No. 23-696

In the Supreme Court of the United States

COLORADO REPUBLICAN STATE CENTRAL COMMITTEE,

Petitioner,

v.

NORMA ANDERSON, ET AL.,

Respondents.

On Petition for Writ of Certiorari to the Supreme Court of Colorado

BRIEF OF 45 COLORADO REGISTERED ELECTORS AS *AMICI CURIAE* IN SUPPORT OF PETITIONER

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INTERESTS OF AMICI CURIAE[1]

Amici are 45 Colorado citizens and duly registered electors (what voters are called in Colorado),[2] including a 2024 candidate for the House of Representatives. *Amici* each intend to vote for former President Donald J. Trump in the March 5, 2024 Colorado Republican presidential primary and, if nominated, again in the 2024 presidential election.

The electoral franchise—the right to vote for a desired candidate—is one of the most cherished and protected rights upon which this nation was founded. *Amici*, given their intended electoral choice in the 2024 Republican presidential primary, have a substantial interest in the outcome of this litigation as the franchise of voting for the candidate of their choice, in this instance former President Trump, is a fundamental constitutional right. The Colorado Supreme Court's December 19, 2023 opinion, however, stripped away that right by way of a deeply flawed and extra-constitutional legal analysis. *Amici* are thus understandably concerned with the dangerous precedent set by the Colorado court and its potential to virally spread to other states. Accordingly, *amici*

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[1] This brief was not authored in whole or in part by counsel for any of the parties; no party or party's counsel contributed money for preparing or submitting this brief; and no one other than *amici* and their counsel have contributed money for preparing or submitting this brief. Pursuant to SUP. CT. R. 37.2, written consent to file was obtained from counsel for all parties more than 10 days in advance of the filing deadline.

[2] *Amici* are listed in the attached appendix.

offer the Court a view of the salient issues through the lens of their perspective since the adjudication of such issues will ultimately impact their electoral choice.

SUMMARY OF ARGUMENT

Section 3 of the Fourteenth Amendment was adopted in the wake of the Civil War to exclude many former Confederates from holding federal and state offices. Section 3 specifically barred those persons who, as either a member of Congress, a member of a state legislature, a state executive or judicial office, or as an officer of the United States, had taken an oath to support the United States Constitution. Such latter class of officers—"officers of the United States"—is the focus of this case.

Amici first argue the Colorado courts lacked jurisdiction under the Colorado Election Code to adjudicate a claim arising under federal law relating to former President Trump's eligibility under Section 3 of the Fourteenth Amendment. *Amici* concede that Colorado has a legitimate interest in ensuring the sanctity of its electoral process. The Colorado Legislature established an electoral code which included a summary process for adjudicating claims that election officials had breached their duties or committed misconduct. The Colorado Legislature, however, did not include the conduct proscribed by Section 3 among the types of breaches of duty or official misconduct which triggered the jurisdiction of its state courts.

Amici next argue that former President Trump is not among the class of persons for which an

electoral disability attached under Section 3 of the Fourteenth Amendment. The only class in which former President Trump could conceivably fall is that of an "officer of the United States". *Amici* explore how the Framers crafted a clear distinction between the constitutional Office of the President and the inferior and subordinate offices which Congress creates under statutory law. The Framers provided that "officers of the United States" fall into the latter category of inferior and subordinate officers. *Amici* further explore how the Framers provided a presidential oath which was distinctive from the oath taken by "officers of the United States." *Amici* conclude by arguing the Fourteenth Amendment's drafters carried forward the Framer's distinction by not articulating a different definition of "officer of the United States." Further, *amici* address how this Court's historic jurisprudence has consistently applied the Framer's understanding.

Finally, *amici* argue a point not addressed by the Colorado Supreme Court—that Congress invoked the authority provided in Section 3 of the Fourteenth Amendment to remove any disability otherwise arising under Section 3 in its 1872 and 1898 Amnesty Acts. *Amici* explore the historical underpinnings of these Amnesty Acts as evidencing a sign of the nation's post-Civil War healing.

ARGUMENT

I. THE COLORADO ELECTION CODE DOES NOT VEST COLORADO COURTS WITH JURISDICTION TO ADJUDICATE QUESTIONS RELATING TO SECTION 3 OF THE FOURTEENTH AMENDMENT.

