

Issue: Election Denial

## Arizona

# Ground Zero of Election Denial

### The 2020 Election

In the run-up to both the 2016 and 2020 presidential elections, former president Donald Trump consistently maintained that if he did not win, the election must have been “rigged” or “fraudulent.” Starting on election night, November 3, 2020, Trump claimed widespread election fraud and that he had actually won the election. Taking their cue from him, Republicans in Arizona leapt into action and filed a total of seven lawsuits challenging the election results showing a narrow Biden victory. The first suit was filed on November 4 and the last on December 4, 2020. With claims ranging from the ordinary (miscalculated ballots or improper signature verification) to the absurd (sharpie marker ink bled through the paper and obscured the ballot or fake ballots were brought in on an airplane from South Korea), three of the suits were dropped by plaintiffs and four were dismissed by the court.<sup>1</sup>

Arizona Republicans demonstrated their leadership in the election denial and “stop the steal” movement with two other actions following the 2020 election:

- Arizona is one of several states in which the Republican Party arranged for fake “electors” to falsely certify that they were the duly elected electors pledged to Trump. They or the fake “electors” sent documentation to that effect to Washington for use in the January 6 electoral college vote counting process. Joining three other states in taking similar action, Arizona’s Democratic Attorney General in April of this year brought criminal indictments against the fake electors, as well as other co-conspirators allied with Trump.<sup>2</sup>
- The Arizona state Senate commissioned an audit of Maricopa County election results by the deliciously-named Cyber Ninjas, which had no prior experience in such audits but whose CEO was on record alleging fraud in the 2020 election. This group found that, notwithstanding numerous alleged problems with the election, Biden was indeed the winner.<sup>3</sup>

### The 2022 Election

In the Arizona state elections in 2022, election denying took center stage. The Republican candidates for US Senate, governor, attorney general, secretary of state and corporation commissioner, as well as five Republican candidates for the US House of Representatives, six Republican candidates for State Senate and four Republican candidates for the State House of Representatives, all denied that Joe Biden won the 2020 presidential election.<sup>4</sup> The most high profile of these candidates—Blake Masters who ran for US Senate, Kari Lake for governor, Abe Hamadeh for attorney general and Mark Finchem for secretary of state—all lost their elections. Lake, Hamadeh and Finchem of course denied that the election was legitimate and each filed at least one lawsuit challenging the results of the 2022 election in Maricopa County alleging voting irregularities and systemic errors. All of these lawsuits were dismissed, with Lake’s lawsuit still on appeal.<sup>5</sup> Like the lawsuits filed in Arizona to challenge the results of the 2020 presidential election (or, for that matter, all 60 or so lawsuits filed by the Trump

campaign or its allies contesting the 2020 election results) these lawsuits challenging the Arizona 2022 election results ran headlong into the rigor, facts and evidence required by the justice system to prevail on accusations of fraud or other improper actions in elections.

## The Lies Behind Election Denial

Trump-inspired election deniers refuse to accept defeat in an election, thereby fundamentally refusing to accept the outcome of democracy. They also refuse to accept the judgment of courts that no evidence exists to overturn elections, thereby fundamentally refusing to accept the rule of law. They continue loudly and publicly to press allegations of fraud notwithstanding the inability to convince any court of the merits of their claims.<sup>6</sup> The most pernicious of the fraud claims—otherwise known as lies—by election deniers is the alleged prevalence of in-person voter fraud. In a comprehensive review of numerous studies of voter fraud, the Brennan Center for Justice at NYU law school concluded that “fraud by voters at the polls is vanishingly rare.” Occurring at rates between 0.0003% and 0.0025%, the Brennan Center determined that in-person voter fraud does not alter the outcome of any election.<sup>7</sup> The application of common sense would suggest that criminal charges (or deportation in the case of undocumented persons) is too great a risk to take to cast an illegal vote.

Allegations by election deniers in the cases brought in Arizona following the 2020 and 2022 elections ran the gamut from “illegal” votes being counted, ballots improperly rejected or not counted, and signatures not properly verified to poorly trained workers and general election day chaos. Popular targets of the election deniers were the Dominion voting systems and related software, which allegedly were programmed to produce false results or were hacked to produce false results or were simply too complicated and opaque to be properly operated. None of these allegations survived scrutiny in court.<sup>8,9</sup>

Election deniers not only attack election procedures and mechanics but also those who are in charge of the election process, often alleging that they are participating in rigging the election. In Arizona, most of these allegations have been directed at the officials of Maricopa County in charge of elections. Specifically, Kari Lake has attacked Stephen Richer, the recorder in Maricopa County, as participating in the rigging of the 2022 gubernatorial election that Lake lost. Mr. Richer finally filed a defamation case against Lake, in which Lake has conceded liability and requested the trial proceed to a hearing on damages. Unfortunately, Richer and other members of the Maricopa County Board of Supervisors have also suffered harassment and threats from the public. Again, Arizona stands out as a hotbed of this kind of threats, evidenced by the fact that seven out of 18 cases brought nationwide by federal authorities for election threats are in Arizona.<sup>10</sup>

