on state authority.” Fitzpatrick v. Bitzer, 427 U. S. 445, 456 (1976). It would be incongruous to read this Amendment as granting the States the power to disqualify a candidate for federal office.

The Elections and Electors Clauses authorize States to conduct and regulate congressional and Presidential elections, respectively. See Art. I, §4, cl. 1; Art. II, §1, cl. 2. But these Clauses don't implicitly authorize the States to enforce Section 3 against federal officeholders and candidates.

The text of Section 3 empowers Congress to “remove” any Section 3 “disability” by a two-thirds vote of each house. The text imposes no limits on that power, and Congress may exercise it any time. If States were free to enforce Section 3 by barring candidates from running, Congress would be forced to exercise its disability removal power before voting begins if it wished for its decision to have any effect on the current election cycle.

The respondents haven't identified any tradition of state enforcement of Section 3 against federal officeholders or candidates in the years following ratification of the Fourteenth Amendment. Such a lack of historical precedent is a “ ‘telling indication’ ” of a “ ‘severe constitutional problem’ ” with the asserted power. United States v. Texas, 599 U. S. 670, 677 (2023) (quoting Free Enterprise Fund v. Public Company Accounting Oversight Bd., 561 U. S. 477, 505 (2010)).

Permitting state enforcement of Section 3 against federal officeholders and candidates would raise serious questions about the scope of that power. Section 5 limits congressional legislation enforcing Section 3, because Section 5 is strictly "remedial." City of Boerne, 521 U. S., at 520. Any state enforcement of Section 3 against federal officeholders and candidates, though, would not derive from Section 5, which confers power only on "[t]he Congress."

Finally, state enforcement of Section 3 with respect to the Presidency would raise heightened concerns. "[I]n the context of a Presidential election, state-imposed restrictions implicate a uniquely important national interest." Anderson v. Celebrezze, 460 U. S. 780, 794–795 (1983) (footnote omitted). Conflicting state outcomes concerning the same candidate could result from differing views of the merits, but from variations in state law governing the proceedings that are necessary to make Section 3 disqualification determinations. The "patchwork" that would likely result from state enforcement would "sever the direct link that the Framers found so critical between the National Government and the people of the United States" as a whole. U. S. Term Limits, 514 U. S., at 822. Nothing in the Constitution requires that we endure such chaos.

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For the reasons provided, the responsibility of enforcing Section 3 against federal officeholders and candidates is vested in Congress, not the States. Consequently, the judgment of the Colorado Supreme Court is untenable.

All nine Justices concur with this outcome. Our colleagues in their separate writings largely agree with the rationale presented here for this decision. See post, Part I (joint opinion of SOTOMAYOR, KAGAN, and JACKSON, JJ.); see also post, p. 1 (opinion of BARRETT, J.). Their primary objections seem to be our consideration of Section 3's unique operation and Congress's enforcement power under Section 5. However, these points, while significant, are part of a broader array of reasons explaining why States cannot enforce this specific constitutional provision regarding federal offices. It is the collective weight of these arguments, rather than any single one, that underpins the Court's unanimous decision. We believe each reason is essential for a full understanding of our judgment.

Accordingly, the Colorado Supreme Court's judgment is reversed, and the mandate shall issue immediately.

It is so ordered.

JUSTICE BARRETT, CONCURRING IN PART AND CONCURRING IN THE JUDGMENT

NARRATIVE SUMMARY

I concur with Parts I and II-B of the Court's opinion and agree that states cannot enforce Section 3 against presidential candidates. This principle alone suffices to resolve this case, and I would not extend our decision further. The suit, brought by Colorado voters under state law in state court, does not necessitate addressing whether federal legislation is the exclusive means of enforcing Section 3.

The majority's decision presents a choice for the remaining Justices. In my view, this is not the moment for heightened disagreement. The Court has resolved a politically sensitive issue during a presidential election season. In such circumstances, the Court's opinions should aim to lower, not raise, the national temperature. Our differences are less significant than our consensus: all nine Justices concur on the outcome of this case. This unanimity is the key message for the American public.

JUSTICE SOTOMAYOR, JUSTICE KAGAN, AND JUSTICE JACKSON, CONCURRING IN THE JUDGMENT

NARRATIVE SUMMARY

"In deciding cases, it is imperative not to rule more broadly than necessary," as Chief Justice Roberts concurred in Dobbs v. Jackson Women's Health Organization, 597 U.S. 215, 348 (2022): "If it is not necessary to decide more to dispose of a case, then it is necessary not to decide more." This principle of judicial restraint dates back to the early days of our Republic, where the Court's role is to "say what the law is" by interpreting and expounding the rule in specific cases, as established in Marbury v. Madison, 1 Cranch 137, 177 (1803).

However, today the Court strays from this principle by ruling on issues beyond the immediate case, which concerns whether Colorado can exclude a Presidential candidate from the ballot for being an oathbreaking insurrectionist, as per Section 3 of the Fourteenth Amendment. We concur that Colorado's action would disrupt federalism, sufficiently resolving the case. Nevertheless, the majority extends its reach, addressing constitutional questions preemptively to avoid future disputes, despite unanimous agreement on the case's resolution.

