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STATE OF MICHIGAN

COURT OF APPEALS

SUSAN L. HUBBARD,

Plaintiff-Appellant,

v

WAYNE COUNTY CLERK,

Defendant-Appellee.

UNPUBLISHED
August 28, 2026
10:07 AM

No. 381666
Wayne Circuit Court
LC No. 26-009853-AW

Before: LIEVENSE, P.J., and MARIANI and BAZZI, JJ.

PER CURIAM.

Plaintiff, Susan L. Hubbard, appeals as of right the trial court's July 9, 2026 opinion and order denying plaintiff's request for a declaratory judgment and mandamus relief concerning plaintiff's placement on the November 2026 ballot as a candidate for the Wayne County Probate Court. For the reasons explained below, we affirm.

This case arises out of plaintiff's attempt to be certified for inclusion on the ballot as a candidate for a seat on the Wayne County Probate Court in the upcoming November 2026 election. Plaintiff initially submitted 5,494 signatures on her nominating petitions, but after a review the Wayne County Clerk determined that plaintiff's nominating petitions were not supported by at least 4,000 valid elector signatures, as required for her to be placed on the ballot under governing election laws. See MCL 168.544f; *Drissman v Mich Dep't of State*, ___ Mich App ___, ___; ___ NW3d ___ (2026) (Docket No. 380984); slip op at 1.

The Clerk's investigation into the matter was prompted by distinct challenges filed by two nonparties: Matthew J. Wilk and John Chase III. On May 26, 2026, the Clerk's office issued a staff report analyzing Wilk's challenge and recommending that plaintiff's nominating petitions be found insufficient because they were supported by only 3,650 valid signatures. That report reduced the signature count to 4,623 based on facial errors, unregistered voters, duplicates, and other signature issues, and then specified that the Clerk's staff had "reviewed the entirety of the petition filing and identified approximately 104 sheets, containing 973 petition signatures that appear to be forged or fraudulently signed by a person or persons not purported to be the petition signer." The report indicated that staff had then "review[ed] all [such] signatures" to determine

their validity and utilized the qualified voter file (QVF) for signature-comparison purposes, ultimately concluding that the 973 signatures should be disqualified from consideration.

After the Clerk issued a final determination as to Wilk's challenge, adopting the findings in the staff report and deeming plaintiff's petitions insufficient for certification on the disputed ballot, plaintiff responded by initiating the instant action in the Wayne Circuit Court. Days later, the Clerk's office issued its report concerning the investigation into Chase's allegations. After also finding some signatures invalid because of unregistered voters, duplicates, and other signature issues, the report again indicated that staff had "reviewed the entirety of the petition filing and identified approximately 104 sheets, containing 973 petition signatures that appear to be forged or fraudulently signed by a person or persons not purported to be the petition signer," had then "review[ed] all [such] signatures" to determine their validity, had utilized the QVF for signature comparison, and had concluded that the 973 signatures should be disqualified from consideration. The June 12, 2026 report concluded with its own numerical summary, listing a higher (albeit still insufficient) number of "Valid Signatures"—3,859—than had been listed in the May 26, 2026 staff report.

On June 17, 2026, the Clerk issued a "Final Determination" concerning Chase's challenge to the nominating petitions. Although the Clerk indicated that she was "fully adopting the staff's recommendation" that plaintiff's nominating petitions be found insufficient, she went on to conclude that there were actually fewer "valid signatures" than listed in either of the preceding staff reports. Specifically, the Clerk wrote: "Additionally, the regular validation review outside of the challenge found in total 3,432 valid signatures."

Plaintiff filed an amended complaint challenging both of the Clerk's final determinations, requesting both declaratory relief and a writ of mandamus directing the Clerk to place plaintiff on the disputed ballot. After entertaining oral argument and taking some testimony, the trial court took the matter under advisement, then issued an opinion and order denying both of plaintiff's requests.

This appeal ensued, and we granted plaintiff's motion to expedite it, further ordering: "This case shall be submitted on the case call before this panel on August 11, 2026."[1] Given the nature of this election-related dispute and the issues raised here—not to mention plaintiff's request, in her motion to expedite, for "an immediate decision . . . forthwith"—this matter is being decided without oral argument pursuant to all three subparts of MCR 7.214(E)(1).

