

No. 22-1028

**In the
Supreme Court of the
United States**

LOY ARLAN BRUNSON,

Petitioner,

v.

ALMA S. ADAMS, *et al.*,

Respondents.

**AMICUS CURIAE BRIEF FOR PAUL
PRESTON, AND
NEW CALIFORNIA STATE IN SUPPORT OF
PETITIONER Loy A. Brunson**

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IDENTITY AND INTEREST AND MOVANT¹

¹ Consistent with Federal Rule of Appellate Procedure 29(a)(4)(E) and this Court's Rule 37.6, counsel for Movant and *Amicus* authored this motion and brief in whole, and no counsel for a party authored the motions and brief in whole or in part, nor did any person or entity, other than the Movant/*Amicus* and their counsel, make a monetary contribution to preparation or submission of the motions and brief.

Certiorari Applicant has consented to the filing of this brief. Counsel for Respondents has filed a waiver of appearance and were notified by the timely filing of an earlier version of this brief.

Paul Preston, President of the New California State Movement, on behalf of himself and the New California State Movement (NCS51) respectfully files this *Amicus Curiae* brief in support of Petitioner Loy Brunson's *Petition for Writ of Certiorari*.

Paul Preston is an elector in Sutter County, California, and the President of the New California State Movement.

The New California State Movement is an unincorporated Association. The New California State Movement is a Constitutional movement to form a new state out of the existing state of California pursuant to the United States Constitution, Article IV, Section 3. This Movement is modeled after the formation and procedure of what is now West Virginia and expects to stand up as a State later in 2023 by submitting a Resolution of Statehood to the United States' Congress.

Neither this attorney, Mr. Preston, nor the New California State Movement has received any payment nor any offer of payment from anyone to file this proposed *Amicus Curiae* brief. Consistent with Federal Rule of Appellate Procedure 29(a)(4)(E) and this Court's Rule 37.6, counsel for this *Amicus Curiae*

brief authored this brief in whole, and no counsel for a party authored this brief in whole or in part, nor did any person or entity, other than this *Amicus* and their counsel, make a monetary contribution to preparation or submission of the motions and brief.

Proposed *Amicus* [hereinafter merely, “*Amicus*”] has received permission from Petitioner to file this *Amicus* brief. *Amicus* has not solicited a comment from Defendants because they filed a waiver of appearance in this matter.

SUMMARY OF ARGUMENTS

1. There is authority to file this *Amicus Curiae* brief.
2. The proper venue for challenging Electors of the Electoral College is in Congress.
3. The Colonial “Petition for a Redress of Grievances” at a town hall has been replaced by a Petition in the local Court.
4. There was a request by 121 members of the US Congress to remand for investigation the certification of not less than the Arizona selection of Electors of the Electoral College to investigate the legality and propriety of that/those delegation’s/delegations’ certification(s). That/those requests for investigation(s) was/were erroneously voted down.
5. Those Congressional officers bound to the Constitution by oath have committed treason without force of arms by failing to order the investigation of the potential interference by Communist China as alleged by then-President Trump and/or the specifically alleged irregularities pertaining to the Arizona delegation as requested by a member of that delegation.

6. Members of Congress, after taking an oath to uphold and defend the Constitution, cannot then pass legislation that allegedly immunizes them from any lawsuit challenging their unconstitutional action.

STATEMENT OF THE CASE

Amicus offers the following STATEMENT OF THE CASE:

Petitioner is a litigant *pro se*. Defendants are elected members of Congress, the former Vice President, and the current President and Vice President of the United States as Petitioner Loy A. Brunson has described them. The former Vice President and the Defendant elected members of Congress were specifically and on-the-record in writing and orally requested to investigate specific allegations of election irregularities and possible voter/election fraud; and said Defendants failed and neglected to so investigate.

As set forth below, in the printed Congressional Record for January 6, 2021, the written record reflects a written warning by then-President Trump was delivered to then-Speaker of the House Pelosi and to the members of Congress on January 5, 2021. Senator Ted Cruz and Representative Gosar of Texas filed a joint written objection (page H77). Then-Vice President Pence certified the objection was properly

filed. The objection requested the Arizona Electoral delegation not be seated, but that the Arizona State certification be remanded to the Arizona Governor and Secretary of State to investigate the irregularities complained of. The objection and request for remand was debated between pages H77 and H93, then voted on.

In addition, Representative Scalise of Louisiana objected to multiple state delegations being seated because their states did not follow the Constitutionally prescribed procedure for electing delegates.

One hundred twenty-one (121) members of Congress voted in favor of the written and oral objections. The Congressional Defendants voted against the objection. Then Vice President Pence failed to order a delay of ten days in order to allow Arizona and other states to investigate the objections. Defendants Biden and Harris took office as a result of the uninvestigated election irregularities.

