

APPENDIX

APPENDIX

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1a

**New Jersey Supreme Court Dismissal for
Emergent Relief**

FILED, Clerk of the Supreme Court,
16 Aug 2024, 089771

**SUPREME COURT OF NEW JERSEY
S-122 September Term 2023 089771**

New Jersey Democratic State Committee,
Petitioner,

O R D E R

v.

Shiva Ayyadurai,
Respondent-Applicant.

The application for emergent relief pursuant to Rule 2:9-8 is denied. The applicant has failed to prove an entitlement to emergent relief under Crowe v. De Gioia, 90 N.J. 126, 132-34 (1982).

SUPREME COURT OF NEW JERSEY

Dated: August 16, 2024
Trenton, New Jersey

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**New Jersey Supreme Court
Dismissal for Emergent Relief**

Superior Court of New Jersey

NEW JERSEY DEMOCRATIC
STATE COMMITTEE,

Petitioner,

v.

SHIVA AYYADURAI,

Respondent.

Case Name

Appellate Division

Appellate Division

Docket Number _____
(if available)

Trial Court or
Agency Below:

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STATE OF NEW JERSEY
DEPARTMENT OF STATE
OFFICE OF THE SECRETARY OF STATE

Trial Court or
Agency Docket
Number: STE-10482-24

Disposition on Application for
Permission to File Emergent Motion - Denied
Do Not Fill in This Section – For Court Use Only

The application of respondent Shiva Ayyadurai for
leave to file an emergent motion on short notice is
Denied for the following reasons:

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- ☒ The application on its face does not concern a threat of irreparable injury, or a situation in which the interests of justice otherwise require adjudication on short notice. The applicant may file a motion with the Clerk's Office in the ordinary course.

- ☐ The threatened harm or event is not scheduled to occur prior to the time in which a motion could be filed in the Clerk's Office and decided by the court. If the applicant promptly files a motion with the Clerk's Office it shall be forwarded to a Panel for decision as soon as the opposition is filed.

The applicant did not apply to the trial court or agency for a stay, and obtain a signed court order, agency decision or other evidence of the ruling before seeking a stay from the Appellate Division.

The application concerns an order entered during trial or on the eve of trial as to which there is no prima facie showing that the proposed motion would satisfy the standards for granting leave to appeal.

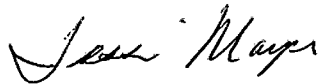
- ☐ The timing of the application suggests that the emergency is self-generated, given that no good explanation has been offered for the delay in seeking appellate relief. Due to the delay, we cannot consider a short-notice motion within the time frame the applicant seeks, without depriving the other party of a reasonable time to submit opposition. And the magnitude of the threatened harm does not otherwise warrant

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adjudicating this matter on short notice despite the delay. If the applicant promptly files a motion with the Clerk's Office it shall be forwarded to a Panel for decision as soon as the opposition is filed.

☒ Other reasons:

Respondent admitted he is not a "natural born citizen" of the United States. Therefore, he is ineligible to appear on the ballot as a candidate for the office of United States President in 2024 per the United States Constitution. U.S. Const. art. II, § 1.



Hon. Jessica R. Mayer, P.J.A.D.

8/13/2024

Date

New Jersey Secretary of State Final Decision

**STATE OF NEW JERSEY
DEPARTMENT OF STATE
OFFICE OF THE SECRETARY OF STATE**

NEW JERSEY DEMOCRATIC)
STATE COMMITTEE)
PETITIONER,)
)
SHIVA AYYADURAI,)
RESPONDENT.)
)

**FINAL DECISION
OAL DOCKET NO. STE 10482-24**

This matter involves a challenge by Petitioner New Jersey Democratic State Committee to the petition ("Petition") filed by Respondent Shiva Ayyadurai, nominating electors for himself as an independent candidate on the November 5, 2024 General Election ballot for the office of President of the United States. Petitioner challenges Ayyadurai's eligibility to run for the office of President, and be placed on the November 5, 2024 General Election ballot, contending that he does not meet the federal Constitutional requirement found in Article 2, Section 1, that a person must be a "natural born Citizen" to serve as President. For the

reasons set forth herein, the Initial Decision of Administrative Law Judge ("ALJ") William Cooper is adopted.

On or before July 29, 2024, Respondent filed his Petition with the Division of Elections. By letter, dated March 30, 2023⁵ Petitioner filed written objections to Respondent's Petition. On August 1, 2024, the Division transmitted the matter to the Office of Administrative Law for a hearing as a contested case.

A hearing was held on August 5, 2024, before ALJ Cooper, at which time a representative for Petitioner and Respondent appeared. On August 6, 2024, after hearing oral argument from both parties, ALJ Cooper issued an Initial Decision.

Finding that Respondent was "not born in the United States, was not born to a United States citizen, and he freely admits that he immigrated to the United States and went through a naturalization process in 1983[,]" ALJ Cooper concluded that Respondent is not a natural born citizen and thus not eligible to hold the office of the President. Initial Decision at 3-4. *Id.* at 4. ALJ Cooper next analyzed whether Respondent's ineligibility to hold the office of the President prohibited him from appearing on the ballot as an independent candidate. ALJ Cooper concluded that while a candidate does not have to prove eligibility when submitting a nominating petition, once such petition is challenged, the candidate has to establish his eligibility to remain on the ballot. *Id.* at

5. Further, ALJ Cooper rejected Respondent's argument that Donald J. Trump v. Norma Anderson, 601 U.S. 100 (2024) precludes states from ruling on who may or may not appear on the ballot for the office

of the President, concluding that the Trump decision only applied to challenges under Section 3 of the Fourteenth Amendment. *Id.* at 5-6. Accordingly, ALJ Cooper held Respondent's Petition is invalid and that Respondent's name should not appear on the General Election ballot. *Id.* at 6.

ALJ Cooper's Initial Decision and the record were received by this office on August 6, 2024.