At the outset, the *amici* acknowledge that Colorado, like any other state, has an obligation under Article I, sec. 4 of the Constitution to regulate the time, place, and manner of elections. *Amici* do not challenge the proposition that Colorado has an "important and well-established interest in regulating ballot access and preventing fraudulent or ineligible candidates from being placed on the ballot." *See Bullock v. Carter*, 405 U.S. 134, 145 (2005) in which this Court noted that "a State has an interest, if not a duty, to protect the integrity of its political processes from frivolous or fraudulent candidacies").

Amici do not question that Colorado has a legitimate interest in adopting and following a specific statutory process to adjudicate election disputes arising under state law. However, what Colorado does not have is a legitimate interest in allowing its election officials to either impose qualifications for the presidency beyond those prescribed in Article II, sec. 1, cl. 5 of the Constitution or unilaterally adjudicate those qualifications. In fulfillment of these principles, the Colorado Legislature crafted COLO. REV. STAT. § 1-1-113 to provide for a summary proceeding which constrains the jurisdiction of Colorado courts to simply adjudicate claims for any "breach or neglect of a duty

or other wrongful act" of Colorado election officials which arises under the Colorado Election Code.

In *Frazier v. Williams*, 401 P.3d 541 (Colo. 2017), the Colorado Supreme Court confirmed that Section 1-1-113 sets forth a process for summarily adjudicating disputes relating to a limited scope of wrongful actions and conduct by election officials. The court has further held that Section 1-113 does not impose affirmative duties upon election officials such that it cannot serve as a jurisdictional predicate with respect thereto. *Carson v. Reiner*, 370 P.3d 1137 (Colo. 2016). With respect to federal claims relating to the conduct of elections or the acts of election officials, the court specifically held in *Frazier* that Section 1-1-113 does not provide a jurisdictional basis for their adjudication. The applicability of Section 3 of the Fourteenth Amendment is a quintessentially federal claim.

The Colorado Election Code also does not incorporate the conduct proscribed by Section 3 of the Fourteenth Amendment among the "neglect of duty" or "other wrong act" of an election official which triggers Section 1-1-113. The Colorado Supreme Court's haste to abandon the judiciary's apolitical role by determining that former President Trump was ineligible to appear on the state's 2024 Republican primary ballot led it to ignore fundamental jurisdictional elements of Colorado law.[3]

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[3] Such haste also led the court to both grossly misinterpret and misapply Section 3 of the Fourteenth Amendment and ignore Congress' later deactivation of Section 3. More about that *infra*.

The Colorado court's determination, much like the foolish man's house in *Matthew* 7:24-27, was built upon the sand. Its determination, like that foolish man's house, must be doomed to the same fate. The Colorado court built a house upon the sand by anchoring its determination to a faulty jurisdictional predicate: COLO. REV. STAT. § 1-1-113, slip op. at 18 ("we conclude that the district court had jurisdiction to adjudicate the Elector's claim under section 1-1-113"). The court reasoned that Colorado's legislature gave its state courts "the authority to assess presidential qualifications." *Id.*, at 19.

The Colorado Legislature may have given such authority, but *Frazier* holds that it did not so through a Section 1-1-113 challenge as to any issues arising under federal law. In this respect, the Colorado court's jurisdictional anchor was directly at odds with its existing interpretation of Section 1-1-113's plain text as limiting its applicability to claims for "breach or neglect of a duty or other wrongful act" which arises under the Colorado Election Code.[4] *Frazier* discussed the types of

[4] COLO. REV. CODE. § 1-4-1204 addresses the placement on candidate names the presidential primary ballot. For major parties, like the Republican Party, Section 1-4-1204(1) grants ballot access to those who are "bona fide" candidates under their party's rules. The Colorado Election Code, however, does not define the term "bona fide" candidate. In turn, Section 1204(4) points a would-be challenger to Section 1-1-113 but that section limits a challenge to breaches of duties or misconduct arising under the Colorado Election Code, of which the acts proscribed by Section 3 of the Fourteenth Amendment are not included.

claims to which Section 1-1-113 applies—all requiring some form of misconduct by a Colorado election official.

