



Dear {{FirstName or 'Friend'}},

State courts are already in the national spotlight in 2024. With [briefs](#) filed last week, the United States Supreme Court will [hear](#) oral arguments on February 8 in the case brought by former President Donald Trump's 2024 campaign challenging the historic [ruling](#) handed down late last year by the Colorado Supreme Court, which removed Trump from Colorado ballots due to his involvement in the January 6, 2021 insurrection. A ruling is expected to come soon after the Court hears oral arguments and could have implications across the nation as the Court may decide whether state courts and election commissions have authority to remove Trump from their ballots. The supreme courts of [Michigan](#) and [Minnesota](#) have already dismissed efforts to have Trump barred from ballots in those states, and the Oregon Supreme Court recently [dismissed](#) a challenge to Trump's eligibility, [deferring](#) to the Court's impending decision. A lower court in Maine also [paused](#) Secretary of State Shenna Bellows's [ruling](#) that Trump is ineligible to appear on ballots there in anticipation of the Court's ruling. Bellows has [appealed](#) that ruling to the Maine Supreme Court. We detail the Oregon and Maine cases below.

The U.S. Supreme Court is the only forum litigants can appeal to once a final decision has been handed down by a state's highest court. This process is routine and rarely incurs the level of coverage that Trump's ballot eligibility case is receiving. For example, the Court recently [denied](#) a petition by the State of Alaska asking it to overturn a [ruling](#) by the Alaska Supreme Court striking down an executive order affecting how union dues are collected in the state. And attorneys for a condemned Alabama man [appealed](#) to the U.S. Supreme Court seeking a stay of execution, arguing that the state's decision to attempt to execute him a second time was cruel and unusual. The petitioner, Kenneth Smith, separately [argued](#) in federal court that the novel method the state planned to use after the first method failed was also cruel and unusual. The Supreme Court [denied](#) the appeals challenging the constitutionality of both the second execution attempt and the method chosen to conduct it, and the state

of Alabama [killed](#) Kenneth Smith on January 25. The decision has been met with [horror and condemnation](#) by human rights groups around the nation and the world. Stay tuned to State of Justice for updates on these important cases and all breaking state courts news in 2024.



Ethics Update

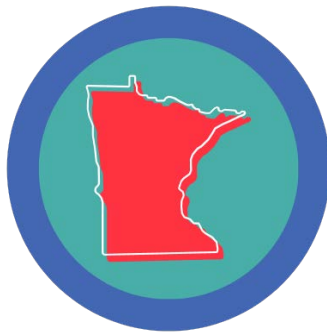
North Carolina Supreme Court Justice cleared of sham ethics investigation

The intrusive and politicized ethics investigation by the state's Judicial Standards Commission against North Carolina Supreme Court Justice Anita Earls has finally [ended](#), and as a result, she has [withdrawn](#) her federal lawsuit against the commission for restricting her First Amendment free speech rights. The investigation was originally caused by a complaint filed against Justice Earls, the court's only Black woman, for [commenting](#) on an article discussing the lack of diversity in the state's judicial system and the resulting impact it has. Moving forward, Justice Earls has [asked](#) the commission to review her public statements ahead of time but does not foreclose the possibility of similar lawsuits if similar issues rise again.

The politicization of the commission has been ongoing [since 2021](#). When Chief Justice Newby first took office, one of his first moves was to [fire and replace](#) five senior staffers on the commission, one of whom is now current supreme court Justice Trey Allen. Of note, the most recent chair of the commission, then Court of Appeals Judge Dillon, was just [named Chief Judge](#) of the state's appellate courts in an unprecedented move by Chief Justice Newby that we covered in the last issue of State of Justice. Dillon led the commission when the investigations and complaints were launched against Justice Earls.



Vacancies



Two Minnesota Supreme Court justices announce retirements

Two Minnesota Supreme Court justices whose terms are expiring this year have announced they will retire from the state's highest court. [Justice G. Barry Anderson](#), the only justice currently on the court who was appointed by a Republican, [announced](#) he will retire on May 10.