Respondent filed exceptions on August 7, 2024. He asserts that: 1) ALJ Cooper conflated eligibility to assume the office of President with eligibility to run as a candidate for President; 2) this office has previously allowed candidates who were ineligible to serve as President onto the presidential ballot; 3) the 5th and 14th Amendments prohibit excluding Respondent from the ballot on the basis of national origin; 4) Trump v. Anderson prohibits states from denying ballot access for federal office; and 5) ballot access is a non-justiciable political question. Respondent's Exceptions, generally.

Under *N.J.S.A. 19:13-10*, nominating petitions in "apparent conformity" with Title 19 are deemed valid unless an objection to the petition is raised. As nominating petitions are deemed presumptively valid, it is the burden of the individual raising an objection to the petition to show that such a petition is not in conformity with Title 19. See also Roundtree v. Republican Candidates of LD 128 and 9, 2015 N.J. AGEN LEXIS 270 at *9-10 (April 8, 2015) (noting that an individual objecting "to a nominating petition 'seeks to enforce law governing the election process and, therefore, bears the burden of proof of facts essential to [his or] her claim by the preponderance (the greater

weight) of the competent and credible evidence." (quoting Allen v. Wahner, 2001 N.J. AGEN LEXIS 1467 at *10-11 (July 16, 2001)); Challenging a Candidate's Petition, New Jersey Department of State, Division of Elections, <https://www.nj.gov/state/elections/candidate-petitionchallenge.shtml> (last visited May 17, 2024) (stating "[i]n all challenges, the objector has the burden of proving that a petition is invalid.").

Further, "[t]he nomination of any person to any public office may be challenged on the ground that the incumbent is not eligible for office at the time of the election." Purpura. et al. v. Obama, STE 04534-12, 2012 N.J. AGEN LEXIS 179, at *4 (NJ OAL Apr. 10, 2012). Further, "at least at the time that the petition is filed with the Secretary of State, there is no obligation upon the person indorsed to prove his or her qualification for the office," but "once a petition is filed a party believing that the indorsed individual is not qualified can file a challenge on the grounds of ineligibility." 111. at *8 i In this instance, Petitioner argues that Respondent is ineligible for the office of President of the United States because he is not a natural born citizen of the United States.

Pursuant to Article II, Section I of the United States Constitution, "[n]o Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President Leading constitutional scholars agree that "the phrase 'natural born Citizen' has a specific meaning: namely, someone who was a U.S. citizen at birth with no need to go through a naturalization proceeding at some later time." Paul Clement and Neal Katyal, "On the Meaning of 'Natural

Born Citizen," 128 Harv. L. Rev. 161(2015). As such, an individual must be born in the U.S. or born to U.S. citizen parents abroad. Ibid.

Attempts to circumvent the natural born citizen requirement of Article II, Section 1 have been uniformly rejected across the country. See Hassan v. Colorado, 495 Fed. Appx. 947 (10th Cir. Sep. 4, 2012) (affirming magistrate judge's finding that "the Fourteenth Amendment did not affect the validity of Article II's distinction between natural-born and naturalized citizens"); Hassan v. FEC, 893 F. Supp. 2d 248, 256-57 (D.D.C. Sep. 28, 2012) (rejecting the argument that the "natural born citizen requirement has been implicitly repealed by the Fifth and Fourteenth Amendments"); Hassan v. New Hampshire, 2012 U.S. Dist. LEXIS 15094 (DN.H. Feb. 8, 2012) (holding same); Hassan v. Montana, 2012 U.S. Dist. LEXIS 188196 (D. Mont. May 3, 2012) (holding same); Hassan v. Iowa, 2012 U.S. Dist. LEXIS 188213 (S.D. Iowa April 26, 2012) (holding same) see also Pereira v. Fed. Gov't of United states, 2023 U.S. Dist. LEXIS 78700, at *4 (D.N.J. May 4, 2023) (rejecting a naturalized citizen's asserted right to run for President, noting "[i]t would be extraordinary for a district court to declare the Constitution itself to be unconstitutional . . . [t]he only recourse, then, would appear to be a Constitutional amendment.").

"As interpreter and enforcer of the words of the Constitution," a court is "not empowered to strike the document's text on the basis that it is offensive to itself or is in some way internally inconsistent." Hassan v. EEC, 893 F. supp. 2d at 257 (quoting New v. Pelosi, U.S. Dist. LEXIS 87447, at *2 (S.D.N.Y. Oct. 29, 2008)). So too, as the Chief Elections Officer in the State, I am

only empowered to enforce the federal and state constitutions and our state's election laws. Under the federal constitution, Respondent is plainly ineligible to serve as President.

Respondent's citation to Trump v. Anderson, 601 U.S. 100 (2024), is similarly unavailing and was correctly rejected by ALJ Cooper. Respondent asserts that Trump v. Anderson stands for the proposition that states may not rule on who may or may not appear on the ballot for the office of President. This is incorrect. As noted by ALJ Cooper, Trump v. Anderson answered the question of whether states, as opposed to Congress, have authority to enforce Section 3 of the Fourteenth Amendment. 601 U.S. at 110. The U.S. Supreme Court held that the "responsibility for enforcing Section 3 against federal officeholders and candidates rests with Congress and not the States." at 117.

