

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO, *ex rel.*,
MARCO WHITE, MARK MITCHELL,
and LESLIE LAKIND,

Plaintiffs,

vs.

Case No. D-101-CV-2022-00473

COUY GRIFFIN,

Defendant.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT

THIS MATTER having come before the Court for a trial on the merits of the Complaint filed herein, the Plaintiffs Marco White, Mark Mitchell, and Leslie Lakind being represented by Freedman Boyd Hollander & Goldberg, P.A. (Joseph Goldberg, Esq.), Dodd Law Office, LLC (Christopher A. Dodd, Esq.), Law Office of Amber Fayerberg (Amber Fayerberg, Esq.), Citizens for Responsibility and Ethics in Washington (Noah Bookbinder, Esq., Donald Sherman, Esq., Nikhel Sus, Esq., and Stuart McPhail, Esq.) and Cohen Milstein Sellers & Toll PLLC (Daniel A. Small, Esq.); the Defendant Couy Griffin appearing pro se and Amici Curiae, Floyd Abrams, Erwin Chemerinsky, Martha Minow, Laurence H. Tribe, Maryham Ahranjani, Lynne Hinton, National Council of Jewish Women, NAACP New Mexico State Conference, NAACP Otero County Branch and Common Cause filing Amici Curiae Briefs, and the Court having taken the evidence, reviewed arguments of Counsel, reviewed the pleadings and all matters of record and being otherwise fully advised in the premises, enters the following Findings of Facts, Conclusions of Law and Order.

Exhibit A

¶ 5.

II. Mr. Griffin is Disqualified from Public Office Under Section Three of the Fourteenth Amendment.

11. Based on the trial evidence and argument, the Court concludes that (1) Mr. Griffin took an “oath ... to support the Constitution of the United States” as an “executive ... officer of a[] State,” (2) the January 6 Attack and surrounding planning, mobilization, and incitement were an “insurrection” against the Constitution of the United States, and (3) Mr. Griffin “engaged in” that insurrection.

12. The Court therefore concludes that, effective January 6, 2021, Mr. Griffin became disqualified under Section Three of the Fourteenth Amendment from serving as a “Senator or Representative in Congress, or elector of President and Vice-President, or hold[ing] any office, civil or military, under the United States, or under any State,” including his current office as an Otero County Commissioner.

A. Mr. Griffin Took an Oath as a State Officer to Support the Constitution of the United States.

13. Section Three applies to county officials required by state law to take an oath to support the Constitution of the United States. *See Worthy*, 63 N.C. at 202–04 (county official was subject to disqualification because state law required him to take the oath), *In re Tate*, 63 N.C. at 309 (disqualifying county official); *United States v. Powell*, 27 F. Cas. 605, 607 (C.C.D.N.C. 1871) (finding that county official who took the oath was subject to disqualification and that Section Three is “broad enough to embrace every officer in the state”); *Op. of Att’y Gen. Stanbery under the Reconstruction Laws*, at 16 (Wash. Gov’t Print. Off. June 12, 1867),

The Sweep and Force of Section Three
172 U. PA. L. REV. (forthcoming 2024)
William Baude & Michael Stokes Paulsen

Abstract: Section Three of the Fourteenth Amendment forbids holding office by former office holders who then participate in insurrection or rebellion. Because of a range of misperceptions and mistaken assumptions, Section Three’s full legal consequences have not been appreciated or enforced. This article corrects those mistakes by setting forth the full sweep and force of Section Three.

First, Section Three remains an enforceable part of the Constitution, not limited to the Civil War, and not effectively repealed by nineteenth century amnesty legislation. *Second*, Section Three is self-executing, operating as an immediate disqualification from office, without the need for additional action by Congress. It can and should be enforced by every official, state or federal, who judges qualifications. *Third*, to the extent of any conflict with prior constitutional rules, Section Three repeals, supersedes, or simply satisfies them. This includes the rules against bills of attainder or ex post facto laws, the Due Process Clause, and even the free speech principles of the First Amendment. *Fourth*, Section Three covers a broad range of conduct against the authority of the constitutional order, including many instances of indirect participation or support as “aid or comfort.” It covers a broad range of former offices, including the Presidency. And in particular, it disqualifies former President Donald Trump, and potentially many others, because of their participation in the attempted overthrow of the 2020 presidential election.

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Exhibit B

Taking these events as a whole, and judging them under the standard of Section Three, it is unquestionably fair to say that Trump “engaged in” the January 6 insurrection through both his actions and his inaction. Officials—administrators, courts, legislators—whose responsibilities call upon them to apply Section Three properly and lawfully may, indeed must, take action within their powers to preclude Trump from holding future office,

Moreover, if one accepts the broader argument that the entire campaign to overthrow the results of the 2020 election was a form of constitutional rebellion,⁴⁴¹ then Trump’s complicity is even more obvious—as the leader, motive force, and chief attempted perpetrator of that rebellion. Indeed, it would not be going too far to say that Trump, having previously sworn a constitutionally required oath to preserve, protect, and defend the Constitution of the United States knowingly attempted to execute what, had it succeeded, would have amounted to a political coup d’etat against the Constitution and its system of elections and overturn the results of the constitutional process, in order to maintain himself in office as President contrary to law. If that itself constitutes “rebellion” against the Constitution, Trump’s overall course of conduct disqualifies him under Section Three, even apart from the specific incitement to storm the Capitol on January 6.

