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STATE OF MICHIGAN

COURT OF APPEALS

NAMITA SHARMA, SUSHI DATTA-SANDHU, and FRANCES DWIGHT,

Plaintiffs-Appellants,

v

BUREAU OF ELECTIONS, and DIRECTOR OF THE BUREAU OF ELECTIONS,

Defendants-Appellees,

and

MICHIGAN DISTRICT JUDGES ASSOCIATION,

Amicus Curiae.

UNPUBLISHED
August 13, 2026
1:49 PM

No. 381452
Court of Claims
LC No. 26-000125-MZ

Before: YOUNG, P.J., and ACKERMAN and BAZZI, JJ.

PER CURIAM.

Plaintiffs appeal as of right from the June 26, 2026 order of the Court of Claims granting summary disposition to defendants in this election matter. We affirm.

BACKGROUND

Plaintiff Namita Sharma is a district court judge who was barred from seeking reelection in the upcoming November 2026 general election because of issues with her statutorily mandated affidavit of identity (AOI). Plaintiffs Datta-Sandhu and Dwight are electors from Judge Sharma's district. The issues in this case concern whether Judge Sharma was required to file an AOI, or whether she could still appear on the ballot despite what was, by all accounts, a faulty AOI.

Judge Sharma is currently a judge for the 8th District Court in Kalamazoo. Her term expires on January 1, 2027. During her term, Judge Sharma has served in the Kalamazoo Circuit Court Family Division. The same is permitted by MCL 600.401(2)(e), which allows circuit courts to adopt a plan of concurrent jurisdiction pursuant to which a district court judge "may exercise the power and jurisdiction of the circuit court."

This case arises from Judge Sharma's attempts to seek reelection to the office of district court judge in the upcoming November 2026 general election. It appears that, unbeknownst to Judge Sharma, she owed late filing fees that were imposed for actions taken by the Treasurer of the Committee to Retain Judge Namita Sharma. When Judge Sharma filed her AOI and affidavit of candidacy to run for reelection, she certified that all late filing fees or fines due "from me or any candidate committee organized to support my election" had been filed or paid. This statement was, by all accounts, false, because all late filing fees had not been paid.

In May 2026, defendant Jonathan Brater, Director of the Bureau of Elections, informed Judge Sharma that she was disqualified from appearing on the ballot because of the false statement in the AOI regarding whether all late fees had been paid. Director Brater cited MCL 168.558(4) and concluded that the false statement in the AOI meant that defendants were required to disqualify Judge Sharma from the ballot.

In response to Director Brater's letter, Judge Sharma paid the outstanding fees and gathered signatures on nominating petitions. She notified the Bureau of Elections that she intended to re-file a new AOI as well as nominating petitions. Adam Fracassi, the Deputy Director of the Bureau of Elections, informed Judge Sharma that her nominating petitions would be rejected. In pertinent part, Deputy Director Fracassi also told Judge Sharma that defendants could not certify her candidacy because she filed an AOI that contained a false statement. Moreover, he told Judge Sharma that the headings on her nominating petitions were incorrect. When Judge Sharma subsequently filed her new AOI in June 2026, defendants rejected the filing.

Judge Sharma and the other named plaintiffs—electors who intended to vote for Judge Sharma—began the instant proceedings by suing defendants in the Court of Claims in June 2026. They asked for declaratory and injunctive relief and argued that requiring an incumbent district court judge to file an AOI violated this state's constitution.

The Court of Claims granted summary disposition to defendants in a 16-page opinion and order. This appeal followed.

ANALYSIS

We review de novo the trial court's decision to grant summary disposition. *League of Women Voters of Mich v Sec'y of State*, 339 Mich App 257, 272; 981 NW2d 538 (2021). This case requires an examination of our Constitution. "The primary objective in interpreting a constitutional provision is to determine the text's original meaning to the ratifiers, the people, at the time of ratification." *O'Connell v Dir of Elections*, 316 Mich App 91, 97; 891 NW2d 240 (2016).

CONST 1963, ART 6, § 22

Plaintiffs have not meaningfully disputed that the AOI filed by Judge Sharma contained a false statement, contrary to MCL 168.558(4). Instead, they take the approach that Judge Sharma was not required to file an AOI.

Before addressing the substance of these arguments, we note that, even assuming for purposes of argument that Judge Sharma did not need to file an AOI, plaintiffs overlook that Judge

Sharma did in fact file an AOI and that the AOI contained statements that were false. The filing of an AOI with a false statement requires her exclusion from the ballot under the plain language of MCL 168.558(4). Indeed, the statute demands that an election official "shall not certify. . . the name of a candidate who executes an affidavit of identity that contains a false statement with regard to any information or statement required under this section." The statute demands strict compliance, and a candidate who fails to achieve strict compliance does not have a right to appear on the ballot. *Moore v Genesee Co*, 337 Mich App 723, 729-730; 976 NW2d 921 (2021); *Stumbo v Roe*, 332 Mich App 479, 481; 957 NW2d 830 (2020). Here, regardless of whether an AOI could be required, plaintiffs have not advanced a meaningful argument as to how the false statement in the AOI that was in fact filed could be ignored. Plaintiffs' arguments about whether Judge Sharma could be required to file an AOI when she filed one that ran afoul of the statute do not bring them closer to the relief they seek.

