

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.

COMPLAINT
(Petition for Review of
Final Agency Action
Pursuant to M.R. 80C)

INTRODUCTION

Under Maine Rule of Civil Procedure 80C and 5 M.R.S.A. §§ 11001-11008, Petitioner Donald J. Trump, by and through undersigned counsel, petitions this Court for review of a final order issued by Respondent Secretary of State Shenna Bellows (the *Secretary's Ruling*). A copy is attached as **Exhibit 1**.

In response to a challenge brought under 21-A.M.R.S. §§ 336 or 337, on December 28, 2023, Maine Secretary of State Bellows struck President Trump from the Republican Party's state presidential primary ballot, ruling that he is allegedly ineligible to be President of the United States under Section Three of the Fourteenth Amendment of the United States Constitution. President Trump is aggrieved by that final order because: (1) the Secretary was a biased decisionmaker who should have recused herself and otherwise failed to provide lawful due

process; (2) the Secretary had no legal authority under 21-A M.R.S. §§ 336 or 337 or any other Maine statute to consider the federal constitutional issues presented by the Challengers; (3) the Secretary made multiple errors of law and acted in an arbitrary and capricious manner; and (4) President Trump will be illegally excluded from the ballot as a result of the Secretary's actions. In support of this *Petition*, President Trump states as follows:

PERSON SEEKING REVIEW

1. The person seeking review, as Petitioner, is Donald J. Trump ("President Trump"), 45th President of the United States, a resident of the State of Florida. President Trump is a candidate for President of the United States of America.

2. Respondent Shenna Bellows ("Secretary Bellows" or "The Secretary") is Secretary of State of the State of Maine. The Secretary's office is located at 148 State House Station, Augusta, Maine 04333-0148.

MANNER IN WHICH PETITIONER IS AGGRIEVED

3. Presidential primary ballot access in Maine is governed by 21-A M.R.S. § 331 *et seq.* and by 21-A M.R.S. § 442 *et seq.*

4. For placement on Maine's presidential primary ballot, candidates for President of the United States must submit petitions containing a certain number of signatures. 21-A M.R.S. § 335. It is undisputed that President Trump submitted a petition containing the requisite number of valid signatures.

5. In addition, 21-A M.R.S. § 336 also requires a presidential candidate to file a consent as follows:

§336. Consent of candidate to be filed

The written consent of each candidate must be filed either with that candidate's primary petition or at any earlier time during which signatures may be collected under section 335 or, if applicable, subchapter 8.

1. Consent. The consent must contain a statement signed by the candidate that the candidate will accept the nomination of the primary election. The Secretary of State shall provide a form on which the consent of the candidate is made that must include a list of the statutory and constitutional requirements of the office sought by the candidate. The statement may be printed as a part of the primary petition.

2. Single filing sufficient. A candidate need file only one consent. This consent is valid even though it may be part of a primary petition which is void.

3. Residence and party declared. The consent must contain a declaration of the candidate's place of residence and party designation and a statement that the candidate meets the qualifications of the office the candidate seeks, which the candidate must verify by oath or affirmation before a notary public or other person authorized by law to administer oaths or affirmations that the declaration is true. If, pursuant to the challenge procedures in section 337, any part of the declaration is found to be false by the Secretary of State, the consent and the primary petition are void. Upon written request by the candidate to the Secretary of State, the Secretary of State may treat the candidate's street name and number as confidential as long as the street name and number are not material to the candidate's qualifications to serve.

6. As required by section 336(1), the Secretary printed a consent form, which is reproduced below:

**State of Maine
Presidential Primary Candidate's Consent**

_____ Party

Legal name of candidate as it will appear on the ballot: *(See Title 21-A, §601(2)(F) for requirements for listing candidates' names on the ballot.)*

(Last name and suffix, if any) (First name) (Middle name or initial)

Phonetic pronunciation of name for accessible audio ballot _____

Voting Residence Address of Candidate: _____
(City/Town) (State)

Qualifications of President of the United States (U.S. Constitution, Article II, Section 1)

- Be a natural born U.S. Citizen
- Have been a resident of the United States for at least 14 years
- Be at least 35 years of age

Candidate's Consent

I hereby declare my intent to be a candidate for the Office of President of the United States and participate in the Presidential Primary for the party named above to be held on March 5, 2024, in the State of Maine. I further declare that my residence is in the municipality and state listed above; that I am enrolled in the party named on this consent; that I meet the qualifications to hold this office as listed above; and that this declaration is true.

