

# [***Your questions about the Supreme Court and Trump, answered***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6B8T-46H1-JBSS-S03R-00000-00&context=1516831)

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**Body**

(CNN) &#8212; There is a dizzying array of court cases related to former President Donald Trump. Only one is headed to the US Supreme Court this week. It is a Colorado case in which Trump was declared [*ineligible for the state's 2024 ballot*](https://www.cnn.com/2024/02/07/politics/john-roberts-donald-trump-supreme-court/index.html) for violating the Civil War-era insurrection clause in the 14th Amendment of the US Constitution.

When we [*asked CNN readers for their questions*](https://www.cnn.com/2024/02/06/politics/trump-supreme-court-ballot-callout/index.html) about the Supreme Court case, it quickly became clear in the hundreds of responses that a lot of people are struggling to keep all of Trump's legal issues separate.

For instance, the Supreme Court will hear oral arguments Thursday in the 14th Amendment case - the same week that an appeals court in Washington, DC, clarified that, no, Trump does not enjoy "absolute immunity" from criminal prosecution for his effort to overturn the 2020 presidential election.

For an excellent, shorter version of what might happen at the court this week, listen to this [*"One Thing" podcast with CNN's Supreme Court expert Joan Biskupic*](https://www.cnn.com/audio/podcasts/5-things/episodes/8365a3b0-a997-11ee-82c2-eb7a06b1949e).

In answering readers' questions below, we've tried to delineate between the multiple cases involving Trump. We've also edited the wording in some questions for grammar and style.

The case Supreme Court justices are hearing on Thursday has to do with a finding in Colorado's court system that Trump engaged in insurrection and [*a decision by the state Supreme Court*](https://www.cnn.com/2023/12/19/politics/trump-colorado-supreme-court-14th-amendment/index.html) that he should be removed from the ballot. The state courts stayed that decision until the US Supreme Court weighs in.

What comes next is very much in the hands of the US Supreme Court, and there are many possible outcomes.

Will justices affirm or overturn the decision by Colorado's Supreme Court? Will the US Supreme Court weigh in on whether Trump engaged in insurrection? If justices allow Trump to be excluded from the Colorado ballot, will it endanger his status in other states?

There is no requirement that the same names appear on every presidential ballot in the country, and in fact, the ballots vary from state to state.

Yes, anyone facing criminal prosecution, including Trump, is presumed innocent. But the question currently before the Supreme Court about whether he violated the insurrectionist clause in the 14th Amendment is separate from criminal charges he faces in state and federal courts.

In the [*14th Amendment case*](https://www.cnn.com/2024/02/07/politics/14th-amendment-constitution-trump-election-explainer/index.html), which was brought by a group of Republican and independent voters in Colorado, a state judge found, after hearing evidence, that Trump "engaged in insurrection." The Colorado Supreme Court later ruled, by a slim majority, that he was ineligible to be on the state's ballot. Now the US Supreme Court gets to weigh in.

Of course, Trump is facing [*four different criminal trials*](https://www.cnn.com/interactive/2023/07/politics/trump-indictments-criminal-cases/) - and two of them, in state court in Georgia and federal court in Washington, DC, have to do with his efforts to overturn the 2020 election. But he is not currently charged in any court with the [*specific crime*](https://www.law.cornell.edu/uscode/text/18/2383) of inciting insurrection or rebellion.

This is a thoughtful question. Trump, for instance, has said that if he is reelected he will work to end birthright citizenship, even though it is guaranteed in the 14th Amendment.

The 14th Amendment also has important clauses having to do with the drawing of congressional districts - a subject on which the Supreme Court frequently gets involved - and the public debt, which has grown exponentially.

It is possible that the people who try to influence US policy by maneuvering cases toward the Supreme Court could try to exploit a decision for their own purposes. But it would be the height of irony for conservative justices who claim to be "originalist" interpreters of the Constitution, particularly in terms of the Second Amendment and the right to bear arms, to stray from originalism in the case of the 14th Amendment.

We get this question a lot. The answer is yes. There is nothing in the Constitution about a convict being unqualified to serve. There are only three requirements. A candidate must be:

A natural born citizen.At least 35 years old.A resident of the US for at least 14 years.