Furthermore, and turning to the merits of plaintiffs' arguments, we agree with the Court of Claims that plaintiffs' arguments are not supported by the plain language of the Constitution. Plaintiffs' primary position is that, under Const 1963, art 6, § 22, an AOI cannot be required of Judge Sharma. That section provides:

> *Any judge of the court of appeals, circuit court or probate court* may become a candidate in the primary election for the office of which he is the incumbent by filing an affidavit of candidacy in the form and manner prescribed by law. [Const 1963, art 6, § 22. (emphasis added).]

Plaintiffs argue that because an AOI is not mentioned for incumbent judges in art 6, § 22, one cannot be required in this case. The text of this section belies plaintiffs' position. Judge Sharma, a district court judge,[1] does not occupy one of the three offices to which this section of the Constitution applies. Plaintiffs' position is that the plain text of art 6, § 22 should be ignored and that this Court should, by inference, add the term "district court" somewhere in the list of judges to whom the section would apply. This approach is contrary to the manner in which this Court is to review the plain text of the Constitution, and we decline to adopt it here. See *American Axle & Mfg, Inc v Hamtramck*, 461 Mich 352, 362; 604 NW2d 330 (2000).

In an apparent recognition that their approach would add words to art 6, § 22 that do not appear in the text, plaintiffs argue that, because Judge Sharma has been performing the duties of a circuit court judge under a plan of concurrent jurisdiction, she is both a "de facto" and "de jure" circuit court judge. Plaintiffs' briefing simply announces this position without meaningful explanation, and it is cursory enough to be considered abandoned. See *Yee v Shiawassee Co Bd of Comm'rs*, 251 Mich App 379, 406; 651 NW2d 756 (2002). Even if not abandoned, this argument is meritless. Judge Sharma is, under a plan of concurrent jurisdiction in the Kalamazoo Circuit Court, authorized to "exercise the power and jurisdiction of the circuit court." MCL 600.401(2)(e). This does not make her a de jure circuit court judge. Indeed, a de jure officer is who holds office by law; a de facto officer is one who performs the duty of a particular office

[1] As defendants and the Court of Claims pointed out, the office of district court judge was created by the Legislature as authorized by Const 1963, art 6, § 1. See MCL 600.8101(1) (establishing, by statute, district courts).

under a claim of appointment. See, generally, *People v Townsend*, 214 Mich 267, 271; 183 NW 177 (1921). Judge Sharma is not a de jure officer of the circuit court because she is, by law, a district court judge. And the de facto officer doctrine does not transform the nature of her office. Rather, the de facto doctrine simply gives validity to certain actions taken by an officer. See *id*.

Amicus curiae contends that Judge Sharma should be treated similarly to her circuit court colleagues because she performs the same work that they do as a family division judge. However, for the reasons noted above, the notion that Judge Sharma performs particular duties as allowed by law does not transform the office she held and to which she sought reelection.

THE "PURITY OF ELECTIONS" CLAUSE

Plaintiffs next argue that, assuming the Constitution means what it says and that art 6, § 22 does not encompass district court judges, Judge Sharma is nevertheless entitled to any rights extended to the judges listed in that section because the Constitution demands that all candidates for public office be treated equally. In support, plaintiffs cite the Purity of Elections Clause in Const 1963, art 2 § 4(2). That section provides that:

> Except as otherwise provided in this constitution or in the constitution or laws of the United States *the legislature shall enact laws* to regulate the time, place and manner of all nominations and elections, *to preserve the purity of elections*, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of candidates for the same office who have the same or similar surnames. [Art 2, § 4(2) (emphasis added).]

Plaintiffs argue that it is unfair to require incumbent district court judges to file an AOI because, according to plaintiffs, art 6, § 22 allows incumbent Court of Appeals, circuit court, and probate judges to appear on the ballot by filing an affidavit of candidacy only, and not an AOI.

As noted by the Court of Claims: "[t]he phrase 'purity of elections' does not have a single precise meaning. However, it unmistakably requires fairness and evenhandedness in the election laws of this state." *League of Women Voters of Mich v Sec'y of State*, 333 Mich App 1, 25; 959 NW2d 1 (2020) (citation and quotation marks omitted). This clause has been interpreted to embrace two concepts: "first, that the constitutional authority to enact laws to preserve the purity of elections resides in the Legislature; and second, that any law enacted by the Legislature which adversely affects the purity of elections is constitutionally infirm." *Taylor v Currie*, 277 Mich App 85, 96; 743 NW2d 571 (2007) (quotation marks and citation omitted).

