

No. 19-518

IN THE
Supreme Court of the United States

COLORADO DEPARTMENT OF STATE,

Petitioner,

v.

MICHEAL BACA, *et al.*,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE TENTH CIRCUIT

**BRIEF OF *AMICUS CURIAE* THE
COLORADO DEMOCRATIC PARTY IN
SUPPORT OF PETITIONER COLORADO
DEPARTMENT OF STATE**

PAUL R. FRANKE, III
Counsel of Record
WILLIAM F. JONES
ERIC B. LIEBMAN
JOYCE C. WILLIAMS
ALLISON M. HESTER
MOYE WHITE LLP
1400 16th Street, 6th Floor
Denver, Colorado 80202
(303) 292-2900
paul.franke@moyewhite.com

Counsel for Amicus Curiae

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INTEREST OF AMICUS CURIAE¹

The Colorado Democratic Party is a political party affiliated with the Democratic Party of the United States. The Colorado Democratic Party actively participates in the political process throughout Colorado. In addition to advocacy and political organization activities, the Colorado Democratic Party regularly fields nominated candidates for office in local, state, and national elections.

The Colorado Democratic Party is involved in the selection of the presidential and vice-presidential nominees for the Democratic Party of the United States. Through a delegate selection process set forth in its applicable charter and bylaws, the Colorado Democratic Party sends delegates and alternates to the Democratic National Convention to cast Colorado's votes for the presidential and vice-presidential nominees of the Democratic Party of the United States.

Of particular relevance to this case, the Colorado Democratic Party selects Presidential Electors. Several months prior to a general election in November, the Colorado Democratic Party conducts a nomination process to select the nine

¹ No counsel for a party authored this brief in whole or in part, and no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amicus curiae*, its members, or its counsel made a monetary contribution to its preparation or submission. The parties have consented to the filing of this brief.

Presidential Electors, and two alternate Presidential Electors who will cast Colorado's votes for President and Vice President the event the Democratic nominees get the most votes in Colorado in the general election.

The selection of Presidential Electors by the Colorado Democratic Party involves a self-nomination process and a review of qualifications of any nominated individual. Any nominee is required to certify in writing that they will vote for the election of the Democratic presidential and vice-presidential nominees. After conducting and supervising this process, the Colorado Democratic Party then certifies the list of Presidential Electors to the Colorado Secretary of State.

This case involves the fundamental question of whether a Presidential Elector is required to cast a vote in compliance with: Colorado law; the understanding and expectation of the voters of Colorado; and the Presidential Elector's written certification to the Colorado Democratic Party. As the entity which identifies, selects, and certifies Presidential Electors in each federal general election cycle, the Colorado Democratic Party has a critical interest in the issues raised within this case arising out of its historical and ongoing role as the gatekeeper for Presidential Electors for the State of Colorado.

SUMMARY OF ARGUMENT

The Colorado Democratic Party submits this *amicus curiae* brief in support of the Petitioner, the Colorado Department of State.

As argued in the Brief for Petitioner and as described *infra*, each Presidential Elector is bound to cast his or her vote for the candidates receiving the most votes for President and Vice President in Colorado in the federal general election. This is the basic obligation of a Presidential Elector. Presidential Electors for Colorado are bound to cast their votes in this manner by multiple, overlapping legal requirements, party-mandates, and historical obligations.

First, Colorado law affirmatively requires a Presidential Elector both (1) to swear or affirm to cast his or her vote for the candidates who received the most votes in Colorado and (2) to cast his or her vote consistent with that oath. Colo. Rev. Stat. §§ 1-4-304(1) & (5); 8 Colo. Code Regs. 1505-1, Rule 24.1.1. Colorado law also includes enforceable mechanisms to ensure that Presidential Electors cast their votes in accordance with their obligations. Casting a vote for someone other than the candidate who won Colorado's election constitutes a "refusal to act" under state law such that the Colorado Secretary of State is empowered to remove the "faithless elector" and replace him or her with an alternate Presidential Elector who will cast a vote consistent with the above-described obligations.

Second, the Colorado Democratic Party supervises and conducts a process to identify and select Presidential Electors who will cast their votes consistent with their obligations. Nominees for Presidential Elector certify in writing to the Colorado Democratic Party that they will vote for the nominees of the Democratic Party, and the Colorado Democratic Party runs the process by which Presidential Electors are nominated, vetted, selected, and certified to the Colorado Secretary of State prior to each federal general election. In the 2016 election cycle, one of these Presidential Electors certified to the Colorado Secretary of State violated his pledge.

