No. 25-552

In the Supreme Court of the United States

NICHOLAS LUPO ET AL
PETITIONER

v.

TENNESSEE SECRETARY OF STATE
TRE HARGETT ET AL,
RESPONDENTS

ORIGINAL

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

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

For the first time in the history of the United States, a State violated the foundational principles of the Electoral College by removing bona fide Presidential Elector Candidates by prematurely adjudicating the qualifications of the Pledged Candidate for President, though the Elector Candidates had fulfilled *all the statutory requirements* to gain ballot access.

The United States Appeals Court of the Sixth Circuit, by affirming with lower courts decision, to remove the Elector Candidates not only violated the Elector Candidates' First and Fourteenth Amendment rights but also did so inconsistent with its own previous history of allowing Elector Candidates on the ballot though their Pledged Candidate *may* not be qualified to *hold* the Office of President.

The Supreme Court of Minnesota ruled in favor of Elector Candidates remaining on the ballot even though their Pledged Candidate was the same as Tennessee. A "chaotic state-by-state patchwork" now exists with some States allowing/removing Elector Candidates on/from the ballot without/with premature adjudication of their Pledged Candidate.

The Question Presented is:

Is not States' premature adjudication of qualifications of Elector Candidates' Pledged Candidates unconstitutional and violation of the foundational principles of the Electoral College and how presidential elections are to be run?

PARTIES TO THE PROCEEDINGS

Petitioners include Nicholas Lupo, Matthew Stoneman, and David Price (Elector Candidates) - The following are the Respondents: Tennessee Secretary of State Tre Hargett, and Tennessee Division of Elections, Mark Goins in their official capacity. A corporate disclosure statement is not required because Nicholas Lupo, Matthew Stoneman, and David Price are not a corporation. *See* Sup. Ct. R. 29.6.

STATEMENT OF RELATED CASES

Plaintiff Pro Se Nicholas Lupo, Matthew Stoneman and David Price are aware of no directly related proceedings arising from the same trial-court case as this case other than those proceedings appealed here.

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The role of Presidential Electors is one of the most vital and sacred functions in our constitutional republic. As the only individuals directly empowered by the Constitution to cast official votes for the Office of President, electors serve as the critical link between the will of the people and the selection of their highest national leader. Far from being symbolic, electors are a living mechanism of the people's voice, ensuring that each voter's choice is transmitted, preserved, and executed in accordance with the democratic process envisioned by the Framers.

To deny electors access to the ballot because of their association with an independent candidate is to undermine the very purpose of their role. It erodes the constitutional promise that voters are free to choose

their leaders from a full spectrum of political voices. Political independence depends on the equal and unimpeded participation of electors who reflect the choices of voters unconstrained by partisan loyalties. Silencing those electors is not a neutral act—it is an act that reinforces political gatekeeping and denies the electorate the opportunity to break free from a closed system.

As Elector Candidates we mobilized across the State of Tennessee and petitioned hundreds of thousands of voters so as to get on the Tennessee ballot. However, the Tennessee Secretary of State and the Tennessee Division of Elections prematurely adjudicated and enforced the qualifications of the Elector Candidate's Pledged Candidate. What caused the Tennessee Secretary of State and the Tennessee Division of Elections to act in such a way?

On May 7th, 2025 The United States Court of Appeals for the Sixth Circuit affirmed with the lower court's initial decision (App.1a) that States can violate the First and Fourteenth Amendment rights of the Elector Candidates', and, regardless of the lack of congressional authorization, can determine that their Pledged Candidate, Dr. Shiva Ayyadurai is disqualified from running for President per the "natural born" clause.

If the Tennessee ruling is allowed to stand, it will mark the first time in the history of the United States that the Elector Candidates who fulfilled every legal requirement to be on the ballot - not because of anything they did wrong - but solely based on their Pledged Candidate's "naturalized" status. Though the "natural born" provision is not defined, yet is a requirement for holding the Office of President, but not for running for

the Office, it prevented voters from casting ballots for a U.S. Citizen, who achieved every State-mandated requirement to be on the ballot.

In our system of "government of the people, by the people, [and] for the people,"[1] Tennessee ruling is not and cannot be correct. This Court should grant certiorari to consider questions presented of paramount importance, summarily reverse the ruling, and rule that the Electoral College exists and states can not keep Presidential Elector Candidates off the ballot when fulfilling all requirements.

The question of eligibility to serve as President of the United States is properly reserved for Congress, not the state courts, to consider and decide. By considering the question of our Pledged Candidate, the Tennessee Secretary of State and the Tennessee Division of Elections arrogated Congress' authority.

In addition, even if the Tennessee Secretary of State and the Tennessee Division of Elections could consider challenges to our Pledged Candidates eligibility, which it cannot, there are various reasons they misapplied the law, and why their decision needs to be reversed.

First, Courts across the country have issued inconsistent rulings on Presidential Elector Candidate challenges - some dismissing cases as moot, others addressing constitutional claims., and some allowing ballot access without issue. This patchwork of decisions creates legal uncertainty and risks widespread voter disenfranchisement if left unresolved.

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[1] See Abraham Lincoln, Gettysburg address delivered at Gettysburg Pa. Nov. 19th, 1863, Nat'l Archives, https://www.loc.gov/ resource/rbpe.24404500/?st=text.

Second, The Tennessee Secretary of State and the Tennessee Division of Elections violated the Elector Candidates First and Fourteenth Amendments denying them Ballot Access. The Defendants actions denied the Elector Candidates due process and a meaningful chance to assert their own rights.

Third, Defendants intentionally conflated the Elector Candidates with their Pledged Candidate while intentionally ignoring the existence of Electoral College, and further asserting the Pledged Candidate upon whom the Tennessee Secretary of State and the Tennessee Division of Elections say he is "ineligible" to *run* for the Office of President by prematurely adjudicating and enforcing Their Pledge Candidates qualifications to *hold* the Office using the "natural born" provision, which has been abrogated by the Equal Protection Clause of the 14th Amendment.

Fourth, proceedings by the Tennessee State were premature and violated the Electors Clause.

Fifth, Article II sets presidential qualifications but provides no enforcement mechanism, making eligibility a political question for voters rather than courts or state officials to decide.

Sixth, Hassan Rulings cannot be used to justify premature adjudication of presidential qualifications in light of Trump v. Anderson and conflicts from Other State Supreme Court Rulings.

Finally, Elector Candidates Fourteenth Amendment rights were violated and they were denied due process by conflating the Elector Candidates with the Pledged Candidate

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3 Richard Winger, Ballot Access News, https://ballot-access.org/

OPINIONS BELOW

United States Appeals Court of the Sixth Circuit Judgment is reproduced at App.1a The Middle District of Tennessee Memorandum and Order is reproduced at App. 7a.