Amici are at a loss to comprehend what official misconduct by the Respondent Secretary of State could have served as a jurisdictional predicate in this case, other than her failure to unilaterally adjudicate former President Trump's Section 3 electoral eligibility. That, of course, is not something within the Respondent Secretary of State's legal powers and duties under either COLO. REV. STAT. §§ 1-1-107 or 1-4-1204. It thus defies logic how the Respondent challengers could have invoked these two sections to seek redress for a non-existent breach of a duty. As such, Section 1-1-113 could not serve as a basis for invoking the jurisdiction of the Colorado courts to adjudicate former President Trump's electoral eligibility under federal law.

This Court could grant review and simply reverse the Colorado Supreme Court on the above jurisdictional grounds. Doing so, however, would solve nothing and actually makes matters worse. The Colorado court has unleashed harms which will creep beyond Colorado's borders.[5] A full adjudication of the merits is the only way to

[5] And creep it has. On December 28, 2023, the Maine Secretary of State determined that former President Trump was disqualified from having his name placed on the 2024 presidential primary ballot for the same reasons found by the Colorado Supreme Court. *See* State of Maine, *Ruling of the Secretary of State* (Dec. 28, 2023). https://www.maine.gov/sos/news/2023/Decision%20in%20Challenge%20to%20Trump%20Presidential%20Primary%20Petitions.pdf

meaningfully remedy the harms done by the Colorado court.

II. THE PLAIN TEXT OF SECTION 3 OF THE FOURTEENTH AMENDMENT DOES NOT APPLY TO THE PRESIDENT.

Few issues have divided this nation more than the January 6, 2021 statements and actions of former President Trump. Politicians, pundits and the public have dissected those statements and actions in a manner that would amaze and impress even the most fervent biology teacher. But those statements and actions have relevance in the context of Section 3 of the Fourteenth Amendment only if former President Trump is among the class of persons for which Section 3 provides an electoral disability.

The Colorado Supreme Court's inclusion of former President Trump in that class of persons is at odds with the scope of Section 3's limiting language. Such limiting language specifically states:

> [n]o person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress

> may by a vote of two-thirds of each House, remove such disability.

U.S. Const., amend. XIV, § 3.

By its plain terms, Section 3 only applies to those persons who have taken an oath to support the United States Constitution as either a member of Congress, a member of a state legislature, a state executive or judicial office, or an officer of the United States. The specific oath referenced in Section 3—to support the Constitution—is the oath prescribed in Article VI, cl. 3 of the Constitution. It is undisputed that former President Trump has never taken the Article VI oath as either a member of Congress, a member of a state legislature, or as a state executive or judicial officeholder. He likewise has never taken the Article VI oath as an "officer of the United States."

When assuming the presidency, the only oath which former President Trump took was that prescribed by Article II, sec. 1, cl. 8 of the Constitution. The presidential oath, as evidenced by its plain text, does not track the text of the oath described in either Section 3 or Article VI. Specifically, the presidential oath does not use the same "to support the Constitution" words found in both Section 3 and Article VI applicable to an "officer of the United States." These distinctive constitutional oaths are not interchangeable. This is the first hint that the Framers intended to treat the Office of the President differently than all other federal offices.

A. The President is not an Officer of the United States.

The Colorado Supreme Court committed plain legal error in determining that former President Trump was an "officer of the United States" for purposes of Section 3's electoral disqualification. The Colorado's court's determination is thus inconsistent and incompatible with the Framer's clear understanding and expression of such phrase.

That fact is apparent not only from the distinctive oath taken by the President but also from the plain text of the Appointments Clause, art. II, sec. 2, cl. 2, which authorizes the President to appoint "Officers of the United States." This Court understood in the post-Civil War era that "Officers of the United States" meant those persons who served the government

> "by virtue of an appointment by the President, or of one of the courts of justice or heads of Departments authorized by law to make such an appointment."

United States v. Mouat, 124 U.S. 303, 307 (1888). The President obviously did not then, and does not now, occupy office by virtue of a presidential appointment. No amount of mental or linguistic gymnastics by the Colorado Supreme Court can get around the logical and factual reality that the President does not appoint himself.