Amicus asserts that, if an election were “rigged,” the net effect would be the same as if the person in favor of whom the election were “rigged” would have been put in office by force of arms.

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POINTS, AUTHORITIES, AND ARGUMENT

I. AUTHORITY TO FILE AN *AMICUS CURIAE* BRIEF

Supreme Court Rule 37 provides the authority to file this brief. In part, that Rule states:

An *amicus curiae* brief that brings to the attention of the Court relevant matter not already brought to its attention by the parties may be of considerable help to the Court. . . .

This brief brings to the attention of this Honorable Court the relevant matter not contained in Petitioner Loy A. Brunson’s brief.

II. THE PROPER VENUE FOR CHALLENGING ELECTORS IS IN CONGRESS.

The proper venue to challenge electors for any cause is in Congress on the 6th of January (or other date selected by Congress during the December following a Presidential election). See *Trump v Kemp* (2021) 511 F.Supp.3d 1325, 1335-1336.

III. THE COLONIAL “PETITION FOR A REDRESS OF GRIEVANCES” AT A TOWN HALL HAS BEEN REPLACED BY A PETITION TO THE LOCAL COURT

Traditionally, a citizen would go to a Town Hall or other public meeting and express his or her opinion and/or desires and orally requesting a redress of his² grievance. As our society became more complex, and the government at all levels became less responsive to the complaints of individual citizens. As a result, one aggrieved by government action could use the courts to "petition the Government for a redress of grievances." [*Puerto Rico v Branstad, Governor of Iowa* (1987) 483 U.S. 219,228, 107 S.Ct. 2802, 97 L.Ed.2d 187].

Petitioner Loy A. Brunson petitioned the Federal District Court in Salt Lake City for a redress of grievances in case 2:21-cv-00175-RJS-CMR. That Court erroneously dismissed his Petition without an evidentiary hearing or considering the merits of the case.

Those who hear the grievances are bound by an oath to uphold the Constitution. The U.S. Constitution, Article VI, Clause 3 states:

²At the time of the founding of our Nation, only men were allowed to vote, so the sentence is phrased in the masculine gender.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Commenting in the Federalist Papers on the requirement that state officers, state judges, and members of the state legislatures, shall be bound by oath or affirmation to support the Constitution, Alexander Hamilton wrote:

Thus the legislatures, courts, and magistrates, of the respective members, will be incorporated into the operations of the national government as far as its just and constitutional authority extends; and it will be rendered auxiliary to the enforcement

of its laws. [*The Federalist No. 27*
(Alexander Hamilton). See also, *The
Federalist No. 45* (James Madison).]

A fair reading of the Order of Dismissal is, “Everybody’s rights were violated in this election, so no one, including Plaintiff, has standing to complain.” That logic and cavalier dismissal of Plaintiff’s case is what led to the initial Revolution in 1776. Plaintiff and *Amicus* seek to avoid a bloody and armed conflict by seeking a peaceful resolution of Plaintiff’s grievances in the Courts. Plaintiff’s last hope is for action by this Honorable Court resolving his grievance in his favor.

IV. THERE WAS A REQUEST BY 121 MEMBERS OF THE U.S. CONGRESS TO REMAND THE CERTIFICATION OF NOT LESS THAN THE ARIZONA VOTE TOTAL TO INVESTIGATE LEGALITY AND PROPRIETY OF THAT/THOSE DELEGATION’S/DELEGATIONS’ CERTIFICATION(S).

Then-President Trump pointed out in writing the intelligence reports (plural) of Chinese interference in the 2020 Presidential election [Congressional

Record, Volume 167, Number 4, pages H75-76]. He wrote,

To the Congress of the United States:

. . .

The pace and pervasiveness of the spread in the United States of certain connected mobile and desktop applications and other software developed or controlled by persons in the People's Republic of China (PRC), to include Hong Kong and Macau (China), continue to threaten the national security, foreign policy, and economy of the United States. By accessing personal electronic devices . . . Chinese connected software applications can access . . . private information. . . .

On page 5 of Petitioner's brief, Petitioner correctly pointed out that Defendants "refused to do an investigation which would have identified who was or wasn't interfering with the electoral process." Without specific citation, Petitioner alleges "Over 100 members of Congress requested an investigation into these and

other such breaches.” *Amicus* provides the specific citation proving Petitioner’s allegations:

In addition to the written Congressional Record, Volume 167, Number 4, dated January 6, 2021³, pages H75-76, the proponents of the investigation provided specific evidence of election irregularities that required investigation.