JURISDICTION

The United States Court of Appeals for the Sixth Circuit entered judgment on May 7th 2025 App. 1a. timely filed this petition on September 27, 2025. This Court has jurisdiction under 28 U.S.C. § 1257.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The relevant constitutional and statutory provisions are at App. 28a–31a.

STATEMENT

This case arises from the removal of independent Presidential Elector Candidates from the Tennessee general election ballot by the Tennessee Secretary of State and the Tennessee Division of Elections . Petitioners, Nicholas Lupo, Matthew Stoneman, and David Price (Elector Candidates), were among the eleven qualified independent Elector Candidates pledged to Presidential Candidate. The Tennessee Secretary of State and the Tennessee Division of Elections removed the Elector Candidates based on the alleged ineligibility of Pledged Candidate, despite no statutory authority permitting such action.

Over the last year, lawsuits or administrative challenges have been filed in some States seeking to keep Elector Candidates from appearing on those States' presidential general election ballots. In other States, secretaries of states and/or election board officials have, without any due process, simply removed Pledged Candidates name from the presidential general election ballot. Finally, other States who have allowed Pledged Candidate on their presidential general election ballots either with his name listed or as a write-in.

In the following States, voters can cast a vote for Elector Candidates by selecting Pledged Candidates name since it will be listed on the ballot:

- Washington
- Iowa
- Massachusetts
- Idaho
- Mississippi
- Kentucky
- Minnesota

In the following States, voters can cast a vote for Elector Candidates via write-in by writing Pledged Candidates name on ballot:

- Alabama
- Florida
- Colorado
- Delaware
- Georgia
- Illinois
- Kansas
- Maine

- Maryland
- Texas
- New Hampshire
- North Carolina
- Ohio
- Oregon
- Maine
- Michigan
- Montana
- Pennsylvania
- Rhode Island
- Vermont
- Washington DC
- West Virginia
- Wyoming

In the following States, although Elector Candidates fulfilled or exceeded every State-mandated requirement to have his name listed on the ballot, his name was removed by the State's Secretary of State based on their enforcing the qualification of "natural born" for holding the Office of President against Pledged Candidate from running for the Office:

- New Jersey
- Wisconsin
- Utah
- Tennessee
- Nebraska

The common theory behind the lawsuits, challenges, and removals is that Pledged Candidate is disqualified from running for the Office of President since he cannot be holding the office under U.S. Const. art. II, § 1, cl. 5 e.g. the "natural born" provision.

The challenge in the State of Tennessee has become ripe for review by this Court since the United States Court of Appeals for the Sixth Circuit affirmed with the lower court and Tennessee Secretary of State and the Tennessee Division of Elections Final Decision to remove The Elector Candidates from the ballot.

The U.S. Constitution creates and defines the Electoral College as the only process by which each State's Electors vote by ballot to elect the President and Vice President of the United States.

No state may add qualifications beyond those stated in the U.S. Constitution for ballot eligibility of Tennessee Elector Candidates for the President and Vice President of the United States, and may not directly or indirectly infringe upon federal constitutional protections; see e.g., United States Term Limits, Inc. v. Thornton, 514 U.S. 779, 827, 115 S.Ct. 1842, 1866 (1995).

On August 14, 2024, eleven independent Presidential Elector Candidates ("Elector Candidates") jointly submitted 600 signatures of Tennessee voters to qualify those eleven Elector Candidates as Tennessee independent Electors at the November 5, 2024 general election; the eleven Elector Candidates submitted nomination papers specifically for the U.S. Constitutionally defined office of "Elector of President and Vice President of the United States." U.S. Const. art. II, § 1.

The Tennessee Election Code requires submission of 275 signatures in the aggregate from Tennessee voters. *Tenn. Code Ann § 2-5-101(b)(1).*

On September 4, 2024, Executive Assistant, Lena Russomanno from the Tennessee Secretary of State and the Tennessee Division of Elections without any due process owed to the Elector Candidates pursuant to Defendants' **own** written statutes *Tenn. Code Ann. § 2-5-103(b),* informed Elector Candidate Nicholas Lupo via a phone call that she had sent a letter dated September 4, 2024 addressed to their Pledged Candidate for President, Dr. Shiva Ayyadurai, that their Pledged Candidate's name would be removed from the Tennessee ballot for him not being "naturally born." Dr. Shiva Ayyadurai is not running for any Office in the State of Tennessee, but who resides in Massachusetts from appearing on the Tennessee ballot; rather, Nicholas Lupo and other Elector Candidates, all residents of Tennessee, are running for the Office of Elector in the State of Tennessee. Dr. Shiva Ayyadurai is prohibited from running for such office since he does not meet the eligibility requirements to be an Elector Candidate from Tennessee.

Elector Candidate Nicholas Lupo demanded to see a copy of the letter. Ms. Russomanno initially refused, and then finally sent Nicholas Lupo a copy of the letter. Neither Mr. Lupo nor any of the other Elector Candidates were served with any notice addressed to them that they were being removed from the ballot.

The Defendants allege they sent the letter to Pledged Candidate for President Shiva Ayyadurai, a Massachusetts resident, upon whom Defendants have no

subject matter or personal jurisdiction over that Plaintiffs and Elector Candidates were being rejected from Tennessee Ballot.

On September 5, 2024, Elector Candidate Nicholas Lupo emailed Lena Russomanno notifying he and the other ten (10) Elector Candidates had fulfilled every requirement pursuant to Tennessee Election Code, and given he and the 10 other electors are in fact the Elector Candidates running for the Office of Electors in the state of Tennessee and that the Tennessee Secretary of State and Tennessee Division of Elections had no right to remove them from the ballot based on the "qualifications" of the their Pledged Candidate for President Dr. Shiva Ayyadurai. His email response demanded he and the Elector Candidates be put back on the ballot immediately or there would be litigation:

On September 5, 2024 Defendant Mark Groins responded to Elector Candidate Nicholas Lupo asserting office attorneys had looked at the issue and determined the final decision had been made to reject Pledged Candidates name from appearing on the Tennessee Ballot. Defendant, Mark Groins acknowledged that he understood that the Elector Candidates intended to take legal action for illegally violating the Elector Candidates 1st and 14th Amendment rights.