The present petition challenge is not based upon Section 3 of the Fourteenth Amendment, but rather Article II, Section 1, an entirely different constitutional provision that has regularly been enforced by states with the approval of several federal courts. See e.g., Hassan v. Colorado, 495 Fed. App'x. at 948 ("[W]e expressly affirm here, a state's legitimate interest in protecting the integrity and practical functioning of the political process permits it to exclude from the ballot candidates who are constitutionally prohibited from assuming office."); Hassan v. Montana, 2012

U.S. Dist, LEXIS 188196, * 1-2 (rejecting the plaintiff's argument that "the Montana Secretary of State [] wrongfully denied him the opportunity to appear on Montana's election ballot as a candidate for President of the United States because he is a

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naturalized citizen of this country"); Hassan v. New Hampshire, 2012 U.S. Dist. LEXIS, at * 10 (holding "New Hampshire's state laws requiring all presidential candidates to affirm that they are natural born citizens are constitutional"); Hassan v. Iowa, 2012 U.S. Dist. LEXIS 188213, (upholding similar scheme). New Jersey has also traditionally enforced the natural-born-citizen requirement for President through petition challenges and administrative processes. e.g., Williams v. Cruz, STE 05018-16, Final Decision (April 13, 2016); Purpura v. Obama, STE 04534-23, Final Decision (April 12, 2012).

To the extent there are other arguments asserted in the exceptions, which having been considered, I find that they do not warrant additional discussion. I therefore adopt ALJ Cooper's findings as to those issues.

After full consideration of the record, I hereby adopt ALJ Cooper's Initial Decision in its entirety and reject Respondent's Petition nominating electors for himself as an independent candidate for the office of President of the United States on the November 5, 2025 General Election ballot.

IT IS SO ORDERED,



TAHESHA WAY
SECRETARY OF STATE

DATED: August 7, 2024

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New Jersey Office of Administrative Law
Initial Decision



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. STE 10482-24
AGENCY DKT. NO. N/A

**NEW JERSEY DEMOCRATIC
STATE COMMITTEE,**
Petitioner,
v.
SHIVA AYYADURAI,
Respondent.

Rajiv D. Parikh, Esq., for petitioner (Genova
Burns, LLC, attorneys)
Shiva Ayyadurai, respondent, pro se

Record Closed: August 5, 2024,
Decided: August 6, 2024

BEFORE
WILLIAM T. COOPER III, ALJ:

STATEMENT OF THE CASE

This is a challenge by petitioner, the New Jersey Democratic State Committee (NJDCS or petitioner), to the validity of the nominating petition for the 2024 General Election filed by respondent Dr. Shiva Ayyadurai (Dr. Ayyadurai or respondent) to become an independent candidate for the Office of the President of the United States (President).

Petitioner contends that respondent is not a natural born citizen and as such cannot appear on the ballot for that office. Respondent argues that the Fourteenth Amendment guarantees his right to appear on the ballot and that only Congress can remove his name.

PROCEDURAL HISTORY

The respondent timely filed a nominating petition containing the required number of signatures with the Department of State, Division of Elections, in Trenton, New Jersey. By letter dated August 1, 2024, the petitioner filed a written objection to the validity of the petition. Petitioner concedes there are no procedural defects to the nominating petition. However, because respondent is not a natural born citizen, petitioner argues that respondent is not qualified to appear on New Jersey's November 2024 general election ballot as a candidate for President of the United States.

On August 1, 2024, the Director of the Division of Elections delivered the file to the Office of Administrative Law (OAL) for hearing as a contested case. The parties were contacted by the Division of Elections and advised that a hearing would be held on Monday, August 5, 2024, at 10:00 a.m. The petitioner

requested an adjournment due to a prior commitment to appear before the Presidential Emergency Board hearings beginning at 9:00 a.m. on August 5, 6, and 7, 2024.

On August 2, 2024, a telephone conference was conducted to determine an appropriate date and time to conduct a hearing. The parties agreed to conduct the hearing on August 5, 2024, at 4:30 p.m. A hearing was conducted on that date, and the record closed.

FACTUAL DISCUSSION

Dr. Ayyadurai is running as an independent candidate for the upcoming 2024 presidential election. The NJDSC has called for the rejection of respondent's nominating petition on the basis of ineligibility. Specifically, it argues that in addition to respondent's own public statements, a decision from the District of Columbia "made an express finding that Dr. Ayyadurai 'became a naturalized American citizen in November 1983.'" See Letter on behalf of NJDSC (August 1, 2024). Because the Constitution of the United States requires the President be either a Citizen of the United States at the time of the adoption of the Constitution or a natural born citizen, petitioner argues that because respondent was naturalized later in life, he is not a natural born citizen, and therefore he is ineligible to appear on the 2024 general election ballot as a candidate for President.

Dr. Ayyadurai freely admits that he is not a "natural-born citizen," and that he immigrated to the United States and became a naturalized citizen in November 1983. Dr. Ayyadurai argues that the State

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of New Jersey is without the authority to remove a candidate for the office of President from the ballot.

Accordingly, I **FIND** that respondent Dr. Shiva Ayyadurai is not a natural born citizen.

LEGAL DISCUSSION

In order to run for president, there is a constitutional requirement that a person be a “natural born Citizen” in order to serve as President of the United States. U.S.C.S.

Const., Art. II, § 1, Cl 5 states:

No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

The definition of natural born citizen has not been defined as per the Constitution and has not been addressed by the United States Supreme Court. There have been a small number of cases that address it, and the most binding on the OAL is a decision from 2016, written by the Honorable Administrative Law Judge (ALJ) Jeff Masin; See Victor Williams v. Ted Cruz, STE 05018-16, Final Decision, adopted (April 13, 2016) https://njlaw.rutgers.edu/collections/oal/final/ste05016-16_1.pdf.

In Judge Masin's decision, he goes through a thorough history of the definition of "natural born citizen" as well as different schools of thought on how to define it. In sum, the consensus is that a natural born citizen is someone who was a United States citizen at birth, with no need to go through a naturalization proceeding at some later time. Judge Masin's decision revolved around the eligibility of Ted Cruz as a candidate, who was born in Canada, but his mother was a US citizen. Thus, because his mother was a citizen at the time of his birth, Cruz was also considered a US citizen and did not need to go through a naturalization process later in life, despite being born abroad. Because of that, he was found eligible as a presidential candidate.