Plaintiffs' appeal to the purity-of-elections clause is meritless. Judicial officers, along with all other candidates for "a federal, county, state, city, township, village, metropolitan district, or school district office in any election" "shall file" along with affidavit of candidacy "2 copies of an

affidavit of identity." MCL 168.558(1).[2] See *Citizens Protecting Michigan's Const v Sec'y of State*, 503 Mich 42, 105 n 197; 921 NW2d 247 (2018) (explaining that, under MCL 168.558, "*all* candidates for elective office in Michigan (except those running for president or vice president of the United States) are required to file an affidavit of identity"); see also *Moore*, 337 Mich App at 728-729 (noting that "courts have treated MCL 168.558 as applying to all elections"). Accordingly, even the judicial officers mentioned in art 6, § 22—of whom Judge Sharma is not one—must file an AOI. The statute applies evenly and fairly to all who seek office in this state.

QUALIFICATIONS FOR OFFICE

Plaintiffs also argue that, if art 6, § 22 did not prevent the AOI requirement from applying in this case, the AOI requirement is still unconstitutional for a different reason. That reason, they argue, is that the AOI requirement imposes additional requirements beyond those set forth in Const 1963, art 6, § 19 for holding the office of judge in this state. To be qualified to serve as a judge in this state, "a person shall have been admitted to the practice of law for at least 5 years." Const 1963, art 6, § 19(2). In addition, the person cannot be elected or appointed to the office of judge after turning 70 years old. Art 6, § 19(3). According to plaintiffs, requiring a candidate to file an AOI impermissibly expands on the criteria for holding the office of judge beyond what is listed in art 6, § 19.

It does not appear that plaintiffs raised this argument before the Court of Claims, making it unpreserved, and we could decline to review it. *Tolas Oil & Gas Exploration Co v Bach Servs & Mfg, LLC*, 347 Mich App 280, 289, 293-294; 14 NW3d 472 (2023). Even overlooking the lack of preservation, the issue is meritless. The statutory requirement of filing an AOI does not add qualifications to the office of judge; rather, it specifies what a person seeking the office must do to appear on the ballot. The Legislature plainly has authority under art 2, § 4 to regulate the manner in which elections are conducted. See, e.g., *Davis v Wayne Co Election Comm*, 349 Mich App 355, 364; 28 NW3d 354 (2023).

THE AMENDED AOI AND NOMINATING PETITIONS

As an alternative, plaintiffs pivot toward the amended AOI that Judge Sharma filed. They argue that defendants were required to accept the new AOI that Judge Sharma filed in June 2026. Defendants rejected the amended AOI and cited MCL 168.558(4). The statute provides that an election official "shall not certify to the board of election commissioners the name of a candidate . . . who executes an affidavit of identity that contains a false statement with regard to any information or statement required under this section."

Plaintiffs cannot demonstrate that defendants had a duty or obligation to accept her second AOI. As the Court of Claims pointed out, MCL 168.558(4) contains mandatory language when it declares that election officials "shall not certify" the name of a candidate who files an AOI that contains false information. See *Ellison v Dep't of State*, 320 Mich App 169, 180; 906 NW2d 221

[2] The only exception to the AOI requirement is found in the final sentence of MCL 168.558(1). To that end, "The affidavit of identity filing requirement does not apply to a candidate nominated for the office of President of the United States or Vice President of the United States."

(2017) ("The term 'shall' is mandatory") (citation omitted). Candidates must comply strictly with the AOI requirements. *Moore*, 337 Mich App at 730. Moreover, there is nothing in the pertinent election statutes that gives candidates a right to file a second or amended AOI. And while the Secretary of State has promulgated administrative rules for amending AOIs, the rules do not apply in the case of false statements, such as occurred here. Mich Admin Code, R 168.3(2).

Plaintiffs next argue that defendants were required to accept Judge Sharma's nominating petitions. Plaintiffs' position fails to account for the idea, expressed by Deputy Director Fracassi, that Judge Sharma's nominating petitions were flawed. Even assuming for the sake of argument that plaintiffs' underlying legal position were correct, plaintiffs' failure to show that the petitions complied with necessary requirements leaves them short of showing that defendants had a duty to accept the nominating petitions. Moreover, as the Court of Claims held, Judge Sharma's nominating petitions were irrelevant after defendants declined to certify her candidacy due to the prior false statements contained in the first AOI.