However, by operation of the U.S. Constitution and the Tennessee Election Code, the offices of President and Vice President of the United States **have never been offices filled (or voted for) by Tennessee voters at the general election**. See U.S. Constitution, Art. II. As the

Tennessee Election Code *Tenn. Code Ann. § 2-15-101* states (with emphasis added):

Tenn. Code Ann. § 2-15-101

> At the regular November election immediately preceding the time fixed by the law of the United States for the choice of president and vice president, **as many electors of president and vice president as this state may be entitled to shall be elected**. Each registered voter in this state may vote for the whole number of electors. The persons, up to the number required to be chosen, having the highest number of **votes shall be declared to be duly chosen electors.**

I. THE UNITED STATES APPEALS COURT OF THE SIXTH CIRCUIT AND THE MIDDLE TENNESSEE DISTRICT COURT PROCEEDINGS

Following the flawed ruling of theTennessee Secretary of State and the Tennessee Division of Elections, The Elector Candidates filed suit in the United States District Court for the Middle District of Tennessee on September 10, 2024, under 42 U.S.C. § 1983, asserting violations of their First and Fourteenth Amendment rights. The District Court dismissed the case on October 25, 2024 (App 7a) the Court granted in part and denied in part but dismissed the entire case under Rule 12(b)(6). Granting mootness and denying Constitutional Claims. Specifically

The District Court of the Middle District of Tennessee stated:

> "The Court does not find that the Complaint plausibly alleges a constitutional violation to survive Defendants' Rule 12(b)(6) motion, and therefore Plaintiffs are not entitled to the declaratory or injunctive relief they have requested in this case."

This Judgment is flawed. The Elector Candidates First and Fourteenth amendment rights were clearly violated. The Elector Candidates have the right to freedom of associate with their Pledged Candidate. States have no jurisdiction in removing the Elector Candidates based on the qualifications of their Pledged Candidate. They are putting the Cart before the Horse. There is zero statue in the Tennessee Election Code that grants them that right to do so.

No such Statute exists.

Moreover, even if a Statute existed, which does not, multiple and differing State Statutes would result in a "patchwork" that his Court seeks to avoid. In response to the flawed analysis and dismissal by the Middle District of Tennessee. Elector Candidates appealed to the United States Court of Appeals for the Sixth Circuit.

On May 7th 2025, the Court of Appeals affirmed the dismissal.

Elector Candidates now seek review of the decision because it raises substantial constitutional questions concerning ballot access, the role of Elector Candidates, due process, and the limits of state authority under Article II of the U.S. Constitution.

REASONS FOR GRANTING THE PETITION

The Tennessee Secretary of State and the Tennessee Division of Elections has no authority to deny Nicholas Lupo, Matthew Stoneman, and David Price and 8 other Presidential Elector Candidates access to the ballot. By doing so, the Tennessee Secretary of State and the Tennessee Division of Elections has usurped Congressional authority and misinterpreted and misapplied the text of U.S. Const. art. II, § 1, cl. 5, which is for holding the Office of President, not for running for the Office of President.

I. PATCHWORK OF STATE COURT RULINGS REVEAL NEED FOR CONSISTENT STANDARDS IN PRESIDENTIAL ELECTOR CANDIDATES CASES

The questions presented in this Petition are of the utmost importance. As demonstrated by the multiple rulings across multiple states, the legal landscape surrounding this issue remains unsettled and inconsistent. For example, The Tennessee court evaluated the case on the merits and held that the Elector Candidates' First and Fourteenth Amendment rights were not violated, basing their ruling on the perceived ineligibility of the Pledged Presidential Candidate. The court had no jurisdiction over the Elector Candidates right for freedom to associate with their Pledged Candidate and denied them due process by

conflating the Elector Candidates with their Pledged Candidate.

Similarly, the Nebraska court case *Abigail Lauters et al vs Robert Evnen et al* ruled the case as moot. Claiming the Plaintiffs failed to show a reasonable expectation that the same issue would affect them in future elections. The Plaintiffs are still running. The injury is ongoing from 2024. This information is publicly available at the FEC and Presidential Elector Candidates would not be filing complaints across the nation if they were not already running for 2028.

In Wisconsin court case *Marshall et al v. Wisconsin Election Commission et al* dismissed the case on grounds of mootness and deemed the claims frivolous. However, this contradicts established precedent—such as in *Moore vs Ogilvie* and related jurisprudence—recognizing that election-related cases are rarely moot due to the inherently compressed timeframes and the potential for recurring yet evasive issues.

In Minnesota, a challenge arose through an objector's petition—closely resembling the situation in Wisconsin—but the court dismissed the petition. The Supreme Court of Minnesota sided with the Elector Candidates. As a result, the Elector Candidates were deemed to have satisfied all statutory requirements and were on the ballot in Minnesota. In this instance the Elector Candidates had the same Pledged Candidate. This matter demonstrates a clear failure to grasp the relevant legal standards and arguments presented. This is the kind of patchwork resulting in the confusion and inconsistencies of state election officials across states.

This will lead to voters' lack of trust for the electoral process.

In States like Massachusetts, Washington, Mississippi, Kentucky, Idaho and Iowa, Elector Candidates were put on the Presidential ballots without any disputes.

These varying rulings highlight a profound inconsistency in how courts across different jurisdictions are interpreting and applying the law in the context of Presidential Elector challenges. Some courts resolve the issue on constitutional grounds, and still others dismiss it as moot—leaving candidates, voters, and election officials without clear legal guidance or uniform protections under the law.

Therefore, without reversal of the Tennessee Secretary of State and the Tennessee Division of Election decision, millions of voters in Tennessee would be disenfranchised, and likely it shall be used as a template, (which it already has), to disenfranchise tens of millions of voters nationwide. Indeed, States have already used the Tennessee proceedings as justification for unlawfully striking Presidential Elector Candidates from their ballots, in Utah, Wisconsin, and Nebraska. Those decisions are being appealed.

II. COMPLAINT DOES STATE CLAIMS ON FIRST AND FOURTEENTH AMENDMENT

The Elector Candidates have unequivocally stated their claims in their complaint. It is beyond obvious that their First Amendment rights were violated. The Elector Candidates exercised their First Amendment rights by organizing themselves, associating to select their Pledged

Candidate, collecting signatures, filling out Nomination Papers, and met every statutory requirement. After fulfilling these requirements, the Defendants violated their First Amendment rights by denying them ballot access.

A court considering a challenge to an election law must balance the magnitude of the injury to the challenger's First Amendment rights against the offered justifications for the law, taking into account the extent to which the justifications make it necessary to burden the challenger's rights. Anderson v. Celebrezze, 460 U.S. 780 (1983). The challenger's rights are subjected to severe restrictions; the regulation must be narrowly drawn to advance a compelling state interest. Illinois Elections Bd. v. Socialist Workers Party, 440 U.S. 173 (1979). When the restrictions are only reasonable and nondiscriminatory, however, the state's important regulatory interests are generally sufficient to justify the restrictions. Anderson v. Celebrezze, 460 U.S. 780 (1983).

