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 S**ecretary of State, STATE OF MAINE**,

Respondent,

KIMBERLEY ROSEN, THOMAS SAVIELLO, and ETHAN STRIMLING,

Parties-in-Interest.

MOTION TO STAY PROCEEDINGS

Introduction

On January 3, 2024, President Trump petitioned the US. Supreme Court to grant certiorari on multiple issues involving the application of Section 3 of the Fourteenth Amendment to President Trump. Two days later, on January 5, 2024, that Court granted certiorari to hear the case of *Trump v. Anderson, et al.*, Case No. 23-719 (U.S. 2024), on an expedited timeline. Oral argument is currently scheduled for February 8, 2024.

Trump is an appeal of the Colorado Supreme Court decision in *Anderson v. Griswold*, Case No. 2023 CO 63 (2023), which was cited repeatedly in the Secretary's *Ruling*. Thus, the issues before the Supreme Court in *Trump* include federal issues identical to the federal issues

raised in this case, the resolution of which may be dispositive of this matter. Accordingly, in the interest of judicial economy, President Trump requests that this Court vacate its January 5, 2024, *Procedural Order*, setting forth a briefing schedule in this matter, and stay all further proceedings until such time as the Supreme Court issues a dispositive order in *Trump*.

Argument

A. The Court has inherent authority to issue a stay.

A trial court has the inherent power to stay proceedings, based on its authority to manage its docket efficiently. In *Landis v. N. Am. Co.*,[1] the U.S. Supreme Court held:

> [t]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants. How this can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance.[2]

Accordingly, a court "may hold one lawsuit in abeyance to abide the outcome of another, especially where the parties and the issues are the same."[3] This authority has been described as "inherent" and "preserved in the grant of authority to federal courts to issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law."[4] And this principle remains good law. As recently as 2016 the U.S. Supreme Court reiterated "that district courts have the inherent authority to manage

[1] *Landis v. N. Am. Co.*, 299 U.S. 248, 254-55 (1936).

[2] *Id.* at 254-55.

[3] *American Life Ins. Co. v. Stewart*, 300 U.S. 203, 215 (1937).

[4] *Nken v. Holder*, 556 U.S. 418, 426 (2009) (internal quotations omitted).

their dockets and courtrooms with a view toward the efficient and expedient resolution of cases."[5]

The Law Court has fully adopted this principle, recognizing that Superior courts likewise possess inherent authority to manage their dockets. In *Cutler Assoc., Inc. v. Merrill Trust Co.*, the Law Court explicitly adopted the ruling in *Landis*, holding that a stay rests with the "sound discretion of the court. It will only be granted when the court is satisfied that justice will be thereby promoted."[6]

A state statute may not limit or bar a court's authority to grant a stay or otherwise manage its docket. Although the Law Court has not confronted a legislative enactment that purported to prohibit a stay during a judicial proceeding, other state supreme courts have squarely held that a state statute cannot bar a court from exercising its inherent power to grant a stay.

- In *City of Norwood v. Horney*, the Ohio Supreme Court considered an explicit, statutory "blanket proscription on stays or injunctions against the taking and using of appropriated property pending appellate review," and found that prohibition to be "an unconstitutional encroachment on the judiciary's constitutional and inherent authority in violation of the separation-of-powers doctrine."[7]

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[5] *Dietz v. Bouldin*, 579 U.S. 40, 47 (2016).

[6] *Cutler Assoc., Inc. v. Merrill Trust Co.*, 395 A.2d 453, 456 (1978) (citations omitted).

[7] *City of Norwood v. Horney*, 110 Ohio St. 3d 353, 388 (Ohio, 2006); *see also Hochhausler,* 76 Ohio St.3d 455, 464 (Ohio, 1996) (no-stay statute violated separation of powers because it deprived courts of their proper authority to stay administrative suspensions by improperly interfering with the exercise of judicial functions).

