

Trump should be barred by the Supreme Court even if it leads to a mob in the streets, says Yale professor

Bruce Ackerman argues that the court should disqualify the Republican; hearing of the case takes place this Thursday (8)

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If the Supreme Court is faithful to the American Constitution, it should block Donald Trump from the primaries. Even if it means removing their absolute leader from the race. Even if it leads an extremist mob to the streets.

This is the opinion of Bruce Ackerman, a Yale professor and international reference in constitutional law. He, along with other academics, presented one of the briefs to the Supreme Court (called amicus) in the appeal against the removal of the Republican from the ballots in Colorado.

The judges are hearing the case, the most politically thorny since George W. Bush's election in 2000, this Thursday (8). There is no date for the decision, but with the primaries underway, a quick resolution is expected.

"If you have an insurrection in the middle of the country in an attempt to rebel against the legally elected president of the United States, that indeed disqualifies him," says Ackerman, defending his interpretation of Section 3 of the 14th Amendment.

The text, adopted in 1868, prevents those involved in insurrection from holding public office and had been practically forgotten for decades. The Yale professor was one of the first to argue for its application to Trump, stating that his role in the Capitol invasion constitutes a rebellion.

The argument served as the basis for actions filed in more than 30 states seeking the removal of the Republican from the party's primary ballots. So far, the strategy has been successful in two: Colorado and Maine.

Meanwhile, the businessman's defense, referring to him as the "presumptive candidate" for the Republican nomination in the presidential race, argues that removing him from the primaries would be undemocratic, comparing the situation to that of Venezuela, and that it would cause "chaos and confusion."

Trump has won by a wide margin in the two contests held so far, and his only remaining opponent, Nikki Haley, lost on Tuesday to the "none of the above" option in a vote without the businessman's name.

Many analysts argue that, given the tectonic political implications of removing the former president from the primaries, the Supreme Court may shy away from analyzing the merits and overturn the Colorado decision based on a legal technicality.

In favor of this bet is the fact that the majority of the Court is conservative and 3 of the 9 judges were appointed by Trump. Ackerman, however, argues that it is precisely the political impact of the decision that should lead the justices to bar the businessman.

"The Supreme Court is today the only institution with credibility among the right-wing. Of course, there are some extremists, perhaps 5% to 10% of the population, who will say that the judges received a bribe or something like that," he says, downplaying the impact of a Trump ban among his base. "There will be mobs in the streets, yes, but they will be controlled, and by November we will have order."

"The decision will alienate one-third of Republicans, or one-third of the population. Yes, that's a problem. But it will allow 40% [the percentage of independents] to decide between a serious conservative and a serious Democrat," he adds.

In Ackerman's view, the decision may even improve the general population's view of the Supreme Court, which has never been at such a negative level as today, especially after reversing the recognition of abortion as a constitutional right in 2022.

The Yale professor also notes that the 14th Amendment provides for the banning of a candidate to be reversed by Congress if it obtains the support of two-thirds of each House – meaning there would still theoretically be a political way out for Trump.

In addition to barring the businessman, the jurist argues that the judges should suspend the primary schedule for two months and allow more Republican candidates to enter the race, so as not to favor the only remaining one.

He also speculates that in this rearrangement of the election, the calculus may also change on the Democratic side – Joe Biden has already stated that he is only running because Trump is on the other side. Switching candidates in both parties is the best-case scenario, says the jurist.

"If the Supreme Court upholds Trump, it will deeply alienate the center and the left. If it disqualifies him, it will deeply alienate Trump's fanatical supporters. But most people will say 'thank God.' Survey after survey shows that if the election is Trump versus Biden, people lament: 'we've been through this already'."