

No. \_\_\_\_\_

---

---

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

---

DR. SHIVA AYYADURAI  
PETITIONER

*v.*

NEW JERSEY DEMOCRATIC STATE COMMITTEE, ET AL.,  
RESPONDENTS

---

*ON PETITION FOR WRIT OF CERTIORARI  
TO THE SUPREME COURT OF NEW JERSEY*

---

**PETITION FOR WRIT OF CERTIORARI**

---

DR. SHIVA AYYADURAI  
*Petitioner, Pro Se*  
701 Concord Avenue  
Cambridge, MA 02138  
vashiva@cytosolve.com  
857-393-7910

---

---



## QUESTIONS PRESENTED

For the first time in the history of the United States, a State silenced a presidential candidate *running* for the Office whose message spoke to the inequity of the “natural born” qualification, a requirement for *holding* the Office, that flouts Equal Protection to make *second-class citizens* of 25 million Americans. The New Jersey Secretary of State prematurely adjudicated and enforced that very qualification to remove Dr. Shiva Ayyadurai, “Dr. Shiva,” from the ballot though he met every statutory requirement.

The Supreme Court of New Jersey, by denying his motion for emergent review, condoned the State’s gross violation of his First and Fourteenth Amendment rights, and held States possess authority, regardless of the lack of congressional authorization, to determine that a presidential candidate is disqualified from *running* for the Office under the “natural born” clause.

Ironically, the effort to remove Dr. Shiva from the ballot was initiated by the New Jersey Democratic State Committee whose candidate Kamala Harris benefits immensely from the same Equal Protection now denied to Dr. Shiva. A “chaotic state-by-state patchwork” now exists with some States keeping him on the ballot, and others disqualifying him.

The Questions Presented are:

1. Is not States’ premature adjudication of qualifications for President, unconstitutional?
2. Is Congress, not States, responsible for enforcing all qualifications against federal officeholders and candidates?
3. Does “natural born” violate Equal Protection making 25 million Americans *second-class citizens*?

## **PARTIES TO THE PROCEEDINGS**

Petitioner Dr. Shiva Ayyadurai - “Dr. Shiva” - was Respondent in the state courts. The following were Petitioners in the state courts and are respondents here: New Jersey Democratic State Committee (“NJDSC”); New Jersey Secretary of State (“NJSOS”) Lt. Governor Tahesha Way, in her official capacity, and New Jersey Division of Elections (“NJDOE”) Acting Director Donna Barber, in her official capacity.

A corporate disclosure statement is not required because Dr. Shiva Ayyadurai is not a corporation. *See* Sup. Ct. R. 29.6.

### **STATEMENT OF RELATED CASES**

Plaintiff Pro Se Dr. Shiva Ayyadurai is aware of no directly related proceedings arising from the same trial-court case as this case other than those proceedings appealed here.

## TABLE OF CONTENTS

Questions presented .....	i
Parties to the proceedings .....	ii
Statement of related cases .....	iii
Table of contents .....	iv
Table of authorities .....	vii
Opinions below .....	5
Jurisdiction .....	5
Constitutional and statutory provisions involved .....	5
STATEMENT .....	5
I. The office of administrative law and the new jersey secretary of state proceedings .....	9
II. The state appellate division and state supreme court proceedings .....	14
REASONS FOR GRANTING THE PETITION .....	15
I. The issues presented in this petition are of exceptional importance and urgently require this court's prompt resolution.....	15
II. Disputed questions of presidential qualifications are reserved for congress to resolve.....	17
III. Every citizen possesses first amendment right to run for office regardless of "qualifications" .....	22
IV. Discrimination on basis of status of "natural born" as opposed to naturalized citizens 14 <sup>th</sup> and 5 <sup>th</sup> amendment guarantee of equal protection ...	23
V. New Jersey violated the electors clause by flouting the statutes governing presidential elections and fabricating "laws" to rationalize premature adjudication of presidential qualifications .....	26
VI. 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.....31

VII. Article II, Section 1, Clause 5 – the “natural born” clause – cannot be used to deny a presidential candidate access to the ballot.....32

VIII. 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.....35

CONCLUSION .....38

**APPENDIX**

New Jersey Supreme Court Dismissal for Emergent Relief..... 1a  
New Jersey Appellate Division Dismissal for Emergent Relief.....2a  
New Jersey Secretary of State Final Decision..... 6a  
New Jersey Office of Administrative Law Initial Decision..... 13a  
Constitutional and statutory provisions involved.. 22a  
New Jersey Democratic State Committee objector’s petition..... 28a  
Transcript of New Jersey Office of Administrative Law hearing..... 30a



## TABLE OF AUTHORITIES

### Cases

<i>Adarand v. Peña</i> 515 U.S. 200, 213 (1995) .....	25
<i>Afroyim v. Rusk</i> , 387 U.S. 253, 262 (1967).....	25
<i>Anderson v. Celebrezze</i> , 460 U.S. 780 (1983) .....	23
<i>Ayyadurai v. Galvin</i> , 560 F. Supp. 3d 406.....	16
<i>Ayyadurai v. Garland</i> , Civil Action 23-2079 (LLA) .....	17
<i>Ayyadurai v. Merrick Garland</i> (24-5133), Court of Appeals for the D.C. Circuit.....	17
<i>Baker v.</i> , 369 U.S. 186 (1962) .....	18,33
<i>Bowling v. Sharp</i> , 347 U.S. 497 (1954) .....	25
<i>Bush v. Gore</i> , 531 U.S. 98 (2000) .....	28
<i>Campbell v. Davidson</i> , 233 F.3d 1229 (10th Cir. 2000).....	34
<i>Citizens United v. FEC</i> , 558 U.S. 310 (2010) .....	3
<i>Cook v. Gralike</i> , 531 U.S. 510 (2001) .....	21
<i>Eu v. San Fran. Cnty. Dem. Cent. Comm.</i> , 489 U.S. 214, 223 (1989) .....	24
<i>Earl–Strunk v. N.Y. State Bd. of Elections</i> , 950 N.Y.S.2d 722.....	42
<i>Fitzpatrick v. Bitzer</i> 427 U.S. 445 (1976) .....	26
<i>Hassan v. Colorado</i> , 495 F. App’x 947 (10th Cir. 2012) .....	32
<i>McCreary County, Ky. v. Am. Civ. Liberties Union of Ky.</i> , 545 U.S. 844, 872 (2005). .....	26
<i>McDonald v. City of Chicago, Ill.</i> 130 S.Ct. 3020, 3060 (2010) .....	24
<i>Moore v. Harper</i> , 600 U.S. 1 (2023) .....	28
<i>Nixon v. U.S.</i> , 506 U.S. 224, 228 (1993) .....	33