It is an important thing for voters to be able to choose from the candidates they desire and for the systemto protect against frivolous criminal prosecutions aimed at disqualifying political opponents.

The efforts to try Trump in criminal court, which have dragged on for years, have been anything but frivolous.

But again, the Supreme Court this week is not considering anything to do with Trump's criminal prosecutions. This case is specifically focused on the finding that he engaged in insurrection and his ability to appear on the ballot in Colorado.

It is true that Trump appointed three of the nine Supreme Court's associate justices: Neil Gorsuch, Brett Kavanaugh and Amy Coney Barrett. It is also true that this Supreme Court did not intervene to help him keep the White House in 2020. Without any public dissents, they [*rejected his bid*](https://www.cnn.com/2020/12/11/politics/supreme-court-texas-trump-biden/index.html) to block millions of votes for Joe Biden in battleground states.

These are separate questions. Trump's ballot eligibility in Colorado is before the nine Supreme Court justices. While he has not been charged in criminal court specifically with the crime of insurrection, he does face four separate criminal trials, two of which are focused on his 2020 election interference. In those cases, which will be decided by juries of Trump's peers, he could theoretically face jail time if convicted.

Vote. Supreme Court justices are appointed by presidents and confirmed by senators. If you don't like the makeup of the court, the only current way to change it is to vote for lawmakers you agree with and then wait for them to act.

That's an unsatisfying answer since justices can sit on the bench for decades. There are efforts to change the court to spark more frequent turnover, but they currently lack momentum.

To the second part of this question, the court can essentially make law with its decisions, so they are reinterpreting rather than ruling against it. To that point, if, as a voter, you'd rather have more input on laws, it is a feature and not a flaw when the court punts decisions back to lawmakers.

This is the question on which the entire 14th Amendment case may hinge. The original Colorado judge who ruled Trump did engage in insurrection did not remove Trump from the ballot. She was convinced by his lawyers' argument that the presidency is not covered by the insurrection clause because it does not specifically list the president as [*an "officer"*](https://www.cnn.com/2023/11/17/politics/trump-colorado-ballot-14th-amendment-insurrection/index.html) of the US.

The Colorado Supreme Court took the opposite view. Read [*its opinion*](https://www.cnn.com/2023/12/19/politics/read-colorado-supreme-court-ruling-trump-2024-ballot-14th-amendment/index.html), which examines, in great detail, all of the arguments about whether the president is an officer of the US government and concludes that obviously he or she is.

It's not exactly pertinent to this case, but an appeals court that determined Trump is not immune from prosecution notably referred to the [*president as an "officer."*](https://www.cnn.com/politics/live-news/trump-court-ruling-immunity-election-subversion-prosecution/index.html#:~:text=Further%2C%20the%20appeals%20court's%20findings,president%20as%20an%20%E2%80%9Cofficer.%E2%80%9D)

Here's exactly what the [*14th Amendment says*](https://www.archives.gov/milestone-documents/14th-amendment):

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.

It's a wonky system. Supreme Court justices are supposed to be insulated from ***politics*** and independent from the two elected branches of government. This independence, according to Alexander Hamilton in the Federalist Papers,was important to guard the Constitution and individual rights from "[*ill humors*](https://constitutioncenter.org/the-constitution/historic-document-library/detail/alexander-hamilton-federalist-no-78-1788)" of the public.

In reality, most Supreme Court justices come from very political backgrounds, and they are appointed by presidents who hope they will sway to a political side. Their power is supposed to be balanced by the other two branches; they are appointed by the executive, and the legislative branch sets the makeup of the courts and can, if needed, remove judges from office.

This is a separate question than the 14th Amendment ballot issue the Supreme Court is considering this week. The court specifically declined to take up the question of Trump's immunity from criminal prosecution so that an appeals court in Washington, DC, could hear that case.

That three-judge appeals court panel [*decided this week that Trump is not immune*](https://www.cnn.com/2024/02/06/politics/takeaways-donald-trump-immunity-appeals-court/index.html) from prosecution for trying to overturn the 2020 election. The Supreme Court could now decide to also consider the immunity question, but it's not at all clear that it will.

