Order

Michigan Supreme Court
Lansing, Michigan

June 8, 2026

SC: 170183 & (22)
COA: 380984

Megan K. Cavanagh,
Chief Justice

Brian K. Zahra
Richard H. Bernstein
Elizabeth M. Welch
Kyra H. Bolden
Kimberly A. Thomas
Noah P. Hood,
Justices

ARIEL DRISSMAN,
Plaintiff-Appellant,

v

MICHIGAN DEPARTMENT OF STATE,
Defendant-Appellee.

On order of the Court, the motion to expedite is GRANTED. The application for leave to appeal the June 4, 2026 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the question presented should be reviewed by this Court.

WELCH, J. (*concurring*).

I agree with the Court of Appeals that plaintiff failed to establish that he was entitled to the extraordinary remedy of a writ of mandamus. See *Kennedy v Secretary of State*, 515 Mich 893, 893 (2024). I therefore concur in the Court's denial order. I write separately, however, to clarify the concerns raised by the Court of Appeals and to highlight certain steps the Legislature can take to ensure that voters are not denied the opportunity to vote for their candidate of choice.

I. BACKGROUND

Plaintiff Ariel Drissman was a candidate for Oakland County Probate Judge. To appear on the ballot, he needed to file with the Oakland County Clerk nominating petitions containing 4,000 valid signatures. See MCL 168.544f. Although plaintiff submitted nominating petitions containing 4,716 signatures, the Clerk determined that only 3,862 of those signatures were valid.

On May 8, within three days of the Clerk's determination, plaintiff timely asked that the Secretary of State review the matter. See MCL 168.552(6). To support his challenge, between May 13 and May 22, plaintiff filed 111 affidavits from voters verifying their signatures as "genuine." The Bureau of Elections (BOE) reviewed the Clerk's

determination regarding the genuineness of the relevant signatures by comparing them to the signatures in the qualified voter file. But the BOE did not review the voter affidavits that plaintiff filed, reasoning that plaintiff submitted those affidavits at least five days after the three-day request-for-review window had closed. See *id*. After conducting its review, the BOE concluded that the Oakland County Clerk improperly struck 23 signatures, leaving plaintiff still 115 signatures short.

Plaintiff then commenced this action in the Court of Appeals seeking a writ of mandamus to compel defendant to certify him as a candidate for Probate Court Judge in Oakland County. To support his request, plaintiff argued that defendant erred by not considering the 111 voter affidavits, and that defendant made various other errors with respect to 90 other signatures.[1]

The Court of Appeals denied plaintiff's complaint in a published opinion. *Drissman v Dep't of State*, ___ Mich App ___ (June 4, 2026) (Docket No. 380984). With respect to the voter affidavits, the panel reasoned that "plaintiff does not show that he was entitled to review of the voter statements, and he has not shown that defendant owed a clear legal duty to count the rejected signatures." *Id*. at ___; slip op at 3-4. The panel rejected the other arguments on various grounds, none of which are relevant to this statement.[2] This application followed.

II. DISCUSSION

We review a court's decision to issue or deny a writ of mandamus for an abuse of discretion. *Stand Up v Secretary of State*, 492 Mich 588, 598 (2012). "To obtain the extraordinary remedy of a writ of mandamus, the plaintiff bears the burden of showing that: '(1) the plaintiff has a clear, legal right to performance of the specific duty sought, (2) the defendant has a clear legal duty to perform, (3) the act is ministerial, and (4) no

---

[1] Specifically, plaintiff argued that 27 signatures should be rehabilitated for various reasons, that 10 signatures were improperly disqualified for invalid dates that are merely scrivener's errors, and, as to the duplicates, each internal-duplicate voter should be counted once and that he should thus receive 53 additional signatures.

[2] Specifically, the panel concluded (1) that plaintiff was not entitled to have 53 initial signatures accepted for voters who signed his petition twice, see *McCoy v Berrien Co Clerk*, 348 Mich App 602, 621-622 (2023); (2) that the signatures of voters not registered in the municipality designated on the petition were presumptively invalid, see MCL 168.552(13); (3) that plaintiff failed to provide a sufficient evidentiary record to support his factual allegations regarding addresses and voters' names; and (4) that defendant "was not required to count signatures with dates that could not be properly verified," *McCoy*, 348 Mich App at 620-621.

other adequate legal or equitable remedy exists that might achieve the same result.' " *Kennedy*, 515 Mich at 893, quoting *Taxpayers for Mich Constitutional Gov't v Michigan*, 508 Mich 48, 82 (2021). To be deemed ministerial, an act must be "one in which 'the law prescribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of discretion or judgment.' " *Hillsdale Co Senior Servs*, *Inc v Hillsdale Co*, 494 Mich 46, 58 n 11 (2013), quoting *Toan v McGinn*, 271 Mich 28, 34 (1935).

I agree with the Court of Appeals that neither the BOE nor the Clerk had a "clear legal duty" to consider the voter affidavits. First, as discussed earlier, plaintiff submitted the voter affidavits after the three-day request-for-review window had closed. See MCL 168.552(6) ("A person feeling aggrieved by a determination made by the county clerk may have the determination reviewed by the secretary of state by filing a written request within 3 days after the official declaration . . . ."). The Court of Appeals correctly noted that that there is "[nothing] in the statute that *required* defendant to consider documents submitted by plaintiff after the deadline for him to seek review." *Drissman*, ___ Mich App at ___; slip op at 3 (emphasis added).

