STATE OF MAINE
Kennebec, SS

SUPERIOR COURT
Docket No. AP-2024-1

DONALD J. TRUMP,

Petitioner

v.

SHENNA BELLOWS, in her official capacity as the Maine Secretary of State,

Respondent.

Opposition of Respondent Secretary of State Shenna Bellows to Motion to Stay Proceedings

Respondent Secretary of State Shenna Bellows submits this Opposition to Mr. Trump's Motion to Stay Proceedings. Granting Mr. Trump's Motion would violate 21-A M.R.S. § 337(2)(D) and risks forcing the Court and the parties to complete the Section 337 process mere days before the March 5, 2024 primary, assuming that the Supreme Court of the United States decides the Colorado case (*Trump v. Anderson*) by then. A stay of these proceedings is therefore neither permissible nor prudent.

A. The Stay that Mr. Trump Seeks Is Not an Exercise of Docket-Management Authority, But Rather a Violation of a Clear Mandatory Statutory Timeline.

Title 21-A, Section 337(2) sets forth an express, expedited, mandatory timeframe for adjudicating challenges to the validity of primary petitions and names appearing upon such petitions. As relevant here, the statute provides that the Superior Court "shall issue a written decision . . . within 20 days of the date of the decision of the Secretary of State," i.e., January 17, 2024. *Id.* § 337(2)(D).

Section 337's deadlines reflect the reality that election cases must be resolved quickly to ensure that the Secretary of State and her staff can meet state and federal deadlines and that Maine elections run smoothly. To that end, the Legislature specifically provided that the words

"shall" and "must" in Title 21-A are used "in the mandatory sense to impose an obligation to act in the manner specified by the context." 21-A M.R.S. § 7. To stay the proceedings would therefore be contrary to the Legislature's intent and the plain language of Section 337. *Cf. McGee v. Sec'y of State*, 2006 ME 50, ¶ 16, 896 A.2d 933 (relying on Section 7 when concluding that the Secretary had no authority to accept late-filed petitions, noting that "[t]he statutory deadline means what it says").[1]

Mr. Trump, in his motion, offers little analysis of Section 337, but rather relies broadly on a "trial court['s] . . . inherent power to stay proceedings, based on its authority to manage its docket efficiently." Mot. 2. Putting aside that the Superior Court in a Rule 80C proceeding functions as an appellate court, not a trial court, *see* M.R. Civ. P. 80C; 5 M.R.S. § 11001(1), a stay of the proceeding is not simply a matter of docket management, whereby typical timelines for motion practice and discovery, as set forth in the Maine Rules of Civil Procedure, are set aside. Mot. 2-3. Rather, what Mr. Trump requests is that this Court ignore a mandatory statutory deadline for decision, one dictated by the very nature of administering elections. None of the cases that Mr. Trump cites,[2] including the single Maine case that he identified on this point, stand for the proposition that the Court may do so.

To the extent relevant, Mr. Trump is also mistaken in claiming that the Secretary did not adhere to Section 337's timeframes. *See* Mot. 5-6. Section 337(2)(C) provides that the Secretary "shall rule on the validity of any challenge within 5 days after *completion* of the hearing" (emphasis added). At the end of the in-person portion of the hearing, given the Rosen

[1] If the Court were to stay the action, it is not clear what timelines would apply if and when the stay were lifted, as Section 337 does not contemplate a circumstance in which a decision is *not* issued within 20 days of the Secretary's decision.

[2] Notably, each of the out-of-state cases that Mr. Trump cites concerns stays of the status quo, or of decisions that have already been rendered, rather than stays of *proceedings*.

Challengers and Mr. Trump waived oral closing arguments, the Secretary invited written closings. R 290-91. The Secretary also expressly kept the hearing open, noting it was "continued . . . for the limited purpose of resolving the pending evidentiary objections." R 291. Thereafter, following the *Anderson* Court's decision, the Secretary invited legal briefs regarding the impact of that decision, if any, which the parties submitted on December 21, 2023. *See* R 791-817. The hearing therefore did not conclude until, at earliest, December 21, when the final substantive briefs were submitted—though the Secretary did not rule on the evidentiary objections, and close the hearing record, until she issued her decision on December 28, 2023. R 11. Pursuant to 1 M.R.S. § 71(12) and M.R. Civ. P. 6(a), a deadline of five days after December 21, 2023, given the intervening weekend and holiday, is December 29, 2023.