(Signature of Candidate)

Subscribed to and sworn before me on this date: _____
(Date) (Signature of Notary Public)

(Printed Name of Notary Public)

**Filing deadline for Candidate's Consent and Presidential Primary Nomination
petitions to be received by the Division of Elections is 5 p.m., Friday, December 1, 2023.**

7. There is no dispute that President Trump timely submitted his consent, duly signed and notarized, on the form provided by the Secretary. A true and correct copy of President Trump's consent is attached as **Exhibit 2**.

8. By submitting his petition and consent as required by the statute, President Trump has met all requirements set forth by the Maine Legislature in the statute and is entitled to be placed on the Republican primary ballot.

9. Nonetheless, in the *Secretary's Ruling*, the Secretary wrongfully denied President Trump a place on the Republican primary ballot.

FINAL AGENCY ACTION TO BE REVIEWED

10. The final agency action to be reviewed is the *Secretary's Ruling*, dated December 28, 2023, which President Trump received on December 28, 2023.

NATURE OF THE ACTION TO BE REVIEWED

11. The nature of the action to be reviewed is the *Secretary's Ruling* in which the Secretary disqualified President Trump from the presidential primary ballot.

GROUND UPON WHICH RELIEF IS SOUGHT

12. Relief is sought on the grounds that the *Secretary's Ruling* was the product of a process infected by bias and pervasive lack of due process; is arbitrary, capricious, and characterized by abuse of discretion; affected by error of law; *ultra vires*; and unsupported by substantial evidence on the record, as follows:

13. The Secretary should have recused herself due to her bias against President Trump, as demonstrated by a documented history of prior statements prejudging the issue presented.

14. The Secretary denied President Trump due process by failing to give him adequate time and opportunity to present a defense.

15. The Secretary lacked statutory authority to hear the challenges directed to President Trump's supposed disqualification under to Section Three of the Fourteenth

Amendment. Section 337 provides only a method for challenging petitions. Section 336 borrows its procedures from section 337, but the only ground section 336 allows for a challenge is whether “any part of the *declaration* is found to be false by the Secretary of State....” (Emphasis supplied). Specifically, section 336(3) provides that “[t]he consent must contain a *declaration* of the candidate’s place of residence and party designation and a *statement* that the candidate meets the qualifications of the office the candidate seeks, which the candidate must verify by oath or affirmation....” (Emphasis added.) The statute thus distinguishes the “declaration” from the “statement” and limits challenges under section 336 to the falsity of the “declaration,” which includes only “the candidate’s place of residence and party designation.” No challenge was made to President Trump’s place of residence or party designation. Accordingly, the Secretary had no statutory authority to consider any challenge to President Trump’s qualifications under section 336, as those are not part of the declaration.

16. Even if the Secretary could consider challenges to the *statement* portion of the consent, any challenge is limited to the plain text of the form promulgated by the Secretary. The form requires a candidate to state “that I meet the qualifications to hold this office as listed above.” Immediately above the statement is a list of three “Qualifications of President of the United States,” none of which identifies, involves, or refers to Section Three of the Fourteenth Amendment. The limited scope of the statement means that any claim that Section Three of the Fourteenth Amendment disqualifies President Trump has no bearing on the truth or falsity of anything on the statement portion of the consent form—much less on the declaration. Accordingly, the Secretary had no statutory authority to consider the challenges raised under Section Three of the Fourteenth Amendment.

17. By exceeding the limited scope provided for challenges by Maine’s Legislature, the Secretary has violated the Constitution’s Elector’s Clause, which requires states to appoint presidential electors “in such Manner as the *Legislature* thereof may direct.” U.S. Const. art. II, § 1, ¶ 2. (Emphasis supplied).

18. Because President Trump’s sworn statement, in the form provided by the Secretary, was factually true, it was an error of law, arbitrary and capricious, and an abuse of discretion for her to find it false.

19. All of the evidence on which the Secretary purported to rely was irrelevant to any issue properly before her.

20. The Secretary abused her discretion by considering and relying upon untrustworthy evidence.

21. Even if Maine law authorized the Secretary to consider challenges to President Trump’s candidacy under Section Three of the Fourteenth Amendment (which it did not), The Secretary could not properly have considered Section Three and erred as a matter of law in doing so, for the further reasons that:

a. Disqualification of a presidential candidate under Section Three of the Fourteenth Amendment presents a political question reserved for the Electoral College and Congress;

b. Section Three of the Fourteenth Amendment is not self-executing and requires congressional legislation—of which there presently is none—to give it effect, leaving no role for state officials to play in its enforcement. *See In re Griffin*, 11 F. Cas. 7 (C.C.D. Va. 1869) (No. 5,815) (Chase, C.J.) (holding that section 3’s disqualifications cannot attach absent congressional action);

