STATE OF MICHIGAN

COURT OF CLAIMS

ROBERT DAVIS,

Plaintiff,

v

Case No. 26-000099-MB

JOCELYN BENSON, in her official capacity as the duly elected Secretary of State,

Hon. Sima G. Patel

Defendant.
_____ /

ROBERT DAVIS,

Plaintiff,

v

Case No. 26-000103-MB

JOCELYN BENSON, in her official capacity as the duly elected Secretary of State,

Hon. Sima G. Patel

Defendant.
_____ /

ROBERT DAVIS,

Plaintiff,

v

Case No. 26-000104-MB

JOCELYN BENSON, in her official capacity as the duly elected Secretary of State,

Hon. Sima G. Patel

Defendant.
_____ /

OPINION AND ORDER GRANTING DEFENDANT'S MOTIONS FOR SUMMARY DISPOSITION

In Docket Nos. 26-000099-MB and 26-000104-MB, plaintiff, Robert Davis, seeks to invalidate an administrative rule promulgated by defendant, Secretary of State (SOS) Jocelyn Benson, Mich Admin Code, R 168.5, that requires challenges to a candidate's Affidavit of Identity (AOI) be filed no more than seven days after the AOI filing deadline. He also seeks to invalidate Mich Admin Code, R 168.3(1), which permits a candidate to file amended AOIs up to the filing deadline to correct the omission of information.

In Docket Nos. 26-000103-MB and 26-000104-MB, Davis seeks declaratory judgments regarding the parameters of the Michigan Election Law (MEL) and SOS guidelines regarding the manner of identifying a candidate on a ballot following a name change.

Davis also seeks writs of mandamus to compel the SOS to properly advise the Wayne County Clerk and compelling the SOS's own actions.

The Court DISMISSES Count III in 26-99 as MOOT. Because the SOS and Wayne County Clerk complied with the law and with properly promulgated valid regulations, the Court GRANTS the SOS's motions for summary disposition and DISMISSES the complaints in their entirety and with prejudice.

I. BACKGROUND

A. AOI CHALLENGE DEADLINE

The Court first notes that it is proceeding on the amended complaints filed by Davis as agreed upon at oral argument.

In 26-99 and 26-104, Davis challenges Mich Admin Code, R 168.5, which requires the filing official to reject any challenge to an AOI that is "received more than 7 days after the" AOI filing deadline. The deadline to file AOI challenges passed on April 28, 2026. Rule 168.5 states in full:

> **Affidavit of identity challenge.**
>
> Rule 5. (1) Except as provided in subrule (3) of this rule, the filing official shall reject any challenge received more than 7 days after the deadline for the filing of the [AOI].
>
> (2) Except as provided in subrule (3) of this rule, the filing official shall reject any challenge that is not in the form of a signed and notarized complaint.
>
> (3) The filing official may exercise discretion to accept a challenge that does not meet the requirements in subrules (1) and (2) of this rule on a showing of good cause.

Davis also challenges the validity of Mich Admin Code, R 168.3(1) as contrary to the MEL. Rule 168.3 provides, in full:

> (1) Subject to subrule (2) of this rule, a candidate who omits information required by . . . MCL 168.558, may correct the omission by filing a new [AOI] up until the filing deadline elapses. The filing official shall disqualify a candidate who fails to correct an omission by the filing deadline. For purposes of this subrule, omissions include, but are not limited to, blanks or incomplete information on the [AOI], but do not include omissions on the compliance statement required by [MCL 168.558(4)].
>
> (2) The filing official shall disqualify a candidate who provides false information as of the date the candidate signed the [AOI] regarding information required by [MCL 168.558(2)]. Candidates disqualified on this basis cannot reverse disqualification by filing a corrected affidavit.

Davis contends that these Rules conflict with and contravene certain provisions of the MEL.

In 26-99, Davis filed a sworn complaint with the Wayne County Clerk on May 1, 2026, against candidate for State House District 9, Darryl Ervin's, AOI. Ervin filed his AOI on December 9, 2025, a full four months early. Even so, Davis waited until three days after the

challenge deadline to act. Anticipating that the Clerk would enforce Rule 168.5, Davis claimed that "good cause" existed to allow his belated challenge.

On May 7, 2026, Davis filed an expedited request with the SOS for issuance of a declaratory ruling regarding the validity of Rule 168.5 (but not Rule 168.3) by May 11.[1] The SOS did not issue an expedited declaratory ruling. Then on May 13, 2026, the Wayne County Clerk reached a final determination that, because Davis's challenge to Ervin's AOI was untimely, good cause did not exist to extend that deadline, and the challenge must be rejected.