In this case, there is no justification for violating the Elector Candidates First Amendment rights. There is no compelling State interest to remove the Elector Candidates from the ballot by prematurely adjudicating and enforcing against the qualifications of their Pledged Candidate.

Moreover, the Elector Candidates Fourteenth Amendment rights were violated and they were denied due process by conflating the Elector Candidates with the Pledged Candidate. The Elector Candidates and the Pledged Candidate are different parties. The precedential ruling by the Court in Taylor v Sturgell 553 U.S. 880 (2008) provides a framework for assessing the

Defendants' specious arguments on attempting to merge the Elector Candidates and the Pledged Candidate as one entity. Justice GINSBURG delivered the following opinion for a unanimous the Court in Taylor v Sturgell (emphasis added):

"It is a principle of general application in Anglo-American jurisprudence that one is not bound by a judgment in 2167*2167 personam in a litigation in which he is not designated as a party or to which he has not been made a party by service of process." Hansberry v. Lee, 311 U.S. 32, 40, 61 S.Ct. 115, 85 L.Ed. 22 (1940). Several exceptions, recognized in this Court's decisions, temper this basic rule. In a class action, for example, a person not named as a party may be bound by a judgment on the merits of the action, if she was adequately represented by a party who actively participated in the litigation. See id., at 41, 61 S.Ct. 115. In this case, we consider for the first time whether there is a "virtual representation" exception to the general rule against precluding nonparties. Adopted by a number of courts, including the courts below in the case now before us, the exception so styled is broader than any we have so far approved.

Nevertheless, the D.C. Circuit held Taylor's suit precluded by the judgment against Herrick because, in that court's assessment, Herrick qualified as Taylor's "virtual representative.

We disapprove the doctrine of preclusion by "virtual representation," and hold, based on the record as it now

stands, that the judgment against Herrick does not bar Taylor from maintaining this suit.

There is no privity [of contract/legal] when it comes to First Amendment rights. Defendants have grossly violated the Elector Candidates' First Amendment rights (as well as Fourteenth Amendment rights). It is established law that each of us has a right to assert our own rights. Those rights cannot be bought or sold, transferred or assigned to any other person; otherwise, the two major parties Democrats and Republicans would be buying up everyone's First Amendment rights, and then use them to support their own candidates.

The parties in this case are different. Fundamentally, one lay claims and sue one party, and then claim judgment applies to another person, just as one person cannot submit Nomination Papers, and later be substituted by someone else. The Defendants must have great disdain for this court and the Elector Candidates to even attempt to assert such an argument. The Defendants prematurely adjudicated and enforced the qualifications to hold the Office of President against the Pledged Candidate and then applied that to the Elector Candidates. The letter from Defendant Goins was sent to the Pledged Candidate, not upon the Elector Candidates. As Justice Ginsburg noted in her opinion for the unanimous Court (emphasis added): "It is a principle of general application in Anglo-American jurisprudence that one is not bound by a judgment in 2167*2167 personam in a litigation in which he is not designated as a party or to which he has not been made a party by service of

process." Hansberry v. Lee, 311 U.S. 32, 40, 61 S.Ct. 115, 85 L.Ed. 22 (1940).

The Elector Candidates "were not designated as a party" and they were not "a party by service of process." Imagine if the Defendants' patently absurd assertion was accepted by this federal court, then the entire framework of legal standards ceases to exist: judgement upon one person then applies to another person. The Elector Candidates were part of a "class action" that included the Pledged Candidate. If that were the case, then the Defendants argument has a potential of being accepted by this court. But it cannot, since they are not part of a class action.

Moreover, Taylor v Sturgell does not apply to First Amendment or ballot access or Nomination Papers, since in general, there are no proxy candidates i.e. one person submits Nomination Papers, someone else then fills in for that person later. It is totally illogical to even contemplate trial in absentia: why not leave indicted citizens in a jail cell during the trial, they're represented by a public defender, certainly such arguments could be made. But we do not do that in the United States that the Elector Candidates reside in. When constitutional rights are at stake, every person has a right to attend the proceeding that seeks to deny or deprive Constitutional rights, to confront witnesses, and to due process for a meaningful opportunity to present their own evidence. This did not happen for the Elector Candidates. Period.

III. THE ELECTORAL COLLEGE EXISTS AND CANNOT BE WISHED AWAY

It appears the Defendants seem to be ignorant of the fact that the Elector Candidates are running for the Office of Elector. The Electors' Pledged Candidate is not the "candidate." He is not running for ANY office in Tennessee. There is no Office of the President in Tennessee. The Pledged Candidate is not a resident of Tennessee. Most importantly, up until the early part of the Twentieth Century, the names of ALL Elector Candidates were listed on the State ballots. So, imagine there are 10 Pledged Candidates for President, that means 140 names (14 times 10) names were being printed on the ballots. For simplification, States denoted the name of the Pledged Candidate to be a LABEL, a brand, a slogan, to denote the slate of the 14 Elector Candidates.

When the Elector Candidates request that they be placed on the ballot, they are requesting that LABEL be placed on the ballot, for such LABEL denotes the Elector Candidates. Defendants attempt to act confused on this very simple and basic principle of the Electoral College and how that LABEL is used to refer to a slate of Elector Candidates.

This court must not accept such ignorance.

IV. DEFENDANTS PREMATURE ADJUDICATION AND ENFORCEMENT OF QUALIFICATIONS FOR PRESIDENT AGAINST ELECTOR CANDIDATES AND

THEIR PLEDGED CANDIDATE WAS DONE WITHOUT STATUTORY AUTHORITY AND IS UNCONSTITUTIONAL

The Tennessee Secretary of State and the Tennessee Division of Elections attempted to conflate the Elector Candidates with the Pledged Candidate. They appear not to have studied basic American history in grade school or wish to wish away the Electoral College, which they cannot and must not be allowed to do by this court. Based on this conflation, they assert their blatantly false statement upon Elector Candidates. The Tennessee Secretary of State and the Tennessee Division of Elections forget that each State may only review Nomination Papers of **its own residents**, that seek ballot placement at the state general election, to be voted upon to fill offices that are identified by the State as being filled at the general election. Thus, each State can only grant authority to review Nomination Papers of its own residents. The US Constitution does not extend to any State the authority to review qualifications of any candidate for President or Vice-President, nor impose any restrictions or additional qualifications other than stated in the US Constitution. The U.S. Congress has exclusive jurisdiction to review qualifications of the President.

The facts are:

1. The Elector Candidates fulfilled every statutory qualification to be the independent presidential Elector Candidates ("Elector Candidates") pledged to Presidential Candidates.