<i>Powell v. McCormack</i> , 395 U.S. 486 (1969) .....	2
<i>Rucho v. Common Cause</i> , 139 S. Ct. 2484 (2019) ...	18
<i>Schaefer v. Townsend</i> , 215 F.3d 1031 (9th Cir. 2000) .....	34
<i>Schneider v. Rusk</i> , 377 U.S. 163 (1964).....	25
<i>Seila Law LLC v. Consumer Financial Protection Bureau</i> , 140 S. Ct. 2183 (2020) .....	33
<i>Texas Democratic Party v. Benkiser</i> , 459 F.3d 582 (5th Cir. 2006) .....	34
<i>Trump v. Anderson</i> , 601 U.S. 100 (2024) .....	4,21
<i>U.S. Term Limits, Inc. v. Thornton</i> , 514 U.S. 779 (1995) .....	2, 8, 32, 33, 34
<i>Vieth v. Jubelirer</i> , 541 U.S. 267 (2004) .....	18

#### **Statutes**

28 U.S.C. § 1257 .....	5
N.J.S.A. Title 19 .....	11,28
N.J.S.A. 19:13-5.....	8
N.J.S.A. 19:14-8.....	29,30,31
N.J.S.A. 19:13-9.....	30
N.J.S.A. 19:13-10.....	28,29

#### **Constitutional Provisions**

U.S. Const. art. I, § 1, ¶ 2 .....	27
U.S. Const. art. I, § 2, ¶ 2 .....	36
U.S. Const. art. I, § 3, ¶ 2 .....	36
U.S. Const. art. II, § 1 .....	29
U.S. Const. art. II, § 1, cl. 2.....	29
U.S. Const. art. II, cl. 3 .....	19
U.S. Const. art. II, § 1, cl. 5....	4,7,15,22,23,26,27,32,34
U.S. Const. amend. I .....	i, 3,4,16,23

U.S. Const. amend. V .....	i, 3,4,16,23
U.S. Const. amend. XII .....	19
U.S. Const. amend. XIV .....	i,2,13,20,21,24,26,38,39
U.S. Const. amend. XX § 3 .....	19

**Other Authorities**

Paul A. Clark, <i>Limiting the Presidency to Natural Born Citizens Violates Due Process</i> , 39 J. Marshall L. Rev. 1343 (2006) .....	4
FEC ADVISORY OPINION 2011-15 (September 2, 2011) .....	24
Derek T. Muller, <i>Scrutinizing Federal Electoral Qualifications</i> , Indiana Law Journal: Vol. 90: Iss. 2, Article 3.....	10
Derek T. Muller, <i>“Natural Born” Disputes in the 2016 Presidential Election</i> , 85 Fordham L. Rev. 1097 (2016) .....	21
Richard Winger, Ballot Access News.....	4
John M. Yinger, <i>Op-ed – No Americans Should be Second-Class Citizens</i> , Syracuse University, August 3, 2004 .....	1

In the Supreme Court of the United States

---

No. \_\_\_\_\_

DR. SHIVA AYYADURAI,  
PETITIONER

v.

NEW JERSEY DEMOCRATIC  
STATE COMMITTEE, ET AL.,  
RESPONDENTS

---

*ON PETITION FOR WRIT OF CERTIORARI  
TO THE SUPREME COURT OF NEW JERSEY*  
**PETITION FOR WRIT OF CERTIORARI**

---

“Running for the Office of President is the ultimate symbol of Equal Opportunity.”<sup>1</sup>

Dr. Shiva Ayyadurai - “Dr. Shiva” – a U.S. Citizen, born in Bombay, India, known by nearly 500 million people globally, and by tens of millions in the United States, is the leading *non-Party* independent candidate for the Office of President of the United States.

His *running* for the Office of President launched with the message “*One America, One Citizenship.*” That message galvanized millions of Americans to begin a broad discourse on the last bastion of anti-American legalized discrimination: the invidious

---

<sup>1</sup> Yinger, J. “Op-Ed: No Americans should be second-class citizens.” Syracuse University, August 3, 2004.  
<https://joyinger.expressions.syr.edu/citizenship/op-ed-no-americans-should-be-second-class-citizens/>

“natural born” clause that flouts Equal Protection to deny 25 million U.S. citizens from *holding* the Office.

His message also reflected a “ ‘fundamental principle of our representative democracy,’ embodied in the Constitution, that ‘the people should choose whom they please to govern them.’” *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 783 (1995) (quoting *Powell v. McCormack*, 395 U.S. 486, 547 (1969)).

Americans, inspired by his message, mobilized in nearly every State and petitioned hundreds of thousands of voters so as to get Dr. Shiva on States’ ballots. However, the New Jersey Secretary of State enforced the very qualification (the “natural born” clause) that his campaign and message exposed as invidious, to block his *running* for the Office thereby squelch his speech and message.

On August 16, 2024, the New Jersey Supreme Court dismissed Dr. Shiva’s motion for emergent review (App. 1a) thus upholding the lower court’s Initial Decision (App. 13a–21a) and the New Jersey Secretary of State’s Final Decision (App. 6a-12a) that States can violate the First and Fourteenth Amendment rights of candidates, and, regardless of the lack of congressional authorization, can determine a presidential candidate is disqualified from *running* for President per the “natural born” clause.

If the New Jersey ruling is allowed to stand, it will mark the first time in the history of the United States that the judiciary based on the “natural born” provision, which is a requirement for *holding* the Office of President, but not for *running* for the Office, 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,”<sup>2</sup> New Jersey’s ruling is not and cannot be correct. This Court should grant certiorari to consider these questions of paramount importance, summarily reverse the New Jersey Supreme Court’s ruling, and return the right to vote for their candidate of choice to the voters.

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 Dr. Shiva’s eligibility and barring him from the ballot, the New Jersey Supreme Court arrogated Congress’ authority.

In addition, even if the New Jersey Supreme Court could consider challenges to Dr. Shiva’s eligibility, which it cannot, there are various reasons they misapplied the law, and why their decision needs to be reversed.

First, this Court has already reasoned that electioneering communication is a form of political speech, and such speech being the most protected form of speech under the First Amendment, U.S. Const. amend. I, which warrants the highest level of scrutiny against the laws that regulate it. *Citizens United v. FEC*, 558 U.S. 310 (2010). Dr. Shiva’s *running* for President is based on his electioneering speech that eviscerates the invidious “natural born” clause, a qualification for *holding* the office of President, that violates Equal Protection. The fact that the State enforced that very qualification, for *holding* the Office,

---

<sup>2</sup> See Abraham Lincoln, *Gettysburg address delivered at Gettysburg Pa. Nov. 19th, 1863*, Nat’l Archives, <https://www.loc.gov/resource/rbpe.24404500/?st=text>.

against him to stop him *running* for President so as to squelch his speech, is as gross a violation of the First Amendment, U.S. Const. amend. I, as it gets.