The bottom line is that Donald Trump both “engaged in” “insurrection or rebellion” and gave “aid or comfort” to others engaging in such conduct, within the original meaning of those terms as employed in Section Three of the Fourteenth Amendment. If the public record is accurate, the case is not even close. He is no longer eligible to the office of Presidency, or any other state or federal office covered by the Constitution. All who are committed to the Constitution should take note and say so.

c. Beyond Trump

Donald Trump is at the top of the list of Section Three disqualifications, but the list does not end with him. The public record to date shows many others who are or may be connected to either the insurrection of January 6 or to a possible broader rebellion. These include government lawyers, executive branch officials, state officeholders, and even members of Congress. It is not for us to definitively say who all these may be—that, as we have said, is ultimately the responsibility and judgment of all those whose public duties call upon them to apply the Constitution’s provisions concerning officeholder qualifications. But to see why this responsibility is urgent, consider the following categories:

Consider first those who marched with—who rose up with—the January 6 mob itself. Some of these folks, such as Couy Green of New Mexico, and Derrick Evans of West Virginia, have already been stripped of or resigned from their state offices, as

⁴⁴¹ See *supra* notes 413-415 and accompanying text.

GC

Fulton County Superior Court

INDICTMENT

EJIS Mcabee

FILED CA

Date: August 14, 2023

Clerk No. 23SC188947

Che Alexander, Clerk of Court

FULTON SUPERIOR COURT

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| <p>THE STATE OF GEORGIA</p> <p>v.</p> <p>DONALD JOHN TRUMP
Counts 1, 5, 9, 11, 13, 15, 17, 19, 27-29, 38-39</p> <p>RUDOLPH WILLIAM LOUIS GIULIANI
Counts 1-3, 6-7, 9, 11, 13, 15, 17, 19, 23-24</p> <p>JOHN CHARLES EASTMAN
Counts 1-2, 9, 11, 13, 15, 17, 19, 27</p> <p>MARK RANDALL MEADOWS
Counts 1, 28</p> <p>KENNETH JOHN CHESEBRO
Counts 1, 9, 11, 13, 15, 17, 19</p> <p>JEFFREY BOSSERT CLARK
Counts 1, 22</p> <p>JENNA LYNN ELLIS
Counts 1-2</p> <p>RAY STALLINGS SMITH III
Counts 1-2, 4, 6, 9, 11, 13, 15, 17, 19, 23, 25</p> <p>ROBERT DAVID CHEELEY
Counts 1, 9, 11, 13, 15, 17, 19, 23, 26, 41</p> <p>MICHAEL A. ROMAN
Counts 1, 9, 11, 13, 15, 17, 19</p> <p>DAVID JAMES SHAFER
Counts 1, 8, 10, 12, 14, 16, 18, 40</p> | <p>1 VIOLATION OF THE GEORGIA RICO (RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS) ACT
O.C.G.A. § 16-14-4(c)</p> <p>2 SOLICITATION OF VIOLATION OF OATH BY PUBLIC OFFICER
O.C.G.A. §§ 16-4-7 & 16-10-1</p> <p>3 FALSE STATEMENTS AND WRITINGS
O.C.G.A. § 16-10-20</p> <p>4 FALSE STATEMENTS AND WRITINGS
O.C.G.A. § 16-10-20</p> <p>5 SOLICITATION OF VIOLATION OF OATH BY PUBLIC OFFICER
O.C.G.A. §§ 16-4-7 & 16-10-1</p> <p>6 SOLICITATION OF VIOLATION OF OATH BY PUBLIC OFFICER
O.C.G.A. §§ 16-4-7 & 16-10-1</p> <p>7 FALSE STATEMENTS AND WRITINGS
O.C.G.A. § 16-10-20</p> <p>8 IMPERSONATING A PUBLIC OFFICER
O.C.G.A. § 16-10-23</p> <p>9 CONSPIRACY TO COMMIT IMPERSONATING A PUBLIC OFFICER
O.C.G.A. §§ 16-4-8 & 16-10-23</p> <p>10 FORGERY IN THE FIRST DEGREE
O.C.G.A. § 16-9-1(b)</p> <p>11 CONSPIRACY TO COMMIT FORGERY IN THE FIRST DEGREE
O.C.G.A. §§ 16-4-8 & 16-9-1(b)</p> |
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Exhibit C