In the same Congressional Record, page H-77 a reference to and a *verbatim* text of a written objection to the certification of the vote for the Arizona delegation signed by Representative Paul Gosar of Arizona and Senator Ted Cruz of Texas, which stated:

OBJECTION TO COUNTING THE ELECTORAL

VOTES OF THE STATE OF ARIZONA

We, a Member of the House of Representatives and a United States Senator, object to the counting of the electoral votes of the State of Arizona on

³Volume 167, Number 4 of the Congressional Record dated January 6, 2021, pages H75-93, is incorporated by reference as though fully set forth herein and hereinafter referred to as “the Congressional Record.”

the ground that they were not, under all of the known circumstances, regularly given.

PAUL GOSAR

Representative, State of Arizona

TED CRUZ

Senator, State of Texas

This letter was joined in by a number of Senators and additional Representatives listed on page H77.

Then-Vice President Pence found that the objection was in the proper form and needed to be considered. This Honorable Court is bound by such factual finding. [*Wiscart v. D'Auchy*, 3 U.S. (3 Dall.) 321 (1796), *Anderson v City of Bessemer City*, 470 U.S. 564, 574 (1985)].

Representative Scalise objected because many states did not follow the Constitutional requirements for selecting electors [Article II, Section 1, set forth below]. While the Constitution places the sole authority for setting election requirements on state legislatures, Representative Scalise objected to the

voting of electors from states where the Secretary of State, or the governor, or the courts had altered voting procedures.

The Congressional Record on page H80 reflects Representative Andy Biggs of Arizona objecting to the counting of votes of electors not only from Arizona, but also Georgia, Pennsylvania, Wisconsin, Michigan and Nevada because voting procedures were changed by other than the respective state legislatures, including Federal Courts, who should know better.

One of Congressman Biggs' allegations was that "more than 32,000 people were allowed to unlawfully cast ballots in Arizona's Presidential election of 2020. When the Arizona legislature sought an independent audit of the election, the controlling body politic, the Maricopa County Board of Supervisors, refused to comply with legislative subpoenas.

Congressman Biggs also submitted a letter from Arizona Senator-Elect Kelly Townsend which documented her request to the Arizona Senate President to authorize a hearing in the Judiciary

Committee. That committee issued subpoenas to the Maricopa County Supervisors which they ignored.

Representatives Gosar and Scalise, and Senator Cruz need not present “absolute proof” of the irregularities they alleged. They only needed to allege facts sufficient to raise “probable cause.” [*United States v Ventresca*, (1965) 380 U.S. 102, 85 S.Ct. 741, 13 L.Ed.2d 684]. “Probable cause” has long been held as sufficient reason to investigate.

On that same page in the Congressional Record, Mr. Scalise of Louisiana rose to object to “a number of States that did not follow the Constitutional requirement for selecting electors.”

The objections challenged the irregularities in several states, requested investigations in those states, and specifically requested the Arizona Electors delegation (among others) be remanded to their respective states for investigation. That request was debated from pages H77 to page H93 when a vote was taken. On page H93 is a list of the 121 Congressional members who supported the request for investigation.

The Defendant members of Congress voted against the investigation.

During the debate, Arizona Representative Andy Biggs pointed out [in the first column of page H80] the Arizona trial court unconstitutionally changed the Arizona voting laws in violation of the U.S. Constitution, Article II, Section 1, which states,

Each State shall appoint, in such Manner as *the Legislature* thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector. [Emphasis added.]

In the middle column of page H80, Representative Biggs pointed out that **more than 32,000 people were allowed to unlawfully cast ballots**, more than the alleged margin of victory for President Biden in the state of Arizona. These are serious allegations begging for investigation that threaten the very core of our Republic.

Representative Biggs' allegations were not addressed nor rebutted and, for the purposes of

Petitioner's *Petition for Writ of Certiorari*, should be regarded as true in this proceeding.

V. THOSE CONGRESSIONAL OFFICERS BOUND TO THE CONSTITUTION BY OATH HAVE COMMITTED TREASON WITHOUT FORCE OF ARMS BY FAILING TO ORDER THE INVESTIGATION OF THE POTENTIAL INTERFERENCE BY COMMUNIST CHINA AS ALLEGED BY THEN-PRESIDENT TRUMP AND/OR THE SPECIFICALLY ALLEGED IRREGULARITIES PERTAINING TO THE ARIZONA DELEGATION AS REQUESTED BY A MEMBER OF THAT DELEGATION.

Article III, Section 3 defines "treason" as follows:

Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

This Honorable Court has already ruled that one need not pick up arms in order to “levy war” in *US v Burr* (1807) 4 Cranch (8 US) 469, 2 L.Ed. 684.

Treason is attacking or betraying a governmental authority to which one owes allegiance. It is Constitutional and in the best interest of *all* voters that every *legal and legitimate* vote be counted. When the votes of those who have illegally voted are counted as specifically alleged by Arizona Representative Andy Biggs in the Congressional record on page H80 (*supra*) the vote of the entire body politic is unlawfully diluted.

