

U.S. Supreme Court Rules in Favor of States' Authority Over Presidential Electors Through the Party System, as Urged by Wiley Attorneys

FIRM'S AMICUS BRIEF CITED IN MAJORITY OPINION

July 6, 2020

Washington, DC – Today, the U.S. Supreme Court unanimously rejected two challenges to the constitutionality of so-called “faithless elector” laws, as urged by Wiley attorneys on behalf of the Republican National Committee (RNC).

In a majority opinion authored by Justice Elena Kagan, the Court held that “a State may enforce an elector’s pledge to support their party’s nominee – and the state voters’ choice – for President.” The Court’s ruling also cited an April 8 RNC *amicus* brief that Wiley attorneys had filed in support of the states of Washington and Colorado, respectively, in *Chiafalo v. Washington* and *Colorado Department of State v. Baca*.

The Wiley brief – which was previously quoted by *The Wall Street Journal* Editorial Board – urged the Court to support States’ authority over Presidential electors through the party system. Wiley partner Michael E. Toner, chair of the firm’s Election Law & Government Ethics Practice, served as counsel of record on the brief. Mr. Toner authored and filed the brief for the RNC along with partners Lee E. Goodman and Stephen J. Obermeier and associates Jeremy J. Broggi and Boyd Garriott.

“Washington’s law,” Justice Kagan concluded in the 18-page ruling in *Chiafalo v. Washington*, “reflects a tradition more than two centuries old.” “In that practice, electors are not free agents; they are to vote for the candidate whom the State’s voters have chosen.” Relying in part on the RNC’s *amicus* brief, she found that “[t]he history going the

Related Professionals

Michael E. Toner
Partner
202.719.7545
mtoner@wiley.law

Lee E. Goodman
Partner
202.719.7378
lgoodman@wiley.law

Stephen J. Obermeier
Partner
202.719.7465
sobermeier@wiley.law

Jeremy J. Broggi
Partner
202.719.3747
jbroggi@wiley.law

Boyd Garriott
Associate
202.719.4487
bgarriott@wiley.law

Practice Areas

Election Law & First Amendment Litigation
Election Law & Government Ethics
Issues and Appeals

opposite way is one of anomalies only.”

The *Chiafalo v. Washington* decision – which affirmed the judgment of the Washington Supreme Court – can be read [here](#).

In a one-sentence per curiam opinion issued today, the Justices also reversed the Tenth Circuit ruling that invalidated Colorado’s faithless elector law “for the reasons stated in” Justice Kagan’s opinion in the Washington case.