It's also not clear what might happen if Trump is convicted and then elected. He could try to pardon himself, despite the obvious moral hazard of doing so. If he's elected before a conviction, he could try to get the Department of Justice to drop the case. It would be unprecedented territory.

For reference, Thomas' wife, Ginni, is a conservative activist and was [*involved in efforts*](https://www.cnn.com/2022/09/01/politics/ginni-thomas-overturn-2020-election-wisconsin/index.html) to overturn the 2020 presidential election. She [*has testified*](https://www.cnn.com/2022/10/01/politics/trump-ginni-thomas-michigan-rally/index.html) she did not discuss the election with her husband.

Whether or not her activism means Clarence Thomas should recuse himself from election-related cases is up for debate. There are no hard rules related to Supreme Court justices recusing themselves from cases. What is abundantly clear is that Clarence Thomas probably won't be recusing himself from Trump-related matters.

This question pertains to one of the four criminal cases - the one being prosecuted in federal court in Florida and in which the government says Trump mishandled classified data and conspired to cover it up. It is true that Cannon was appointed by Trump, but so was one-third of the US Supreme Court.

Judges appointed by both Barack Obama and Biden have also heard matters related to Trump and election interference. That's the way the judicial system works.

The general thinking is that Trump would find a way to throw out federal prosecutions if they are not concluded before he takes office, assuming he is reelected. The Department of Justice has a long-standing custom of not taking legal action against a sitting president. But that policy does not apply to state courts, and he is facing two criminal prosecutions in state courts in Georgia and New York.

Congress could always move to impeach him, but that would only be a realistic possibility if Democrats took control of the House. I'm trying to imagine an election in which Trump won the White House and Democrats won the House. It's not impossible! But maybe unlikely.

Plus, any majority on Capitol Hill is likely to be small, and multiple Republican votes would be required to convict him in the Senate, which at the moment also seems unlikely. We would be deep into uncharted territory if Trump was to be convicted and then win reelection. Nobody really knows what would be involved.

Trump's name is already printed on primary ballots in Colorado. If the Supreme Court rules he can be kept off the ballot before the primary on March 5, the [*state Secretary of State has said*](https://www.cnn.com/videos/politics/2024/01/04/jena-griswold-colorado-secretary-of-state-trump-supreme-court-ruling-appeal-sot-nn-vpx.cnn) that votes for him would not count.

As for write-ins, the case is ultimately about his eligibility to serve as president. If the court rules he's ineligible, write-ins probably would not matter. But that would have to be determined.

Federal courts do not allow television cameras, which [*I've argued is a mistake*](https://www.cnn.com/2023/11/06/politics/televise-trump-trials-what-matters/index.html). That said, there will be live audio of the Supreme Court oral arguments Thursday. That's a step in the right direction.

Anything is possible for the Supreme Court. Justices frequently find creative ways to decide the outcome of cases without deciding core issues in them. See Bush v. Gore, which decided the 2000 presidential election by stopping a recount in Florida.

The scenario you describe would, I believe, allow Trump to be on the ballot while sidestepping the issue of whether he engaged in insurrection. That would not be shocking.

We don't know for sure, but timing is everything. Primaries season is underway and Trump is the clear choice of most Republicans so far (as is Biden on the Democratic side).

If Trump or Biden were to leave the race early enough, perhaps an alternate would be able to win enough delegates to capture the nomination. Given her break with Trump, it seems unlikely that most Republicans would want to choose former South Carolina Gov. Nikki Haley.

If there's no candidate who has won a majority of the delegates after the primaries, the delegates themselves would ultimately pick alternative candidates at the party conventions this summer. That would be a fascinating and messy process to witness. If a vacancy occurred after the nominating conventions, both parties have processes to pick alternates.

I think you've identified a main problem with his continued lies about the 2020 election. The 22nd Amendment makes clear that a person can only be elected twice to the presidency. Despite what he says, however, he was not elected in 2020 and he's not president now, so the 22nd Amendment should not apply to him.

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