Here, the respondent's situation is different from Cruz's situation. Respondent was not born in the United States, was not born to a United States citizen, and he freely admits that he immigrated to the United States and went through a naturalization process in 1983. Given the general consensus on the definition of a natural born citizen, respondent does not fall underneath the category, and thus, cannot qualify for the office of president.

Having found that Dr. Shiva is not a natural born citizen, accordingly, **I CONCLUDE** that he is ineligible to hold the office of President.

The next issue to be determined is whether an ineligible candidate for President can still appear on the ballot as an independent if their nominating petition is in conformity with the provisions of Title 19.

While there are no specific regulations or case law that address the issue, the way that other cases have

treated this issue leads to the conclusion that an ineligible candidate for president should not be on the ballot. As per another case decided by ALJ Judge Masin, the nomination of any person to any public office may be challenged on the ground that the incumbent is not eligible for office at the time of the election. Nicholas Purpura and Theodore Moran v. Barack Obama, STE 04543-12, Final Decision, adopted (April 12, 2012). Here, while respondent is not an incumbent, the same principle applies, whereas his nomination to president may be challenged on the ground that he is not eligible for office at the time of the election. Respondent's citizenship status is not going to change before the November 2024 election. However, that proposition only states that the nomination *may* be challenged on that ground.

In the same decision, Judge Masin reasoned that there appears to be no affirmative requirement that a person endorsed in a nominating petition for presidency needs to present any other proof that he is qualified for office. However, once a petition is filed, a party believing that the endorsed individual is not qualified can file a challenge on the grounds of ineligibility.

In other words, a candidate does not have to prove eligibility prior to the nominating petition unless there is a challenge on the grounds of ineligibility, which happened in the instant matter. Respondent did not have to prove his eligibility prior to the challenge. However, now that there is a challenge, it follows that he needs to prove his eligibility, and since he cannot, he should not be placed on the ballot. Also, it is logical that someone who is ineligible to be president cannot be on the presidential ballot, even as an independent.

Dr. Ayyadurai cited Donald J. Trump v. Norma Anderson 601 U.S. 100 (2024), for the proposition that the 'political question doctrine' precludes states from ruling on who may or may not appear on the ballot for the office of President. His reliance on this case is misplaced. The issue in that case was whether the states, in addition to Congress, may also enforce Section 3 of the Fourteenth Amendment. That section reads as follows:

No 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.C.S. Const. Amend. 14 § 3.]

The Supreme Court determined that individual states have no power under the Constitution to enforce Section 3 of the Fourteenth Amendment. The Supreme Court's reasoning for this conclusion was that a state-by-state enforcement of the question whether Section 3 bars a particular candidate for President from serving would be unlikely to yield a uniform answer consistent with the basic principles that the President represents all voters in the nation. The Supreme Court held only

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that, states “have no power to enforce Section 3 with respect to federal offices, especially the President.” Thus, the decision only applies to challenges under Section 3, which is not at issue here.

Accordingly, since respondent is not eligible to hold office for the President of the

United States, I **CONCLUDE** that he is not eligible to be on the ballot either.

CONCLUSION

Because respondent, Dr. Shiva Ayyadurai is not a “natural-born citizen,” as required by the Constitution of the United States, his name should not appear on the ballot for the 2024 General Election for the office of the United States President.

ORDER

I **ORDER** that the petitioner’s challenge of respondent’s nomination petition to be a candidate for President of the United States be **GRANTED**, and I **ORDER** that the respondent Dr. Shiva Ayyadurai be excluded from the ballot for the 2024 General Election for the office of the United States President.

I hereby **FILE** my initial decision with the **SECRETARY OF STATE** for consideration.

This recommended decision may be adopted, modified or rejected by the

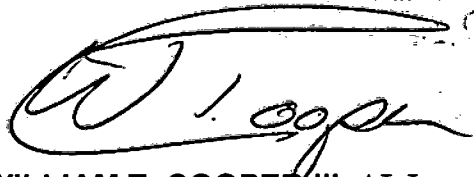
SECRETARY OF STATE, who by law is authorized to make a final decision in this matter. If the Secretary of State does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall

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become a final decision in accordance with N.J.S.A. 52:14B-10.

Any party may file exceptions with the **DIRECTOR OF THE DIVISION OF ELECTIONS, DEPARTMENT OF STATE**, by facsimile transmission at (609) 777-1280 within two hours of receipt of the initial decision. A hard copy shall be mailed within twenty-four hours of the facsimile transmission to the **DIRECTOR OF THE DIVISION OF ELECTIONS, DEPARTMENT OF STATE, 225 West State Street, 5th Floor, PO Box**

304, Trenton, New Jersey 08625-0304, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.



WILLIAM T. COOPER III, ALJ

August 6, 2024

DATE

Date Received at Agency:

August 6, 2024

Date Mailed to Parties: _____

WWTC/am

Constitutional and Statutory Provisions Involved

U.S. Const. art. II, § 1, cl. 5 provides:

No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

U.S. Const. amend. XIV, § 3 provides:

No 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. XX, § 3 provides:

If, at the time fixed for the beginning of the term of the President, the President elect

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shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

N.J.S.A. 19:13-5 provides:

19:13-5 Signatures to petition; number.

The petition shall be signed by legally qualified voters of this State residing within the district or political division in and for which the officer or officers nominated are to be elected, equal in number to at least two per centum (2%) of the entire vote cast for members of the General Assembly at the last preceding general election, held for the election of all of the members of the General Assembly, in the State, county, district or other political division in and for which the nominations are made; except that when the nomination is for an office to be filled by the voters of the entire State eight hundred signatures in the aggregate for each

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candidate nominated in the petition shall be sufficient; and except that no more than one hundred signatures shall be required to any petition for any officers to be elected save only such as are to be voted for by the voters of the State at large.

In case of a first general election to be held in a newly established election district, county, city or other political division, the number of fifty signatures to a petition shall be sufficient to nominate a candidate to be voted for only in such election district, county, city or other political division.