Second, New Jersey's decision was arbitrary and capricious in disqualifying Dr. Shiva, particularly given the history of conflicting decisions in lower courts, and even within New Jersey itself concerning disqualifying or keeping candidates on the ballot based on U.S. Const. art. II, § 1, cl. 5. For example, New Jersey itself allowed Linda Jenness, Larry Holmes, Peta Lindsay, all below age 35; and even a Nicaraguan citizen Roger Calero, who was neither a "natural born" nor naturalized U.S. citizen, to *run* for President.<sup>3</sup> These individuals were all clearly "ineligible" to *hold* the Office. What made the Secretary of the State of New Jersey treat Dr. Shiva so differently? Is this because the Democratic Party machine of New Jersey sees Dr. Shiva as a real threat who will take significant votes from their candidate Kamala Harris?

Third, in the 21<sup>st</sup> century, it is time to come to terms with the anachronous nature of the "natural born" clause that makes 25 million Americans *second-class citizens* by denying the Equal Opportunity to hold the highest Office in the land. It is anti-American to the core.<sup>4</sup>

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

Finally, the reversal is necessary to ensure that the "patchwork" which this Court sought to avoid for a major Party candidate in *Trump v. Anderson*, 601

---

<sup>3</sup> Richard Winger, *Ballot Access News*, <https://ballot-access.org/>

<sup>4</sup> Paul A. Clark, *Limiting the Presidency to Natural Born Citizens Violates Due Process*, 39 J. Marshall L. Rev. 1343 (2006)

U.S. 100 (2024), is not just reserved for the two major Parties.

### **OPINIONS BELOW**

The New Jersey State Supreme Court's dismissing the emergent relief is reproduced at App. 1a. The New Jersey State Appellate Division's dismissing the emergent relief is reproduced at App. 2a-5a The New Jersey Secretary of State's final decision is reproduced at App. 6a-12a. The New Jersey Office of Administrative Law's Initial Decision is reproduced at App. 13a-21a.

### **JURISDICTION**

The New Jersey State Supreme Court entered judgment on August 16, 2024. App. 1a. Dr. Shiva timely filed this petition on September 20, 2024. This Court has jurisdiction under 28 U.S.C. § 1257.

### **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

The relevant constitutional and statutory provisions are at App. 22a-27a.

### **STATEMENT**

Over the last few months, lawsuits or administrative challenges have been filed in some States seeking to keep Dr. Shiva 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 Dr. Shiva's name from the presidential general election ballot. Finally, other States who have



allowed Dr. Shiva 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 Dr. Shiva by selecting his 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 Dr. Shiva via **write-in** by writing his name “Dr. Shiva” 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 Dr. Shiva 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 him from *running* for the Office:

- New Jersey
- Wisconsin
- Utah
- Tennessee
- Nebraska

The common theory behind the lawsuits, challenges, and removals is that Dr. Shiva 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 New Jersey has become ripe for review by this Court since the New Jersey Supreme Court, dismissed a request for emergent relief, thus upholding the lower courts and New Jersey Secretary of State's Final Decision to remove Dr. Shiva from running for the Office.

The respondents in this case include three parties: the New Jersey Democratic State Committee ("NJDCS"), New Jersey Secretary of State Lt.

Governor Tahesha Way (“NJSOS”), and New Jersey Division of Elections Acting Director Donna Barber (“NJDOE”).

Concerning the appointment of Electors 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 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 New Jersey Electors 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 July 11, 2024, fourteen independent presidential elector candidates (“Elector Candidates”) jointly submitted 1,294 signatures of New Jersey voters to qualify those fourteen Elector Candidates as New Jersey independent Electors at the November 5, 2024 general election; the fourteen 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 New Jersey Election Code requires submission of 800 signatures in the aggregate from New Jersey voters. *N.J.S.A. 19:13-5*.

On August 1, 2024, The New Jersey State Democratic Committee, was identified as objector who filed an objector’s petition against pledged independent presidential candidate Dr. Shiva

Ayyadurai. Please see objector’s petition in App. 25a-26a (“Objectors’ Petition”). The Objector’s Petition requested that the NJDOE issue a decision addressing Dr. Shiva Ayyadurai.

## **I. THE OFFICE OF ADMINISTRATIVE LAW AND THE NEW JERSEY SECRETARY OF STATE PROCEEDINGS**

Dr. Shiva represented himself as Respondent Pro Se at the New Jersey Office of Administrative Law (“NJOAL”) hearing on August 5, 2024. The transcript of this hearing is at App. 30a-46a.

On August 6, 2024, the OAL hearing officer issued his Initial Decision in which the hearing officer advised the NJSOS to remove Dr. Shiva from the general election presidential ballot (See App. 13a – 21a).

The NJOAL’s analysis was severely flawed, and a close analysis reveals how a low-level hearing officer’s misapplication of the law - literally creating the law “on-the-fly” – gets percolated upward, and rubber-stamped by agency heads and even by judges, all the way to state supreme courts.

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.**<sup>5</sup>

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 NJOAL’s analysis has no basis in any State statute that allows the State of New Jersey to remove a presidential candidate from the ballot and to stop the candidate’s running for the Office based on that candidate being “ineligible” to hold the Office. Since no such statute exists, the NJOAL hearing officer was grabbing for straws and built a “house of cards” to support his decision to remove Dr. Shiva off the ballot.

Here's how his flawed analysis went.

First, after acknowledging that Dr. Shiva and his Electors accomplished every State-mandated requirement to be on the ballot, the NJOAL hearing officer asserted that Dr. Shiva is “ineligible” to *hold*

---

<sup>5</sup> Muller, Derek T. (2015) "Scrutinizing Federal Electoral Qualifications," Indiana Law Journal: Vol. 90: Iss. 2, Article 3.

the Office of President since he is not “natural born,” after which he posed the following question:

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

Second, and most importantly, the NJOAL hearing officer admitted that he has no basis in any New Jersey Statute to make his decision (emphasis added); however, he will still proceed to do so:

While there are **no specific regulations or case law that address the issue**, the way that **other cases** have treated this issue leads to the conclusion **that an ineligible candidate for president should not be on the ballot**.

Third, the NJOAL hearing officer’s analysis should have just ended here! Given there are no “specific regulations” i.e. State Statutes, the officer should have stopped and simply said, “there is nothing stopping Dr. Shiva from *running* for the Office and being on the ballot, given Dr. Shiva fulfilled and exceeded very State-mandated requirement to be on the ballot.” He should have further stated, it is up to the “**people, electors, political parties, and Congress**” to decide, given Dr. Shiva is not “natural born,” whether he should be *holding* the Office. Period.

However, this hearing officer went to extremes to piece together a flawed framework, none of it based on New Jersey Statutes, to conclude:

Respondent did not have to prove his eligibility prior to the challenge. **However, now that there is a challenge, it follows that he needs to prove his eligibility**, and since he cannot, he should not be placed on the ballot. Also, it is **logical that someone who is ineligible to be president cannot be on the presidential ballot, even as an independent.**

This nonsensical logic and disingenuity, goes against the face of New Jersey's own practice since 1972, as aforementioned, where New Jersey allowed many candidates to run for Office, who were clearly "ineligible" to hold the Office. For example, New Jersey allowed Linda Jenness, Larry Holmes, Peta Lindsay, all below age 35; and even a Nicaraguan citizen Roger Calero, who was neither a "natural born" nor naturalized U.S. citizen, to *run* for President.