Third, the obligation of a Presidential Elector is consistent with the Constitution of the United States. Article II of the Constitution rests broad plenary power with the State of Colorado to appoint and control Presidential Electors. This broad power is further confirmed through the history and structure of the Twelfth Amendment to the Constitution which corrected an unworkable voting structure, and replaced it with one consistent with the power and role of political parties, setting a consistent structure that our country continues to follow today.

Finally, the obligation of a Presidential Elector to vote for the candidate who wins a State's general election has been reaffirmed by the history and conduct of over two centuries of federal presidential elections. For the political parties and the voting public across the country, the certainty

and reliability of federal elections for President and Vice President hinges upon Presidential Electors casting their votes in a manner consistent with their obligations.

The reliability and certainty that Presidential Electors for Colorado will cast their votes for the candidate who gets the most votes in Colorado is foundational to Colorado's democratic election system. Belief in this fundamental certainty underlies the actions and expectations of millions of Coloradans. Candidates for office and political parties conduct entire campaigns in reliance on this premise. Volunteers in Colorado spend countless hours organizing and getting out the vote in reliance on this system. When casting its votes in the federal general election every four years, the Colorado voting public itself understands and relies on the fact that each Presidential Elector will meet their obligation to cast their vote for the candidates who win the most votes in Colorado. This systematic and consistent expectation must be respected.

Colorado's Presidential Electors are bound to cast their votes for the candidate who received the most votes in the state. To eliminate or undercut this legally- and historically-based, and commonly-understood, obligation of Presidential Electors would violate the Constitution, violate Colorado law, and undermine the presidential election process upon which our Republic relies. The Colorado Democratic Party urges this Court re-affirm this fundamental obligation of Presidential Electors to cast their votes for the candidate who garnered the most votes in Colorado.

ARGUMENT

I. THE COLORADO DEMOCRATIC PARTY SELECTS, QUALIFIES, AND CERTIFIES PRESIDENTIAL ELECTORS BASED ON THEIR COMMITMENT TO CAST THEIR VOTES FOR THE PREVAILING DEMOCRATIC CANDIDATES.

The Colorado Democratic Party is an affiliate of the national Democratic Party. Since Colorado was admitted as a state in the United States' centennial year, 1876, the Colorado Democratic Party has organized and participated in elections throughout the state of Colorado at the local, state, and federal level.

Every four years, Colorado Democrats participate in the federal general election for President and Vice President of the United States. The Colorado Democratic Party establishes and conducts a process to identify, select, and ultimately qualify, Presidential Electors. This entire process rests upon the commitment of Presidential Electors to cast their votes for the Democratic nominee for President and Vice President, if those nominees obtain the most votes in Colorado.

It is critical to note that there is bipartisan consensus on this issue. Although there may be a difference in the method by which the Democratic and Republican political parties select their Presidential Electors, there is agreement between the Colorado Democratic Party and the Colorado

Republican Party that those Presidential Electors ultimately selected, if their respective candidates prevail, are bound to cast their votes for the presidential and vice-presidential candidate who received the most votes in Colorado.²

A. The Colorado Democratic Party Creates And Conducts The Process To Designate Democratic Presidential Electors For Colorado.

Every four years, a national general election is held in November in Colorado and throughout the United States. Although other political parties participate in this process, the primary political parties that participate in the general election have historically been, for more than a century, the Democratic and Republican parties. In the months and years preceding a federal general election, both the Colorado Democratic Party and the Colorado Republican Party create and conduct an internal process to select a slate of Presidential Electors for each political party in the event that political party's candidates for President and Vice President win the election in Colorado.

Colorado Democratic Party's Presidential Elector process is promulgated pursuant to the applicable charter, bylaws, and regulations of the Democratic Party of the United States and the

² It is the understanding of the Colorado Democratic Party that an *amicus curiae* briefs will also be filed by the Colorado Republican Party and the Republican National Committee.

Colorado Democratic Party. In recent years, the specific aspects of the process related to selecting Presidential Electors has been contained within the Colorado Delegate Selection Plan. As relevant to the facts of this case, this brief will describe the process as applied in the 2016 general election cycle as well as the present Delegate Selection Plan as will be applied to the upcoming 2020 general election.