Investigation of such allegation should be easily and quickly substantiated or disproven without unduly delaying the voting in the Electoral College.

Thus, Petitioner is correct in his assertion that Defendants treasonously violated their oath by failing to investigate and take action against those who act to subvert the Constitution.

VI. MEMBERS OF CONGRESS, AFTER TAKING AN OATH TO UPHOLD AND DEFEND THE CONSTITUTION CANNOT THEN PASS LEGISLATION THAT ALLEGEDLY

IMMUNIZES THEM FROM ANY LAWSUIT
CHALLENGING THEIR UNCONSTITUTIONAL ACTION.

Petitioner correctly points out two important rights “we, the People” have: a right to petition our government for a redress of grievances; and to hold our government officials, appointed or elected, to their oath of office.

The right to petition our government for a redress of grievances is contained in the First Amendment of the U.S. Constitution, which states:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Petitioner has peaceably come to this Honorable Court requesting this Court to redress an obvious grievance. *Amicus* supports Petitioner’s peaceful grievance petition pursuant to *Puerto Rico v Branstad, Governor of Iowa* (1987) 483 U.S. 219, 228, 107 S.Ct. 2802, 97 L.Ed.2d 187.

Those who should have heard and ordered the investigation of the grievances brought forth by President Trump, Representatives Gosar and Biggs, and Senator Cruz are bound by an oath to uphold the Constitution. The U.S. Constitution, Article VI, Clause 3 states:

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

All members of Congress assembled on January 6, 2021 had taken an oath to uphold and defend the Constitution before the proceedings recorded in the Congressional Record , Volume 167 beginning on page H67 transpired. Considering the evidence enumerated in the Congressional record, pages H75 to H93, they - the Defendants listed in the *Petition for Certiorari* - failed to keep their oath.

The Government below, on behalf of all named Defendants, successfully moved to dismiss Petitioner's

lawsuit (Petition for a Redress of Grievance) in the trial Court, thus insulating them from their own unconstitutional actions. Petitioner then questions on page 9 of his brief how Defendants could, by passing a statute, or, in this case, using a statute they created, insulate themselves from Constitutional claims? Any answer other than, “They cannot” is absurd. Petitioner correctly points out on page 10 of his brief, “The Constitution was not written to protect treason or fraud, so when government officials violate their oath by giving aid and comfort to enemies of the Constitution, or by becoming an enemy themselves, they cannot hide behind statutes or case law . . . nor by any of the heavily riddled legal theories found in Respondents’ motion to dismiss.”

CONCLUSION

For these and all the foregoing reasons, *Amicus* argues Petitioner’s Petition for Certiorari should be granted, and, further, granted on its face without necessity of a hearing.

While such a request is not the only possible result, it would be the most expeditious.

What other dispositional options does this Honorable Court have? This Honorable Court can grant a hearing either in an expedited manner or in the normal course. If this Honorable Court is not granting Petitioner's prayer on its face without a hearing, *Amicus* is asking this Honorable Court to set a hearing in this matter in an expedited manner.

Amicus is not oblivious to the possibility this Honorable Court may deny Petitioner's *Petition for Certiorari* without a hearing, but such action would rend this Nation even more than it is currently rent.

In the strongest terms possible, *Amicus* recommends and argues against such a drastic denial of Petitioner's important questions.

Dated: May 8, 2023

A handwritten signature in blue ink, appearing to read "R. E. Thomas", is written over a horizontal line.

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CERTIFICATE OF WORD COUNT

As required by Supreme Court Rule 33.1 (h), I declare under penalty of perjury to the best of my ability that the foregoing is true and correct, that the Amicus Curiae in support of Petitioner Raland Brunson's Petition for a Writ of Certiorari contains the number of words as stated below as determined by Word Perfect: excluding the parts of the brief that are exempted by Supreme Court Rule 33.1(d).

1. Not counting the cover page, the entire *Amicus* brief has 4,036 words.
2. Beginning from page 1 including the signed name and address at the bottom of page 16, there are 2,525 words.

Dated this 25th, day of May,
2023



Robert E. Thomas, III
Attorney for Paul
Preston & NCS51

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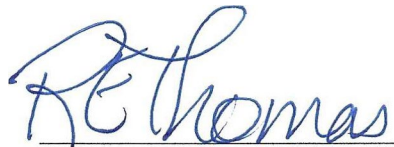
Respondents.

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of May, 2023, I caused to be mailed, in the United States mail, to the parties named below 3 copies of a true and correct copy of this *Amicus Curiae* brief in support of Petitioner Loy A. Brunson's *Petition for a Writ of Certiorari* of this case.

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A handwritten signature in blue ink that reads "RE Thomas". The signature is written in a cursive style with a horizontal line underneath.

Robert E. Thomas, III