Justice Anderson practiced real estate law prior to joining the court, and would have been required to retire in October when he reaches the mandatory retirement age of 70. [Justice Margaret Chutich](#), the first openly gay justice to sit on the court, also [announced](#) that she would retire on July 31 rather than seek reelection. Justice Chutich was formerly an Assistant U.S. Attorney and Deputy Minnesota Attorney General. Both Justice Anderson and Justice Chutich served on the Minnesota Court of Appeals prior to joining the Supreme Court.

The resignations will give Minnesota Governor Tim Walz two more chances to fill vacancies on the state's highest court. Walz, a member of the Minnesota Democratic-Farmer-Labor Party, will have appointed four of the seven justices on the bench once both vacancies are filled, and all seven justices will have been appointed by governors from the DFL Party. The governor's office said that an announcement regarding appointments to fill the vacancies will happen in the coming months.

Elections



Texas Supreme Court dismisses legal challenge to remove colleague from ballot

Texas Supreme Court [Justice John Devine's](#) colleagues [dismissed](#) a lawsuit that sought to remove him from Republican primary ballots due to several invalid signatures on his nominating petitions. The lawsuit was filed by Justice Devine's primary opponent, [Brian Walker](#), a judge on the Texas Court of Appeals, and asked the court to decertify Devine's candidacy and remove him from ballots.

The state's highest court instead ruled that Walker waited too long to file the complaint and that precedent allows Devine to submit additional signatures to cure the invalid signatures, which he did. As a result of the [ruling](#), Devine's name will appear on Republican primary ballots on March 5. Justice Devine did not participate in the decision.



Access to Justice



California

[*In re N.R., a Person Coming Under the Juvenile Court Law*](#)

In a unanimous ruling, the California Supreme Court overturned a state law allowing child welfare agencies to use parental substance use to justify the removal of children younger than age 6 from their parents' custody, a policy known as the Tender Years Doctrine. The ruling means that child welfare agencies must now prove that a child of any age is at risk of physical harm due to their parents' substance use to justify removal from custody.

Massachusetts

[*Commonwealth v. Watt*](#)

The Massachusetts Supreme Judicial Court ruled unanimously to vacate a murder conviction after finding that the defendant's constitutional right to counsel was violated because his lawyer was observed sleeping on multiple occasions during his

trial, including during the testimony of at least one crucial witness. The defendant, who was a juvenile at the time the murder was committed, will get a new trial.

New Jersey

[State v. Washington](#)

In a unanimous opinion, the New Jersey Supreme Court issued an unprecedented new rule directing prosecutors not to show a defendant's photo to any witness who has made a prior identification during trial preparation, ordering a lower court to determine if a man convicted of attempted manslaughter using witness identifications and circumstantial evidence should be retried due to a possible violation of his due process rights.

Election Administration



Oregon

[State ex rel Nelson, et al. v. Griffin-Valde](#)

The Oregon Supreme Court declined to hear a case seeking to remove former President Donald Trump from primary and general election ballots in the state due to his involvement in the insurrection at the U.S. Capitol on January 6, 2021. The court cited the U.S. Supreme Court's agreement to hear a challenge to a decision by the Colorado Supreme Court to remove Trump from the ballots in that state, saying that the Court's decision in that case may resolve claims brought in other states.

Texas

[In re Texas Nationalist Movement](#)

The Texas Supreme Court declined to hear a request from a state-based nationalist movement to order the state Republican Party chair to include on the party's primary ballots a referendum backed by the group that would ask Texas Republicans whether the state should "Texit": leave the United States and "reassert its status as an independent nation." The state party previously ruled the initiative invalid because numerous petition signatures were collected electronically or submitted after the deadline.

Environmental Protections



Alaska

[Sitka Tribe of Alaska v. State](#)

The Alaska Supreme Court ruled in favor of the state in a dispute between the Alaska Department of Fish and Game and the Sitka Tribe of Alaska, which had sued the Department alleging that mismanagement of the commercial fishing industry had led to poor subsistence harvests of herring eggs.

Montana

[Held, et al. v. State, et al.](#)

The Montana Supreme Court ordered state agencies to analyze climate impacts in its permitting decisions while it considers state officials' appeal in a case brought on behalf of Montana children for alleged failure to "maintain and improve a clean and healthful environment in Montana for present and future generations" as required by the state constitution.

