

**No. 25-365**

**IN THE  
SUPREME COURT OF THE UNITED STATES**

**DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES, et al.,**

*Petitioners,*

v.

**BARBARA, et al.,**

*Respondents.*

**MOTION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE  
THEODORE "TED" HAYES, JR. IN SUPPORT OF NEITHER PARTY  
REGARDING THE "CONSTITUTIONAL GENIUS" OF THE 1866 ACT**

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## **MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF**

Pursuant to Supreme Court Rule 37.2, Theodore “Ted” Hayes, Jr., respectfully moves for leave to file the accompanying brief as *Amicus Curiae* in support of neither party.

Amicus submits this brief to assist the Court by providing historical materials concerning the Civil Rights Act of 1866 and President Andrew Johnson’s veto message, which illuminate the legislative context of the Citizenship Clause of the Fourteenth Amendment.

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## INTEREST OF AMICUS CURIAE

This brief is submitted in support of neither party.

Amicus Ted Hayes is a civic activist and independent researcher who has spent decades examining the historical and legal foundations of Reconstruction legislation in the United States.

Amicus submits this brief to assist the Court by presenting historical evidence regarding the legislative context in which the Civil Rights Act of 1866 and the Fourteenth Amendment were adopted.

Specifically, this brief highlights primary historical materials, including President Andrew Johnson's veto message of the Civil Rights Act of 1866, which illuminate how Congress and the Executive Branch understood the scope of citizenship during Reconstruction.

Amicus believes that these historical materials may assist the Court in evaluating the original legislative framework underlying the Fourteenth Amendment.

No counsel for any party authored this brief in whole or in part, and no person other than the amicus curiae made any monetary contribution to its preparation or submission.

## SUMMARY OF THE ARGUMENT

This brief highlights historical evidence suggesting that the citizenship provision adopted during Reconstruction was crafted within the legislative context of the Civil Rights Act of 1866.

The citizenship clause of the Fourteenth Amendment must be understood within the historical context of Reconstruction legislation enacted immediately after the Civil War. Congress enacted the Civil Rights Act of 1866 to resolve the legal status of persons who had been held in chattel slavery prior to emancipation.

That statute declared that persons born in the United States and not subject to foreign powers were citizens of the United States.

President Andrew Johnson vetoed the legislation, but his veto message provides an important historical explanation of the statute's scope and purpose.

Although Congress overrode the veto, Johnson's message remains a significant document reflecting contemporary understanding of the law being enacted.

The Fourteenth Amendment was adopted shortly thereafter and constitutionalized the principle established in the Civil Rights Act of 1866.

Accordingly, the citizenship clause should be interpreted within the legislative framework established during Reconstruction.

## ARGUMENT

### I. Reconstruction Context of the Citizenship Clause

The Fourteenth Amendment was adopted during Reconstruction in response to the legal and constitutional consequences of the Civil War and the abolition of slavery.

Prior to the Civil War, the Supreme Court in *Dred Scott v. Sandford* held that persons of African descent could not be citizens of the United States.

Following the Civil War, Congress enacted legislation to overturn this doctrine and to secure the civil rights of the newly emancipated population.

The Civil Rights Act of 1866 was the first major statute adopted for this purpose.

The statute declared that persons born in the United States and not subject to foreign powers were citizens.

Congress then moved to constitutionalize this principle through the Fourteenth Amendment.

Thus, the citizenship clause cannot be separated from the Reconstruction statutes that preceded it.

## **Historical Sources Reconstruction Era Legislative Debates on Citizenship and Civil Rights**

The legislative debates surrounding Reconstruction demonstrate that Congress sought to establish a clear legal status for persons who had previously been denied citizenship under the system of chattel slavery.

The central purpose of Reconstruction legislation was to secure civil rights and national citizenship for the newly emancipated population.

The Fourteenth Amendment must therefore be interpreted within this historical framework.

## II. The Civil Rights Act of 1866 Defined the Citizenship Class

The Civil Rights Act of 1866 declared:

“All persons born in the United States and not subject to any foreign power... are hereby declared to be citizens of the United States.”