This Court has carried such understanding into modern times in finding that "officers of the United States" are those persons appointed to an office created by Congress. *See Buckley v. Valeo*, 424 U.S. 1 (1976). Even more recently, this Court

acknowledged the Framers' understanding that the phrase "encompassed all federal civil officials 'with responsibility for an ongoing statutory duty.'" *NLRB v. SW General, Inc.*, 580 U.S. 288, 314 (2017) (Thomas, J., concurring). The President would not thus be an "officer of the United States" under either the *Mouat*, *Buckley* or *SW General* definitions, and logically could never be.

For purposes of Section 3, an "officer of the United States" must solely encompass those presidential appointees who occupy a position subordinate to the President. Such result is consistent with this Court's holdings in that "officers of the United States" are those appointed to an office created by Congress. *Buckley, supra.*; *Seila Law LLC v. Consumer Fin. Prot. Bureau*, 591 U.S. ___, 140 S.Ct. 2183 (2020). The Office of the President is obviously not an office which Congress created by statute. There is also nothing in this Court's jurisprudence to suggest that Congress has ever attached a different meaning to the phrase "officers of the United States" from that which the Framers articulated in the Appointments Clause.

B. The Colorado Supreme Court's definition of an "Officer of the United States" contradicts the Framer's and this Court's understanding of such phrase.

The Colorado Supreme Court turned the Framers' intentions and nearly 150 years of this Court's jurisprudence on their ear in finding that former President Trump was an "officer of the United States" while serving as President. It founded such determination upon four premises:

the normal and ordinary usage of the term "officer of the United States; the understanding of the drafters of the Fourteenth Amendment; the structure of Section 3; and the purpose of Section 3. These premises are each deeply flawed and cannot survive this Court's scrutiny.

First, the Colorado court erred in its belief that a president's position as the nation's chief executive officer reflects a common usage and understanding which made him an "officer of the United States". Slip op. at 80. A person can be an officer within the federal government without being an "officer of the United States" as evidenced by this Court's longstanding understanding that such phrase is confined to the class of political appointees who are subordinate to the President. Another key distinction is that the Office of the President arises solely under the Constitution whereas the offices occupied by "officers of the United States" arise by virtue of a congressional enactment. The Colorado court neither mentioned nor addressed these key distinguishing points.

Second, the Colorado Supreme Court erred in its belief that the Fourteenth Amendment's drafters understood the President was an "officer of the United States". Slip. op. at 70. The tenuousness of the court's position is evidenced by its reliance upon citations to two sources that in no way even remotely relate to Section 3 of the Fourteenth Amendment: the congressional debate found at Cong. Globe, 39th Cong., 1st Sess. 915 (1866) and this Court's opinion in *The Floyd Acceptances*, 74 U.S. 666 (1868), both of which refer to the President as an officer. The former addressed the

legality of Congress disarming the Confederate state militias and the latter addressed the legal authority of an officer to pay government debts. Neither addressed, let alone found, that the President is an "officer of the United States" either generally or under the Fourteenth Amendment specifically. The Colorado court, in all respects, wove its decision from thin and worn thread.

Furthermore, the Framers, particularly Madison, would strongly disagree with the position staked by the Colorado court. The Framers well understood the stark difference between a constitutional office—like the Office of the President—and the inferior and subordinate offices created by Congress. This is evident from the fact the Framers provided the presidency was to be the sole office created under the Constitution while separately vesting Congress with the sole authority to create all other inferior federal offices. To this end, the Framers vested Congress with the power under the Necessary and Proper Clause

> "[t]o make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

U.S. CONST. art. I, §8, cl. 18.

The Framers went a step further in confirming their understanding through the precise textual wording of the Appointments Clause. The Framer's precisely crafted the presidential power to appoint "officers of the United States" to the

offices "which shall be *established by Law*." U.S. Const. art. II, §2, cl. 2 (emphasis added). They absolutely calculated the emphasized phrase to encompass those inferior and subordinate officers subject to presidential appointment and Senate confirmation. 2 *The Records of the Federal Convention of 1787*, at 628 ("[a]fter "Officers of the U.S. whose appointments are not otherwise provided for," were added the words "and which shall be established by law"."). Madison absolutely understood that the phrase "established by law" meant offices which Congress established by statute. 1 Annals of Cong. 7 582 (1789) (Madison).