Despite unanimous agreement that this rationale resolves the case, five Justices proceed to decide on new constitutional questions to protect the Court and petitioner from future disputes. The majority's opinion on federal enforcement of Section 3 and the requirement of specific legislation for insurrection disqualification under Section 5 of the Fourteenth Amendment, limits other potential federal enforcement methods. We cannot support an opinion that unnecessarily decides on significant issues, thus we concur only in the judgment.

I

Our Constitution delegates certain matters to the States and others to the Federal Government. Federalism principles within this structure decide this case. States cannot use their control over the ballot to “undermine the National Government.” U. S. Term Limits, Inc. v. Thornton, 514 U. S. 779, 810 (1995). This risk is heightened “in the context of a Presidential election.” Anderson v. Celebrezze, 460 U. S. 780, 794–795 (1983). State restrictions in this context “implicate a uniquely important national interest” beyond a State’s “own borders.” Ibid. States have significant “authority over presidential electors” and Presidential elections, but this power is limited by “other constitutional constraint[s],” including federalism principles. Chiafalo v. Washington, 591 U. S. 578, 588 (2020).

The majority explains why Colorado cannot remove a Petitioner from the ballot, stating that a “state-by-state resolution” of whether Section 3 bars a presidential candidate “would be quite

unlikely to yield a uniform answer." Ante, at 11 (quoting Anderson, 460 U. S., at 795). This is due to potential "conflicting outcomes" from variations in state law. Ante, at 11.

The idea that a few State officials could decide the next President contradicts the Reconstruction Amendments' intention to expand federal power. City of Rome v. United States, 446 U. S. 156, 179 (1980). Section 3, for the first time, placed limits on a State's authority to choose its officials. It's illogical for Section 3 to grant States new powers to determine who may hold the Presidency.

This provides a sufficient basis to resolve this case. Allowing Colorado to remove a presidential candidate under Section 3 would threaten the Framers' vision of "a Federal Government directly responsible to the people." U. S. Term Limits, 514 U. S., at 821. The Court should have started and ended its opinion with this conclusion.

II

The Court addresses issues not before us, commenting on federal enforcement of Section 3 in a case without federal action. The majority suggests Congress must legislate under Section 5 to determine disqualification, as per Griffin's Case, 11 F. Cas. 7, 26 (No. 5,815) (CC Va. 1869) (Chase, Circuit Justice). This unsupported assertion is unnecessary.

Section 3's text doesn't support the majority's view on federal disqualification procedures. It simply states oathbreaking insurrectionists cannot hold certain positions. Nothing suggests implementing legislation under Section 5 is "critical". The text contradicts this, stating Congress can remove such disability by a two-thirds vote of each House. The majority's view creates a "tension" in Section 3, acknowledged by the petitioner's lawyer.

Nothing in the Fourteenth Amendment supports the majority's view either. Section 5 allows Congress to enforce the Amendment, but doesn't require remedial legislation. All Reconstruction Amendments are self-executing and don't depend on legislation. Other constitutional disqualification rules, like the Presidential two-term limit, don't require implementing legislation. The majority creates a special rule for Section 3's insurrection disability.

The majority's requirement that a Section 3 disqualification can only occur via specific legislation lacks support. It cites Griffin's Case, a nonprecedential, lower court opinion by a single Justice. The petitioner's lawyer didn't fully endorse this case as indicative of Section 3's meaning. The majority also cites Senator Trumbull's statements that Section 3 " 'provide[d] no means for enforcing'" itself, but omits his view that the Fourteenth Amendment prevents a person from holding office, with proposed legislation merely providing a more efficient disqualification remedy.

Under the pretense of a more “complete explanation for the judgment,” the majority resolves many unsettled questions about Section 3, effectively shielding alleged insurrectionists from future challenges to their holding federal office.

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"The Court should have left undone what it does today."

Bush v. Gore , 531 U. S. 98, 158 (2000) (Breyer, J., dissenting). Today's task was to resolve a single question: can a State exclude a Presidential candidate involved in insurrection from its ballot? The majority, however, resolves more. Despite Section 3 enforcement not being at issue, it introduces new rules for its operation, addresses unasked Section 3 questions, and blocks future efforts to disqualify a candidate under this provision. In a case requiring judicial restraint, it deviates.

Section 3, though rarely invoked, is vital for our democracy. The American people's power to elect national office candidates is a significant privilege. The Fourteenth Amendment drafters, having witnessed an “insurrection [and] rebellion” to defend slavery, aimed to prevent insurrection participants from returning to prominence. Today, the majority oversteps, limiting how Section 3 can prevent an insurrectionist from becoming President. While we concur that Colorado cannot enforce Section 3, we object to the majority's use of this case to define federal enforcement limits of this provision. We would only decide the issue at hand, hence we concur only in the judgment.