2. Elector Candidates exercised their First and Fourteenth Amendment rights in choosing their Pledged Candidate of choice.

3. The Elector Candidates achieved and exceeded every statutory requirement to be the Elector Candidates to be placed on the ballot with their slate denoted by the Pledged Candidates.

4. In Tennessee as in other States, the Elector Candidates are the "candidates" for the Office of Elector; there is not an Office of President that the Pledged Candidate can run for in Tennessee nor in any other State.

5. The Elector Candidates were qualified and fulfilled all requirements to be placed on the ballot.

6. The Tennessee Secretary of State and the Tennessee Division of Elections did NOT provide any notice to Plaintiffs of challenges to their candidacy as Elector Candidates.

7. The Tennessee Secretary of State and the Tennessee Division of Elections did NOT provide due process to Elector Candidates to provide response to any of objections to their candidacy.

A. INSTEAD OF THE TENNESSEE SECRETARY OF STATE AND THE TENNESSEE DIVISION OF ELECTIONS PROVIDING DUE PROCESS TO THE ELECTOR CANDIDATES, PREMATURELY ADJUDICATED AND ENFORCED AGAINST THE PLEDGED CANDIDATE QUALIFICATIONS *TO HOLD*

THE OFFICE OF PRESIDENT, WHICH EXCEEDS THEIR AUTHORITY PARTI IN LIGHT OF THE FACT THEY HAD NO STATUTES PASSED BY THE LEGISLATURE WHICH AFFORDS THEM THE RIGHT TO DO SO

The facts (1) – (7) reveal that The Tennessee Secretary of State and the Tennessee Division of Elections had no right whatsoever to throw Elector Candidates from the Tennessee ballot. They fulfilled every qualification and requirement to be on the ballot. The Tennessee Secretary of State and the Tennessee Division of Elections instead of providing due process to Elector Candidates, "put the cart before the horse," and began prematurely adjudicating the qualifications of their Pledged Candidate, - and even went so far as to enforce qualifications for *holding* the office of President against their Pledged Candidate to deny their Pledged Candidate his First and Fourteenth Amendment right from *running* for the Office. The Tennessee Secretary of State and the Tennessee Division of Elections must know, concerning the appointment of Elector Candidates of the President and Vice President of the United States, the U.S. Constitution creates and defines the Electoral College as the only process by which each State's Elector Candidates vote by ballot to elect the President and Vice President of the United States.

No State may add qualifications beyond those stated in the U.S. Constitution for ballot eligibility of Tennessee Elector Candidates for the President and Vice President of the United States, and may not directly or indirectly

infringe upon federal constitutional protections; see e.g., *United States Term Limits, Inc. v. Thornton*, 514 U.S. 779, 827, 115 S.Ct. 1842, 1866 (1995).

The independent Presidential Elector Candidates ("Elector Candidates") jointly submitted the necessary number of signatures of Tennessee voters to qualify those fourteen Elector Candidates as Tennessee independent Elector Candidates at the November 5, 2024 general election; the Elector Candidates submitted nomination papers specifically for the U.S. Constitutionally defined office of "Elector of President and Vice President of the United States." U.S. Const. art. II, § 1. They fulfilled the signature requirements pursuant to the Tennessee Election Code. No objections were raised within the time limit to the Elector Candidates' Nomination Papers.

B. THE DEFENDANTS WENT AFTER THE WRONG PERSON (THE PLEDGED CANDIDATE), SINCE THE RIGHT PERSONS (ELECTOR CANDIDATES) HAD DONE NOTHING WRONG

The Tennessee Secretary of State and the Tennessee Division of Elections actions are severely flawed, and a close analysis reveals how a low-level election official can create the law "on-the-fly" that gets percolated upward, and rubber-stamped by agency heads. In approaching this analysis, the work of one of the leading scholars on ballot access and the rights of States to adjudicate qualifications of the Presidency, provides a "North Star" (emphasis added):

> "States lack any power to evaluate qualifications in congressional elections, **and any power to evaluate qualifications in presidential elections arises solely from the force of its own statutes. Because of the review of qualifications that occurs in the people, electors, political parties, and Congress, the need for the state to review is slight.**"

States must be circumspect in prohibiting candidates for President from *running* for the Office, even though the candidate may be "ineligible" for *holding* the Office. As aforementioned, States should only do so if they have explicit statutes, passed by the State legislature, that allow them to do so. Why? Because, the Office of President is elected by all the people, and there are sufficient mechanisms - **"people, electors, political parties, and Congress" –** who can intervene to prevent an "ineligible" candidate from holding the Office.

Based on this North Star, the The Tennessee Secretary of State and the Tennessee Division of Elections actions has no basis in any State statute that allows the State of Tennessee to remove a Presidential Elector Candidates from the ballot and to stop the candidates running for the Office of Elector based on their Pledged Candidate being "ineligible" to hold the Federal Office. Since no such statute exists, the Tennessee Secretary of State and the Tennessee Division of Elections built a "house of cards" to support their decision to remove Elector Candidates off the ballot. District Court refers to Tenn.

Code Ann. § 2-15-104(c)(1). This Statute is irrelevant to this case and does not provide the Defendants any legal authorization to deny the Presidential Elector Candidates access to the ballot based on prematurely adjudicating and enforcing the qualifications of the Pledged Candidate "ineligibility" to *hold* the Office of President.

Moreover, the District Court avoided Tenn. Code Ann. § 2-15-101, 2-3-203(6) and § 2-5-208(a)(b)(c)(1)(A), that a vote is for Elector Candidates not for president or vice president, "as a convoluted argument." This Statute clearly defines "Presidential Electors" as follows: Although the names of the electors do not appear on the ballot and no reference is made to them, **a vote for the president and vice president named on the ballot <u>is a vote for the electors of the candidates</u>** for whom an elector's vote is cast.

The Tennessee Secretary of State and the Tennessee Division of Elections have no statutory jurisdiction over the Pledged Candidate. PERIOD! Instead of placing Elector Candidates on the ballot for fulfilling their statutory requirements, the Tennessee Secretary of State and the Tennessee Division of Elections proceeded to exceed their authority, and prematurely adjudicated and enforced the qualification to *hold* the Office of President against Pledged Candidate to remove Elector Candidates from the ballot. Tennessee Secretary of State and the Tennessee Division of Elections have no right to take such action; it is up to the "**people, electors,**

political parties, and Congress" to decide if any Pledged Candidate is qualified to *hold* the Office. Period.

