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Trump's options to reverse election dissolve after Electoral College certification

Stephen Dinan

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President Trump is out of time.

Congress' certification of an Electoral College win for President-elect Joseph R. Biden early Thursday left the president with nowhere else to turn to challenge the results of November's balloting, even if he had a desire to do so after Wednesday's violence at the Capitol.

Legal experts, speaking before the pro-Trump mob's assault, said the president has had a spectacularly unsuccessful run of court challenges — by one count, he and his allies lost 62 cases — and with Inauguration Day now less than two weeks away, there are no more strings left to pull.

“Who knows what Trump is going to throw at the wall, but we've never had any proceedings between the congressional certification — the count of electors — and Inauguration Day. Once that's certified, there's no role for courts to change anything,” Ilya Shapiro, director of the Levy Center for Constitutional Studies at the Cato Institute, said this week.

The appetite for any more attempts by Mr. Trump is at an all-time low, at least among power brokers in Washington, after Wednesday's violence.

Some senators who had planned to join the president's push to object to the electoral vote count withdrew their support for the effort in the wake of the Capitol attack.

“We’re headed tonight towards the certification of Joe Biden to be the president of the United States, and we will work together in this body to be able to set a peaceful example in the days ahead,” said Sen. James Lankford, an Oklahoma Republican who just hours earlier planned to demand that the vote be delayed so a commission could investigate voting irregularities.

Counting electoral votes is usually a formality, but Mr. Trump turned it first into a drama and then into a tragedy by riling up his supporters. Demonstrators who heard his speech Wednesday broke through police barricades and invaded the Capitol, breached the Senate chamber and forced an armed standoff with police at the doors of the House chamber. One protester was fatally shot, and three others died from medical emergencies. A Capitol Police officer also died from the melee.

The electoral tally marks the final step in the political process of certifying the vote, after extensive litigation by Mr. Trump, which was just as futile.

According to a count maintained by Marc Elias, founder of Democracy Docket, the president and his allies were just 1 for 63 in the legal challenges brought.

The one exception Mr. Elias counted was a ruling by a Pennsylvania judge who blocked counting of mail-in ballots where voters didn’t verify their identities by the deadline.

Other legal experts said Mr. Elias’ count may not exactly track how they would tally the cases, but the general sense is correct: The president got pasted in the courts.

A ruling this week by Judge James Boasberg said the case before him was so poorly handled that it “renders it difficult to believe that the suit is meant seriously.”

Judge Boasberg was appointed to the federal district court in the nation's capital by President Obama. But other judges who rejected the president's arguments were appointed by Republican governors and presidents, including a striking number of Trump-appointed jurists.

In Pennsylvania, 3rd U.S. Circuit Judge Stephanos Bibas, a Trump appointee, led a rejection of a Trump attempt to decertify the state's results.

"Charges of unfairness are serious, But calling an election unfair does not make it so. Charges require specific allegations and then proof," Judge Bibas wrote. "We have neither here."

The judge noted that Mr. Trump's own legal team in that case stressed that it wasn't alleging fraud, but rather complaining that counties didn't allow enough access to poll watchers and were too lenient in allowing voters to correct deficient ballots.

"Trump's judges are excellent, his lawyers not so much," Mr. Shapiro said.

Judges' rulings were peppered with phrases such as "did not prove" and "without merit," and "record does not support" and "implausible conclusions."

"Trump's legal claims have failed because he could not identify enough problems with how the elections were conducted in any of the states to alter the outcome of the election," Rick Hasen, a professor and elections expert at the University of California, Irvine, said this week. "Not only could he not do that in the three states minimum he would need to overturn the Electoral College results; he could not do it in one."

Judge Boasberg said the case before him was so poorly argued that he is pondering submitting the lawyers for discipline once the litigation is concluded.

Mr. Hasen said that detail is telling.

“There has indeed been bad lawyering, but part of the problem is that top lawyers would not want to come in and bring claims that Trump would be likely to lose and that would be based upon bad evidence, shoddy legal theories, or both,” he said. “The lawyers Trump did retain did not shy away from making unsubstantiated factual and legal claims.”

Not all of Mr. Trump's arguments were deemed baseless.

In some of the cases, they were rejected because Mr. Trump's legal team waited until after the voting to raise matters that should have been challenged beforehand.

Mr. Shapiro said voting irregularities happen in every election, but they were compounded this year by the COVID-19 pandemic and the rush by states to rework their rules and, in many cases, to expand mail-in balloting.

Even in Pennsylvania, where Mr. Trump has perhaps his strongest argument that the election rules were changed in defiance of the state's laws, the number of ballots that could be affected is lower than the margin of Mr. Biden's victory, Mr. Shapiro said.

“Two things can be right: There was plenty wrong in multiple states with how the election was administered, and that needs to be investigated and reformed, but at the same time that shouldn't lead one to question the ultimate outcome of the election,” he said.

“This was a close election, let's be clear about that. But nothing that has been made public, let alone has been presented to courts, is sufficient to question the legitimacy of the outcome,” he said.