These individuals were *all* "ineligible" to *hold* the Office!

This fact was brought up by Dr. Shiva at the NJOAL hearing. The response from the NJOAL hearing officer at the hearing on this matter was deafening silence. Moreover, the NJOAL hearing officer did not address this contradiction even in his NJOAL Initial Decision as to why those other candidates were given ballot access and Dr. Shiva was not.

In addition, the NJOAL erroneously sought, in the Initial Decision, to narrow the implications of the precedential *Trump v. Anderson* ruling to Section 3 of the Fourteenth Amendment, U.S. Const. amend. XIV, completely ignoring the aim of this Court: to prevent a "chaotic state-by-state patchwork." And, this is

precisely what has occurred since the New Jersey ruling. Some States have taken Dr. Shiva off the ballot by unconstitutionally extending their authority, and others have kept him on the ballot.

This Initial Decision from the NJOAL was passed on to the NJSOS. On August 7, 2024, the NJSOS issued their Final Decision and removed Dr. Shiva from the ballot to end his running for President. App. 6a-12a. Here are the problems with the NJSOS' Final Decision:

- 1) The NJSOS simply cut-and-pasted the flawed NJOAL decision, likely assuming the low-level hearing officer's analysis was based on Statutes not on ad hoc legal theory;
- 2) The NJSOS' Final Decision repeatedly chants *Hassan, Hassan, Hassan*, while ignoring this simple fact: Hassan never got on the ballot in any State, never had a real campaign, never had presidential electors who worked day and night to collect thousands upon thousands of petition signatures to get ballot access, etc. In short, Hassan was not a bona fide or diligent candidate like Dr. Shiva;
- 3) The NJSOS' Final Decision is deafeningly silent on Linda Jenness, Peta Lindsay, Roger Calero and Larry Holmes – all “ineligible” candidates to *hold* the Office who NJSOS' allowed to run for the Office. In fact, the NJSOS allowed non-“natural born,” non-naturalized citizen, Roger Calero on the ballot twice; and,
- 4) The NJSOS' Final Decision has no basis in law per that North Star as there is no State Statute that allows New Jersey election officials to prematurely disqualify a candidate from *running* for the Office by applying



constitutional qualifications for *holding* the Office.

In fact, the NJOAL and the NJSOS decisions incite that very “chaotic state-by-state patchwork,” which has now emerged in Dr. Shiva’s situation, that this Court so sought to avoid.

## **II. THE STATE APPELLATE DIVISION AND STATE SUPREME COURT PROCEEDINGS**

Following the flawed ruling of the NJSOS in their Final Decision, Dr. Shiva filed an Emergent Appeal Application to the Superior Court. The New Jersey Judiciary Appellate Division on August 13, 2024 (App. 2a-5a), however, dismissed Dr. Shiva’s request, further erroneously and unconstitutionally rubber-stamping the NJOAL’s flawed analysis that the State had the right to end Dr. Shiva’s running for the Office, since he may be “ineligible” from holding the Office. Specifically, the Appellate Division stated:

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

This judgement conflates “running” for the Office with “holding” the Office. The “natural born” provision is for “holding” the Office of President. This decision further asserts that the State has some authority to create extra-Constitutional qualifications i.e. that Dr. Shiva 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 New Jersey legislature.

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 Appellate Division, Dr. Shiva filed an Emergent Appeal Application to the New Jersey Supreme Court.

On August 16, 2024 the New Jersey Supreme Court denied the Dr. Shiva’s request to hear his Appeal.

#### **REASONS FOR GRANTING THE PETITION**

The New Jersey Supreme Court has no authority to deny Dr. Shiva access to the ballot. By doing so, the New Jersey Supreme Court 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. THE ISSUES PRESENTED IN THIS PETITION ARE OF EXCEPTIONAL IMPORTANCE AND URGENTLY REQUIRE THIS COURT’S PROMPT RESOLUTION**

The questions presented in this Petition are of the utmost importance. Dr. Shiva is an eminent public figure and is known by nearly 500 million worldwide, and by tens of millions in the United States.

In April of 2023, Dr. Shiva announced his run of President of the United States, which inspired millions online and mobilized hundreds of thousands of volunteers offline, in nearly every state, to garner nomination petition signatures to get his name on the general election presidential ballot. Being fully aware of the potential questions concerning his not being born in the United States, Dr. Shiva proactively filed a complaint for Declaratory and Injunctive Relief, *Ayyadurai v. Garland*, Civil Action 23-2079 (LLA) to have the courts to order Attorney General Merrick Garland to declare to secretaries of state that Dr. Shiva's running for President is a non-justiciable issue, and the "natural born" provision violates Equal Protection, and therefore the States should not be removing him from the ballot provided Dr. Shiva meets State-mandated requirements for ballot access. That lawsuit has now moved to the U.S. Court of, D.C. Circuit. *Ayyadurai v. Merrick Garland* (24-5133), Court of Appeals for the D.C. Circuit.

The intention of providing the aforementioned history of Dr. Shiva is to establish that Dr. Shiva is neither a theoretical nor non-diligent candidate like *Hassan* nor a frivolous candidate. Dr. Shiva is bona fide and diligent candidate whose aim is provide Americans a real alternative to the major and minor Party candidates by motivating citizens to build a bottom's up movement. His campaign for President emphasized the message "*One America, One Citizenship*" to address the invidious nature of the "natural born" clause that reduces 25 million Americans to second-class citizens.

Therefore, without reversal of the New Jersey Supreme Court's decision, millions of voters in New Jersey 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 New Jersey proceedings as justification for unlawfully striking Dr. Shiva from their ballots in Wisconsin, Utah, Tennessee, and Nebraska. Those decisions are being appealed.

## II. DISPUTED QUESTIONS OF PRESIDENTIAL QUALIFICATIONS ARE RESERVED FOR CONGRESS TO RESOLVE

Not all claims are “properly suited for resolution by the . . . courts.” *Rucho v. Common Cause*, 139 S. Ct. 2484, 2491 (2019). “Sometimes . . . ‘the law is that the judicial department has no business entertaining the claim of unlawfulness—because the question is entrusted to one of the political branches or involves no judicially enforceable rights.’” *Id.* at 2494 (quoting *Vieth v. Jubelirer*, 541 U.S. 267, 277 (2004) (plurality op.)); see also *Baker v. Carr*, 369 U.S. 186, 217 (1962). This presents just such a case.

Congress—not a state court—is the proper body to resolve questions concerning a presidential candidate’s eligibility. First, the Constitution provides a role for Congress in resolving disputed presidential elections. To wit, the Constitution expressly provides that:

[I]f the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified

. . . and the Congress may by law provide for the case wherein neither a President elect nor a vice President elect shall have

qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified. U.S. Const. amend. XX § 3.