- In *Ardt v. Illinois Dep't of Professional Regulation*, the Illinois Supreme Court ruled that a state statute could not prohibit a court from staying enforcement of an administrative ruling, concluding "the circuit court had the inherent equitable power to issue a stay pending judicial review."[8]

- In *Smothers v. Lewis*, the Kentucky Supreme Court held unconstitutional a statute forbidding courts to stay, pending appeal, the revocation or suspension of liquor licenses by the State alcoholic beverage control board.[9]

- The Nevada Supreme Court struck down a statute that prohibited a court from issuing a stay because it "encroache[d] on a district court's inherent power to do all things reasonably necessary to administer justice" and therefore violated the "separation of powers doctrine."[10]

- Finally, the Iowa Supreme Court found "no rational basis for prohibiting [a litigant] from seeking the stay" available to other litigants, and therefore it struck down a state statute that prohibited a stay as "a denial of equal protection."[11]

- And when construing a Montana statute in a manner that allowed courts to issue a stay in judicial proceedings, the U.S. Supreme Court nonetheless cautioned that "where either the plain provisions of the statute or the decisions of the state courts

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[8] *Ardt v. Illinois Dep't of Professional Regulation*, 154 Ill. 2d 138, 146d (Ill. 1992).

[9] *Smothers v. Lewis,* 672 S.W.2d 62, 65 (Ky. 1984).

[10] *Tate v. State Bd. of Med. Examiners*, 131 Nev. 675, 680 (Nev. 2015).

[11] *Glowacki v. State Bd. of Medical Examiners*, 501 N.W.2d 539, 542 (Iowa, 1993).

interpreting the act preclude a supersedeas or stay until the legislative process is completed by the final action of the reviewing court, due process is not afforded."[12]

Unlike the cases cited above, which invalidated expressly statutory prohibitions against courts issuing stays in judicial proceedings, both Maine law and Section 337 are silent with respect to whether this court can issue a stay in this matter. Accordingly, the Court need not decide whether there exists a conflict between its inherent authority and Maine statute. It may comfortably follow the example of the Massachusetts Supreme Court, which determined that in the face of statutory silence "a judge in his discretion may stay" the appeal of an administrative agency decision."[13]

Furthermore, the deadlines contained in Section 337 do not limit this Court, and a stay would not deprive it of jurisdiction. To be sure, in order for a court to exercise jurisdiction, an appellant must seek appeal within the statutorily-prescribed deadlines.[14] But undersigned counsel has not found any cases in which a court loses jurisdiction if the court does not take an action within a statutorily prescribed timeline. More directly, both the Secretary in the case at hand, and the Colorado District Court deciding *Anderson v. Griswold* (currently pending before the U.S. Supreme Court as *Trump v Anderson*), did not complete their respective hearings within statutorily-prescribed deadlines. Here, 21 M.R.S. § 337(2)(C)

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[12] *Porter v. Investors Syndicate*, 286 U.S. 461, 471 (1932) (internal citations omitted).

[13] *Commonwealth v. Yameen*, 401 Mass. 331, 335 (Mass. 1997); *but see*, *State ex rel. King v. Kinder*, 690 S.W.2d 408, 409 (Mo. 1995) (prohibiting a court from issuing a stay when exercising an administrative statutory power but nonetheless recognizing that court authority to issue a temporary restricted driving permit had same effect as a stay).

[14] *See, e.g.*, *Mutty v. Dept of Corrections*, 2017 ME 7, ¶ 8 (an appeal from final agency action must be commenced within 30 days, and the time limits for appeal are jurisdictional).

requires the Secretary to rule on the validity of a challenge within five days of the hearing. The Secretary conducted the hearing on December 15, 2023, and accepted post-hearing briefs on the merits on December 19, 2023. But she did not issue her ruling until December 28, 2023 – a full thirteen days after the hearing, and nine days after post-hearing briefs. In short, the Secretary failed to meet the statutory deadlines in issuing her decision.[15] Yet the Secretary certainly exercised jurisdiction over this matter, despite her demonstrable failure to meet Maine's statutory deadlines.

This is similar to the manner in which the Colorado District Court acted in *Anderson v. Griswold*, when adjudicating nearly identical claims under Section 3 against President Trump. Despite a Colorado statute that required a hearing within five days after the *Verified Petition* had been filed, the district waited a full 54 days before conducting a hearing. And despite the entirely justified criticism that (1) the district court's timelines demonstrated that Colorado's statutes were never designed to litigate Section 3 claims, and (2) the timelines violated basic due process requirements, even the strong dissents in that case did not assert that the district court lost jurisdiction through its failure to adhere to statutory timelines.[16] Indeed, the majority in that case applauded the district court's actions.[17]

Like the Maine Secretary of State and like the Colorado District Court, this Court may extend Section 337's 20-day statutory deadline by issuing a stay.

