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# STATE OF MICHIGAN

# COURT OF APPEALS

ROBERT DAVIS,

Plaintiff-Appellee,

v

HIGHLAND PARK CLERK and HIGHLAND PARK ELECTION COMMISSION,

Defendants-Appellants.

UNPUBLISHED
September 09, 2026
9:30 AM

No. 382335
Wayne Circuit Court
LC No. 26-014115-AW

Before: MURRAY, P.J., and BOONSTRA and O'BRIEN, JJ.

PER CURIAM.

In this expedited[1] election matter, defendants Highland Park Clerk and Highland Park Election Commission appeal as of right the circuit court's September 1, 2026 opinion and order, which, as relevant here, granted the request of plaintiff, Robert Davis, for a writ of mandamus directing defendants to remove Cidia Wicker-Brown and Tony Lampkin from the November 2026 ballot as putative candidates, respectively, for the offices of Highland Park City Clerk and City Treasurer. For the reasons explained below, we affirm.

The background facts are aptly stated in the trial court's opinion, and given that appellants do not argue that the trial court's factual findings were clearly erroneous, we see no need to reiterate those facts here. Instead, given the emergent nature of this election dispute and the need for us to resolve it promptly, we delve directly into the merits of defendants' two claims of error.

Defendants first argue that the trial court erred[2] by refusing to hold that plaintiff's instant claims for mandamus and declaratory relief—*most* of which were asserted in his initial complaint,

[1] *Davis v Highland Park Clerk*, unpublished order of the Court of Appeals, entered September 8, 2026 (Docket No. 382335).

[2] "[W]e review de novo a trial court's decision regarding whether to apply an equitable doctrine, such as laches." *City of Fraser v Almeda Univ*, 314 Mich App 79, 100; 886 NW2d 730 (2016).

rather than the amended complaint he later filed on August 26, 2026[3]—were barred by the equitable doctrine of laches. Specifically, noting that "Lampkin and Wicker-Brown filed their Affidavits of Identity ['AOIs'] on March 24, 2026 and March 17, 2026, respectively," defendants argue that the trial court "failed to acknowledge the harm to the public and the election process due to Plaintiff waiting four months, without explanation, to file this matter." But, as noted in the trial court's opinion, the delay in this instance was not "without explanation"; rather, plaintiff alleged below that defendants were responsible for most of the delay because City officials had refused to timely provide plaintiff with copies of the pertinent AOIs. In their brief on appeal—which spans a mere 12 pages—defendants have not even *attempted* to refute that allegation. And as the parties asserting laches as an affirmative defense, they bear the burden of providing sufficient evidence to support its proposed application. See *Glorycrest Carpenter Rd, Inc v Adams Outdoor Advertising Ltd Partnership*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 366261); slip op at 11 ("Because laches is an affirmative defense, the party asserting laches has the burden to present evidence in support of its application."). In the absence of any evidence or argument concerning how much of the delay in commencing this action was truly attributable to plaintiff, we cannot conclude that the trial court committed any error warranting reversal by refusing to apply the doctrine of laches as a bar to all of the claims in this action.[4] See *Pub Health Dep't v Rivergate Manor*, 452 Mich 495, 507; 550 NW2d 515 (1996) (holding that laches "is applicable in cases in which there is an unexcused or unexplained delay in commencing an action and a corresponding change of material condition that results in prejudice to a party").

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Any related factual findings are reviewed for clear error. *Tenneco Inc v Amerisure Mut Ins Co*, 281 Mich App 429, 444; 761 NW2d 846 (2008).

[3] Defendants offer no argument on appeal that the newly asserted claims in the amended complaint should have been deemed barred by laches given plaintiff's delay in filing that amended complaint. Hence, defendants have abandoned any such claim of error. See *MOSES Inc v SEMCOG*, 270 Mich App 401, 417; 716 NW2d 278 (2006) ("If a party fails to adequately brief a position, or support a claim with authority, it is abandoned."); see also *In re Knight*, 333 Mich App 681, 691; 963 NW2d 676 (2020) ("In our adversarial system of adjudication, we follow the principle of party presentation, which means that in both civil and criminal cases, in the first instance and on appeal, we rely on the parties to frame the issues for decision and assign to courts the role of neutral arbiter of matters the parties present.") (quotation marks, citations, and ellipsis omitted).

[4] Standing alone, this conclusion is also fatal to defendants' request that we order Lampkin to be placed on the disputed ballot. In their brief on appeal, defendants admit that they do not challenge the trial court's conclusion that Lampkin was ineligible for the disputed office because he "was not a registered voter of the City of Highland Park one year prior to the filing of his AOI, as required" under § 4-2 of the Highland Park City Charter. Because defendants do not challenge that independent basis for the trial court's decision to grant mandamus relief excluding Lampkin from the ballot, and defendants have failed to carry their burden concerning laches, there is no basis for us to conclude that Lampkin *is* entitled to inclusion on the ballot.