This understanding perfectly dovetails with Madison's concept of constitutional physics: the delicate balance of friction combating faction which underlies the separation of powers. The Federalist No. 51, at 319 (C. Rossiter ed. 1961) (Madison). The Colorado court's determination is wholly incongruent with nearly 235 years of accepted constitutional understanding and has upset the equilibrium of the system which Madison so carefully crafted.

Third, the Colorado Supreme Court adopted a skewed view that the structure of Section 3 was persuasive of the proposition that the President is an "officer of the United States." Slip op. at 82. The court came to this rationalization by dissecting and comparing the persons and offices respectively listed in the two halves of Section 3. The court observed that the first half "describes the offices protected and the second half addresses the parties barred from holding those protected offices." *Id*. The court then found a "parallel structure"

between the two halves such that protected offices and barred parties matched, save electors for President and Vice President, in a way which included the President as being subject to a disability. *Id*.

The Colorado court's attempt at linguistic gymnastics ignores this Court's requirement that the Constitution must be read and interpreted based upon its plain text, *Widmar v. Vincent*, 454 U.S. 263 (1981); *Trump v. Mazars USA, LLP*, 140 S.Ct. 2019 (2023), and within the confines of its historical perspective, *N.Y. State Rifle & Pistol Ass'n, Inc. v. Bruen,* 142 S.Ct. 2111 (2022). The plain text of Section 3 does not support the Colorado court's attempt to contort and shoehorn its flawed interpretation thereof. Simply put, the Colorado court tried to shove a square peg into a round hole and then whittled off the square edges to make it fit.

Fourth, the Colorado court erred in analyzing what it termed "the clear purpose" of Section 3—ensuring that disloyal officers would be forever barred from playing a role in the government. Slip op. at 83 - 84. The Framer's historical understanding of the Constitution's meaning is critical in any current analysis. *Bruen, supra.*

As argued above, the Framers understood the distinction between the Office of the President and the inferior and subordinate "officers of the United States." The Colorado court's position cannot be reconciled with the fact the Fourteenth Amendment's drafters used the same "officers of the United States" phrase as the Framers when crafting key parts of the Constitution and referred to

the same distinctive constitutional oath taken by them without attaching a distinguishing meaning.

III. CONGRESS REMOVED ANY ELECTORAL DISABILITY VIA THE 1872 AND 1898 AMNESTY ACTS.

Finally, the Colorado Supreme Court's determination cannot stand even if Section 3 of the Fourteenth Amendment otherwise imposed a political disability against former President Trump. This is the case because the plain text of the 1872 Amnesty Act removed that disability. Such Act provides that:

> all political disabilities imposed by the third section of the fourteenth article of amendments of the Constitution of the United States are hereby removed from all persons whomsoever, except Senators and Representatives of the thirty-sixth and thirty-seventh Congresses, officers in the judicial, military, and naval service of the United States, heads of departments, and foreign ministers of the United States.

See Act of May 22, 1872, ch. 193, 17 Stat. 142 (1872). The plain text of this Act encompassed "officers of the United States" within the scope of its grant of Section 3 amnesty.

The historic context of the relationship between Section 3 and the 1872 Amnesty Act is critical. The Fourteenth Amendment was passed and ratified within several years following the Civil War. The need for Section 3 became evident in December 1865 when the members of the 39th

Congress convened and the newly-elected senators and representatives from the former Confederate states sought to be sworn and take their seats. *See* Gerard N. Magliocca, *Amnesty and Section Three of the Fourteenth Amendment*, 36 Const. Comment. 87, 91 (2021). Section 3 was thereafter used to exclude both state and federal officials from assuming or continuing in office, *id.* at 88 (describing an effort to oust half of Tennessee's Supreme Court); *id.* at 110-11 (describing the Senate's refusal to seat North Carolina's wartime governor).

Yet, one of America's remarkable traits—grace of forgiveness—soon took hold as many recognized that amnesty for the former Confederates was a key part of the nation's healing and rebuilding. *Id.* at 111-12. Prior to 1872, Congress removed Section 3 disabilities through thousands of private amnesty bills. *Id.* at 112. A new plan was needed as the "sheer number of personal amnesty requests soon overwhelmed Congress and led to calls for general Section Three amnesty legislation." *Id.* at 112-13. President Grant's endorsement of such effort precipitated congressional efforts to pass what became the 1872 Amnesty Act. *Id.* at 116.