I. ANALYSIS

A. DECLARATORY RELIEF

As a threshold consideration, we note that plaintiff offers no specific argument on appeal concerning her entitlement to a declaratory judgment, instead focusing on her arguments that the trial court erred and/or abused its discretion by denying her request for a writ of mandamus. By

[1] *Hubbard v Wayne Co Clerk*, unpublished order of the Court of Appeals, entered August 7, 2026 (Docket No. 381666).

failing to adequately brief the issue on appeal, plaintiff has abandoned any claim of error concerning the trial court's ruling on her request for a declaratory judgment. "If a party fails to adequately brief a position, or support a claim with authority, it is abandoned." *MOSES Inc v SEMCOG*, 270 Mich App 401, 417; 716 NW2d 278 (2006). Hence, the remainder of this opinion will focus, as plaintiff does, on her claim for mandamus relief.

B. MANDAMUS

1. STANDARD OF REVIEW

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.]

"A trial court abuses its discretion when it chooses an outcome falling outside the range of reasonable and principled outcomes, or when it makes an error of law." *Forton v St Clair Co Pub Guardian*, 339 Mich App 73, 82; 981 NW2d 103 (2021) (quotation marks and citation omitted).

"Mandamus is a discretionary writ and an extraordinary remedy." *Comm to Ban Fracking in Mich v Bd of State Canvassers*, 335 Mich App 384, 394; 966 NW2d 742 (2021).

> The writ is one of grace, and equitable principles apply. When deciding whether to issue a writ of mandamus, a court should consider the germane conditions existing *at the time of hearing and determination* rather than at the time of institution of the proceeding. The primary purpose of the writ of mandamus is to enforce duties created by law, where the law has established no specific remedy and where, in justice and good government, there should be one. [*Holliday v Bd of State Canvassers*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 372267); slip op at 7 (quotation marks, citations, and brackets omitted).]

To obtain relief in the form of mandamus, the plaintiff "must show 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 other adequate legal or equitable remedy exists that might achieve the same result." *Rental Props Owners Ass'n of Kent Co v Kent Co Treasurer*, 308 Mich App 498, 518; 866 NW2d 817 (2014). In this context, "a clear, legal right is one clearly founded in, or granted by, law; a right which is inferable as a matter of law from uncontroverted facts regardless of the difficulty of the legal question to be decided." *Id*. at 519 (quotation marks and citation omitted). A "ministerial" act is "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; 832 NW2d 728 (2013) (quotation marks and citation omitted; emphasis added).

As this Court explained in *Holliday*, ___ Mich App at ___; slip op at 7-8:

> Despite the "ministerial act" requirement, mandamus *will* lie to require a body or an officer charged with a duty to take action in the matter, notwithstanding the fact that the execution of that duty may involve some measure of discretion. Stated otherwise, mandamus will lie to compel the exercise of discretion, but not to compel its exercise in a particular manner. The writ is not a means of reviewing, revising, or controlling the exercise of discretion reposed in administrative bodies.
>
> The plaintiff bears the burden of demonstrating entitlement to the requested writ, and the plaintiff also bears the burden of producing sufficient record evidence in support—provided that the truthfulness of the relevant factual allegations has not been conceded by the defendant. Mandamus will not lie to compel a public officer to perform a duty dependent upon disputed and doubtful facts.
>
> The issuance of the writ is not a matter of right. In other words, mandamus is described as a "discretionary" writ because, even if the plaintiff establishes a prima facie case of entitlement to the writ, the court nevertheless has discretion to deny relief for various prudential reasons (e.g., if granting the writ is contrary to the public interest, will work an injustice, etc.). [Quotation marks, citations, brackets, and ellipsis omitted.]

Moreover, mandamus cannot be used

> to compel the impossible or to effectively take control of other branches of the government by ordering public officers and administrative agencies *how* to exercise their discretion—i.e., how they should go about doing things that they (not the courts) have a legal duty to do, how quickly they ought to be able to accomplish things, what their ultimate decision ought to be, etc. . . . [*Id*. at ___; slip op at 2.]