Nor are we persuaded by defendants' second argument—i.e., that the trial court erred or abused its discretion[5] by granting plaintiff's requested writ of mandamus. That request was founded on plaintiff's allegations that both Wicker-Brown and Lampkin were, as City employees, ineligible for the offices they sought in light of § 4-3(e) of the Highland Park City Charter, which provides:

> No employee of the City shall be eligible for candidacy for or appointment to an elected office of the City, unless he shall resign from his employment with the City before filing his nominating petition therefore or acceptance of appointment thereto, except that no *elected* officer of the City shall be required to resign the office held by him in order to be a candidate for City office. (Emphasis added.)

On appeal, defendants admit that Wicker-Brown and Lampkin were, in fact, unelected City employees at all relevant times. Defendants also admit that the language of § 4-3(e) plainly "requires City employees to resign employment in order to even *be eligible for candidacy* for" elected City offices. Defendants contend, however, that the trial court erred in rejecting their argument that § 4-3(e) represents "an unconstitutional First Amendment restraint on political speech." (Emphases omitted.)

In support, defendants rely heavily on *Franklin v City of Highland Park*, unpublished opinion of Wayne Circuit Court, issued August 4, 1975 (LC No. 75-075099-CZ) (holding "that the right to become a candidate for public office is a protected right under the First Amendment" and "can be denied only for reasons of compelling interest"). But as defendants candidly concede, as an unpublished opinion issued by a lower court, *Franklin* is not binding on this Court; after all, it is axiomatic that the weight of binding authority rolls always horizontally or downhill, never upward. See generally *In re AGD*, 327 Mich App 332, 339; 933 NW2d 751 (2019) (discussing vertical stare decisis); *Ramos v Louisiana*, 590 US 83, 124 n 5; 140 S Ct 1390; 206 L Ed 2d 583 (2020) (Kavanaugh, J., concurring in part) (contrasting vertical and horizontal stare decisis). Unlike *Franklin*, this Court *is* bound to follow the United States Supreme Court's decisions on questions of federal law, *Bienenstock & Assoc, Inc v Lowry*, 314 Mich App 508, 515; 887 NW2d 237 (2016), and, with certain limited exceptions that are inapplicable here, this Court is also required to follow its own prior published decisions, see generally *Plachta v Plachta*, ___ Mich App ___; ___ NW3d ___ (2026) (Docket No. 374260). Given the great weight of both binding

[5] As this Court explained in *Berry v Garrett*, 316 Mich App 37, 41; 890 NW2d 882 (2016):

> We review de novo, as questions of law, whether defendants have a clear legal duty to perform and whether plaintiff has a clear legal right to performance of any such duty. Related issues of statutory interpretation are also reviewed de novo. Contrastingly, because mandamus is a discretionary writ, we review for an abuse of discretion a trial court's decision regarding whether to grant mandamus relief. [Quotation marks and citations omitted.]

and highly persuasive[6] authority that contravenes *Franklin*'s relevant holding, we find defendants' reliance on *Franklin* to be entirely misplaced. See, e.g., *Clements v Fashing*, 457 US 957, 960-961, 971-973; 102 S Ct 2836; 73 L Ed 2d 508 (1982) (holding that "a 'resign-to-run' or 'automatic resignation' provision" of the Texas Constitution, which applied to certain elected state officials who might wish to run as candidates for different public offices, did not unconstitutionally infringe upon First Amendment rights, while also noting that the Supreme Court had previously issued several decisions upholding similar restrictions on political activity by *unelected* civil servants); *Loftus v Bobzien*, 848 F3d 278, 285-287 (CA 4, 2017) (collecting federal authorities in accord with those principles from *Clements*).[7] See also *Barrow v City of Detroit Election Comm*, 301 Mich App 404, 422 n 11; 836 NW2d 498 (2013) (observing, in the context of an equal-protection challenge, that "there is no fundamental right to candidacy").

In sum, we perceive no merit in either of defendants' two stated arguments for reversal. Accordingly, we affirm. No taxable costs will be awarded, given that questions of public policy and public interest are involved.

/s/ Christopher M. Murray
/s/ Mark T. Boonstra
/s/ Colleen A. O'Brien

[6] "Though not binding on this Court, federal precedent is generally considered highly persuasive when it addresses analogous issues." *Wilcoxon v Minnesota Min & Mfg Co*, 235 Mich App 347, 360; 597 NW2d 250 (1999).

[7] We are cognizant of at least one outlier decision—not cited by defendants—that could arguably lend some support to their position here. See *Randall v Scott*, 610 F3d 701, 713 (CA 11, 2010). As noted, however, *Randall* appears to be an isolated outlier. And in the absence of any actual argument on the matter from the parties, we are not persuaded to follow *Randall* in lieu of the greater weight of federal authorities collected by the Fourth Circuit in *Loftus*.