This The Tennessee Secretary of State and the Tennessee Division of Elections decision conflates "running" for the Office with "holding" the Office. The "natural born" provision is for "holding" the Office of President. Moreover, "natural born" has not only never been defined but also the Equal Protection Clause of the 14th Amendment makes ALL citizens equal. Equal means EQUAL, not "sort of equal." This decision further asserts that the State has some authority to create extra-Constitutional qualifications i.e. that a Pledged Candidate must be a "natural born" citizen to *run* for the Office. The State has no such right. Even if it did per that North Star, there would have to be a specific and explicit Statute passed by the Tennessee legislature.

No such Statute exists!

Moreover, even if a Statute existed, which it does not, multiple and differing State Statutes would result in a "patchwork" that the Court in *Trump v. Anderson* sought to avoid.

C. DEFENDANTS PUT "THE CART BEFORE THE HORSE" AND NOW DEFENDANTS ARE BEATING THE HORSE

The aforementioned was done by the Tennessee Secretary of State and the Tennessee Division of Elections in spite of such adjudication and enforcement against the Pledged Candidate being premature, and not within their statutory authority. And to add further insult

to injury, Tennessee Secretary of State and the Tennessee Division of Elections used their flawed analysis in denying the First and Fourteenth Amendment Rights to the Pledged Candidate, then to deny First and Fourteenth Amendment Rights to the Elector Candidates – the actual candidates running for the Office of Electors.

D. TENNESSEE VIOLATED THE ELECTOR CANDIDATES CLAUSE BY FLOUTING THE STATUTES GOVERNING PRESIDENTIAL ELECTIONS AND FABRICATING "LAWS" TO RATIONALIZE PREMATURE ADJUDICATION OF PRESIDENTIAL QUALIFICATIONS

The Elector Candidates Clause requires states to appoint Presidential Elector Candidates "in such Manner as the Legislature thereof may direct." U.S. Const. art. I, § 1, 2; see also Moore v. Harper, 600 U.S. 1, 36 (2023) ("[S]tate courts may not transgress the ordinary bounds of judicial review such that they arrogate to themselves the power vested in state legislatures to regulate federal elections."); Bush v. Gore, 531 U.S. 98, 111–22 (2000) (Rehnquist, C.J., concurring).

The Elector Candidates Clause demands that power over Presidential Elector Candidates is in the state legislatures. This means that they cannot simply prematurely adjudicate and enforce presidential qualifications, for *holding* the Office, not for *running* for the Office.

But this is precisely what occurred in Tennessee. As the Middle Tennessee District Judge stated in his Final Decision (see App. 7a):

> "Contrary to Plaintiffs' suggestion, Defendants have the right to prevent an ineligible, non-natural- born-citizen from running for President.

The Tennessee Secretary of State and the Tennessee Division of Elections seem to not have read their own Election Code. There is zero statute in the Tennessee Election Code where it gives them the right to prematurely adjudicate the Elector Candidates due to the qualifications of their Pledge Candidate. Anyone can run for the Office Of President. For the Middle Tennessee District Court to throw away the Electoral College like it doesn't exist seems in opposition of the principles of the Founding Fathers.

In addition, the State proceeded to also violate the rights of the Presidential Elector Candidates themselves by never providing them any due process in the "manner" in which they adjudicated their removal from the ballot. One cannot forget an Electoral College exists, and the real candidates in Tennessee are the Presidential Elector Candidates ("Elector Candidates") whose Pledged Candidate is used to label their slate.

The Tennessee Election Code, defines the offices voted upon by Tennessee voters in general elections in even numbered years, and states in part as follows Tenn. Code Ann. § 2-3-203(6). (emphasis added):

Tenn. Code Ann. § 2-3-203(6) provides:

2-3-203(6) General assembly members, congressional representatives, presidential electors, and governor – Time for election.
Elections for the following offices shall be held at the regular November election when the election immediately precedes the commencement of a full term:

(6) Electors for president and vice president

Tenn. Code Ann. **§ 2-3-203(6)** of the Tennessee Election Code does not include the office of "President of the United States" or "Vice President of the United States" as offices for which Tennessee voters vote at a general election, and logically, such an office could not be added to the Tennessee Election Code or to the Tennessee ballot because the U.S. Constitution preempts Tennessee law regarding the election of President and Vice President of the United States. U.S. Const. art. II, § 1.

By operation of the U.S. Const. art. II, § 1, cl. 2, and the Tennessee Election Code, Tennessee voters elect their Elector Candidates for President and Vice President of the United States; thereafter, those Elector Candidates that are elected at the general election proceed to vote by ballot in the Electoral College.

Thus, it is the Elector Candidates that elect the President and Vice President of the United States through a separate ballot.[8]

The election of Elector Candidates for the President and Vice President (rather than any potential Pledged

Candidates) is confirmed by the Tennessee Election Code, which states:

Tenn Code Ann § 2-15-101 provides:

> **2-15-101 Selection of presidential electors**
> At the regular November election immediately preceding the time fixed by the law of the United States for the choice of president and vice president, as many electors of president and vice president as this state may be entitled to shall be elected. Each registered voter in this state may vote for the whole number of electors. The persons, up to the number required to be chosen, having the highest number of votes shall be declared to be duly chosen electors.

The Tennessee Election Code, applies to election authorities and defines the process for the printing of ballots and the counting of votes for Electors (emphasis added) as follows (emphasis added):

[* * *]

Tenn. Code Ann. § 2-5-208(h)

2-5-208 Arrangement of materials on ballots.

(h) The name of presidential candidates shall be arranged according to political parties, and followed by the words, (giving the name) for president and (giving the name) for vice president. **Names of electors need not appear on the ballot.**

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[8] See https://www.archives.gov/electoral-college.

Therefore, by operation of the Tennessee Election Code, Elector Candidates' "names shall not be printed upon the ballot, either paper or voting machine, but in lieu thereof, the names of the candidates of their respective parties or political bodies for President and Vice-President of the United States shall be printed together in pairs under the title "Presidential Electors for" and that a vote for any such Pledged Candidates for President and Vice President "shall be counted as votes for each candidate for Presidential Elector" confirming that Tennessee voters are voting for and electing the State's Electors, and that such a vote for a Presidential and Vice Presidential (pledged) candidate shall not be deemed and taken as a direct vote for such candidates for President and Vice-President. Tenn. Code Ann. § 2-15-101 and Tenn. Code Ann. § 2-3-203(6).