A candidate shall be permitted to sign or circulate, or both sign and circulate, the petition required to nominate that candidate for elective public office.

N.J.S.A Title 19 provides:

<https://www.nj.gov/state/dos-statutes-elections-19-01-09.shtml>

N.J.S.A. 19:13-10 provides:

19:13-10 - Objection to petition

Every petition of nomination in apparent conformity with the provisions of this Title shall be deemed to be valid, unless objection thereto be duly made in writing and filed with the officer with whom the original petition was filed not later than 4:00 p.m. of the fourth day after the last day for filing of petitions. If such objection is made, notice thereof signed by such officer shall forthwith be mailed to the

candidate who may be affected thereby, addressed to the candidate at the candidate's place of residence as given in the petition of nomination.

N.J.S.A. 19:14-8 provides:

19:14-8 Arrangement of ballots.

In the columns of each of the political parties which made nominations at the next preceding primary election to the general election and in the personal choice column, within the space between the two-point hair line rules, there shall be printed the title of each office to be filled at such election, except as hereinafter provided.

Such titles of office shall be arranged in the following order: electors of President and Vice-President of the United States; member of the United States Senate; Governor; member of the House of Representatives; member of the State Senate; members of the General Assembly; county executive, in counties that have adopted the county executive plan of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.); sheriff; county clerk; surrogate; register of deeds and mortgages; county supervisor; members of the board of chosen freeholders; coroners; mayor and members of municipal governing bodies, and any other titles of office. Candidates for members of a school board and for members of a board of fire commissioners shall be listed in a section of the ballot that is separate from the

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section featuring other candidates whenever possible in a layout at the discretion of the county clerk. Above each of such titles of office, except the one at the top, shall be printed a two-point diagram rule in place of the two-point hair line rule. Below the titles of such offices shall be printed the names of the candidates for the offices.

The arrangement of the names of candidates for any office for which more than one are to be elected shall be determined in the manner hereinafter provided, as in the case of candidates nominated by petition.

When no nomination for an office has been made the words "No Nomination Made" in type large enough to fill the entire space or spaces below the title of office shall be printed upon the ballot.

Immediately to the left of the name of each candidate, at the extreme left of each column, including the personal choice column, shall be printed a square, one-quarter of an inch in size, formed by two-point diagram rules. In the personal choice column no names of candidates shall be printed.

To the right of the title of each office in the party columns and the personal choice column shall be printed the words "Vote for," inserting in words the number of persons to be elected to such office.

N.J.S.A. 19:13-9 provides:

19:13-9 - Filing of petitions, time

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All such petitions and acceptances thereof shall be filed with the officer or officers to whom they are addressed before 4:00 p.m. of the day of the holding of the primary election for the general election in this Title provided. All petitions when filed shall be open under proper regulations for public inspection.

Notwithstanding the above provision, all petitions and acceptances thereof nominating electors of candidates for President and Vice President of the United States, which candidates have not been nominated at a convention of a political party as defined by this Title, shall be filed with the Secretary of State before 4:00 p.m. of the 99th day preceding the general election in this Title provided. All petitions when filed shall be opened under proper regulations for public inspection.

The officer or officers shall transmit to the Election Law Enforcement Commission the names of all candidates, other than candidates for federal office, nominated by petition and any other information required by the commission in the form and manner prescribed by the commission and shall notify the commission immediately upon the withdrawal of a petition of nomination.

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**New Jersey Democratic State Committee Objector's
Petition**

August 1, 2024

VIA ELECTRONIC MAIL

Ms. Donna Barber, Acting Director
New Jersey Division of Elections
225 West State Street, 5th Floor Trenton, New Jersey
08608

***Re: New Jersey Democratic State
Committee v. Shiva Ayyadurai***

Dear Acting Director Barber:

Kindly accept this letter on behalf of the New Jersey Democratic State Committee and Kinnari Joseph-Badger, calling for the rejection of a petition for nomination as candidate for President of the United States filed by Shiva Ayyadurai.

As the Division is aware, the Constitution of the United States requires that the President of the United States be either a Citizen of the United States at the time of the adoption of the Constitution or a natural born citizen. U.S. Const. art. II, § 1, cl. 5 The term "natural born citizen" is understood to be defined as an individual who was a citizen of the United States at birth and who did not need to go through a naturalization process later in life.

In addition to his own public statements, the United States District Court for the District of Columbia made an express finding that Dr. Ayyadurai "became a naturalized American citizen in November 1983."

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Ayyadurai v. Garland, 2024 WL 2015287 (D.D.C, May 7, 2024). It appears that this finding is based on an admission by Dr. Ayyadurai in that matter. As such, because Dr. Ayyadurai is not a natural born citizen he is not qualified to appear on New Jersey's November 2024 general election ballot as a candidate for President of the United States.

Thank you for your consideration of this objection.

Respectfully,

PEM LAW LLP

s/ Rajiv D. Parikh

RAJIV D. PARIKH

c: New Jersey Democratic State Committee (via electronic mail)

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**Transcript of New Jersey Office of Administrative
Law Hearing**

**New Jersey Democratic State Committee v.
Ayyadurai**

August 5, 2024

SPEAKERS

William T. Cooper III, ALJ

Dr. SHIVA Ayyadurai

Rajiv D. Parikh, Esq.

William T. Cooper III, ALJ:

00:00

Good afternoon. This is the matter of Shiva, and I apologize if I mispronounce this barely Ayyadurai versus I'm sorry, New Jersey democratic state committee versus Shiva. Ayyadurai. Appearances, please.

Rajiv D. Parikh, Esq.

00:17

Good afternoon. Your Honor. Raj Parikh, pen law, LLP, on behalf of the petitioners, the New Jersey, democratic state committee and Kennery Badger

(Unknown Speaker):

00:27

Judge, you are not recording yet, just so you know, as you're taking appearances.

