

Colorado Supreme Court Decisions Concerning the Election Ballot has Input from SIUE Historian

by Nicole Franklin
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EDWARDSVILLE - When the Colorado Supreme Court made a recent ruling on a candidate's eligibility on the United States presidential ballot, 25 historians contributed

to the amicus brief. Citing expertise on the historical references in the case, Southern Illinois University Edwardsville's Erik B. Alexander, PHD, associate professor of history, became a signatory.

The history professor was invited to be a part of this landmark case this past January. "Most of the brief had already been written at that point," said Alexander, who was asked to participate by Orville Vernon Burton, PhD, his former undergraduate advisor and one of the main historians involved. "He sent me the draft, and I read through it to fix typos, add things to it and offered some suggestions on my own."

During the next few weeks the process involved the group reviewing the material from their authoritative lens as experts of the 19th century Civil War era and "this particular amendment."

The case, known as Trump vs. Anderson, was filed when the legal team of the leading Republican presidential candidate appealed the Colorado Supreme Court decision to remove Donald J. Trump from the 2024 presidential ballot based on the 14th Amendment. Norma Anderson, the defendant, is a representative in the Colorado State Legislature.

Alexander explains that an amicus brief is a legal document filed on behalf of one side or another in a case, authored by experts providing additional context, knowledge or expertise for one side of the case. This particular type of brief is not submitted by individuals involved in the case.

"This brief actually is not partisan," said Alexander. "So the brief itself does not talk about Donald Trump. The brief does not say whether or not Donald Trump should or should not be on the ballot, rather, what the brief is offering is our expertise of what the 14th Amendment says."

"What the brief includes is mostly the history behind the 14th Amendment, why this was written. In particular this case is about the third section (there are four sections). Most Americans are familiar with the first section, the due process clause, which has been the basis for voting rights, marriage equality, all sorts of civil rights that are granted because of that first section. That's the most famous," said Alexander.

"The third section deals with insurrection and the idea that Americans who are engaged in insurrection or rebellion against the government are not allowed to hold federal office. And it was written in part to say that former confederates who had participated and fought against the United States during the Civil War were not allowed to participate and hold federal office."

In response to a host of legal analysis and conjecture, many have asked how this area of the 14th amendment applies to today.

"It was also written for the future," said Alexander. "The brief itself was kind of documenting that history, providing examples from debates in Congress when the amendment was being written and what the people who wrote it were saying during debates, as well as providing some examples from the framing of the Constitution."

"There was this fear that someone like Jefferson Davis might later run for President of the United States or he might try to become a senator because before the Civil War, he had been a senator in the federal government in the Congress. So there were fears that people like Davis might try to run for president or be senator and the 14th amendment was meant to prevent that from happening."

Ultimately the United States Supreme Court reversed the initial ruling by the Colorado Supreme Court removing Trump from the ballot.

"We have a responsibility to have a public-facing side to what we do. We call this public history," said Alexander, who also co-authored a recent journal article titled "Dismantling the Party System: Party Fluidity and the Mechanisms of Nineteenth-Century U.S. Politics."

"We didn't come into this brief wanting to sort of make a partisan statement or to remove Donald Trump from the ballot, rather, we just wanted to provide our expertise."

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