The Colorado Democratic Party's State Party Committee formally adopted a Delegate Selection Plan that applied to the 2016 election. Once adopted, the Delegate Selection Plan was submitted for review and approval to the Rules and Bylaws Committee of the Democratic National Committee. The Committee reviewed the Delegate Selection Plan and confirmed its compliance with the applicable rules and regulations of the Democratic Party of the United States.

Once approved, the Colorado Democratic Party followed the Delegate Selection Plan for the 2016 election and selected delegates to the Democratic National Convention for the nomination of the Democratic candidates for President and Vice President, as well as for the selection of a slate of Presidential Electors.

In the 2016 election, nine Presidential Electors from the State of Colorado participated in the national election for President and Vice President. The state Democratic convention selected the nine Presidential Electors according to congressional district: each congressional district

selected one person to serve as a Presidential Elector. If any congressional district failed to elect a Presidential Elector, the state convention would fill that vacant spot. The Colorado Democratic state convention also elected two additional Presidential Electors, along with two alternate Electors. Following this process, the Colorado Democratic Party selected the nine Presidential Electors and two alternate Presidential Electors. The foregoing process will generally be applied to the 2020 election as well.

B. The Colorado Democratic Party's Process To Select Presidential Electors Relies On The Commitment Of A Selected Presidential Elector To Cast His Or Her Vote For The Democratic Nominees for President and Vice President.

The Colorado Democratic Party creates and conducts the process to designate Presidential Electors. This process is founded upon the fundamental obligation of a Presidential Elector to cast his or her vote for the Democratic nominee for President and Vice President. This fundamental obligation is not obscure. It is a consistently restated aspect of Colorado's election process and relied upon by the Colorado Democratic Party, its members, and the voting public in Colorado.

Persons who wish to be candidates for the position of Presidential Elector are required to self-nominate by application to the Colorado

Democratic Party in the March preceding the national general election in November. At the onset of this self-nomination process, the Colorado Democratic Party takes affirmative steps to qualify nominees and expressly confirm their commitment to cast a ballot for the Democratic nominees as a Presidential Elector.

Candidates for Presidential Elector are required to personally affirm their commitment to cast a ballot for the Democratic nominee, if ultimately selected as a Presidential Elector. In the lead up to the 2016 election cycle, a Statement of Candidacy for Presidential Elector was required to be filed with the Colorado Democratic Party by any person seeking to be a Presidential Elector. This form, which every candidate signed, expressly requires each candidate for Presidential Elector to pledge to support whoever the Democratic presidential nominee may be.

Similarly, in the upcoming 2020 Delegate Selection Plan, the Colorado Democratic Party requires that, “[e]ach candidate for Presidential Elector shall certify in writing that they will vote for the election of the Democratic presidential and vice-presidential nominees.” *See e.g., Colorado 2020 Delegate Selection Plan Amended November 5, 2019, Section VI – Presidential Electors, C.1.*

In addition to this required personal written certification, the Colorado Democratic Party reviews and qualifies candidates as eligible to be selected as Presidential Electors. As described in the 2020

Delegate Selection Plan, the Colorado Democratic Party verifies the qualifications of each person applying to be a Presidential Elector for the express and stated purpose to:

[E]nsure that the persons selected are bona fide Democrats who are faithful to the interests, welfare, and success of the Democratic Party of the United States, who subscribe to the substance, intent and principles of the Charter and the Bylaws of the Democratic Party of the United States.

Id. at Section VI – Presidential Electors, C.2.

To that end, the Colorado Democratic Party imposes and verifies the following requirements on any applicant for Presidential Elector:

- An applicant must be a U.S. citizen;
- An applicant must be registered to vote as a Democrat and have been affiliated with the Democratic Party for at least 12 months preceding the general election in November.

Id. at Section VI – Presidential Electors, B.

Thus, the Colorado Democratic Party ensures through its process that persons eligible to be considered as Presidential Electors have met fundamental criteria and have certified that the applicant will, if selected as a Presidential Elector, cast his or her ballot for the Democratic nominees. If a person fails to meet the criteria or certify their

commitment to so vote, that person is not eligible to be selected as a Presidential Elector.