William T. Cooper III, ALJ:

00:41

Okay, we're being, alright. Thank you for the appearance. Mr. Parikh. Dr Shiva Ayyadurai, representing yourself this afternoon?

Dr.SHIVA Ayyadurai:

00:49

Yes, Your Honor. This is Dr Shiva, I'm representing myself pro se.

William T. Cooper III, ALJ:

00:55

Ok, thank you, Mr. Parikh, if this is your challenge, so I'll hear from you first.

Rajiv D. Parikh, Esq.:

01:00

Thank you. Judge, the challenge is pretty simple, Your Honor. The United States Constitution requires in order for someone to be qualified to run for the office of President United States a variety of things, including that the individual either be a citizen at the time of the signing of the Constitution, which clearly nobody alive at the moment is, or alternatively, that the candidate be a natural born citizen that has been defined as someone who is a citizen at birth and who was not naturalized thereafter. It is our understanding from Dr. Ayyadurai's filings in litigation in the district of the District of Columbia, that he was naturalized as a United States citizen in, I believe, 1983. He was born

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outside of the United States to parents who were not citizens of the United States at the time, and therefore he is not qualified on that basis to run for the office of President of the United States. And that is the sum and substance of our argument.

William T. Cooper III, ALJ:

02:05

Thank you. Dr Shiva?

Dr.SHIVA Ayyadurai:

02:08

Your Honor. First of all, I want to thank you for the opportunity to present at this administrative hearing. This is not a simple matter. I would like to before I proceed to the points of law, refuting what mister Parikh said, because he's conflating running for President and candidate obviously has not read the Constitution. It's unfortunate. But before I proceed to the points of law, I would like to which are, which are points of law, and why it is unequivocally illegal and unlawful and unconstitutional to allow the New Jersey Democratic State Committee to not allow me to be on the ballot. Before I go to that Your Honor, I'd like to begin and in fact, to dictate to the people of New Jersey that I'd be removed off the New Jersey ballot for the President of the United States. I would like to begin first with some prefatory remarks and observations, Your Honor, following by a brief background on my campaign, and both important to protect the record in the event of having to appeal this decision from this hearing, as well as to support the legal points of law, I hope that's okay, Your Honor. So, let me begin with a

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couple preparatory remarks and observations Your honor, and kindly understand this is an all great respect to the court. But again, to protect the record, I need to do this, particularly given the Democratic Party of New Jersey is an adversarial party in this matter concerning me and my campaign, as I am not a registered Democrat and running against a presented candidate, Kamala Harris. Now it's come to my attention that the Democrat Governor Phil Murphy nominated you as one of the three judges to the OAL, and Mr. Parikh, my opposing counsel who's representing the New Jersey Democratic Party is a very close professional ally of the Democratic governor Murphy, the same person who nominated you for this post. Now, Mr. Parikh, a Democrat, it's well known, served as a senior counsel for Murphy, and was part of this 2018 transition team, and worked closely with the Democrat Murphy and a senior team on the issues of statewide importance, including going to India in 2019.

Rajiv D. Parikh, Esq.:

04:13

Your Honor, Your Honor, Your Honor. I'm going to object to this entire kind of discussion.

Dr.SHIVA Ayyadurai:

04:18

So let me finish.

Rajiv D. Parikh, Esq.:

04:20

This is a

William T. Cooper III, ALJ:

04:21

Hang on, wait, Mr., Dr Shiva, hold on a minute. Mr. Parikh, I'm going to give him some latitude to put his position on the record.

William T. Cooper III, ALJ:

04:28

That's fine, Your Honor. But I'd ask for two things. One, you know, a - if he's going to be testifying that he's sworn, it sounds like what he's doing is, is essentially standing on a soapbox, which is fine, but it's not appropriate for any type of...

Dr.SHIVA Ayyadurai:

04:42

not true, you want to make this a minor issue. You want to make -

William T. Cooper III, ALJ:

04:52

Gentlemen, you address your comments to me and not each other. Yeah, right now, Mr. Parikh. Mr. Parikh, Dr Shiva has the floor. I'm gonna let him put his statement on the record.

Dr.SHIVA Ayyadurai:

05:02

Yeah, and your honor. I do this with great honor to the court, but to protect the record, particularly given

there's a large likelihood this will go to appeal, and I request, therefore I request you Your honor, and I've been in federal court and other courts before, if there's been any communication between you and either the Governor's Office of the New Jersey, state Democrat, state Democratic committee, directly or indirectly, and if there's particular relationship with Mr. Parikh that we should be aware of. And finally, Your Honor, I ask these questions and provide these observations with the greatest respect solely to protect the record. Given how I've observed Mr. Parikh seems to dictate the schedule on this case, which is arbitrary and capricious. He decides when he's going to come and when he's going to go. He decides, oh, there's only going to be a 20 to 30 minute case. I've never seen this before. So as I close my prefatory remarks on observations Your Honor, I also have to ask there was in the Zoom list. There was one editor in chief, only one press person invited to this event in the CC, and I noticed, and I noticed it was Mr. Wildstein of Bridgegate notoriety, and I was just curious why he was the only press person invited, given we live in the age of traditional and social media, where there's so many other people would like to come to this hearing, which is of both local and national importance. So that I just wanted to start with those prefatory remarks, given the way that I believe Mr. Parikh has abused this court in the way he decides when he's going to come and go. I've never seen this before, so I just wanted to make those prefatory remarks for the record Your Honor.

William T. Cooper III, ALJ:

06:34

Okay.

Rajiv D. Parikh, Esq.:

06:35

Your Honor. May I respond to that?

William T. Cooper III, ALJ:

06:40

No, not at this point, so Dr. Shiva, you can proceed with your argument.