In 26-99, Davis filed a challenge with the SOS to the AOI of Mark Koroi, a candidate for judge of the 31st District Court, on May 1, 2026. Davis claimed he had good cause to file beyond the deadline and separately asked the SOS to enter an expedited declaratory ruling regarding the validity of only Rule 168.5. The SOS again did not enter a declaratory ruling. The SOS reached

[1] "MCL 24.263 and MCL 24.264 govern requests for declaratory rulings by agencies." *Warren Consol Sch Dist v Hazel Park Sch Dist*, ___ Mich ___; ___ NW3d ___ (2026) (Docket No. 167643), slip op at 9. MCL 24.263 permits the agency to issue a declaratory ruling regarding "the applicability to an actual state of facts of a statute administered by the agency or of a rule or order of the agency," and permits judicial review of the agency's ruling. MCL 24.264, in turn, states:

> Unless an exclusive procedure or remedy is provided by a statute governing the agency, the validity or applicability of a rule . . . may be determined in an action for declaratory judgment if the court finds that the rule or its threatened application interferes with or impairs, or imminently threatens to interfere with or impair, the legal rights or privileges of the plaintiff. . . . The agency shall be made a party to the action. An action for declaratory judgment may not be commenced under this section unless the plaintiff has first requested the agency for a declaratory ruling and the agency has denied the request or failed to act upon it expeditiously. This section shall not be construed to prohibit the determination of the validity or applicability of the rule in any other action or proceeding in which its invalidity or inapplicability is asserted.

a final determination on May 14, 2026, did not address Davis's claimed "good cause," and rejected Davis's challenge to Koroi's AOI as untimely.

In 26-104, because the subject house district crosses county lines, Davis filed a sworn complaint with the SOS on May 8, 2026, challenging the AOI of Cranstana LaMonta Brown Anderson, candidate for State House District 11. Davis asserted there was good cause to accept his belated challenge. The day before, May 7, 2026, Davis filed a request for an expedited declaratory ruling regarding the validity of only Rule 168.5 with the SOS. As with his other challenges, the SOS did not respond to the request for an expedited declaratory ruling. On May 14, 2026, the SOS rejected Davis's challenge to Anderson's AOI as untimely. The SOS denied Davis's request to file the challenge beyond the deadline because Davis waited until after the deadline to file a request for documentation necessary to support his challenge under the Freedom of Information Act (FOIA).

B. AOI LISTED NAME CHALLENGES

In 26-103, Davis timely filed a sworn complaint with the Wayne County Clerk challenging the AOI of Toni Price Mua, candidate for State House District 9. Davis asserted that MCL 168.558(2) requires that a candidate using a name other than the name given at birth, include the full former name on the AOI. Mua was born Antonio Dawayne Price and legally changed her name to Toni Price Mua through a court proceeding under MCL 711.1 *et seq*., effective in 2020. MCL 168.558 and MCL 168.560b govern the manner in which a candidate identifies their name. MCL 168.558 states, in relevant part:

> (2) An [AOI] must contain the candidate's name and residential address; . . . and *the manner in which the candidate wishes to have his or her name appear on the ballot. If a candidate is using a name that is not a name that he or she was*

given at birth, the candidate shall include on the [AOI] the candidate's full former name. . . .

(3) *The requirement to indicate a name change on the [AOI] does not apply if the name in question is 1 of the following*:

(a) A name that was formally changed at least 10 years before filing as a candidate.

(b) A name that was changed in a certificate of naturalization issued by a federal district court at the time the individual became a naturalized citizen at least 10 years before filing as a candidate.

(c) A name that was changed because of marriage.

(d) A name that was changed because of divorce, but only if to a legal name by which the individual was previously known.

(e) *A name that constitutes a common law name as provided in [MCL 168.560b]*. [Emphasis added.]

MCL 168.560b, in turn, states:

(1) A candidate required to indicate a name change on the [AOI] under [MCL 168.558] shall be listed on the ballot *with his or her current name and former name* as prescribed by the [SOS].

(2) Subject to subsections (3) and (4), both a candidate's given name and surname that he or she was given at birth, and only those names, shall appear on the ballot, except under 1 of the following circumstances:

(a) The name in question, whether a given name, a surname, or otherwise, is a name that was formally changed.

(b) The candidate is subject to subsection (1).

(c) The name in question, whether a given name, a surname, or otherwise, is 1 of the following:

(*i*) A name that was changed in a certificate of naturalization issued by a federal district court at the time the individual became a naturalized citizen at least 10 years before filing as a candidate.

(*ii*) A name that was changed because of marriage.

(*iii*) A name that was changed because of divorce, but only if to a legal name by which the individual was previously known.