A vote is then held at the congressional district conventions and the Colorado Democratic State Convention to select the nine Presidential Electors for Colorado who meet the above-referenced qualifications. *Id.* at Section VI – Presidential Electors, A. Each of the seven congressional districts in Colorado elects one eligible candidate to serve as a Presidential Elector. *Id.* at Section VI – Presidential Electors, B. Two additional Presidential Electors and two alternatives are elected from among the eligible candidates at the Colorado Democratic state convention. *Id.*

Notably, for purposes of this case, the Colorado Democratic Party reserves the power to appoint additional Presidential Electors in the event any congressional district fails to elect a Presidential Elector. *Id.* Any such additional Presidential Elector will be selected by the Colorado Democratic Party at its state convention. *Id.*

Following the election of the nine Presidential Electors and two alternates, the Colorado Democratic Party certifies the party's slate of Presidential Electors to the Colorado Secretary of State. The 2016 slate of Democratic Presidential Electors were submitted by the state party chair to the Colorado Secretary of State in August of 2016. For the upcoming 2020 election cycle, the state party chair is required to certify the list of Presidential

Electors to the Colorado Secretary of State no later than four days following their selection. *Id.*

In addition to this certification process, the Colorado Democratic Party expressly recognizes that the Presidential Electors are bound by state law to cast their votes for the Democratic candidates that garner more votes than their Republican counterparts and receive more votes than any other Democratic candidates. In 2016, the certification of the Democratic slate of Presidential Electors to the Colorado Secretary of State expressly noted that the certification was made, “pursuant to the Laws of the United States of America and the Law of the State of Colorado.” Similarly, as stated in the 2020 Delegate Selection Plan,

Colorado statutes require that Presidential Electors cast votes for the candidates receiving the highest number of votes at the preceding general election. (Colo. VIII, C.R.S. 1-4-304(5))

Id. at Section VI – Presidential Electors, C.2.

As described *supra*, the Colorado Democratic Party conducts this process for qualifying, electing, and certifying Presidential Electors for each four-year general election. The process and requirements are set forth in writing, and persons self-nominate to be considered for Presidential Elector. Any persons self-nominating know, or should know, these requirements and how they are obligating themselves.

The entire process hinges on the commitment of each Presidential Elector to vote for the Democratic nominees for President and Vice President. This commitment is made expressly and in writing as a precondition for eligibility of a person to be a Presidential Elector. This commitment underlies the efforts of the Colorado Democratic Party to impose and review the eligibility qualifications for Presidential Elector. The Colorado Democratic Party relies upon this fundamental commitment throughout the process in following the rules, exercising its power to designate Presidential Electors and alternates, and ultimately certifying the Democratic slate of Presidential Electors and alternates to the Colorado Secretary of State.

Reliance on this commitment goes well beyond the Colorado Democratic Party. When Colorado voters, whether Democrats, Republicans, or Independents, cast their ballots for the Democratic nominee for President and Vice President, they are voting for the person listed on the ballot. The names of Presidential Electors do not appear on the Colorado ballot. Voters expect and rely upon the commitment of the Democratic slate of Presidential Electors to cast their electoral votes for the Democratic nominee. Voters do not expect these unknown persons to cast a vote based on their individual discretion. At its core, a slate of Presidential Electors obligated to vote for the Democratic candidates is what voters are voting for when they cast their ballot for the Democratic nominees for President and Vice President.

C. One Democratic Presidential Elector Improperly Violated His Commitment In 2016 And Was Properly Replaced.

As relevant to the particular facts of this case, the Colorado Democratic Party followed the above-described process described *supra*, prior to the 2016 general election.³ The Colorado Democratic Party sent delegates to the 2016 Democratic National Convention to vote for the nominations of Hillary Clinton for President and Tim Kaine for Vice President. The Colorado Democratic Party followed this process and certified to the Colorado Secretary of State a slate of nine Presidential Electors and two alternates, all of whom had made an express commitment to cast their vote as a Presidential Elector for the Democratic nominees for President and Vice President.

Mrs. Clinton and Mr. Kaine received the highest number of votes in Colorado in the general election in November 2016. The Democratic Presidential Electors were obligated to cast their votes for Mrs. Clinton and Mr. Kaine by Colorado law and by their prior commitment made during their selection process by the Colorado Democratic Party. All Presidential Electors met this commitment, except for Mr. Micheal Baca, a Respondent in this case. As described in the Brief

³ The Colorado Democratic Party is presently in the process of following those same processes for selecting a slate of Presidential Electors for the upcoming general election in November 2020.

for Petitioner, Mr. Baca was properly removed by the then Colorado Secretary of State and replaced by an alternate Presidential Elector from the slate certified by the Colorado Democratic Party. This alternate Presidential Elector complied with the commitment and requirement to cast a vote for Mrs. Clinton and Mr. Kaine. *See, Brief for Petitioner*, Statement of the Case, B.1., p. 4. The Colorado Democratic Party supported and approved of this process as consistent with its own processes and Colorado law.