Dr.SHIVA Ayyadurai:

06:41

Yeah, let me go to the legal points and the argument. And I want to be, you know, I have six to seven legal points that address the matter, which exposes the fact that Mr. Parikh doesn't understand the law, or maybe he's purposely not understanding but let me begin first that I would like to proceed on the legal matters again, to state that it's unlawful, illegal and unconstitutional to allow the New Jersey Democratic State Committee to dictate the will of the people of New Jersey who want me on the ballot. Not only the people of New Jersey, Your Honor, but also the people of the United States want me on the ballot. In April of 2023 I was one of the first candidates to announce my candidacy for President of The United States, and that news was carried both nationally and internationally. Now the Federal Election Commission, the FEC, the subject matter expert on elections in the United States, the United States Supreme Court, and the Constitution,

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all defend my civil right to run and be on every state ballot in the United States as a candidate for president, which is a federal office, not a state office, provided I'm running a bonafide campaign for President. So here's the evidence, Your Honor. Am I running a bona fide campaign? Yes, unequivocally. We have over 250,000 volunteers and supporters for our campaign. Nationally. In every state, there's a state leader with hundreds of 1000s of supporters and volunteers who work in a dedicated manner. Our mission is to ensure that we stop the assault on the working people of this country who've been made second class citizens as Mr. Parikh the democratic committee are trying to make me, by collusion with Republicans and fake Independents. Now New Jersey, for the record, Your Honor, we have more than complied with all the rules for adding my candidacy for President to the New Jersey ballot. Again for the record, the deadline for filing was 7/29, July, 29 2024. Our state leader Rose Sias, filed it early on, 7/11, 2024 we submitted-

William T. Cooper III, ALJ:

08:35

Doctor Shiva, you don't have to provide any testimony, or not testimony, but argument in that regard, because these district there's only one issue in front of me.

Dr.SHIVA Ayyadurai:

08:44

I want to, I want to on the record in the four corners. I want to make sure that it's clear that we have complied with everything we went over, in fact, 50% over the signature petitions required. That's a very important

thing. We've submitted all the paperwork required. That's most important point. Let me go to the points of law, Your Honor. I just wanted to give that background. So first, the people of New Jersey want me on the ballot. First point of law, the FEC, the Federal Election Commission on September 2, 2011, the subject matter expert on this said, any citizen, natural, born or naturalized, can run for President of the United States and be on state ballots. We filed our paperwork in compliance with the FEC on April of 2023 and we have filed all our quarterly reports. That's the first point of law. Second point of law, Your Honor, is on March of 2024 in a precedent setting case in Trump versus Anderson, the Supreme Court of the United States, the highest Court of the United States, unanimously in a 9 - 0 decision, rebuked and denied the decision of the state Supreme Court of Colorado and Trump versus Anderson that had denied Donald Trump ballot access on the Colorado state's ballot, saying that he had violated a provision of the Constitution. Specifically, section three of the 14th Amendment. The court unequivocally, all Democrats and Republicans on that court ruled no state, no Secretary of State or state election official can deny ballot access to a presidential candidate or any federal candidate, even using a Constitutional provision, period. This was a historic ruling, Your Honor. The ruling further stated, only Congress can deny ballot access to a federal candidate. States cannot. States like New Jersey can dictate ballot access or deny ballot access to state candidates. That's a second point of law, Your Honor. Third, the people of New Jersey want me, Dr Shiva, on the ballot. This is a political process, the will of the people. As such, this comes under, as you may be aware, of the

political question doctrine. It's a non justiciable issue, and those who are not familiar with this law, non justiciable means that even a court does not have the power to exercise his judicial power, the political process must prevail. This is one of the founding principles of the United States by the framers. Now the qualification for president is a non justiciable political issue that is determined by the voters, quote unquote qualification, and hence cannot be interfered by state or federal election officials. Now, although Article Two discusses quote unquote qualifications, the Constitution does not provide any mechanism for disqualifying a candidate. Therefore, you know, since there's no enforcement mechanism, the qualification is a non justiciable political issue, and that is, in effect, left up to the voters for the political process. And it's very important to understand that this non justiciable issue has been called forward in Baker versus Carr 1962 and Nixon versus US in 1993. Now what's really important to understand is New Jersey has been the epitome of this non justiciable issue. Because in New Jersey, as Richard Winger recently just wrote about it, he was a ballot access scholar. He said that in New Jersey, on multiple occasions, the state of New Jersey has supported this non justiciable nature of ballot access. In fact, on multiple occasions, people who did not even meet the quote, unquote qualification qualifications, they weren't even 35 for many minority parties, were put on the ballot. Therefore, the question is, why are the New Jersey Democrats leading the effort to take me off the ballot when they did not do this in the past to other people were not qualified? But to me, Your Honor, it makes a lot of sense. As an immigrant who came into this country in 1970 who's

contributed a lot, I've seen what the Democratic Party is about. They, in collusion with the Republicans, as history shows, are the ones who withheld rights from black people. It was a Democratic Party in collusion with the Republicans who left Susan B Anthony when she requested universal suffrage. And right now, it is a Democratic Party, the racist, sexist Democratic Party, who's violating the Fifth and 14th Amendments and the rulings such as *Bowling versus Sharp* and *Schneider versus Russ*, which is unequivocally stated that it is illegal to discriminate between a naturalized citizen, natural born citizen. The issue here, Your Honor, and you can be the one rationally prosecuting this forward, not irrationally, as others have done in history. It is about one America, one citizenship. Neither I nor the other 20 million immigrants in this country are naturalized citizens can be treated as second class citizens. The 14th amendment and the Fifth Amendment make it clear, as well as I said, rulings such as *Bowling versus Sharp* and *Schneider versus Rusk*. So in closing, Your Honor. You know, when it comes to civil rights, the racist, the sexist and those who are biased, of those by national origin, irrationally have rationalized injustice. There was a time when this court would have denied the rights of black people to have access to restaurants. There was a time when this court would have irrationally denied women's the right to vote. This court must not allow that racist, sexist, anti American attitude by the Democratic Party that Mr. Parikh represents in partnership with the Republican Party to irrationally rationalize why I should be taken off the ballot. To summarize, Your Honor, the FEC has ruled I can run for federal office. So Mr. Parikh said I cannot run. He

