

Skelton Taintor & Abbott

ATTORNEYS AT LAW

Amy Dieterich
Bar No. 5413

January 9, 2024

Via Overnight Mail

Tamara Rueda, Clerk
KENNEBEC SUPERIOR COURT
1 Court Street, Suite 101
Augusta, Maine 04330

RE: Donald J. Trump v. Shenna Bellows, Kimberly Rosen, Thomas Saviello and Ethan Strimling
Docket No. KENSC-AP-24-01

Dear Ms. Rueda:

I enclose for filing in the above matter the Amicus Curiae Brief of Citizens for Responsibility and Ethics in Washington (CREW) on behalf of Respondent and Parties-in-Interest and Entry of Appearance of Amy Dieterich as counsel for CREW;

Please do not hesitate to contact me with any questions.

Sincerely,



Amy Dieterich

AD/ljl

Enclosures

cc: Patrick Strawbridge, Esq. (w/enc.) *Via E-mail*
CREW (w/enc.) *Via E-mail*
Thomas A. Knowlton (w/enc.) *Via E-mail*
Jason Anton (w/enc.) *Via E-mail*
Ben Hartwell (w/enc.) *Via E-mail*
R. Coleman (w/enc.) *Via E-mail*
Gary Lawkowski (w/enc.) *Via E-mail*
Bruce Hepler (w/enc.) *Via E-mail*
Scott Gessler (w/enc.) *Via E-mail*
Ben Gaines (w/enc.) *Via E-mail*
Thomas Vaseliou (w/enc.) *Via E-mail*

AUGUSTA COURTS
JAN 11 '24 AM 10:11

STATE OF MAINE
KENNEBEC, ss

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. AP-24-01

DONALD J. TRUMP,)
)
 Petitioner,)
 v.)
)
SHENNA BELLOWS, in her official)
 Capacity as Secretary of State, **STATE OF**)
MAINE,)
 Respondent,)
)
AND KIMBERLEY ROSEN, THOMAS)
SAVIELLO, and ETHAN STRIMLING,)
)
 Parties-in-Interest.)

**AMICUS CURIAE BRIEF OF
CITIZENS FOR
RESPONSIBILITY AND ETHICS
IN WASHINGTON (CREW) ON
BEHALF OF RESPONDENT
AND PARTIES-IN-INTEREST**

INTEREST OF AMICUS CURIAE

Citizens for Responsibility and Ethics in Washington (“CREW”) is a nonprofit, nonpartisan corporation organized under section 501(c)(3) of the Internal Revenue Code. CREW works to ensure that Americans have a government that is ethical, accountable, and open. CREW represents citizens in New Mexico and Colorado in litigation to enforce Section 3 of the Fourteenth Amendment (“Section 3”), and is a leading voice for accountability for the January 6, 2021 insurrection. Accordingly, CREW has an interest in this case.

ARGUMENT

Secretary Bellows’ December 27, 2023 decision declaring Mr. Trump ineligible under Section 3 to appear on Maine’s Republican primary ballot is not an outlier. It is consistent with the well-reasoned decisions of each court that has adjudicated a Section 3 challenge on the merits, and only a reversal of the Secretary’s decision would break new ground.

AUGUSTA COURTS
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Each tribunal to reach the merits of a Section 3 challenge against Mr. Trump has found that he engaged in insurrection against the Constitution. In 2023 a group of Republican and unaffiliated Colorado voters filed suit in Denver District Court to enforce Section 3 against Mr. Trump on the same grounds asserted here. After copious pre-trial briefing and a five-day trial that included full participation by Mr. Trump, 97 admitted exhibits, and testimony of 15 expert and fact witnesses called by challengers and Mr. Trump, the District Court found by clear and convincing evidence that Mr. Trump engaged in an insurrection on January 6, 2021 through incitement.¹ On appeal, the Colorado Supreme Court affirmed that Mr. Trump engaged in insurrection.² Secretary Bellows, after evaluating the parties' evidence and arguments on the merits, similarly held that Mr. Trump's actions constituted engagement in insurrection.³ No other tribunal has reached the merits of whether Mr. Trump engaged in insurrection, let alone exonerated him.

Trump's other arguments are without merit and have been rejected. The Denver District Court, Colorado Supreme Court, and Secretary Bellows reached the merits because they recognized that the procedural, evidentiary, and constitutional arguments Mr. Trump raises here have no merit. They rejected his argument that Section 3 cannot apply at the ballot access stage and, as other courts have done in Section 3 challenges not involving Mr. Trump, adjudicated Section 3 challenges under state law procedures, demonstrating that congressional legislation is not necessary to enforce Section 3.⁴ They found the January 6 Committee report reliable and

¹ *Anderson v. Griswold*, No. 2023CV32577 (Colo. Dist. Ct., Nov. 17, 2023), ¶¶ 293, 298 (“Anderson I”).

² *Anderson v. Griswold*, 2023 CO 63, ¶ 221 (December 19, 2023) (“Anderson II”).

³ Ruling of the Secretary of State, State of Maine, 26-33 (Dec. 28, 2023) (“Bellows Op.”). The only other tribunal to reach the question of whether January was an insurrection under Section 3 concluded that it was. *See New Mexico ex rel. White v. Griffin*, No. D-101-CV-2022-00473, 2022 WL 4295619 at *17-*19 (N.M. Dist. Ct. Sep. 6, 2022) (“Griffin”).