Thus, Tennessee voters do not nominate or elect their candidates for President or Vice President, as confirmed by recent events[2]; pledged Presidential and Vice-Presidential candidates are not ballot-eligible in Tennessee nor are they voted upon by voters in any state, including Tennessee. Political party convention

[2] Recent events are illustrative. Donald Trump's delegates were elected at the Republican primary (without a VP being identified), and Joe Biden's delegates were elected at the Democratic Party primary (also without a VP being identified). Candidates for President however were not nominated at either party's primary election. After strategic considerations by the DNC, Joe Biden announced on July 21, 2024 that he would not seek re-election, and Kamala Harris then announced her intent to seek the Democratic nomination as their Presidential candidate without declaring her VP candidate. Donald Trump was then rumored to be considering replacing his Vice President who was announced at the Republican convention.

delegates are the ballot eligible candidates elected at a party's primary election; thereafter, established political party Electors (selected at each convention and certified pursuant to Tennessee Election) alongside independent (and new political party) **Electors are the only ballot eligible candidates** that are voted upon by Tennessee voters at the November 5, 2024 general election in relation to the offices of President and Vice President of the United States.

V. THE QUALIFICATION FOR PRESIDENT IS A NON-JUSTICIABLE POLITICAL ISSUE THAT IS DETERMINED BY VOTERS AND HENCE CANNOT BE INTERFERED WITH BY STATE OR FEDERAL ELECTION OFFICIALS

Although Article 2 discussed "qualifications" for president the Constitution does not provide any mechanism for enforcing this provision. Article 2 also fails to define what is meant by a "natural born citizen." Because there is no enforcement mechanism the qualification for President appears to be a nonjusticiable political issue that is in effect left up to the voters themselves to determine.

A controversy is non-justiciable when it involves a political question and the determination of an issue is vested with the political process. Nixon v. U.S., 506 U.S. 224, 228 (1993) (citing Baker v. Carr, 369 U.S. 186, 217 (1962)). Article 1 of the Constitution provides that "No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States" but further provides that "Each House shall be the judge of the elections, returns and qualifications of its own members." See also Burton v. U.S., 202 U.S. 344, 366 (1906) ("[T]he Senate is

made by [the Constitution] the sole judge of the qualifications of its members.

Just as the Article provides for qualification for elected representatives but leaves it up to the political process to adjudicate those qualifications, Article 2 also appears to leave the issue to the political process. No state or federal executive official should be permitted to refuse to allow a candidate to run for office based on an assertion that the candidate does not meet the qualifications because that is an issue that is entrusted to the political process.

U.S. Term Limits renders the states powerless to add to or alter the Constitution's qualifications or eligibility criteria for federal officials, and states are equally powerless to exclude federal candidates from the ballot based on state-created qualifications or eligibility criteria not mandated by the Constitution. See id. at 799 (" 'It is not competent for any State to add to or in any manner change the qualifications for a Federal office, as prescribed by the Constitution or laws of the United States' " (quoting G. McCrary, American Law of Elections § 322 (4th ed. 1897)); id. at 803–04 ("States thus 'have just as much right, and no more, to prescribe new qualifications for a representative, as they have for a president. . . . It is no original prerogative of state power to appoint a representative, a senator, or president for the union.' " (quoting 1 Story § 627)); id. at 828–36 (rejecting state's attempt to deny ballot access to incumbent congressional candidates who had exceeded an allotted number of terms). Even the Term Limits dissenters acknowledged that states are forbidden from prescribing qualifications for the presidency beyond those specified in the Constitution. See id. at 855 n.6 (Thomas, J., dissenting) ("[T]he people of a single State

may not prescribe qualifications for the President of the United States"); id. at 861 (Thomas, J., dissenting) ("[A] State has no reserved power to establish qualifications for the office of President"); id. at 861 (Thomas, J., dissenting) ("[T]he individual States have no 'reserved' power to set qualifications for the office of President"). And for good reason: The president, unlike members of Congress, represents and is elected by the entire nation,[3] and allowing each of the 51 jurisdictions to prescribe and enforce their own qualifications for a nationwide office would be a recipe for bedlam and voter confusion. The Tennessee Secretary of State and the Tennessee Division of Elections ruling violates Term Limits by adding a new qualification for the presidency. It requires that a president be "qualified" under U.S. Const. art. II, § 1, cl. 5 not only on the dates that he holds office, but also on the dates of the primary and general elections—and on whatever date a court renders judgment on his eligibility for the ballot. This is no different from a state enforcing a preelection residency requirement for congressional or senatorial candidates, when the Constitution requires only that representatives and senators inhabit the state "when elected." See U.S. Const. art. I, § 2, 2 ("No Person shall be a Representative . . . who shall not, when elected, be an Inhabitant of that State in which he shall be chosen" (emphasis added)); See U.S. Const. art. I, § 3, 2 (same rule for senators); see also Texas Democratic Party v.

[3] See Seila Law LLC v. Consumer Financial Protection Bureau, 140 S. Ct. 2183, 2203 (2020) ("Only the President (along with the Vice President) is elected by the entire Nation.").

Benkiser, 459 F.3d 582, 589–90 (5th Cir. 2006) (holding pre-election residency requirements unconstitutional under Term Limits); Campbell v. Davidson, 233 F.3d 1229, 1236 (10th Cir. 2000) (same); Schaefer v. Townsend, 215 F.3d 1031, 1036 (9th Cir. 2000) (same). In each of these situations, a state violates Term Limits by altering the timing of a constitutionally required qualification for office.

VI. HASSAN RULINGS CANNOT BE USED TO JUSTIFY PREMATURE ADJUDICATION OF PRESIDENTIAL QUALIFICATIONS IN LIGHT OF TRUMP V. ANDERSON AND CONFLICTS FROM OTHER STATE SUPREME COURT RULINGS

The Court granted petition for certiorari in Trump v. Anderson, and reversed the Colorado Supreme Court's decision since the Framers wanted a direct link between the National Government and the people of the United States, not a "patchwork."

Twelve years earlier, in 2012, also in the State of Colorado, in Hassan v. Colorado 495 F. App'x 947 (10th Cir. 2012), the United States Tenth Circuit Court of Appeals of Colorado made a decision to disqualify candidate Hassan for President and to deny Hassan ballot access in the 2012 Presidential election asserting

> "'...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."

Specifically, the State referred to a provision in the Constitution, U.S. Const. art. II, § 1, cl. 5 for asserting such constitutional prohibition.

Neil M. Gorsuch, one of the nine Supreme Court Justices in Trump v. Anderson that had concluded on March 4, 2024 that States cannot disqualify and deny ballot access to a candidate running for President even on constitutional grounds, was then in 2012 the Circuit Court Judge, who authored the decision in Hassan v. Colorado 495 F. App'x 947 (10th Cir. 2012) that concluded a State could disqualify and deny Hassan access to the Colorado's state ballot on constitutional grounds.