> (3) A candidate may specify that both his or her given name and middle name, or only a middle name, shall appear on the ballot. A candidate may specify that either an initial or a recognized diminutive for the candidate's given or middle name, or for both, shall appear on the ballot. In addition, *a candidate may specify that a common law name used in accordance with Michigan department of state guidelines for use of a common law name on a driver license or state personal identification card shall appear on that ballot*. . . . [Emphasis added.]

Mua responded to the sworn complaint filed with the Wayne County Clerk, asserting that the common-law name exception of MCL 168.558(3)(e) applied such that she was not required to include her full former name on the AOI.[2] Mua asserted that Toni Price Mua is her common-law name and that she has used it "openly, consistently, and exclusively in [her] daily life, including personally and professionally for over 9 years." To support her position, Mua provided her employer-issued work identification card, personal and business e-mail account screenshots, her business card, and screenshots from personal social media accounts.

On May 11, 2026, the Wayne County Clerk issued a final determination denying Davis's challenge, citing the SOS's "guidelines for use of a common law name on a driver's license" as well as the SOS's "declaratory ruling issued on February 16, 2024 to Daniel Wholihan regarding issues unrelated to" Davis's challenge. The February 16, 2024 declaratory ruling stated, in relevant part:

> While the MEL allows for a candidate to specify a common law name be used on the ballot, it does not provide the definition of a common law name. Rather, the MEL indicates that if a common law name is acceptable for use under the Michigan Department of State guidelines for use on a driver license or personal identification card, then it is also acceptable for use on the [AOI] and ballot. MCL 168.560b(3).
>
> The Department guidelines follow the precedent established by the Michigan Constitution of 1963, which provides that a "common law" refers to a law arising from a judicial decision, instead of a law established by a statute or

[2] The Court has granted Mua's motion to participate as amici in this proceeding.

> constitution. Under the Michigan common law in force from 1963, an individual has the right to adopt any name they choose without a legal proceeding, so long as it is not for a fraudulent purpose. *Piotrowski v Piotrowski*, 71 Mich App 213, 215–16; 247 NW2d 354 (1976). The Department also recognizes that following a marriage, an individual acquires the common law right to change their surname to that of their spouse. Department guidance states a common law name is a name used in the everyday conduct of personal, business, or legal activities and to establish a name under common law for use on a driver license or personal ID, an individual must present the Department with proof of having used the desired name for at least six months without fraudulent intent.
>
> A 2003 Michigan Attorney General opinion[, OAG, 2003, No. 7142 (October 17, 2003),] considered the question as to what evidence was needed to effectuate a name change on a person's driver's license. At that time, the Attorney General considered the Department's practice that "when an applicant requests issuance of a driver's license in a new name at a branch office, the applicant must submit written verification of current usage of the new name. The applicant must present sufficient documentation to substantiate that the applicant has been publicly using the common law name for at least six months before application." That opinion acknowledged the Department's statutory authority[, MCL 257.209,] to conduct additional investigation regarding submitted documents but determined that such investigation was at the discretion of the Department.
>
> Historically, the Department has adopted this guidance in administering the implicated sections of the MEL and applies the same test when determining whether a common law name may be used on the [AOI] and ballot.

Davis immediately filed a FOIA request for the "written guidelines issued by the [SOS] for a person to change their name on a driver's license and State ID and use of a common law name on a driver's license and State ID." The SOS produced the instructions it provides to branch office counter workers the following day. Davis quotes the following from those instructions:

> **<u>Common Law Name Changes</u>**
>
> The common law name change process is used to adopt a name that is a reasonable derivation of a customer's current name, provided that the change is not done for fraudulent purposes. The common law name change process does not require court issued documents but other documentation is required.
>
> A customer can change the name on their driver's license or ID card by presenting three documents issued from various sources showing the name they wish to adopt.

The instructions additionally describe the "name change documents" that may be presented to the SOS to change one's name on one's driver's license or state identification. This includes a "court order."

In 26-104, Davis's sworn complaint contended Cranstana LaMonta Anderson Brown did not accurately identify her former names or current name. The April 20, 2026 amended AOI listed "Cranstana LaMonta Brown" as her former name that was changed in the past 10 years "for a reason other than marriage or divorce." In Section 2 of the AOI, the candidate indicated that she wanted her name to appear on the ballot as "Cranstana Gina Brown Anderson." Davis contended that records do not support that the candidate's middle name was "Gina" at birth. The SOS did not consider the merits of Davis's challenge because it was rejected as untimely.

II. LEGAL PRINCIPLES

Davis seeks a declaratory judgment that two administrative regulations are invalid and void.