Similarly, both Article II and the Twelfth Amendment prescribe a role for Congress in Presidential elections. U.S. Const. art. II, cl. 3; U.S. Const. amend. XII. And the Fourteenth Amendment, U.S. Const. amend. XIV, itself embodies a clear textual commitment of authority to Congress, with section 3 giving it the power to lift any “disability” under that Section and section 5 expressly providing that “Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.” U.S. Const. amend. XIV, §§ 3, 5. There is no similar commitment of questions concerning presidential eligibility to state courts, particularly in the absence of a duly enacted enforcement statute.

Considering the Constitutional role for Congress in addressing presidential qualifications, indeed, every federal court that addressed this issue with regard to the eligibility of President Barack Obama, Senator John McCain, and Senator Ted Cruz concerning the “natural born” provision held that the issue was for Congress and not the federal courts.<sup>6</sup> Even in *Trump*

---

<sup>6</sup> See, e.g., *Castro v. N.H. Sec’y of State*, Case No. 23-cv-416-JL, 2023 WL 7110390, at \*9 (D.N.H. Oct. 27, 2023) (footnote omitted) *aff’d on other grounds* --- F.4th ---, 2023 WL 8078010 (1st Cir. Nov. 21, 2023) (“[T]he vast weight of authority has held that the Constitution commits to Congress and the electors the responsibility of determining matters of presidential candidates’ qualifications.”); *Robinson v. Bowen*, 567 F. Supp. 2d 1144, 1147

*v. Anderson*, every court except Colorado that has addressed the political question doctrine when presented with the question of determining President Trump’s eligibility, held that question is nonjusticiable and reserved to Congress.

It would be beyond absurd—particularly in light of the Fourteenth Amendment’s enlargement of federal authority—that this issue would be nonjusticiable by federal courts yet properly heard and decided by courts in 51 jurisdictions. The election of the President of the United States is a national matter, with national implications, that arises solely under the federal Constitution and does not implicate the

---

(N.D. Cal. 2008) (“Arguments concerning qualifications or lack thereof can be laid before the voting public before the election and, once the election is over, can be raised as objections as the electoral votes are counted in Congress. The members of the Senate and the House of Representatives are well qualified to adjudicate any objections to ballots for allegedly unqualified candidates.”); *Grinols v. Electoral College*, No. 2:12-cv-02997-MCE-DAD, 2013 WL 2294885, at \*5–7 (E.D. Cal. May 23, 2013) (“[T]he Constitution assigns to Congress, and not to federal courts, the responsibility of determining whether a person is qualified to serve as President of the United States.”); *Grinols v. Electoral Coll.*, No. 12-CV-02997-MCE-DAD, 2013 WL 211135, at \*4 (E.D. Cal. Jan. 16, 2013) (“These various articles and amendments of the Constitution make it clear that the Constitution assigns to Congress, and not the Courts, the responsibility of determining whether a person is qualified to serve as President.”); *Taitz v. Democrat Party of Mississippi*, No. 3:12-CV-280-HTW-LRA, 2015 WL 11017373, at \*12–16 (S.D. Miss. Mar. 31, 2015) (“[T]hese matters are entrusted to the care of the United States Congress, not this court.”); *Kerchner v. Obama*, 669 F. Supp. 2d 477, 483 n.5 (D.N.J. 2009) (“The Constitution commits the selection of the President to the Electoral College in Article II, Section 1, as amended by the Twelfth Amendment and the Twentieth Amendment, Section 3,” and “[n]one of these provisions evince an intention for judicial reviewability of these political choices.”).

inherent or retained authority of the states. *See generally Cook v. Gralike*, 531 U.S. 510, 552 (2001) (“It is no original prerogative of state power to appoint a representative, a senator, or a president for the union.”).

Further, in the absence of enforcement legislation adopted under Section 5 of the Fourteenth Amendment, courts lack judicially manageable standards for resolving disputes over presidential disqualifications.

Legal scholars have argued that given the Constitution is silent on the enforcement of the “natural born” provision, it is common sense that Congress, rather than States, should enforce such qualifications to hold the Office of President. Furthermore, scholars have argued just because State election officials e.g. Secretaries of State, etc. take an oath to defend the Constitution, this does not give them broad powers to enforce such qualifications notwithstanding specific and explicit statutes passed into law by State legislatures (emphasis added):

But good reasons exist for construing such jurisdiction narrowly—after all, voters, political parties, the Electoral College, and Congress **all may scrutinize whether a candidate is a natural born citizen, and unless the legislature has expressly spoken otherwise, these agencies should defer to others before deciding whether to keep a candidate off the ballot.**<sup>7</sup>

---

<sup>7</sup> Derek T. Muller, “Natural Born” Disputes in the 2016 Presidential Election, 85 Fordham L. Rev. 1097 (2016).

Such analysis, however, was in the pre- *Trump v. Anderson* era. Now, *Trump v. Anderson* informs us that even if every State had perfected its State-specific Statutes on how to adjudicate qualifications of Presidential candidates during ballot access, that could and would likely lead to a “chaotic state-by-state patchwork.” The precedential decision of this Court in *Trump v. Anderson* clarified only Congress, not States, can enforce qualifications for President, in order to prevent that “patchwork.”

However, the Respondents in this situation would seek to artificially narrow the conclusions of *Trump v. Anderson* to simply Section 3. The historical events of Dr. Shiva’s bona fide run for President provide this Court the opportunity to clarify that only Congress, not States, can enforce all qualifications to hold the Office of President including U.S. Const. art. II, § 1, cl. 5 so as to prevent those “chaotic state-by-state patchworks.” This question alone is worthy of consideration by this Court.

Even if U.S. Const. art. II, § 1, cl. 5 does not *require* enforcement legislation to have effect, the lack of such legislation deprives the courts of judicially manageable standards. Procedurally, U.S. Const. art. II, § 1, cl. 5, is silent on whether a jury, judge, or lone state election official makes factual determination and is likewise silent on the appropriate standard of review. Similarly, states have different approaches to voter standing. As a result, a voter in one state may be able to challenge a presidential candidate’s qualifications, while similarly situated voters in another state cannot. The result is that 51 different jurisdictions may (and have) adopted divergent rulings based on different standards on the same set of operative facts.



Resolving these conflicts requires making policy choices among competing policy and political values. These are fundamentally legislative exercises that are properly suited for Congressional—rather than judicial—resolution.

Moreover, the result of divergent standards and determinations is particularly problematic in presidential elections. As this Court has recognized, “in the context of a Presidential election, state-imposed restrictions implicate a uniquely important national interest” because “the President and the Vice President of the United States are the only elected officials who represent all the voters in the Nation” and “the impact of the votes cast in each State is affected by the votes cast for the various candidates in other States.” *Anderson v. Celebrezze*, 460 U.S. 780, 796 (1983) (footnotes and citations omitted).

By purporting to determine a presidential candidate’s qualification, the New Jersey Supreme Court has overstepped its authority and usurped power properly allocated to Congress.