A clear textual reading of the 1872 Amnesty Act evidences that Congress removed "[a]ll political disabilities imposed" by Section 3, subject to a number of exceptions.[6] The plain text of the Act

[6] These exceptions included the following high federal offices: Senators and Representatives of the thirty-sixth and thirty-seventh Congresses, officers in the judicial, military, and naval service of the United States, heads of departments, and foreign ministers of the United States.

shows that Congress did not limit its remedial scope to only include "persons currently subject to a Section 3 disability" or "persons against whom the disabilities were lodged" at the time of its adoption. This limiting language, had Congress used it, would have ensured that amnesty applied solely to the removal of Section 3 disabilities against former Confederates and not om a prospective basis.

Congress, however, did not use such limiting, backward-looking language when crafting the Amnesty Act. Congress did not either specifically refer to the disabilities imposed upon the individuals who participated in the Civil War insurrection or preserve those disqualifications for future potential cases. *See* Hans A. von Spakovsky, *Efforts by Courts of State Officials to Bar Members of Congress from Running for Re-Election or Being Seated Are Unconstitutional*, The Heritage Foundation, Legal Memorandum No. 301 at 5 (Apr. 6, 2022). Instead, the plain text of the 1872 Act shows that Congress used more expansive and general language to remove all Section 3 disabilities from all persons not explicitly excepted in a way which connoted a prospective application. *Id*. This Court should take Congress at its word and not interpret the 1872 Act beyond its plain text.

Given *Bruen, supra*., any consideration of the scope of the 1872 Amnesty Act *vis-à-vis* Section 3 must be viewed in its historic context. The United States was in the midst of its "Reconstruction" era in 1872: having the ultimate goal, as its name suggests, of both healing the many political and societal wounds laid open by the Civil War and reunifying the Union. This explains why both President

Grant and Congress required the former Confederate states to adopt the Fourteenth Amendment.

The nation was on the road to regaining its bearings and found itself in a far different (and better) place by 1872. By then, all former Confederate states had been readmitted to the Union and a structural framework had been constructed to ensure the Union thereafter remained intact all while ensuring both fundamental rights for the newly-freed slaves and a means to enforce them.

Ultimately, the 1872 Amnesty Act represented a sign a good will, an olive branch if you will, and reflected one of America's best traits—its willingness to forgive past transgressions. It was, in many respects, the legislative embodiment of the hope for the future expressed in Lincoln's second inaugural address:

> "[w]ith malice toward none with charity for all" as the nation strove "to finish the work we are in to bind up the nation's wounds, to care for him who shall have borne the battle and for his widow and his orphan - to do all which may achieve and cherish a just and lasting peace among ourselves and with all nations."

Abraham Lincoln, Second inaugural address (1865). *Amici* find it ironic that the Colorado court failed to address the 1872 Amnesty Act in its analysis former President Trump's eligibility. Perhaps its knife was too dull from whittling away the edges of the square peg it shoved into a round hole when finding a Section 3 disability to whittle any more square edges.

The 1872 Amnesty Act, however, was not the end of the game. In 1898, Congress passed a second amnesty act which removed the remaining disabilities from those persons excepted in the 1872 Amnesty Act. The plain text of the 1898 Act provides that:

> "the disability imposed by section three of the Fourteenth Amendment to the Constitution of the United States heretofore incurred is hereby removed."

Amnesty Act of 1898, ch. 389, 30 Stat. 432 (emphasis added).

The plain text of both Amnesty Acts had the cumulative effect of first, removing the disability from "all persons whomsoever" except those specifically itemized and, second, removing the disability from those itemized persons. Such cumulative effect demonstrates that any Section 3 disability no longer be applied going forward, and certainly cannot be applied today against former President Trump to the extent he was an "officer of the United States."

The scope of both the 1872 and 1898 Amnesty Acts are critically important here because the Colorado Supreme Court neither mentioned nor discussed them in its opinion. Instead, the Colorado court sought to change the course of the 2024 presidential election by making a choice which affects the franchise of Colorado voters and potentially in other states. This cannot stand.

CONCLUSION

Based upon the foregoing, *amici* ask that this Court grant certiorari in order to conduct an expedited review of the merits of the Petitioner's appeal from the December 19, 2023 opinion of the Colorado Supreme Court.

January 4, 2024

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