II. POLITICAL PARTIES' EXERCISE OF CONTROL OVER PRESIDENTIAL ELECTORS IS CONSISTENT WITH THE UNITED STATES CONSTITUTION.

As has been the practice and custom in the United States for more than two centuries, political parties exercise control over the Presidential Electors. But this aspect of control did not arise in a vacuum. It is the direct result of two portions of the United States Constitution: Article II's grant of plenary power to the various States over appointment of Presidential Electors and the Twelfth Amendment to the Constitution.

A. Article II Provides Plenary Power To The State Of Colorado Over The Appointment Of Presidential Electors, and Colorado Has Properly Exercised That Power.

Article II of the Constitution provides States with the power to appoint electors "in such Manner

as the Legislature thereof may direct.” U.S. Const. art. II, § 1. This is a broad, plenary power, with few limitations, and certainly does not limit a State’s ability to control and remove its appointed electors as it deems appropriate. *See McPherson v. Blacker*, 146 U.S. 1, 35 (1892) (“Congress is empowered to determine the time of choosing the electors and the day on which they are to give their votes, . . . but otherwise the power and jurisdiction of the State is exclusive, . . . so framed that Congressional and Federal influence might be excluded.”).

This broad power includes the authority to legislate control over the conduct of a Presidential Elector, including removal of a Presidential Elector. Colorado has expressly exercised this plenary power by requiring Presidential Electors to take an oath to cast a ballot consistent with that oath, and to remove Presidential Electors for failure to do so.

Colorado law requires each Presidential Elector to “take the oath required by law for presidential electors.” Colo. Rev. Stat. § 1-4-304(1). Colorado has promulgated and administered that precise oath which requires each Presidential Elector to cast their ballot “for the presidential candidate and vice-presidential candidate who received the highest number of votes at the preceding general election.” 8 Colo. Code Regs. 1505-1, Rule 24.1.1. Colorado requires Presidential Electors to cast their ballots consistently with their oath. Colo. Rev. Stat. § 1-4-304(5).

The Colorado Revised Statutes further specify a mechanism to fill a vacancy of a Presidential Elector in the event of certain contingencies including, “death, refusal to act, absence, or other cause.” Colo. Rev. Stat. § 1-4-304(1). Colorado law recognizes that the term “failure to act” as set forth in this statute includes a Presidential Elector casting a ballot for someone other than the candidate who won the election in Colorado.

This legal regime is consistent with and authorized by the plenary grant of power under Article II of the United States Constitution, which grants broad authority to the State of Colorado. Pursuant to this grant, Colorado has exercised its authority through legislation to require Presidential Electors to take an oath to vote for the winning candidates and vote consistently with that oath. Colorado has also exercised its power to legislate circumstances where removal of a Presidential Elector is authorized, and Colorado law includes an incorrectly-cast ballot as a ground for removal.

This Constitutional structure, as augmented by Colorado law, is consistent with the Colorado Democratic Party’s own processes to ensure that its Presidential Electors meet their obligations to cast a ballot for the Democratic nominees.

B. The Twelfth Amendment Reinforces The Role Of Political Parties To Ensure That Colorado's Presidential Electors Cast Their Votes For The Winner Of The Election In Colorado.

Similarly, the Twelfth Amendment does not limit the States' appointment power and the corollary power to control and remove electors. Rather, the Twelfth Amendment was enacted to correct a previously unworkable process wherein electors cast two votes without distinguishing between President and Vice President, and instead allow electors to cast distinct votes for these offices. U.S. Const. amend. XII; *see also Ray v. Blair*, 343 U.S. 214, 224 n.11 (1952).

The Twelfth Amendment's enactment also specifically recognized the influence and importance of political parties in Presidential elections. *See Ray*, 343 U.S. at 224 n.11. Without the substantial role of political parties in federal politics, the Twelfth Amendment would not have been necessary. The Twelfth Amendment as enacted would be unworkable in the absence of a strong and persistent involvement of political parties. In practice for over 200 years, the substantial role of political parties in federal elections has dovetailed with the Twelfth Amendment, just as those who enacted the amendment intended.

In such instances where a power created by the Constitution is not delegated to the Federal government or prohibited from being delegated to

the States, such powers “are reserved to the States respectively, or to the people.” U.S. Const. amend. X. While the Federal government has the power to control certain aspects of Presidential elections, the Constitution does not grant the Federal government the power to control and remove electors, nor does it prohibit the states from doing so. It therefore follows and is consistent with Article II and the Tenth and Twelfth Amendments, that the States have the power to enact legislation to appoint, control, and remove electors and require that electors vote for their pledged candidate.