### **III. EVERY CITIZEN POSSESSES FIRST AMENDMENT RIGHT TO RUN FOR OFFICE REGARDLESS OF “QUALIFICATIONS”**

Running for office is a core method bringing matters of public concern to the attention of the public. Given the impact of running for elective office, every citizen possesses a First Amendment Right, U.S. Const. amend. I, to campaign for office regardless of any collateral issue about “qualifications.” The Supreme Court has consistently held that “the First Amendment has its fullest and most urgent application to speech uttered during a campaign for

political office.” *Eu v. San Fran. Cnty. Dem. Cent. Comm.*, 489 U.S. 214, 223 (1989).

The Federal Election Commission has already issued an advisory Opinion, FEC ADVISORY OPINION 2011-15 (September 2, 2011), stating that there is no provision of federal law that prohibits a naturalized citizen from running for president, regardless of whether or not that person could ultimately serve as president if elected. Advisory Opinion 2011-15 further determined that a “naturalized” citizen was fully entitled under Federal Law to solicit contributions to his campaign. This Advisory Opinion 2011-15 is presumptively entitled to deference by this court, as the FEC was issuing an official opinion in its area of expertise.

Given the Fundamental right to run for office and spread one’s message, the neither the States nor the Federal Government may restrict one’s right to appear on the ballot for President.

#### **IV. DISCRIMINATION ON BASIS OF STATUS AS “NATURAL BORN” AS OPPOSED TO NATURALIZED CITIZEN VIOLATES 14<sup>th</sup> and 5<sup>th</sup> AMENDMENT GUARANTEE OF EQUAL PROTECTION**

The Equal Protection Clause of the Fourteenth Amendment states in relevant part that:

No state shall ... deny to any person within its jurisdiction the equal protection of the laws.  
U.S. Const. amend. XIV.

The Equal Protection Clause of the 14<sup>th</sup> Amendment prohibits states from discriminating against citizens based on national origin or on status as a naturalized

versus a natural born citizen. See *McDonald v. City of Chicago, Ill.* 130 S.Ct. 3020, 3060 (2010), (“[invidious discrimination is] irreconcilable with the principles of equality, government by consent, and inalienable rights proclaimed by the Declaration of Independence and embedded in our constitutional structure.”). See also *Adarand v. Peña* 515 U.S. 200, 213 (1995), reiterating that, “[d]istinctions between citizens solely because of their ancestry are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality.”

Accordingly, insofar as any state might attempt to deny ballot access to certain individuals based on national origin or status as naturalized citizens this constitutes invidious, illegal discrimination – *second-class* citizenship.

The Fifth Amendment, U.S. Const. amend. V requires the federal government to provide equal protection for all in the same way as the 14<sup>th</sup> Amendment requirement of equal protection applies to the states. *Bowling v. Sharp*, 347 U.S. 497 (1954). Accordingly, pursuant to the requirements of the Fifth Amendment, the United States may not discriminate based on national origin or status as a naturalized citizen. *Schneider v. Rusk*, 377 U.S. 163 (1964). “[D]iscrimination aimed at naturalized citizens ... creates indeed a second-class citizenship” that is incompatible with the Fifth Amendment. *Id.*

Moreover, a naturalized citizen “becomes a member of the society, possessing all the rights of a native citizen, and standing, in view of the constitution, on the footing of a native.” *Afroyim v. Rusk*, 387 U.S. 253, 262 (1967). Insofar as U.S. Const. art. II, § 1, cl. 5 might be interpreted to forbid “naturalized citizens”

from being President, such a doctrine is entirely incompatible with the guarantee of equality found in the Fifth and Fourteenth Amendments.

The Fourteenth Amendment, U.S. Const. amend. XIV, is “the most significant structural provision adopted since the original Framing” and has had profound and extensive effect upon the rest of the Constitution. *McCreary County, Ky. v. Am. Civ. Liberties Union of Ky.*, 545 U.S. 844, 872 (2005). For example, the Fourteenth Amendment permits Congress to authorize suits against state that were previously prohibited by the Eleventh Amendment.

In *Fitzpatrick v. Bitzer* 427 U.S. 445 (1976) the Supreme Court held that “the Eleventh Amendment, and the principle of state sovereignty which it embodies. . . are necessarily limited by the enforcement provisions of §5 of the Fourteenth Amendment.” This was true despite the fact that the 14<sup>th</sup> Amendment did not explicitly mention either the 11<sup>th</sup> Amendment or suits against states.

Just as the Fourteenth Amendment “necessarily limited” earlier provisions of the Constitution, the Fifth Amendment limits earlier provisions of the Constitution that are incompatible with the Fifth Amendment. Insofar as U.S. Const. art. II, § 1, cl. 5 appears to permit discrimination based on status as naturalized citizen this is entirely incompatible with the Fifth Amendment guarantee of equal protection.

The natural born provision of the Constitution, insofar as it appears to permit the invidious national origin discrimination, is irreconcilable with and is, abrogated and implicitly repealed by the Equal Protection Clause, the Citizenship Clause and the Privileges and Immunities Clause of the Fourteenth

Amendment as well as the Equal Protection guarantee of the Fifth Amendment. Accordingly, any discrimination against presidential candidates by either the states or the federal government are unconstitutional and null and void.

**V. NEW JERSEY VIOLATED THE ELECTORS CLAUSE BY FLOUTING THE STATUTES GOVERNING PRESIDENTIAL ELECTIONS AND FABRICATING “LAWS” TO RATIONALIZE PREMATURE ADJUDICATION OF PRESIDENTIAL QUALIFICATIONS**

The Electors Clause requires states to appoint presidential electors “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 New Jersey Supreme Court, by denying Dr. Shiva’s Emergent Appeal and upholding NJSOS’ Final Decision violated the Electors Clause. The Electors Clause demands that power over presidential electors is in the state legislatures. This means that the neither the NJOAL nor the NJDOE nor the NJSOS can simply “make up” statutes, that get percolated up to the judiciary, to prematurely adjudicate and enforce presidential qualifications, for *holding* the Office, not for *running* for the Office.

But this is precisely what occurred in New Jersey. As the NJOAL judge stated in his Initial Decision (see App 17a – 18a):

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

**While there are no specific regulations or case law that address the issue, the way that other cases have treated this issue leads to the conclusion that an ineligible candidate for president should not be on the ballot.**

The NJOAL prematurely adjudicated Dr. Shiva's qualifications for President without any specific State Statutes. Period. This in and of itself is enough for this Court to reverse the New Jersey ruling. In addition, the State proceeded to also violate the rights of the presidential electors themselves by never providing them any due process in the "manner" in which they adjudicated their removal from the ballot. One cannot forget an Elector College exists, and the real candidates in New Jersey are the presidential elector candidates ("Elector Candidates") whose Pledged Candidate is "Dr. Shiva," whose *name* is used to label their slate.