⁴ *See Anderson I & II* (adjudicating under state ballot access law); *Bellows Op.* (same); *Greene v. Raffensperger*, 599 F. Supp. 3d 1283 (N.D. Ga. 2022) (same); *Griffin* (state *quo warranto* law).

admissible.⁵ They held that Trump’s incitement was not protected by the First Amendment, that one can engage in insurrection through speech as well as conduct, and rejected comparisons of January 6 with “legitimate” protests.⁶ The Colorado Supreme Court, like the Secretary, correctly concluded that the president is an “officer” who takes an oath to support the Constitution and that the presidency is an “office . . . under the United States.”⁷ No court has accepted Trump’s Elector’s Clause arguments and, although two trial courts entertained Trump’s “political question” argument, appellate courts in both cases dismissed on standing or state law only.⁸

Dismissals of other Trump eligibility challenges have all been on procedural or state law grounds inapplicable here. None of the tribunals to dismiss Section 3 challenges against Trump have done so based on his arguments in this case. Most were dismissed because challengers lacked standing.⁹ The remainder were dismissed because the courts found that their state law did not permit adjudication of presidential candidate qualifications during the primary.¹⁰ None of these cases bear on presented issues of Maine or federal law, which they did not reach.¹¹

⁵ Anderson I ¶¶ 20-38; Anderson II ¶¶ 162-174; Bellows Op. 8-9.

⁶ Anderson I ¶¶ 264-298; Anderson II ¶¶ 226-256; Bellows Op. 27-33; *see also Griffin* at *23-24; Amicus brief of NAACP State Conference of New Mexico *et. al.*, (rejecting comparisons between BLM and January 6th).

⁷ Anderson II ¶¶ 127-161; Bellows Op. 20-23.

⁸ *See Castro v. N.H. Sec’y of State*, — F. 4th. —, 2023 WL 8078010 at *5 (1st Cir. 2023) (“confin[ing] analysis to the issue of standing” “because of the limited nature of the arguments that [plaintiff] ma[de] about the more generally consequential political question issue”); *Davis v. Wayne Cnty. Election Comm’n*, 2023 WL 8656163, at *16 fn.18 (Mich. Ct. App. Dec. 14, 2023) (ruling solely on state law grounds).

⁹ 27 cases were initiated by one individual. *See, e.g., Castro v. Scanlan*, 2023 WL 8078010, at *5–*11 (1st Cir. Nov. 21, 2023); *Castro v. Fontes*, 2023 WL 8436435, at *1 (D. Ariz. Dec. 5, 2023) (citing cases).

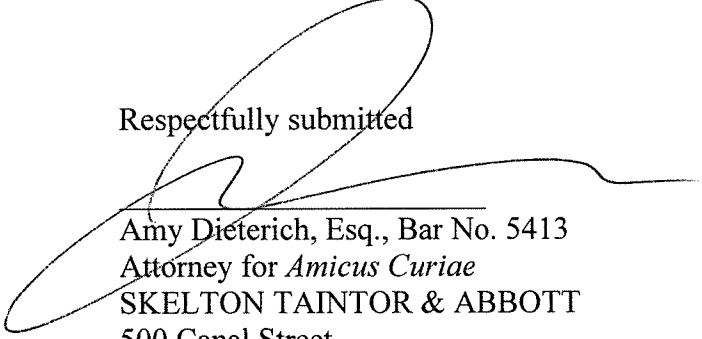
¹⁰ *See, e.g., Growe v. Simon*, 997 N.W.2d 81 (Minn. 2023); *Davis v. Wayne Cnty. Election Comm’n*, 2023 WL 8656163 (Mich. Ct. App. Dec. 14, 2023), appeal dismissed.

¹¹ Maine law expressly provides challengers standing to challenge candidate qualifications, 21-A M.R.S. §§ 336, 337, and this procedure is expressly applicable to the presidential primary election, *id.* § 443.

This court need not consider these significant issues for the first time. Rather, it can rely on the unanimous and growing body of law holding that Donald Trump violated his oath to support the Constitution by engaging in insurrection against it and is therefore ineligible for office pursuant to Section 3 of the Fourteenth Amendment.

January 9, 2024

Respectfully submitted



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MAINE JUDICIAL BRANCH

DONALD J. TRUMP Plaintiff

V.

SHENNA BELLOWS Defendant
Kimberley Rosen, Thomas Saviello and Other Party (if any)

Ethan Strimling

"X" the court for filing:

Superior Court District Court

Unified Criminal Docket

County: KENNEBEC

Location (Town): AUGUSTA

Docket No. AP-24-01

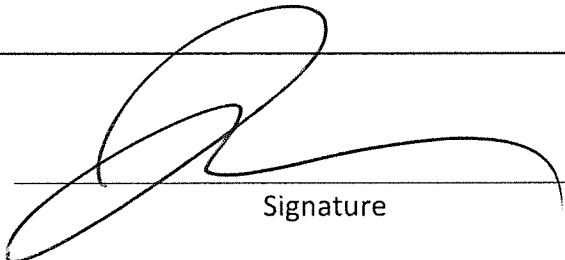
ENTRY OF APPEARANCE

The Clerk will please enter my appearance **as counsel** for plaintiff defendant other party, (*print party's name*) Amicus Curiae, Citizens for Responsibility and Ethics in Washington

OR

The Clerk will please enter my appearance **as a self-represented** plaintiff defendant other party, (*print your name*) _____

Date (mm/dd/yyyy): 01/09/2024


Signature

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PLEASE NOTE: This Appearance should be signed by a member of the Bar of Maine or by the party if appearing pro se, filed with the Clerk and a copy served upon each of the parties.

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