As indicated, Colorado’s legislature has enacted a comprehensive process to appoint Presidential Electors which includes a requirement that “[e]ach presidential elector . . . vote for the presidential candidate and, by separate ballot, vice-presidential candidate who received the highest number of votes at the preceding general election in this state.” Colo. Rev. Stat. § 1-4-304(5). This process—including the “faithful elector” requirement—is consistent with Colorado’s federal constitutional power to appoint, control, and remove its electors and does not violate the individual electors’ constitutional rights. Additionally, because Colorado citizens do not have an opportunity to vote for electors, this process protects the citizens’ voting rights, thus underscoring the constitutionality of this process.

**III. THE COMMITMENT OF A
PRESIDENTIAL ELECTOR TO CAST A
VOTE FOR THE WINNER OF THE
GENERAL ELECTION IN COLORADO IS
A FOUNDATIONAL ELEMENT OF OUR
DEMOCRATIC ELECTION SYSTEM.**

The Colorado Democratic Party's procedure for selecting Presidential Electors, coupled with applicable Colorado law, achieves Colorado's goal of giving voice to the voters of the state of Colorado. Colo. Rev. Stat. § 1-4-304(5). The requirement that each elector vote for the candidate who carried the state merely requires that the elector act as a proxy for Colorado voters.

In enacting this requirement, Colorado's legislature has decided that allowing the electors to vote their conscience would vest the power to select the next President of the United States in the hands of too few, frustrating the rights and expectations of the candidates, the political parties, and, most importantly, the voting public in the state of Colorado. Presidential candidates, upon winning the majority of the votes in a state, expect that that state's electors will ultimately cast their votes for that candidate. The political parties operate, and plan based upon the same expectation. Finally, each voter has the expectation that their voice will be heard, and that their vote matters. Giving credence to these expectations is an important purpose of Colorado's elector requirements.

In this way, Colorado exercises discretion properly reserved to it as a state within a federal system. See U.S. Const. amend. X; see also *McPherson*, 146 U.S. at 35–36 (“The appointment of these electors is thus placed absolutely and wholly with the legislatures of the several States.”). Further, “[w]hatever provisions may be made by statute, or by the state constitution, to choose electors by the people, there is no doubt of the right of the legislature to resume the power at any time, for it can neither be taken away nor abdicated.”) (internal citations omitted). The Electoral College, reflective of the notion of federalism itself, is a delicate balance of power that gives a voice to the states in a federal system. See *Younger v. Harris*, 401 U.S. 37, 44 (1971) (“Our Federalism,” a system which incorporates “sensitivity to the legitimate interests of both State and National Governments, and in which the National Government, anxious though it may be to vindicate and protect federal rights and federal interests, always endeavors to do so in ways that will not unduly interfere with the legitimate activities of the States.”). Allowing each state to decide for itself the role its Presidential Electors will play in the Electoral College reflects the individualism of each unique state in our union.

Colorado’s requirement that each Presidential Elector vote in accordance with the wishes of Colorado voters grants important certainty to those voters. We live in a time where skepticism of elections, and the election process, is rampant. See Michael M. Grynbaum, *TV Networks Face a Skeptical Public on Election Night*, N.Y. Times, Nov.

7, 2016 (discussing skepticism of the 2016 election process); Kirk Johnson and Campbell Robertson, *Coronavirus and 2020 Elections: What Happens to Voting in an Outbreak*, N.Y. Times, Mar. 9, 2020 (discussing election concerns in light of COVID-19). By requiring the Presidential Electors' adherence to the voices of Colorado voters, Colorado helps to quell some of that uncertainty. To remove that requirement would foster election uncertainty and undermine voter confidence, a result that this Court should not countenance.

CONCLUSION

The Colorado Democratic Party urges this Court to re-affirm the fundamental obligation of a Presidential Elector from Colorado to vote for the candidate with the most votes in the federal general election, consistent with the United States Constitution, Colorado state law, more than two centuries of history and conduct, and the resultant expectations of voters throughout the United States.

Respectfully submitted,

Paul R. Franke, III
Counsel of Record
Moye White LLP
1400 16th Street, 6th Floor
Denver, Colorado 80202
paul.franke@moyewhite.com
(303) 292-2900

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