The New Jersey Democratic State Party ("the Objector") named the wrong party in their Objector's Petition; specifically, they named the Pledged Candidate for President – Dr. Shiva - who is neither a New Jersey resident nor seeking the Office of Elector to be elected by New Jersey voters on November 5, 2024, nor within the authority of the NJDOE or NJSOS to be removed from the ballot, or within the authority of the NJDOE or NJSOS to be

denied ballot certification, since these offices are not certified to the ballot by the NJDOE or NJSOS. The New Jersey Election Code, defines the offices voted upon by New Jersey voters in general elections in even numbered years, and states in part as follows *N.J.S.A. 19:14-8* (emphasis added):

**N.J.S.A. 19:14-8.** Such titles of office shall be arranged in the following order:

**Electors of President and Vice President of the United States.**

\* \* \*

N.J.S.A. 19:14-8 of the New Jersey Election Code does not include the office of “President of the United States” or “Vice President of the United States” as offices for which New Jersey voters vote at a general election, and logically, such an office could not be added to the New Jersey Election Code or to the New Jersey ballot because the U.S. Constitution preempts New Jersey 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 New Jersey Election Code, New Jersey voters elect their Electors for President and Vice President of the United States; thereafter, those Electors that are elected at the general election proceed to vote by ballot in the Electoral College. Thus, it is the Electors that elect the President and Vice President of the United States through a separate ballot.<sup>8</sup>

The election of **Electors** for the President and Vice President (rather than any potential pledged

---

<sup>8</sup>See <https://www.archives.gov/electoral-college>.

candidates) is confirmed by the New Jersey Election Code, which states:

**N.J.S.A. 19:13-9 Presidential and Vice Presidential Electors - Time of Election.**

[A]ll petitions and acceptances thereof nominating electors of candidates for President and Vice President of the United States, which candidates have not been nominated at a convention of a political party as defined by this Title, shall be filed with the Secretary of State before 4:00 p.m. of the 99th day preceding the general election in this Title provided.

The New Jersey 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):

**N.J.S.A. 19:14-8.1 Ballots for Presidential Electors:**

[ \* \* \* ]

When Presidential Electors are to be elected, their 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." All ballots marked for the candidates for President and Vice-President of a party or political body, shall be counted as votes for each candidate for Presidential Elector of such party or political body.



Therefore, by operation of the New Jersey 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 New Jersey 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. *N.J.S.A. 19:14-8*

Thus, New Jersey voters do not nominate or elect their candidates for President or Vice President, as confirmed by recent events<sup>9</sup>; pledged Presidential and Vice-Presidential candidates are not ballot-eligible in

---

<sup>9</sup> 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.

New Jersey nor are they voted upon by voters in any state, including New Jersey. Political party 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 New Jersey Election) **alongside** independent (and new political party) Electors are the only ballot eligible candidates that are voted upon by New Jersey voters at the November 5, 2024 general election in relation to the offices of President and Vice President of the United States.

**VI. 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 non-justiciable 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 Article provides for qualification for elected representatives but leave 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.

#### **VII. ARTICLE II, SECTION 1, CLAUSE 5 – THE “NATURAL BORN” CLAUSE – CANNOT BE USED TO DENY DR. SHIVA ACCESS TO THE BALLOT**

U.S. Const. art. II, § 1, cl. 5 prohibits individuals only from *holding* office:

No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States. U.S. Const. art. II, § 1, cl. 5.

It does not prevent anyone from *running* for office, or from *being elected* to office, because Congress can

choose to remove a U.S. Const. art. II, § 1, cl. 5 disqualification at any time—and Congress can remove that disability after a candidate is elected but before his term begins. *See id.* (“But Congress may by a vote of two-thirds of each House, remove such disability.”).

This basis alone merits reversal of the New Jersey Supreme Court, and by prohibiting states from using ballot access restrictions to enforce U.S. Const. art. II, § 1, cl. 5, reversal would ensure that Congress retains its authority even though U.S. Const. art. II, § 1, cl. 5 is silent on enforcement.

The New Jersey Supreme Court by denying emergent relief held that it has no less authority to exclude Dr. Shiva from the ballot than the Supreme Court of Colorado would a 28-year-old or a foreign national. App. 1a; *see also Hassan v. Colorado*, 495 F. App’x 947 (10th Cir. 2012) (Gorsuch, J.) (upholding Colorado’s decision to exclude a naturalized U.S. citizen from the presidential ballot). That is wrong. Congress has *no* authority to add additional qualifications to the Constitution’s age, residency, or natural-born citizenship requirements.

Forcing Dr. Shiva to prove that he is not disqualified *before appearing* on the ballot effectively adds a new, extra-constitutional requirement to running for office. But *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,<sup>10</sup> 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 New Jersey Supreme Court’s ruling violates *Term Limits* by adding a new qualification for the

---

<sup>10</sup> *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.”).

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. 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.

#### **VIII. 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 the *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 courts 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.

### CONCLUSION

The petition for writ of certiorari should be granted and the decision of the New Jersey Supreme Court summarily reversed.

Respectfully submitted,



---

DR. SHIVA AYYADURAI, PHD  
701 Concord Avenue  
Cambridge, MA 02138  
Telephone: (857)393-7910  
Email: vashiva@cytosolve.com  
Dated: September 20, 2024



## APPENDIX

## APPENDIX

New Jersey Supreme Court Dismissal for Emergent Relief.....	1a
New Jersey Appellate Division Dismissal for Emergent Relief.....	2a
New Jersey Secretary of State Final Decision.....	6a
New Jersey Office of Administrative Law Initial Decision.....	13a
Constitutional and statutory provisions involved..	22a
New Jersey Democratic State Committee objector's petition.....	28a
Transcript of New Jersey Office of Administrative Law hearing.....	30a

1a

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

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

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

New Jersey Democratic State Committee,  
Petitioner,

O R D E R

v.

Shiva Ayyadurai,  
Respondent-Applicant.

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

SUPREME COURT OF NEW JERSEY

Dated: August 16, 2024  
Trenton, New Jersey

2a

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

Superior Court of New Jersey

NEW JERSEY DEMOCRATIC  
STATE COMMITTEE,

Petitioner,

v.

SHIVA AYYADURAI,

Respondent.

---

Case Name

Appellate Division

Appellate Division

Docket Number \_\_\_\_\_  
(if available)

Trial Court or  
Agency Below:

3a

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

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

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

---

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

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

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

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

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

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



5a

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

Other reasons:

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



---

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

8/13/2024

Date

---

**New Jersey Secretary of State Final Decision**

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

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

FINAL DECISION  
OAL DOCKET NO. STE 10482-24

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

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

On or before July 29, 2024, Respondent filed his Petition with the Division of Elections. By letter, dated March 30, 2023<sup>5</sup> Petitioner filed written objections to Respondent's Petition. On August 1, 2024, the Division transmitted the matter to the Office of Administrative Law for a hearing as a contested case.

