

## IDEAS

# The GOP Abandons Democracy

One hundred and six Republican members of Congress, and 18 state attorneys general, are asking the Supreme Court to overturn the election.

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TOM WILLIAMS / CQ-ROLL CALL / GETTY

When Donald Trump was granted a coat of arms for his Scottish golf courses in 2012 (after a lengthy court battle, of course), he chose as its motto “*Numquam concedere*”: Never concede. He has not, even as it has become clear that he lost the presidential election by a wide margin.

In the first few weeks after the election, anonymous Republicans and White House officials insisted that Trump’s lack of a concession was no reason for alarm. They assured reporters that Trump knew he’d lost and just needed time to process his defeat—and to put up enough of a fight that he could maintain his image. Perhaps

that was true, and perhaps it remains true now, but Trump isn't acting like someone working through the stages of grief. He's acting like someone working through a slow-motion (and probably doomed) autogolpe.

Instead of Republican officeholders waiting out Trump's postelection tantrum, he is waiting them out, and slowly bringing the party around to his side. In this way, Trump is ending his presidency just the way he won it: by correctly recognizing what Republican voters want and giving it to them, and gradually forcing the party's purported leaders to follow along.

This embrace of the president's attempt to overturn the results of the election is both shocking and horrifying. As Trump's fraud claims and legal cases have steadily failed, the arguments he has pursued have become more outlandish and absurd, and they have also become more disturbing. Many Republican voters agree, and in refusing to stand up to him and them, Republican officials have gone from coddling a sore loser to effectively abandoning democracy.

*[ Zeynep Tufekci: Is Trump trying to stage a coup? ]*

Yesterday, Texas Attorney General Ken Paxton filed a lawsuit in the Supreme Court asking the justices to toss out the election results in Georgia, Michigan, Pennsylvania, and Wisconsin. (The Court has "original jurisdiction" over cases between states, acting like a trial court.) Trump announced that he would intervene in the case on his own behalf. "This is the big one," he tweeted.

Legal experts have heaped disdain on the case. Rick Hasen labels it "dangerous garbage, but garbage." The case complains that the states changed their election rules late in the process, but that is true of many states that sought to respond to the COVID-19 pandemic. These states just happen to have been called late and to have voted for Joe Biden.

The case is the apotheosis of Trump's shifting legal strategies. Initially, he had sought to have some ballots disqualified, alleging fraud. These claims were dangerous; there is no evidence of widespread fraud, disenfranchising legal voters is unjust, and such attacks can undermine faith in future elections. As this strategy failed, undone by the lack of evidence, Trump and his allies began seeking to toss wholesale the results that don't help him. First, the president tried to pressure Republican elected officials, including legislative leaders in Michigan and

Pennsylvania and Georgia's governor and secretary of state, to throw out results. When they refused, the effort moved on to the Supreme Court's nine unelected justices.

That Paxton would file such a lawsuit isn't a huge surprise. He is a hard conservative who has often used the court system to dubious ends. Perhaps more to the point (as Senator Ben Sasse, the Nebraska Republican, notes), Paxton is also facing some serious legal problems, and would benefit from a pardon before Trump leaves offices.

*[ Read: Republicans are going down a dangerous road ]*

More surprising is that 17 Republican state attorneys general filed a brief in support of Paxton's suit, a sizable majority of the top Republican law-enforcement officials in the country. Then 106 Republican members of the U.S. House did the same. When Georgia Attorney General Chris Carr, a Republican, called the suit "constitutionally, legally and factually wrong," he received a threatening phone call from Trump. Meanwhile, the state's two GOP U.S. senators, both of whom are competing in a January runoff, endorsed the lawsuit that seeks to throw out the vote in Georgia. Senator Ted Cruz of Texas has reportedly agreed to Trump's request that he argue the case if the justices take it up.

Many of these people may be going along not in spite of the fact that the suit is preposterous, but *because* it is: The stakes appear lower if they don't have to worry about the Court actually taking them seriously. That is a dangerous calculation. The case seems to face very, very long odds, though it takes only five members of the Court to turn the preposterous into precedent. Even if the case fails, though, these Republicans have set a course of being willing to oppose the results of elections simply because they don't like them. That is by definition antidemocratic.

The attorneys general, Cruz, and the Georgia senators are in ample (though not good) company. One might have expected that as more time passed since the election, and more of Trump's lawsuits were tossed out of court, more Republican officeholders would start to acknowledge reality. Some GOP members of Congress have done so, but not many. State and local elections officials, especially in Georgia, have pushed back bravely against Trump. But in Washington, D.C., Sasse and his Senate colleague Mitt Romney, who have been critical of Trump's antidemocratic actions, remain lonely outliers.

Other Republican officials have offered a range of cop-outs. Some acknowledge that Biden will be the next president but don't condemn the current president's actions. Senate Majority Leader Mitch McConnell has referred to a Biden administration but won't call Biden the president-elect. When South Dakota Governor Kristi Noem seemed to acknowledge reality, her spokesperson contacted a local outlet to insist that, no, Noem was still living in a fantasyland, a remarkable act even in this golden age of self-debasement.

*[ Adam Serwer: If you didn't vote for Trump, your vote is fraudulent ]*

GOP leaders will have another chance to do the right thing when the Electoral College meets and elects Biden on December 14, and some are supposedly ready, but the past few years don't offer much reason for hope. During the 2016 GOP primary, Republican elders fretted over Trump's coarseness, his open bigotry, and some of his policies, especially his skepticism of free trade. But they mostly decided to humor him, assuming that he wouldn't win the nomination (or the presidency) but that he was good for ginning up the base. Instead, he ended up owning the party. Over and over, from *Access Hollywood* to extorting Ukraine, Republican officeholders have first criticized Trump's actions, then sought to ignore them, and finally ended up defending them.

The customary explanation for Republican timidity is that officeholders are afraid of Trump. Though sometimes intended as apology, this does not say much for GOP leaders. It may miss what is really happening, though. Trump shapes but also reflects the views of Republican voters. A new Quinnipiac poll finds that 70 percent of Republican voters believe Biden's win was illegitimate. When *The New York Times* asked Kim Ward, the Republican leader in the Pennsylvania Senate, whether she would have signed a letter declaring there was fraud in the state's election, she replied, "If I would say to you, 'I don't want to do it,'" referring to signing the letter, "I'd get my house bombed tonight."

Elected officials ought to be responsive to constituents—within reason. But the disposition of the election has long since passed the bounds of reason. Republican officials aren't afraid of Trump so much as they are afraid of Republican voters. And Republican voters appear to be afraid of democracy.