RIGHTS OF ELECTOR PLAINTIFFS

For their final issue, plaintiffs contend that denying Judge Sharma access to the ballot harms the rights of voters, such as plaintiff Datta-Sandhu and Dwight. They cite Const 1963, art 2, § 4(1), which guarantees qualified electors the right to vote. That section provides that:

> (1) Every citizen of the United States who is an elector qualified to vote in Michigan shall have the following rights:
>
> (a) The fundamental right to vote, including but not limited to the right, once registered, to vote a secret ballot in all elections. No person shall: (1) enact or use any law, rule, regulation, qualification, prerequisite, standard, practice, or procedure; (2) engage in any harassing, threatening, or intimidating conduct; or (3) use any means whatsoever, any of which has the intent or effect of denying, abridging, interfering with, or unreasonably burdening the fundamental right to vote.

Plaintiffs raise two arguments about art 2, § 4(1). First, they argue that the Court of Claims "seriously erred in its analysis" of this issue by applying an incorrect legal framework to the analysis. However, as defendants point out, the Court of Claims applied a standard that corresponded with the manner in which plaintiffs framed this issue in their complaint, which was different from the theory presented in their brief in response to summary disposition, which raised a theory that more closely aligns with their brief on appeal.

The second argument advanced by plaintiffs with respect to art 2, § 4(1) is their contention that they were completely denied their right to vote by way of Judge Sharma's disqualification. However, there is nothing in the record to suggest that plaintiffs have been or will be prevented from voting in this state's upcoming election in November. Plaintiffs have attempted to twist what occurred here—the rejection of a particular candidate from the ballot—into a "complete denial" of the right to vote. But a "denial of the right to vote" is not what occurred here. Rather, Judge Sharma was simply disqualified as a candidate because she failed to comply with state election law. Plaintiffs remain free to vote in the upcoming election.

When viewed as a disqualification of a particular candidate and not as a denial of the right to vote, the issue becomes subject to a "flexible review" known as the *Anderson-Burdick*[3] test. *League of Women Voters of Mich v Sec'y of State*, 508 Mich 520, 554-555; 975 NW2d 840 (2022). "This test requires a reviewing court to weigh the character and magnitude of the burden the State's rule imposes on those rights against the interests the State contends justify that burden, and consider the extent to which the State's concerns make the burden necessary." *Id*. at 555 (citation and quotation marks omitted). With respect to this test, the Supreme Court of the United States has rejected the idea that state eligibility laws impose unreasonable restrictions on the right to vote. *Timmons v Twin Cities Area New Party*, 520 US 351, 359; 117 S Ct 1364; 137 L Ed 2d 589 (1997), citing *Burdick v Takushi*, 504 US 428, 440 n 10; 112 S Ct 2059; 119 L Ed 2d 245 (1992) ("It seems to us that limiting the choice of candidates to those who have complied with state election law requirements is the prototypical example of a regulation that, while it affects the right to vote, is eminently reasonable."). Accordingly, the character and magnitude of the burdens imposed by ballot qualification statutes such as MCL 168.558 are relatively small.

Turning to the state's interests, it is well established that the state has an interest in protecting the fairness and integrity of the ballot. See, e.g., *McDonald v Grand Traverse Co Election Comm*, 255 Mich App 674, 686; 662 NW2d 804 (2003). As the Court of Claims recognized, insisting "upon full and complete identification of candidates for public office" is useful for providing "the electorate with the information necessary to cast their ballots effectively for the candidates of their choice." *Sullivan v Sec'y of State*, 373 Mich 627, 631; 130 NW2d 392 (1964). See also *Evans v Detroit Election Comm*, 15 Mich App 260, 263; 166 NW2d 467 (1968) (noting that ensuring that candidates are properly identified helps with "the intelligent selection of candidates which, after all, is the heart of our elective process"). Stated otherwise, the state has a significant interest in ensuring the accuracy of the identity of candidates for public office.

With respect to balancing these interests, the Court of Claims remarked that "[r]equiring candidates to accurately and truthfully complete AOIs is a minor inconvenience to fulfill" the state's goal of providing complete identification of candidates. Further, the Court of Claims held that "Requiring defendants not to certify the candidacy of an individual who does not accurately and truthfully complete an AOI supports compliance with the requirement" and "does not unconstitutionally burden the rights of the electorate." On appeal, plaintiffs do not challenge the Court of Claims' balancing analysis, instead opting to insist that strict scrutiny should apply, rather than the *Anderson/Burdick* balancing test. We will not make that argument for them, and the Court of Claims' analysis appears sound in any event.

[3] This test is named after the Supreme Court of the United States' decisions in *Anderson v Celebrezze*, 460 US 780; 103 S Ct 1564; 75 L Ed 2d 547 (1983) and *Burdick v Takushi*, 504 US 428; 112 S Ct 2059; 119 L Ed 2d 245 (1992).

CONCLUSION

The opinion and order of the Court of Claims is affirmed.

/s/ Adrienne N. Young
/s/ Matthew S. Ackerman
/s/ Mariam S. Bazzi