2. DISCUSSION

Applying those well-settled principles to this case, we perceive no error as to any question of law nor any other abuse of discretion in the trial court's decision to deny plaintiff's requested writ of mandamus. "MCL 168.552 sets forth the procedures for investigating and resolving disputes regarding nominating petitions." *Drissman*, ___ Mich App at ___; slip op at 2. As relevant here, MCL 168.552—i.e., § 552 of the Michigan Election Law, MCL 168.1 *et seq*.—provides:

> (2) If the county clerk receives a sworn complaint, in writing, questioning the registration or genuineness of the signature of the circulator or of a person signing a petition filed with the county clerk for an office, the county clerk *shall* commence an investigation. The county clerk shall cause the petition that he or she considers necessary to be forwarded to the proper city clerk or township clerk to compare the signatures appearing on the petition with the signatures appearing on the registration record as required by subsection (13). *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. . . . The investigation *shall* include the validity of the signatures and the genuineness of a petition as is specified in the sworn complaint and *may* include any other doubtful signatures or petitions filed on behalf of the candidate against whose petitions the sworn complaint is directed, *as the county clerk considers necessary*. The county clerk is not required to act on a complaint respecting the validity and genuineness of signatures on a petition unless the complaint sets forth the specific signatures claimed to be invalid and the specific petition for which the complaint questions the validity and genuineness of the signature or registration of the circulator, and unless the complaint is received by the county clerk within 7 days after the deadline for the filing of the nominating petitions.

(3) In addition to the duty specified in subsection (2) for the examination of petitions, 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*.

* * *

(5) At least 2 business days before the county clerk makes a final determination on challenges to and sufficiency of a petition, the county clerk *shall* make public its staff report concerning disposition of challenges filed against the petition. Beginning with the receipt of any document from local election officials under subsection (2) or (3), the county clerk *shall* make that document available to petitioners and challengers on a daily basis.

(6) Upon the completion of the investigation or examination, the county clerk shall immediately make an official declaration of the sufficiency or insufficiency of nominating petitions for which a sworn complaint has been received or of the sufficiency or insufficiency of nominating petitions that the county clerk has examined or investigated on his or her own initiative. 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 with the secretary of state . . . . Alternatively, the aggrieved person may have the determination of the county clerk reviewed by filing a mandamus, certiorari, or other appropriate remedy in the circuit court. A person who filed a nominating petition and feels aggrieved by the determination of the secretary of state may then have that determination reviewed by mandamus, certiorari, or other appropriate remedy in the circuit court.

* * *

> (13) The 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*. [Emphasis added.]

In those above-quoted provisions, "the Legislature has made an obvious choice to make some . . . actions optional," by using the permissive term "may," "while at other times making actions mandatory," by instead using the term "shall." *Holliday*, ___ Mich App at ___; slip op at 12. "[M]andamus is not a proper vehicle to force" election officials "to choose to do any of those discretionary/optional things, nor will it compel [them] to perform discretionary *aspects* of [their] otherwise mandatory duties, at least in any particular way." *Id*. at ___; slip op at 12. In other words, in performing her investigation into the challenged petition signatures in this case, the Clerk had "significant discretion concerning the methods" employed. *Id*. at ___; slip op at 2. See also *Drissman*, ___ Mich App at ___; slip op at 3 (noting that "how to conduct a review of petition signatures is a matter of discretion"); *Johnson v Bd of State Canvassers*, 341 Mich App 671, 689; 991 NW2d 840 (2022) (explaining that the Board "had a clear legal duty to investigate, but it did not have a clear legal duty to conduct a comparison of each fraudulent signature against the qualified voter file" and "because the Board had the discretion to not check each and every signature submitted by the fraudulent-petition circulators, the act Johnson is seeking to compel [the] defendants to perform is not ministerial in nature").