## Disturbing Proposals to Fix Nonexistent Problems

In addition to calling into question the legitimacy of our elections, the good faith and honesty of election workers and the straightforward operation of voting machines and other election processes, election deniers are proposing laws that will inevitably result in our elections being more partisan, more subject to manipulation and less reflective of the will of the voters. They propose these laws in order to “fix” the problems they claim exist in our “rigged” elections. About 250 such laws were introduced in the last year in 39 states. These laws would interfere with elections in one or more of five basic ways: (i) give legislators or other state officials direct control over election outcomes; (ii) require partisan or unprofessional election “audits” or reviews; (iii) shift election responsibilities to partisan actors in the legislature; (iv) create unworkable burdens in election administration; and (v) impose disproportionate criminal or other penalties. Once again, Arizona is a leader in this effort as

one of only two state legislatures to have introduced bills in all five categories of election interference identified by the study. (The other state is Texas.)<sup>11</sup>

## Arizona Republican Party is a Driver of Election Denial

The effort to deny election results—that is, to reject democracy—is contained within a segment of the Republican party<sup>12</sup> and this segment is particularly prominent in the Arizona Republican party. Depending on a judgment of the level of commitment to election denial, as many as 40% of the candidates for the Arizona state legislature in 2022 were election deniers and up to 34% of serving Arizona state legislators are election deniers.<sup>13 14</sup> Noting the “looming danger” in the upcoming 2024 election, the Guardian, an independent British newspaper, calculated that “more than half - 53% - of Arizonans are currently represented in the state legislature by Republicans with a proven track record of election denial”<sup>15</sup>

As mentioned above, the Arizona legislature is among the most prolific at proposing anti-democratic and partisan “fixes” to elections. (See the Local Majority Arizona paper “You Can’t Make This Up! 2024 Edition.”) Election denial and the resulting threats and harassment from the public have inflicted damage on the administration of elections in Arizona, with the top election administrator in 12 of Arizona’s 15 counties having quit due to public threats and harassment. Also, two of five members of the Board of Supervisors in Maricopa County are not standing for re-election for the same reason.<sup>16</sup> Even in Mohave County, where Trump won in 2020 with 75% of the vote and the results were not in dispute, election deniers are insisting on hand counting of ballots.<sup>17</sup>

One of the most insidious effects of election denial is to degrade the public’s confidence in the fair administration of elections and, more generally, in the good faith and honesty of government administrators and workers, many of whom in Arizona are Republicans.<sup>18</sup> Disturbingly, Republican legislators in Arizona who are not, strictly speaking, election deniers are willing to sign on to legislation that will make elections less democratic and more partisan. (Again, see the Local Majority Arizona paper “You Can’t Make This Up! 2024 Edition.”) The election losses of Lake, Hamadeh and Finchem in 2022 do not appear to have cooled the ardor of Arizona’s Republican legislators for election denial. The answer is to flip the legislature to Democratic control to prevent the further erosion of democratic elections.

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<sup>1</sup> [https://en.wikipedia.org/wiki/Post-election\\_lawsuits\\_related\\_to\\_the\\_2020\\_United\\_States\\_presidential\\_election\\_from\\_Arizona](https://en.wikipedia.org/wiki/Post-election_lawsuits_related_to_the_2020_United_States_presidential_election_from_Arizona)

<sup>2</sup> <https://www.forbes.com/sites/alisondurkee/2024/04/25/all-the-states-investigating-the-2020-election-arizona-brings-charges-against-giuliani-meadows-and-fake-electors/?sh=33f97ce51fe2>

<sup>3</sup> <https://newrepublic.com/article/168212/kari-lakes-arizona-donald-trump-big-lie-stop-the-steal>

<sup>4</sup> <https://www.azcentral.com/in-depth/news/politics/elections/2022/09/21/arizona-2022-candidates-still-deny-question-2020-results/8012356001/>

<sup>5</sup> <https://www.democracydocket.com/cases/topic/post-election-litigation/state/arizona/?k=election%20contest>

<sup>6</sup> <https://www.azcentral.com/in-depth/news/politics/elections/2022/09/21/arizona-2022-candidates-still-deny-question-2020-results/8012356001/>

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<sup>7</sup>[https://www.brennancenter.org/sites/default/files/analysis/Briefing\\_Memo\\_Debunking\\_Voter\\_Fraud\\_Myth.pdf](https://www.brennancenter.org/sites/default/files/analysis/Briefing_Memo_Debunking_Voter_Fraud_Myth.pdf)

<sup>8</sup> [https://en.wikipedia.org/wiki/Post-election\\_lawsuits\\_related\\_to\\_the\\_2020\\_United\\_States\\_presidential\\_election\\_from\\_Arizona](https://en.wikipedia.org/wiki/Post-election_lawsuits_related_to_the_2020_United_States_presidential_election_from_Arizona)

<sup>9</sup> <https://www.democracydocket.com/cases/topic/post-election-litigation/state/arizona/?k=election%20contest>

<sup>10</sup> The New York Times, March 30, 2024, page A 16

<sup>11</sup> <https://statesuniteddemocracy.org/resources/dcim-2023-year-end/>

<sup>12</sup> <https://www.nytimes.com/2022/09/17/us/american-democracy-threats.html>

<sup>13</sup> <https://statesuniteddemocracy.org/resources/states-of-denial/#arizona>

<sup>14</sup> <https://www.azcentral.com/in-depth/news/politics/elections/2022/09/21/arizona-2022-candidates-still-deny-question-2020-results/8012356001/>

<sup>15</sup> <https://www.theguardian.com/us-news/2024/mar/16/arizona-election-denial-consequences>

<sup>16</sup> <https://www.theguardian.com/us-news/2024/mar/16/arizona-election-denial-consequences>

<sup>17</sup> <https://www.theguardian.com/us-news/2024/mar/16/arizona-election-denial-consequences>

<sup>18</sup> <https://www.theguardian.com/us-news/2024/mar/16/arizona-election-denial-consequences>