c. Section Three of the Fourteenth Amendment bars persons otherwise subject to its disqualification from *holding* specified offices, not from running for them or from being elected to them. By barring President Trump from the ballot, the Secretary unlawfully violated the holding of *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779 (1995), by altering or modifying the Constitution’s qualifications for federal office;

d. Section Three of the Fourteenth Amendment does not apply to President Trump because he has never served as an “officer of the United States,” and has never taken an “oath to support the Constitution”;

e. Section Three of the Fourteenth Amendment does not apply to bar candidates from the presidency because that position is not an “office under the United States”;

f. President Trump did not “engage” in “insurrection”; and

g. As evidence of President Trump’s conduct, the Secretary relied entirely on President Trump’s public speeches. These speeches did not incite insurrection, and therefore President Trump’s political speech was protected by the First Amendment.

DEMAND FOR RELIEF

FOR THESE REASONS, the President Trump prays that this Court enter an Order to:

a. Vacate the *Secretary’s Ruling*;

b. Declare that the Secretary has no jurisdiction or authority to continue, maintain, or begin any further proceedings concerning President Trump’s alleged disqualification as a candidate for President under Section Three of the Fourteenth Amendment;

- c. Require the Secretary to immediately place President Trump on the Republican presidential primary ballot; and
- d. Grant Petitioner such other further relief as the Court deems just and equitable.

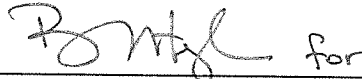
Respectfully submitted this 2nd day of January 2024,

THE LAW OFFICES OF BRUCE W. HEPLER, LLC



Bruce W. Hepler, Bar No. 8007
Benjamin E. Hartwell, Bar No. 6619
75 Pearl Street, ste. 201
Portland, ME 04101
(207) 772-2525 Tel.
brucehepler1@gmail.com
ben.hartwell.law@gmail.com

GESSLER BLUE LLC



Scott E. Gessler, CO Bar No. 28944
7350 E. Progress Place, Ste. 100
Greenwood Village, CO 80111
(720) 839-6637 Tel.
sgessler@gesslerblue.com
Pro Hac Vice Admission Pending

DHILLON LAW GROUP, INC.



Gary M. Lawkowski, VA Bar No. 82329
DC Bar No. 1781747
2121 Eisenhower Avenue, Suite 608
Alexandria, VA, 22314
(703) 574-1654 Tel.
glawkowski@dhillonlaw.com
Pro Hac Vice Admission Pending

Certificate of Service

I certify that on this 2nd day of January 2024, the foregoing was served via Certified Mail, Return Receipt Requested and a courtesy copy via email on all parties and their counsel of record:

Office of the Secretary
Attn: Shenna Bellows, Secretary of State
148 State House Station
Augusta, ME 04333-0148
sos.office@maine.gov

Office of the Maine Attorney General
Attn: Jason Anton, Assistant Attorney General
6 State House Station
Augusta, ME 04333
jason.anton@maine.gov

Kimberley Rosen, Thomas Saviello, and Ethan Strimling
c/o Benjamin Gaines, Esq.
PO Box 1023
Brunswick, ME 04011
ben@gaines-law.com

Clayton Henson
7341 Patch Court
Canal Winchester, OH 43110
Clayton.henson@djtfp24.com

Paul Gordon
16 Taylor St.
Portland, ME 04102
PaulGordonMaine@gmail.com

Demi Kouzounas
361 Seaside Ave.
Saco, ME 04072
demiforme@gmail.com

Mary Anne Royal
141 Lebanon Road
Winterport, ME 04496
Kayakmomma3@gmail.com

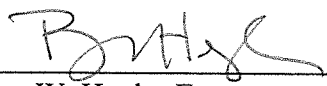
I certify that on this 2nd day of January 2024, the foregoing was served via Certified Mail, Return Receipt Requested and a courtesy copy via email the Intervenor and their counsel of record:

Michael Soboleski
11 Snowy Ridge Road
Philips, ME 04966
michael.soboleski@legislature.maine.gov

Counsel for Citizens for Responsibility and Ethics in Washington
1331 F Street NW, Ste. 900
Washington, DC 20004
jmaier@citizensforethics.org

c/o Amy Dieterich, Esq.
Skelton Tantor & Abbott
500 Canal Street
Lewiston, ME 04240
adietrich@sta-law.com

Professor Mark A. Graber
c/o Jeffrey Neil Young, Esq.
Solidarity Law, PLLC
9 Longmeadow Rd.
Cumberland Foreside, ME 04110

By: 
Bruce W. Hepler Esq.
Law Offices of Bruce Hepler, LLC
75 Pearl Street
Portland, ME 04101
(207) 772-2525
brucehepler1@gmail.com