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[15] *Ruling of the Secretary of State* (December 28, 2023).

[16] *Anderson v. Griswold*, 2023 CO 63, ¶ 265 (Dec. 19, 2023)(Samour, J. dissenting).

[17] *Id.* at ¶ 85.

B. A stay is proper due to the U.S. Supreme Court's impending resolution of the federal issues in this case.

The U.S. Supreme Court granted President Trump's *Petition for Certiorari* on January 5, 2024. That *Petition* argued that the Court should reverse the Colorado Supreme Court's order excluding President Trump from the ballot under Section 3 of the Fourteenth Amendment did not apply to President Trump because; (1) the Presidency is not an Office under the United States, (2) the President is not an officer of the United States, (3) President Trump did not take the Article VI oath to "support" the Constitution, and (4) Section 3 does not apply to candidates running for office, only those who "hold" office. In addition, President Trump argued in the *Petition* that the events of January 6, 2021, did not constitute "insurrection" and that President Trump did not "engage" in "insurrection." Finally, Section 3 is not self-executing, enforcement of Section 3 is a nonjusticiable political question, and state enforcement of Section 3 would constitute an additional qualification for office, in violation of U.S. Const. Art. II.[18]

These federal issues are also presented in this case. And resolution of any one of these federal issues in President Trump's favor will dispose of the current matter. In many ways, the current litigation is wholly unnecessary, unless President Trump is unsuccessful on all issues raised in the U.S. Supreme Court. And "courts have ample authority to stay useless litigation."[19]

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[18] *Trump v Anderson*, Petition for Writ of Certiorari, *passim* (Jan. 3, 2024).

[19] *Stark v. Wickard*, 321 U.S. 288, 310 (1944).

Likewise, the Secretary's improper decision to consider a Section 3 challenge under Maine law will also be rendered moot if President Trump is successful before the U.S. Supreme Court. Here, the Secretary has asserted jurisdiction to determine a Section 3 challenge under 21 M.S.R. § 336. That jurisdictional claim, however, will become moot if, in fact, Section 3 cannot apply to President Trump. To be sure, there remains the possibility that the U.S. Supreme Court could determine that Section 3 does not apply to President Trump because he did not engage in insurrection, thereby leaving the door open that the Secretary may, in the future, consider a Section 3 claim against another presidential candidate. But there has been no claim against any other presidential candidate, and the possibility of any such future claim would be pure speculation.

Finally, President Trump has accused Secretary Bellows of bias. As this Court has noted, Maine law does not contain clear standards for determining improper bias regarding agency adjudication. In light of the extreme bias shown by Secretary Bellows resulting from her loud, repeated, and consistent statements prejudging some of the very issues in this case, the Court may wish to continue proceedings in order to set forth clear standards for disqualifying a biased agency official. Even under this rationale and even in light of the Secretary's clear animosity and bias towards President Trump, the Court should nonetheless stay its hand because the Secretary's *Ruling* may be effectively overturned, rendered her bias a moot point.

C. This stay involves unusual circumstances, unlikely to ever recur.

It should be noted that the request for stay presents highly unusual circumstances that are unlikely to ever occur again. First, the matter before the U.S. Supreme Court

involves the exact same federal legal issues in the current matter. Second, the U.S. Supreme Court action involves the same event – the protests on January 6, 2021. Third, disposition by the U.S. Supreme Court may also moot the state issues. And most importantly, the U.S. Supreme Court has made clear that it intends to resolve this matter quickly. That court granted certiorari two days after President Trump's request, it has scheduled expedited briefing, and it will hear oral arguments on February 8, 2024, almost exactly one month from today. Any stay will be of a short duration in light of the U.S. Supreme Court's urgent action.

D. No party will suffer harm.

Finally, both the Secretary and the underlying Challengers in this case have agreed to this Court's issuance of a stay of the Secretary's *Ruling* pending a final decision from the U.S. Supreme Court. And the Secretary's initial decision to stay her decision, combined with the existing timelines for ballot printing and delivery of ballots, means that President Trump will appear on Maine's presidential primary ballot. Thus, a stay of the underlying proceedings themselves will not create any harm. And if the U.S. Supreme Court ultimately rejects President Trump's challenges, this Court – and the Maine Law Court – will have ample time to resolve the remaining issues prior to this summer's Republican Party National Convention and the November 2024 general election.

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