This statute was enacted primarily to ensure the citizenship of persons emancipated from slavery.

It represented Congress’s effort to establish a clear national standard of citizenship following the Civil War.

The statute also directly repudiated the reasoning of *Dred Scott*.

The Fourteenth Amendment subsequently incorporated this statutory principle into the Constitution.

### Congressional Debate Evidence

During debate on the Civil Rights Act of 1866, Senator Lyman Trumbull explained the purpose of the citizenship provision.

Trumbull stated that the bill was intended to secure national citizenship for persons born in the United States who were not subject to a foreign government and who had previously been denied citizenship under the doctrine announced in *Dred Scott v. Sandford*.

Trumbull explained:

“What do we mean by ‘subject to the jurisdiction of the United States’?  
Not owing allegiance to anybody else. That is what it means.”

Cong. Globe, 39th Cong., 1st Sess. (1866).

By constitutionalizing the principles of the 1866 statute, the Fourteenth Amendment ensured that citizenship could not be denied by future legislation or state law.

The amendment therefore reflects the legislative purpose of Reconstruction.

### **III. President Andrew Johnson's Veto Message Clarifies Congressional Intent**

President Andrew Johnson vetoed the Civil Rights Act of 1866, but his veto message provides an important contemporary explanation of the statute Congress enacted. In describing the Act, Johnson identified the class of persons whose legal status the legislation sought to resolve following emancipation.

Although Congress ultimately overrode the veto, the message remains a valuable historical record of how the legislation was understood at the time of enactment. Read together with the debates of the Thirty-Ninth Congress, Johnson's explanation helps illuminate the legislative context in which the citizenship language later incorporated into the Fourteenth Amendment emerged.

Because the Civil Rights Act of 1866 preceded and informed the drafting of the Fourteenth Amendment, contemporary explanations of the statute provide useful insight into the historical framework in which the Citizenship Clause was adopted.

#### **IV. The Fourteenth Amendment Constitutionalized the 1866 Statute**

Following enactment of the Civil Rights Act of 1866, Congress proposed the Fourteenth Amendment to ensure that the principles of the statute would be permanently embedded in the Constitution.

The citizenship clause reflects the same language and framework used in the 1866 legislation.

Thus, the amendment can be understood as a constitutional extension of the Reconstruction statutes.

Following enactment of the Civil Rights Act of 1866, Congress proposed the Fourteenth Amendment to ensure that the principles of the statute would be permanently embedded in the Constitution.

## **V. Constitutional Interpretation Cannot Be Based Solely on Custom**

Modern interpretations of the citizenship clause sometimes rely heavily on historical practices or assumptions that developed long after Reconstruction.

However, constitutional interpretation must remain anchored to the legislative history and statutory framework that existed at the time the amendment was adopted.

The Reconstruction record provides essential guidance for interpreting the citizenship clause.

## CONCLUSION

The Civil Rights Act of 1866 and the Fourteenth Amendment were enacted within the historical context of Reconstruction.

The legislative debates and historical documents from that era provide important insight into the meaning and purpose of the citizenship clause.

For these reasons, the Court should interpret the Fourteenth Amendment with careful attention to the Reconstruction statutes and historical materials that shaped its adoption.

Respectfully submitted,

Theodore “Ted” Hayes

Amicus Curiae, Pro Se

## **CERTIFICATE OF COMPLIANCE**

1. This brief complies with the word-count limitation of Supreme Court Rule 33.2 because it contains approximately 1,046 words.
2. This brief complies with the typeface requirements of Rule 33.2 because it has been prepared in 12-point Century Schoolbook font.

**Theodore “Ted” Hayes, Jr.**

## CERTIFICATE OF SERVICE

I, **Theodore “Ted” Hayes, Jr.**, hereby certify that on this 16th day of March, 2026, I served a true and correct copy of the foregoing *Motion and Short-Form Amicus Curiae Brief* by placing it in the U.S. Mail, first-class postage prepaid, addressed to:

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I declare under penalty of perjury that the foregoing is true and correct.

**Theodore “Ted” Hayes, Jr.** Executed at Los Angeles, CA.