Housing & Public Land Use



Missouri

Byrd, et al. v. State of Missouri, et al.

The Missouri Supreme Court ruled that a provision in a new state law that bans sleeping on public land and restricts state funding for permanent supportive housing is unconstitutional.

Police Accountability



Nevada

McCord v. State

The Nevada Supreme Court overturned a lower court ruling that dismissed a motion to suppress evidence in a case where police officers pulled over a person they suspected of drug activity because part of his license plate was obscured and found 187 grams of methamphetamine after searching his car. The court ruled the officers “lacked probable cause to justify the traffic stop.”

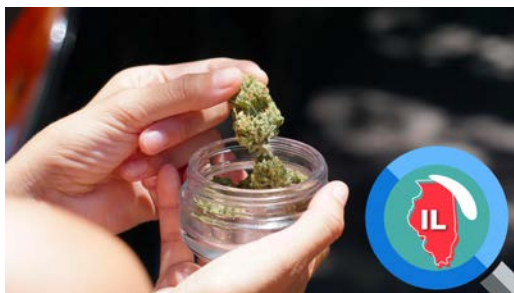
Legislative Redistricting



Wisconsin

Clarke v. Wisconsin Elections Commission

In a 4-3 decision, the Wisconsin Supreme Court declined a motion filed by Republican lawmakers that asked them to reconsider a decision they issued last month invalidating the state’s Assembly and Senate districts and ordered new maps to be drawn.



[Illinois Supreme Court to determine if cannabis odor can be cause for vehicle search](#)

The Illinois Supreme Court heard oral arguments in a case determining if the smell of marijuana is enough cause for a police officer to search the vehicle, taking a deeper look into the impact of the 2020 recreational legalization law requiring all cannabis be transported in odorless containers. Two plaintiffs claim their vehicles were searched unlawfully during traffic stops. Many groups supported the plaintiffs, pointing to the disparate impact these searches have on Black and Latino individuals.

[House GOP lawmakers introduce bill imposing near-total ban on abortion in Kansas](#)

Despite a state supreme court decision finding the right for a woman to terminate her pregnancy and voters overwhelmingly rejecting conservative state legislators' attempts to restrict abortion, state house conservative lawmakers are attempting to restrict abortion again in the state by making it illegal for an individual to perform or provide abortion related care unless medically necessary.



[Maine's top election official asks state supreme court to review Trump ballot eligibility decision](#)

Maine Secretary of State Shenna Bellows asked the Maine Supreme Court to review her ruling that former president Donald Trump is ineligible to appear on Maine ballots. The ruling had been paused by a lower court judge while the U.S. Supreme Court decides a similar case from the Colorado Supreme Court.



[COVID orders subject of Michigan Supreme Court argument](#)

In one of the first cases of 2024, the Michigan Supreme Court is hearing a case brought by businesses claiming the state's COVID-19 shutdown orders caused enough financial loss that they are equivalent to "takings" by the government. The plaintiffs have lost twice in the lower courts.



[NC Supreme Court should keep multibillion-dollar education plan, state and schools argue in latest Leandro filings](#)



[Pa.'s newest Supreme Court justice sworn in](#)

Recently elected Pennsylvania Supreme Court Justice Daniel McCaffery was officially sworn onto the state's highest court. McCaffery was elected in the 2023 partisan

The latest briefs have been filed in the North Carolina Supreme Court's rehearing of the Leandro education funding cases. The state's education system is asking the court to keep in place its 2022 decisions upholding the public school funding plan and orders for the government to fund it. However, conservative lawmakers are arguing they are the only ones with authority over education funding and have asked the court to completely overturn its 2022 decision.

general election. He will serve a ten-year term, and to remain on the bench, McCaffery must subsequently be retained by voters in a yes/no retention election.



[Lawmakers answer questions about all-male SC Supreme Court](#)

Following the creation of the state's all-male supreme court in 2023, South Carolina legislators were questioned about their efforts to add diversity to the judiciary and ensure it reflects the state's population. To fill the most recent vacancy on the court, a male judge was selected over two female judges.

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