Before Trump v. Anderson decision of this Court, many on the "left" and legal scholars concluded that the Hassan ruling would be the precedential basis for removing Trump's name from the ballot. However, the exact opposite took place.

Common sense leads to a simple explanation: since Hassan never got on the ballot in any State, never had a real campaign, neither had presidential electors nor volunteers who worked day and night to collect hundreds of thousands of petition necessary signatures to get ballot access, etc., he was not a bona fide or diligent candidate like Dr. Shiva and Trump. Had Hassan actually gotten on the ballot, had a broad bottom's up movement, etc., it is likely Justice Gorsuch would have decided differently in Colorado in 2012. States cannot deny access to a bona fide and diligent candidate to

States' ballots, unless that candidate does not meet specific and reasonable State Elector and Nomination Petition signature requirements. Only Congress can disqualify a candidate for President.

Moreover, state supreme court's rulings that conflicted with Hassan rulings foreshadowed the Court's ruling in Trump v. Anderson. For example ,in the case of Roger Calero,a Nicaraguan citizen, who was neither "natural born" nor a naturalized U.S. citizen, and patently "ineligible" to hold the Office of President, the New York Supreme Court in Earl–Strunk v. N.Y. State Bd. of Elections, 950 N.Y.S.2d 722 allowed him on the ballot and the court stated (emphasis added):

> Thus, this Court lacks subject matter jurisdiction to determine the eligibility and qualifications of President OBAMA to be President, as well as the same for Senator MCCAIN or ROGER CALERO. If a state court were to involve itself in the eligibility of a candidate to hold the office of President, a determination reserved for the Electoral College and Congress, it may involve itself in national political matters for which it is institutionally ill-suited and interfere with the constitutional authority of the Electoral College and Congress. Accordingly, the political question doctrine instructs this Court and other courts to refrain from superseding the judgments of the nation's voters and those federal government entities the Constitution

> designates as the proper forums to determine the eligibility of presidential candidates.

History has moved forward. The decision in Trump v. Anderson supersedes earlier rulings and resolves conflicts concerning Hassan. Only Congress can enforce qualifications against a candidate for President.

VII. PRESIDENTIAL ELECTOR CANDIDATES WERE DENIED DUE PROCESS PURSUANT TO FOURTEENTH AMENDMENT

As aforementioned and to reiterate, the Elector Candidates Fourteenth Amendment rights were violated and they were denied due process by conflating the Elector Candidates with the Pledged Candidate. The Elector Candidates and the Pledged Candidate are different parties. The precedential ruling by the Court in Taylor v Sturgell 553 U.S. 880 (2008) provides a framework for assessing the Defendants' specious arguments on attempting to merge the Elector Candidates and the Pledged Candidate as one entity. Justice GINSBURG delivered the following opinion for a unanimous the Court in Taylor v Sturgell (emphasis added):

"It is a principle of general application in Anglo-American jurisprudence that one is not bound by a judgment in 2167*2167 personam in a litigation in which he is not designated as a party or to which he has not been made a party by service of process." Hansberry v. Lee, 311 U.S. 32, 40, 61 S.Ct. 115, 85 L.Ed. 22 (1940). Several exceptions, recognized in this Court's decisions, temper this basic rule. In a class action, for example, a

person not named as a party may be bound by a judgment on the merits of the action, if she was adequately represented by a party who actively participated in the litigation. See id., at 41, 61 S.Ct. 115. In this case, we consider for the first time whether there is a "virtual representation" exception to the general rule against precluding nonparties. Adopted by a number of courts, including the courts below in the case now before us, the exception so styled is broader than any we have so far approved.

Nevertheless, the D.C. Circuit held Taylor's suit precluded by the judgment against Herrick because, in that court's assessment, Herrick qualified as Taylor's "virtual representative.

We disapprove the doctrine of preclusion by "virtual representation," and hold, based on the record as it now stands, that the judgment against Herrick does not bar Taylor from maintaining this suit.

There is no privity [of contract/legal] when it comes to First Amendment rights. Defendants have grossly violated the Elector Candidates' First Amendment rights (as well as Fourteenth Amendment rights). It is established law that each of us has a right to assert our own rights. Those rights cannot be bought or sold, transferred or assigned to any other person; otherwise, the two major parties Democrats and Republicans would be buying up everyone's First Amendment rights, and then use them to support their own candidates.

The parties in this case are different. Fundamentally, one lay claims and sue one party, and then claim

judgment applies to another person, just as one person cannot submit Nomination Papers, and later be substituted by someone else. The Defendants must have great disdain for this court and the Elector Candidates to even attempt to assert such an argument. The Defendants prematurely adjudicated and enforced the qualifications to hold the Office of President against the Pledged Candidate and then applied that to the Elector Candidates. The letter from Defendant Goins was sent to the Pledged Candidate, not upon the Elector Candidates. As Justice Ginsburg noted in her opinion for the unanimous Court (emphasis added): "It is a principle of general application in Anglo-American jurisprudence that one is not bound by a judgment in 2167*2167 personam in a litigation in which he is not designated as a party or to which he has not been made a party by service of process." Hansberry v. Lee, 311 U.S. 32, 40, 61 S.Ct. 115, 85 L.Ed. 22 (1940).

The Elector Candidates "were not designated as a party" and they were not "a party by service of process." Imagine if the Defendants' patently absurd assertion was accepted by this federal court, then the entire framework of legal standards ceases to exist: judgement upon one person then applies to another person. The Elector Candidates were part of a "class action" that included the Pledged Candidate Dr. Shiva Ayyadurai. If that were the case, then the Defendants argument has a potential of being accepted by this court. But it cannot, since they are not part of a class action.

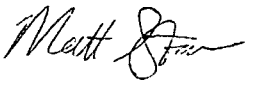
Moreover, Taylor v Sturgell does not apply to First Amendment or ballot access or Nomination Papers, since in general, there are no proxy candidates i.e. one person submits Nomination Papers, someone else then fills in for that person later. It is totally illogical to even contemplate trial in absentia: why not leave indicted citizens in a jail cell during the trial, they're represented by a public defender, certainly such arguments could be made. But we do not do that in the United States that the Elector Candidates reside in. When constitutional rights are at stake, every person has a right to attend the proceeding that seeks to deny or deprive Constitutional rights, to confront witnesses, and to due process for a meaningful opportunity to present their own evidence. This did not happen for the Plaintiffs. Period.

CONCLUSION

The petition for writ of certiorari should be granted and the decision of the Tennessee Secretary of State and the Tennessee Division of Elections summarily reversed.

Respectfully submitted,

/s/ Nicholas Lupo
NICHOLAS LUPO
Plaintiff Pro Se



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APPENDIX

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