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

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

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

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

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

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

Under *N.J.S.A. 19:13-10*, nominating petitions in "apparent conformity" with Title 19 are deemed valid unless an objection to the petition is raised. As nominating petitions are deemed presumptively valid, it is the burden of the individual raising an objection to the petition to show that such a petition is not in conformity with Title 19. See also Roundtree v. Republican Candidates of LD 1 2 8 and 9, 2015 N.J. AGEN LEXIS 270 at \*9-10 (April 8, 2015) (noting that an individual objecting "to a nominating petition 'seeks to enforce law governing the election process and, therefore, bears the burden of proof of facts essential to [his or] her claim by the preponderance (the greater

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

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

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

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

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

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

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

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

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


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

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

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

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

IT IS SO ORDERED,



---

TAHESHA WAY  
SECRETARY OF STATE

DATED: August 7, 2024



13a

**New Jersey Office of Administrative Law  
Initial Decision**



*State of New Jersey*  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

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

**NEW JERSEY DEMOCRATIC  
STATE COMMITTEE,**

Petitioner,

v.

**SHIVA AYYADURAI,**

Respondent.

---

**Rajiv D. Parikh, Esq.,** for petitioner (Genova  
Burns, LLC, attorneys)

**Shiva Ayyadurai,** respondent, pro se

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

BEFORE  
**WILLIAM T. COOPER III, ALJ:**

**STATEMENT OF THE CASE**

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

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

**PROCEDURAL HISTORY**

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

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

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

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

### **FACTUAL DISCUSSION**

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

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

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

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

### **LEGAL DISCUSSION**

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

Const., Art. II, § 1, Cl 5 states:

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

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

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

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

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

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

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

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

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

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

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

No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

[U.S.C.S. Const. Amend. 14 § 3.]

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

20a

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

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

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

### **CONCLUSION**

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

### **ORDER**

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

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

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

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



21a

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

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

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



**WILLIAM T. COOPER III, ALJ**

August 6, 2024

DATE

Date Received at Agency:

August 6, 2024

Date Mailed to Parties: \_\_\_\_\_

WWTC/am

**Constitutional and Statutory Provisions Involved**

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

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

U.S. Const. amend. XIV, § 3 provides:

No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

U.S. Const. amend. XX, § 3 provides:

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

23a

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

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

**19:13-5 Signatures to petition; number.**

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

24a

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

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

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

N.J.S.A Title 19 provides:

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

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

**19:13-10 - Objection to petition**

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

25a

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

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

**19:14-8 Arrangement of ballots.**

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

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

26a

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

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

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

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

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

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

**19:13-9 - Filing of petitions, time**

27a

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

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

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

28a

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

August 1, 2024

**VIA ELECTRONIC MAIL**

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

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

Dear Acting Director Barber:

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

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

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



29a

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

Thank you for your consideration of this objection.

Respectfully,

**PEM LAW LLP**

*s/ Rajiv D. Parikh*

RAJIV D. PARIKH

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

[www.pemlawfirm.com](http://www.pemlawfirm.com) | 1 Boland Drive, Suite 101,  
West Orange, NJ 07052

30a

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

New Jersey Democratic State Committee v.  
Ayyadurai

August 5, 2024

**SPEAKERS**

William T. Cooper III, ALJ

Dr. SHIVA Ayyadurai

Rajiv D. Parikh, Esq.

**William T. Cooper III, ALJ:**

00:00

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

**Rajiv D. Parikh, Esq.**

00:17

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

**(Unknown Speaker):**

00:27

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

**William T. Cooper III, ALJ:**

00:41

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

**Dr.SHIVA Ayyadurai:**

00:49

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

**William T. Cooper III, ALJ:**

00:55

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

**Rajiv D. Parikh, Esq.:**

01:00

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

32a

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

**William T. Cooper III, ALJ:**

02:05

Thank you. Dr Shiva?

**Dr.SHIVA Ayyadurai:**

02:08

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

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

**Rajiv D. Parikh, Esq.:**

04:13

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

**Dr.SHIVA Ayyadurai:**

04:18

So let me finish.

**Rajiv D. Parikh, Esq.:**

04:20

This is a

**William T. Cooper III, ALJ:**

04:21

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

**William T. Cooper III, ALJ:**

04:28

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

**Dr.SHIVA Ayyadurai:**

04:42

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

**William T. Cooper III, ALJ:**

04:52

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

**Dr.SHIVA Ayyadurai:**

05:02

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

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

**William T. Cooper III, ALJ:**

06:34

Okay.

**Rajiv D. Parikh, Esq.:**

06:35

Your Honor. May I respond to that?

**William T. Cooper III, ALJ:**

06:40

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

**Dr.SHIVA Ayyadurai:**

06:41

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



37a

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

**William T. Cooper III, ALJ:**

08:35

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

**Dr.SHIVA Ayyadurai:**

08:44

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

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

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

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

41a

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

**William T. Cooper III, ALJ:**

14:56

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

**Rajiv D. Parikh, Esq.:**

15:02

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

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

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

**William T. Cooper III, ALJ:**

18:30

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

**Dr.SHIVA Ayyadurai:**

18:39

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

**William T. Cooper III, ALJ:**

18:53

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

**Dr.SHIVA Ayyadurai:**

19:14

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

**William T. Cooper III, ALJ:**

19:21

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

**Dr.SHIVA Ayyadurai:**

19:32

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



qualifications for a president, for candidacy, the FEC rule is very relevant, because that came right after the Hassan case in June of 2011 where Hasan was trying to get on the ballot on this issue that he was a naturalized citizen. After that issue, the FEC issued their very important ruling on this, that anyone can run for President, naturalized or otherwise. This is extremely important, and Mr. Parikh is massaging this over because he's talking about as a candidate for President. We're talking about running for President. Third, most importantly, as as Mister, as Mister, you know, Richard Winger, you know who's written about this? He's he just put up a post right up on recently, said already, as noted, New Jersey has traditionally not enforced quote, unquote qualification as it's printed the names of six minor party and independent presidential or vice presidential candidates who are under age 35 or not born in the United States on the ballot. So here's the issue, why is now full qualification becoming so important when it comes to me? So either Mr. Parikh has forgotten what has occurred in the past, or I'm being isolated by the Democratic Party because I actually am a bonafide candidate who offers serious opposition to the Democrats and will take votes away from Kamala Harris. And that's what the real issue at hand is. Otherwise, if I were not a threat, that we would not be here in this situation. But the bottom line is that in the Trump versus Anderson, which is a very relevant ruling, that you cannot, you cannot, the state governments cannot deny in any way ballot access to a federal candidate, period. This has already been ruled upon. So to say that's not relevant. Well, something's wrong. You don't know how to read the law, because this was ruled on in a 9-0 ruling. Now,

46a

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

**William T. Cooper III, ALJ:**

22:30

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

**Dr.SHIVA Ayyadurai:**

22:36

Thank you. Your Honor. Appreciate your time.

**Rajiv D. Parikh, Esq.:**

22:37

Thank you, Judge.

**William T. Cooper III, ALJ:**

22:38

Thank you both.

**Rajiv D. Parikh, Esq.:**

22:39

Thanks, Judge.

