

No. 24-528

IN THE
SUPREME COURT OF THE UNITED STATES

PHIL LYMAN

Petitioner,

v.

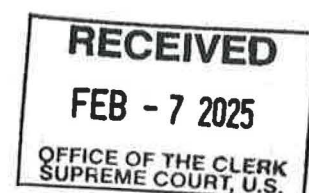
Spencer Cox, et al.

Respondent(s).

On
Petition for Extraordinary Writ
to the
Utah Supreme Court

PETITION FOR REHEARING

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I. Petition for Rehearing

In accordance with this Court's Rule 44.2, the Petitioner respectfully seeks rehearing of *Lyman v. Cox*, No. 24-528, and reconsideration of the Court's order denying certiorari. This petition highlights a critical need of supervisory authority of this Court particularly as established in *Marbury v. Madison* 5 U.S. 137 (1803).

The principle of judicial review established in *Marbury v. Madison* is a cornerstone of our constitutional republic, empowering the judiciary to ensure that legislative and executive actions adhere to the supreme law of the land. This Court's role is not merely one of interpretation but is vital in maintaining the balance of power among our branches of government and safeguarding individual rights against potential overreach.

This Court's role goes beyond merely interpreting laws. It is essential for maintaining the balance of powers among the branches of government, ensuring harmony between federal and state jurisdictions, and protecting individual rights from any potential overreach by governmental entities.

The concern is that the Utah Supreme Court has usurped this Court's authority by completely distorting the ruling in *New York State Bd. of Elections v. Lopez Torres*, 552 U.S. 196 (2008). Their interpretation contrarily suggests that a state can veto a party's convention nominees to ensure "fairness," allowing candidates a second chance after being eliminated, which is in direct opposition to the principles of autonomy established in the New York case.

II. Compelling Reasons.

This Court “[has] permitted States to set their faces against party bosses by requiring party-candidate selection through process more favorable to insurgents, such as primaries.” *New York State Bd. of Elections v. Lopez Torres*, 552 U.S. 196, II.A (2008) [Internal quotes omitted.] As determined in *New York State Bd. of Elections v. Lopez Torres*, none of this Court’s “cases [establish] an individual’s constitutional right to have a fair shot at winning a party’s nomination.” *Id.* [Internal quotes omitted.]

By declining to hear this case, this Court inadvertently suggests that its opinions hold little weight and that the *Utah Supreme Court* is free to disregard them. A striking example of this disregard is evident in how only **one** justice from the Utah Supreme Court distorted this Court’s ruling in *New York State Bd. of Elections v. Lopez Torres* to align with a narrative that shields the incumbent Governor and Lieutenant Governor from accountability. Such manipulation of legal precedent is troubling and undermines the integrity of the judicial process. Therefore, it is crucial for this Court to reconsider its decision and rehear this case, not only to affirm the significance of its rulings but also to ensure that justice prevails, and elected officials are held to the same standards as the constituents they serve.

This Court clearly stated that a “State can, within limits (that is, short of violating the parties’ freedom of association), discourage party monopoly—for example, by refusing to show party endorsement on the election ballot.

But the Constitution provides no authority for federal courts to prescribe such a course.” *Id.* II.B.

In the context of Utah’s electoral framework, qualified political parties allow their members to seek nomination for any elective position through either the established convention processes outlined in Utah Code § 20A-9-407—or by collecting signatures in accordance with Utah Code § 20A-9-408. This dual pathway, referred to as the “Either or Both Provision,” has prompted questions of interpretation that the *Utah Supreme Court* has addressed. While the *Utah Supreme Court* acknowledged in its 2016 ruling that this provision does not require the Utah Republican Party (URP) to seek certification as a qualified political party nor impose mandates on its internal processes, the real-world application has deviated from this interpretation.

The reality is that the URP is under no obligation to provide candidates with a “second chance” at nomination; however, the Lieutenant Governor—who is simultaneously overseeing their own election—imposes such an expectation. The URP clearly permits its members to secure nominations through the convention process as stipulated in the Utah Code § 20A-9-101(13)(c)(i). When two candidates emerge from the convention but one fails to achieve the requisite 60%, the URP’s convention process moves forward with a final ballot—a closed primary—without extending a “second chance” based on signature-gathering.

Furthermore, the focus on signature collection risks transforming this constitutional representative form of government process into a commercial enterprise for certain individuals, misleading the URP into relinquishing its

associational rights. This results in a state-imposed directive constraining how political nominees are selected, stifling genuine political participation, and undermining the fundamental principles of democratic governance. It is critical to address this overreach to protect the integrity of the electoral process and uphold the rights of political parties and their members.

The current state of governance in Utah presents a distressing reality: all branches of government are fundamentally flawed. The Executive branch consistently interprets regulations to serve its own interests, and when seeking clarity from the Judicial branch, it manipulates this Court's rulings to align with its agenda, driven by appointments from the Governor's office. This manipulation undermines the integrity of our legal system and erodes public trust.

Without the Court's oversight, the Legislative branch remains paralyzed, misled by a previous ruling that suggests the State has the power to veto a registered political party's nominations. This misguided belief allows for a convoluted process where candidates eliminated at convention are given unwarranted "second chances" on a primary ballot, diluting the primary convention process.

The Utah Supreme Court's usurpation of the authority of the United States Supreme Court represents a dangerous precedent, as it relies on the assumption that this Court will not intervene to correct this overreach. By distorting the ruling in *New York State Bd. of Elections v. Lopez Torres*, 552 U.S. 196 (2008), to assert that a state can veto a party's convention nominee under the guise of

"fairness," they undermine the foundational principle of party autonomy and challenge the Supreme Court's supremacy in constitutional interpretation. If left unchecked, the Utah Supreme Court may continue to usurp the Supreme Court's jurisdiction. Therefore, it is imperative for the Supreme Court to assert its authority and prevent this dangerous trajectory from continuing.

III. Conclusion

Considering this foundational principle, we respectfully urge this Court to hear the case at hand. The issues presented challenge the very framework of our democratic system and reflect a critical need for the supervisory authority that *Marbury v. Madison* enshrines. The judiciary must function as a vigilant guardian against potential abuses of power, and this case presents a unique occasion to reaffirm the judiciary's authority to uphold the Constitution. The implications of the ruling extend beyond this matter, as they signal to the nation that no branch of government is above scrutiny and that the rights of individuals are paramount.

Hearing this case would not only reaffirm the vital role of judicial review but also the Court's authority in constitutional interpretation. The decision in *Marbury v. Madison* marked the first time the Supreme Court struck down an act of Congress, thus asserting its authority to review and nullify governmental actions that conflict with the Constitution. The Utah Supreme Court usurped this authority by twisting this Court's decision in *New York State Bd. of Elections v. Lopez Torres*. The foundational principle

of jurisdiction in *Marbury v. Madison* underpins this Court's responsibility to hear this case, and the Petitioner respectfully urges the Court to act and hear the matter before it.

Dated: February 4, 2025

Respectfully submitted,

/s/ Phil Lyman

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