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doesn't know the law. He's making stuff up. The Supreme Court has ruled it is unconstitutional for any state to deny ballot access to a candidate running for federal office, even when someone has violated provisions of the Constitution. In the case of Trump, insurrection. Now, only Congress can decide who can be on the ballot for federal office. It's been ruled nine - 0. and this. And finally, this is a non justiciable issue that the political process must determine. Therefore, I ask you, Your Honor, with great respect, this court must act rationally and must deny the racist, sexist, democratic prejudice Democratic Party and their cohorts in the Republican Party that aim to deny me ballot access. They must deny them that opportunity. And if you deny Shiva for President ballot access, you deny the will of the people of New Jersey. And as of now, any such decision would be arbitrary and capricious behavior, Your Honor. Thank you.

William T. Cooper III, ALJ:

14:56

Thank you. Ah, Mr. Parikh, did you want to respond?

Rajiv D. Parikh, Esq.:

15:02

Just, just very briefly, Your Honor. First, it sounds like I'm just going to first. I'll just, I've already made my objection. I'm not going to respond to any of the personal attacks or any of the political rhetoric. I don't think it's appropriate, but I will respond to what I believe are some of the legal arguments, Your Honor. First, with respect to what I think is a standing argument, associational standing in New Jersey is is

covered by the appellate Division's recent decision from April 4, 2024 and NJ Coalition of automotive retailers, versus Ford Motor. I think the site is 2024 Westlaw, 1461817, here the democratic state party, Democratic State Committee, excuse me, as well as Ken Badger, both have not only direct standing through Miss Badger, but also associational standing in order to file this petition challenge. With respect to the arguments regarding the Federal Election Commission, that is a organ, that is a governmental entity whose limitations legislatively are on regulating campaign finance, not ballot access. I don't think any of those arguments are relevant to the issues here. Third, there was a reference to Trump versus Anderson, which is the Colorado ballot access case. That case was a challenge and a ballot access issue under Article Three of the 14th Amendment to the Constitution. Again, that is not the issue here. Finally, actually, I'm sorry, second to last, there's this argument that ballot access is a non justiciable issue. There is ample evidence that the Secretary of State of New Jersey has the ability to determine whether candidates are qualified to access the ballot or not. It could be something as simple as whether they have sufficient petition signatures, or whether the candidate themselves is qualified under whether it's under federal law or state law under the US Constitution or the New Jersey constitution, or otherwise. And so this is a justiciable issue. This very Office of Administrative Law has handled these types of matters for decades, providing a report recommendation in terms of initial decision to the Secretary of State, who then has the ability, under the Administrative Procedures Act to determine whether or not she will accept that, change it or send it back.

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And finally, the argument here again, is a qualification under Article two, section one of the United States Constitution, as the son of naturalized immigrants, I understand and don't believe that, personally don't believe and I don't think my clients believe that natural that naturalized immigrants have any of any other different role in society. However, the Constitution says what it says, and the interpretations, while limited of that cause, are fairly clear as to what it is that is required. And so because Dr, I'm sorry, Ayyadurai is not qualified under that basic art of Article two, section one of the US Constitution. His petition should be rejected. I'll also just note for the record, Your Honor, we are not challenging anything else. We're not challenging signatures and not challenging anything else other than qualification to serve under under that relevant section of the US Constitution, due to Mr., Dr. Ayyadurai being a naturalized citizen. Thank you.

William T. Cooper III, ALJ:

18:30

Ok, I have, I have the legal memo from Mr. Parikh and Dr. Shiva, you indicated you are not submitting anything further?

Dr.SHIVA Ayyadurai:

18:39

No, I didn't know we were. I don't know where I thought it was an oral hearing. And if Mr. Parikh is doing an end run and submitting, you know now, so let me finish. I should have a right to also submit it, because

William T. Cooper III, ALJ:

18:53

Just so we're clear, though, the only thing I'm referring to is the letter. This is the letter that was part of the the attachment. It stated, August, 1, 2024. Single page that, yeah, just registering his objection.

Dr.SHIVA Ayyadurai:

19:14

So I would like to object to some of the actual false statements Mr. Parikh has made. First of all, he's

William T. Cooper III, ALJ:

19:21

Wait, hold on, hold on, Dr. In respect to the, how about in respect to the qualification argument, what statements did he make that are inaccurate or incorrect?

Dr.SHIVA Ayyadurai:

19:32

First of all, he's conflating. He keeps saying, running for president as a candidate, let's be very specific here, because he's either he doesn't understand the law, or he's he thinks he can massage this through the court. We're talking about a candidate, okay? Trump versus Anderson made it unequivocally clear that for a federal office, only Congress can decide who gets put on a ballot and who cannot. States can only dictate state officials, period. Was a 9 - 0 ruling. So that's number one. When we're talking about quote, unquote,

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furthermore, to all of this, we have something called the 14th Amendment, and we have Schneider versus Rusk, and we also have Bowling versus Sharpe. Schneider versus Rusk made it unequivocal, you cannot discriminate between a naturalized citizen and a natural born citizen. But irrespective of that, to becoming president, to deny me the rights to get on the ballot after the people of New Jersey want the will is completely illegal, unconstitutional and unlawful, period.

William T. Cooper III, ALJ:

22:30

Okay. Thank you, gentlemen. I'll make my ruling issue of tomorrow, hopefully before noon.

Dr.SHIVA Ayyadurai:

22:36

Thank you. Your Honor. Appreciate your time.

Rajiv D. Parikh, Esq.:

22:37

Thank you, Judge.

William T. Cooper III, ALJ:

22:38

Thank you both.

Rajiv D. Parikh, Esq.:

22:39

Thanks, Judge.