In this case, plaintiff contests the Clerk's decision not to count 104 petition sheets containing 973 signatures, arguing that the decision impermissibly "bypass[ed] the QVF comparison process" and was "based on [the Clerk's] staff's unsubstantiated report." Contrary to this characterization, however, both of the Clerk's staff reports clearly indicate that staff did, in fact, "review[] the entirety of the petition filing and identified . . . petition signatures that appear to be forged or fraudulently signed by a person or persons not purported to be the petition signer," using the QVF for signature-comparison purposes. The reports further detailed how staff "review[ed] all [such] signatures" and otherwise explained the staff's reasoning; they also included spreadsheets reflecting staff recommendations as to each petition signature. As the trial court correctly noted, while plaintiff disputes the findings of the Clerk and her staff, her mere supposition that the signature comparison and review might not have actually occurred as described in the

reports is entirely speculative.[2] Insofar as plaintiff disagrees with the *methodology* employed by the Clerk and her staff as described in the reports, those critiques are misplaced—at least as an argument concerning entitlement to mandamus, rather than a policy argument directed to the Legislature[3]—given the discretionary nature of the signature-comparison process. See *Holliday*, ___ Mich App at ___; slip op at 2; *Johnson*, 341 Mich App at 689; *Drissman*, ___ Mich App at ___, slip op at 3. Plaintiff has not identified authority demonstrating that this methodology failed to account for any mandatory duties of the Clerk and/or her staff.[4] See *Holliday*, ___ Mich App at ___; slip op at 12. Nor has plaintiff identified authority establishing that the Clerk had a clear legal duty to provide particular documents or information in support of her determination beyond what the record presently reflects, or to afford plaintiff access to the QVF for purposes of having her own expert conduct an independent signature comparison.[5]

Plaintiff has also failed to offer any direct argument that the trial court erred in holding that the instant request for mandamus was improper because it presented "inherently a fact-based dispute." On the contrary, as plaintiff describes in her brief on appeal, she maintains that the Clerk's findings are inaccurate and insufficiently "clear, convincing and competent," and she seeks to "determin[e] if the Clerk's [signature] comparison was performed correctly, if the correct voter record was used, if the digitized image was poor or incomplete, or if the signature [sic] actually matched." Plaintiff does not explain how, in light of the fact-based disputes she has identified, she

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[2] Plaintiff stresses that 527 of the invalidated 973 signatures at issue "were tied to the" QVF, but as the trial court aptly explained, that fact alone is not determinative of whether the signatures in question were ultimately valid and does not suggest the review methodology described in the staff reports did not occur. Plaintiff also indicates that she has confirmed with one signatory that the individual's signature was valid, but that at most demonstrates a factual dispute or potential inaccuracy in the performance of the review; it does not, in itself, provide proof that the review was not performed as described.

[3] See *Drissman v Mich Dep't of State*, ___ Mich ___, ___; 35 NW3d 354, 357 (2026) (WELCH, J., concurring in the denial of leave) (agreeing with this Court's conclusion that the plaintiff—a putative candidate for a seat on the Oakland County Probate Court—had been unentitled to mandamus relief under *existing* elections laws, while suggesting that the Legislature might consider amending the relevant statutes to provide additional mechanisms for putative candidates to rehabilitate challenged petition signatures).

[4] Plaintiff points to the methodology used by the Board of State Canvassers in *Johnson*, 341 Mich App 671, but we do not find anything in *Johnson* that shows a clear legal duty which the methodology used by the Clerk in this case would have failed to discharge.

[5] Plaintiff cites MCL 168.552(5)'s requirement that the Clerk make certain documents public and available, but she fails to explain—and we do not see—how the Clerk failed to discharge her clear legal obligations under that statutory requirement or how the requirement would have entitled plaintiff to the additional information she seeks. Plaintiff also points to the opportunity for rebuttal contemplated by MCL 168.552(13), but there too we do not see a clear legal duty that the Clerk violated in issuing and supporting her determination—and as discussed *infra*, the primary caselaw plaintiff cites for that notion, *Wilcoxon v City of Detroit Election Comm*, 301 Mich App 619; 838 NW2d 183 (2013), is inapposite here.