Second, even if plaintiff had submitted the voter affidavits within the three-day request-for-review window, I agree with the Court of Appeals that the governing statute did not provide defendant with a clear legal duty to consider the voter affidavits.

The parties agree that MCL 168.552 sets forth the procedures for disputes regarding nominating petitions. MCL 168.552(3) provides that

> the county clerk, on his or her own initiative, on receipt of the nominating petitions, may examine the petitions, and if after examination the county clerk is in doubt as to the validity of the registration or genuineness of the signature of the circulator or persons signing or purported to have signed the petitions, the county clerk shall commence an investigation. Subject to subsection (13), the county clerk shall cause the petitions in question to be forwarded to the proper city clerk or township clerk to compare the signatures appearing on the petitions with the signatures appearing on the registration records. The county clerk may conduct the signature comparisons as required by subsection (13) using the digitized signatures in the qualified voter file, in lieu of requesting the local clerk to conduct the signature comparison.

And for its part, MCL 168.552(13) provides that

> [t]he qualified voter file may be used to determine the validity of petition signatures by verifying the registration of signers. If the qualified voter file indicates that, on the date the elector signed the petition, the elector was not

> registered to vote, there is a rebuttable presumption that the signature is invalid. If the qualified voter file indicates that, on the date the elector signed the petition, the elector was not registered to vote in the city or township designated on the petition, there is a rebuttable presumption that the signature is invalid. The qualified voter file shall be used to determine the genuineness of a signature on a petition. Signature comparisons shall be made with the digitized signatures in the qualified voter file. The county clerk or the board of state canvassers shall conduct the signature comparison using digitized signatures contained in the qualified voter file for their respective investigations. If the qualified voter file does not contain a digitized signature of an elector, the city or the township clerk shall compare the petition signature to the signature contained on the master card.

Clearly, this provision mandates an official to compare signatures using the qualified voter file. See *id*. But neither MCL 168.552(3) nor MCL 168.552(13) provides that reviewing officials *must* consider voter affidavits or any other extrinsic evidence beyond the qualified voter file.[3] Even if plaintiff timely submitted the affidavits, therefore, defendant did not have a clear legal duty to consider them. See *Kennedy*, 515 Mich at 893.

In its conclusion, the panel highlighted that "[t]he currently enacted legislative scheme seemingly does not permit a candidate to rehabilitate signatures through submission of affidavits because of the discretionary enforcement of the filing deadline as a deadline to submit supporting documentation and the statutory mandate that signatures be compared solely through use of the qualified voter file." *Drissman*, ___ Mich App at ___; slip op at 4. In other words, the panel is saying that the statute prevents plaintiff from obtaining mandamus relief to rehabilitate signatures for two reasons. First, the BOE has the discretion to decide what documents may be filed within the three-day request-for-review deadline, and because the statute does not provide otherwise, it effectively cuts off candidates from filing supporting evidence outside of the request-for-review deadline. I agree with this statement. Second, the statute does not create a clear legal duty to consider affidavits. I also agree with this statement. But I disagree with the panel to the extent that its statement can be interpreted to *prohibit* the use of evidence beyond the qualified voter file. MCL 168.552 does not *forbid* reviewing officials from considering extrinsic evidence regarding voter signatures.

---

[3] For example, MCL 168.552(9) gives the Board of State Canvassers the authority to investigate petitions and, through that investigation, to "issue subpoenas and administer oaths."

I also believe that defendant had the discretion to consider the voter affidavits submitted outside the three-day request-for-review window. The request-for-review statute simply states that a person aggrieved by the county clerk's determination must submit a request in writing to the secretary of state within three days of that determination. MCL 168.552(6). It does not prohibit submitting evidence after filing a written request. But, as noted earlier, because the statute does not require consideration of such evidence, mandamus relief is inappropriate. See *Neilson v Bd of State Canvassers*, ___ Mich App ___, ___ (June 17, 2024) (Docket No. 371256) (explaining that "nothing in the statute" requires reviewing officials "to consider each and every submission by a candidate, regardless of the time that the candidate submits the materials").[4]

Zooming out, I am troubled by the fact that 111 signatures were allegedly valid but the evidence of that validity was not considered. If the signatures were valid, then those voters were disenfranchised because they cannot vote for their candidate of choice. The Legislature can prevent this from recurring by amending the statute to provide that reviewing officials must consider affidavits from voters filed within a reasonable time frame after the request-for-review deadline. And the statute should make clear that if a reviewing official determines that a signature is valid, that signature must be counted.

For these reasons, I concur in the denial of mandamus relief.

---

[4] The plaintiff in *Neilson* sought a writ of mandamus to compel the Board of State Canvassers to certify her as an eligible candidate for the office of Judge of the Court of Appeals for the Second District. *Neilson*, ___ Mich App at ___; slip op at 1. The plaintiff argued that MCL 168.552(9) required the Board to consider affidavits submitted right before the Board's hearing. *Id*. at ___; slip op at 5. The Court of Appeals rejected the plaintiff's request for mandamus relief. *Id*. at ___; slip op at 7. MCL 168.552(13) directs both the Board of State Canvassers and the Secretary of State to the qualified voter file for signature comparisons. In *Neilson*, the Court of Appeals noted that consideration of the affidavits submitted right before the hearing was not required, but it did not say such consideration was prohibited.

SEAL OF THE MICHIGAN SUPREME COURT · DISCITE JUSTITIAM MONITI · LANSING ·

I, Elizabeth Kingston-Miller, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 8, 2026

Clerk