B. Even if the Court Had the Authority to Issue a Stay, It Would Be Imprudent to Do So.

While the Secretary believes that the Court does not have the authority or discretion to deviate from the deadline set forth in Section 337, staying this proceeding, as a practical matter, would be unwise and potentially harmful.

The Secretary agrees that there are many overlapping issues between this case and the *Anderson* case now before the U.S. Supreme Court. While Mr. Trump appears to assume that he will prevail in the Supreme Court, the mere fact that the Supreme Court has taken the case does not guarantee that its decision will definitively resolve this matter. The Supreme Court could, for example, affirm the Colorado Supreme Court decision. It likewise could rule on a Colorado-specific point, e.g., that the Colorado courts ran afoul of the Electors Clause of the U.S. Constitution, U.S. Const. art. II, § 1, cl. 2, by not adhering to the timeframes set forth in Colorado statute—precisely what Mr. Trump is asking the Court to do with respect to Maine law

here. *See Trump v. Anderson*, Petition for Writ of Certiorari, 29-30 (Jan. 3, 2024).[3] Or the Supreme Court could decide that certiorari was improvidently granted and decline to rule on the case at all.

Any of these outcomes would place the State in a precarious position. Mere days before a presidential primary election—assuming the U.S. Supreme Court issues an extraordinarily quick decision after oral argument on February 8, 2024—there would be an unresolved challenge to the validity of Mr. Trump's primary petition. The Secretary, as noted in correspondence with the Court, would in that instance move to lift the stay of her decision, and then precious additional days would be spent litigating whatever legal issues, be they of state or federal law, remain in this case. All the while, absentee voters would continue to fill out ballots with Mr. Trump's qualification still in doubt.

Therefore, Mr. Trump's contention that a stay of this proceeding would be "harmless," Mot. 9, is unsupported and wrong. A stay of this proceeding, followed by a February decision from the U.S. Supreme Court, may ultimately force the Secretary and her staff to scramble to minimize damage to the integrity of the March 5, 2024 election. Further, if Mr. Trump remains unqualified in Maine, the Secretary would follow the notification procedures of Title 21-A, Section 371(5), but those procedures would, at best, be in place for only a few days before the primary. Voters in the Republican primary, including those who had already cast a vote by that point, may therefore also suffer harm.

This is an untenable, and avoidable, outcome. The Court should accordingly continue with the mandatory Section 337 process and permit the issues in this case to be resolved.

[3] It is flatly contradictory for Mr. Trump to suggest here that it would violate the separation of powers if Section 337 limited the ability of this Court to stay the proceedings, yet simultaneously argue in *Anderson* that it is unconstitutional for a court to disregard statutory judicial decision deadlines in elections cases.

The Secretary has already agreed to a stay of her decision pending the exhaustion of appellate remedies, subject to lifting the stay based on the Supreme Court's decision in *Anderson*. Therefore, if the U.S. Supreme Court ultimately reverses the Colorado Supreme Court's decision in *Anderson* on a ground that is dispositive here, a decision by the Law Court in favor of the Secretary could be vacated promptly without impact on the March 5, 2024 primary.[4]

Mr. Trump's claim that alleged bias justifies a stay is a complete non sequitur. The Law Court has set standards for considering claims of bias in administrative proceedings, and it is unclear how a stay of this case would permit this Court to "set forth clear standards." Mot. 8. In any event, Mr. Trump's claim of bias is meritless, and the Secretary will address it in due course in her Rule 80C merits brief.

Mr. Trump's motion for a stay of the proceedings should be denied.

[4] If the Secretary's decision were upheld by the Law Court, voters would also be aware that absent a contrary decision by the U.S. Supreme Court, a vote for Mr. Trump would not count in Maine. Moreover, if the Law Court were to vacate the Secretary's decision, it is unlikely to be affected by vacatur of the Colorado Supreme Court's decision and might, depending on its grounds, be entirely insulated from *any* outcome in the *Anderson* case. Voters would not have that certainty absent the completion of the Section 337 process.

Dated: January 8, 2024

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