can carry her burden of demonstrating entitlement to the requested writ. See *id*. at ___; slip op at 7 ("Mandamus 'will not lie to compel a public officer to perform a duty dependent upon disputed and doubtful facts.' "), quoting *Powers v Dignan*, 309 Mich 530, 533; 16 NW2d 62 (1944). See also *Drissman*, ___ Mich App at ___; slip op at 4 ("From the available evidence, it is not apparent that plaintiff provided defendant with adequate information to rehabilitate the signatures at issue, and when the facts are not clear, mandamus cannot lie."); *Conyers v Wayne Co Clerk*, unpublished per curiam opinion of the Court of Appeals, issued June 12, 2018 (Docket No. 344171), pp 2-3 ("A county clerk who receives a sworn complaint challenging the 'registration or genuineness' of the signatures on a nominating petition must commence an investigation by comparing those signatures claimed invalid with the signatures appearing on the registration record, MCL 168.552(2), an action which by its very nature is a fact-based dispute. The validity of the signatures stricken by the Wayne County Clerk are clearly in dispute, as plaintiff claims his petition should have been certified because it contained the requisite number of valid signatures, and that many of the names deemed invalid by the Clerk are actually valid. Because of the existence of this inherently factual dispute, the trial court did not abuse its discretion when it denied plaintiff's complaint for a writ of mandamus.").[6]

Finally, we do not find plaintiff's reliance on *Wilcoxon v City of Detroit Election Comm*, 301 Mich App 619; 838 NW2d 183 (2013), and *Protecting Mich Taxpayers v Bd of State Canvassers*, 324 Mich App 240; 919 NW2d 677 (2018), persuasive. Plaintiff cites *Protecting Mich Taxpayers* to support her position that the Clerk could not simply issue a blanket invalidation of all signatures on the 104 petition sheets based only on the Clerk's or her staff's "bare assertion" that the circulator of those sheets engaged in misconduct or fraud. As discussed, however, the record before us does not support plaintiff's offered analogy and instead indicates that, while such suspicions prompted close inspection of the signatures at issue, those signatures were ultimately subject to individualized review and invalidated on that basis.

As for *Wilcoxon*, it is factually distinguishable from the instant case in a number of material ways. First, while this Court upheld the trial court's conclusion in that case that the election officials at issue had wrongly invalidated certain signatures, this Court specifically declined to determine if such relief was through writ of mandamus. See *Wilcoxon*, 301 Mich App at 641. And this Court further made clear that the trial court's ruling was the product of a "collaborative review of the [contested] signatures" by the parties followed by resolution of remaining disagreements by the court—a process to which the election officials opted not to object despite their position that the "plaintiff was not entitled to relief as a matter of law . . . ." See *id.* at 628. The unique procedural circumstances in *Wilcoxon* do not underlie plaintiff's requested writ of mandamus in this case and the trial court's decision to deny it. Second, the validity of the signatures discussed in *Wilcoxon* did not turn on fact-intensive disputes of the sort discussed above, but instead how a statute should be construed to apply to undisputed facts and whether certain signatures were procedurally " 'impossible' to verify" using the QVF. *Id.* at 636-640. And third, in *Wilcoxon*, the responsible election officials failed to timely issue an "official declaration" of their findings

[6] Although *Conyers* is, as an unpublished decision, not binding here, we find its reasoning persuasive. See *Smith Living Trust v Erickson Retirement Communities*, 326 Mich App 366, 386 n 6; 928 NW2d 227 (2018).

concerning the challenged signatures, as they were statutorily required to do—which meant that the putative candidate "was given no official or timely notice" concerning their decision, *id*. at 635, and was deprived of the "meaningful review of the invalidated signatures by the Secretary of State" that she was entitled to seek by statute, *id*. at 639. See also MCL 168.552(6), (7) and (13). Here, while plaintiff challenges the accuracy and sufficiency of the Clerk's findings, she offers no argument that the Clerk failed to timely issue an official declaration of those findings and, as discussed, she has not shown any other clear legal duty to her that the Clerk failed to discharge in connection with them.

II. CONCLUSION

In sum, plaintiff has not carried her burden of demonstrating entitlement to the "extraordinary remedy" of her requested writ of mandamus, *Comm to Ban Fracking in Mich*, 335 Mich App at 394, and we see no abuse of discretion in the trial court's decision to deny that requested relief in this case, see *Berry*, 316 Mich App at 41.

Affirmed. No taxable costs pursuant to MCR 7.219, given that questions of public significance and public policy are involved.

/s/ Andrew J. Lievense
/s/ Philip P. Mariani
/s/ Mariam S. Bazzi