> MCR 2.605 governs a trial court's power to enter a declaratory judgment. The court rule provides, in pertinent part, that "[i]n a case of actual controversy within its jurisdiction, a Michigan court of record may declare the rights and other legal relations of an interested party seeking a declaratory judgment, whether or not other relief is or could be sought or granted. MCR 2.605(A)(1). [*Van Buren Charter Twp v Visteon Corp*, 319 Mich App 538, 545; 904 NW2d 192 (2017).]

In 26-99 and 26-103, Davis also seeks a writ of mandamus, although in an extremely cursory manner.[3] In 26-104, Davis seeks a writ of mandamus compelling the SOS to certify the candidate as "Cranstana Gina Brown Anderson" to appear on the August 4, 2026 primary ballot.

"Mandamus is not a matter of right, but rather one of grace and of discretion." *Toan v McGinn*, 271 Mich 28, 33; 260 NW 108 (1935). This "extraordinary remedy" is available only when the party seeking it shows that: (1) it has a "clear, legal right to performance of the specific duty sought," (2) the opposing party "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, 518-519; 866 NW2d 817 (2014). A "ministerial act" is one "where 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." *Keaton v Beverly Hills*, 202 Mich App 681, 683-684; 509 NW2d 544 (1993), quoting *Delly v Bureau of State Lottery*, 183 Mich App 258, 260-261; 454 NW2d 141 (1990). And, a "clear, legal right" is one either "clearly founded in, or granted by, law; [or] a right which is inferable as a matter of law from uncontroverted facts, regardless of the difficulty of the legal question to be decided." *Univ Med Affiliates, PC v Wayne Co Executive*, 142 Mich App 135, 143; 366 NW2d 277 (1985).

These consolidated cases also involve questions of statutory and administrative rule interpretation. "Principles of statutory interpretation apply to the construction of administrative

[3] The only allegations in the complaints sounding in mandamus are that the SOS "has a statutory legal duty to advise and direct" election officials "as to the proper methods of conducting elections, including complaints challenging the validity of a candidate's [AOI] filed under MCL 168.558 of the [MEL]."

rules." *Romulus v Mich Dep't of Environmental Quality*, 260 Mich App 54, 65; 678 NW2d 444 (2003).

> When interpreting a statute, [the] foremost rule of construction is to discern and give effect to the Legislature's intent. Because the language chosen is the most reliable indicator of that intent, [a court will] enforce clear and unambiguous statutory language as written, giving effect to every word, phrase, and clause. If the statutory provision at issue is clear and unambiguous, it must be enforced as written, and no judicial construction is permitted or required. [*Lockport Twp v Three Rivers*, 319 Mich App 516, 520; 902 NW2d 430 (2017) (cleaned up).]

III. ANALYSIS

A. MOOTNESS

First, the Court dismisses Davis's challenge to Koroi's AOI in Count III of 26-99 as moot. "A matter is moot if this Court's ruling cannot for any reason have a practical legal effect on the existing controversy." *Garrett v Washington*, 314 Mich App 436, 449; 886 NW2d 762 (2016) (cleaned up). On May 14, 2026, the Director of Elections notified Davis that his challenge was rejected as untimely. The letter further advised Davis that Koroi was disqualified from the ballot because he did not meet the residency requirements. This is the relief sought by Davis. This Court can provide no further relief, rendering this issue moot.

Davis contends that the issue is not moot because Koroi may appeal the SOS's decision and a court allow Koroi to be listed on the ballot. Davis asserts that his challenge is based on different deficiencies and should be decided to ensure that Koroi is not returned to the ballot. Whether Koroi will choose to appeal and whether a court will overturn the SOS's decision is yet to be seen. Any harm is merely hypothetical. See *Garrett*, 314 Mich App at 449. At this time, Koroi will not appear on the ballot, and Davis can be granted no further relief.

B. LACHES

The SOS contends that Davis's claims in 26-103 and 26-104 should be dismissed under the doctrine of laches because Davis waited four days after the rejection of his challenges before filing suit in this Court.

> The doctrine of laches is an equitable doctrine that applies when a party has failed to make a claim or enforce a right at the proper time. *Nykoriak v Napoleon*, 334 Mich App 370, 382; 964 NW2d 895 (2020). The doctrine estops a party "from asserting a right it could have and should have asserted earlier." *Home-Owners Ins Co v Perkins*, 328 Mich App 570, 589; 939 NW2d 705 (2019). The doctrine "is an equitable tool used to provide a remedy for the inconvenience resulting from the plaintiff's delay in asserting a legal right that was practicable to assert." *Id.* (quotation marks and citation omitted). [*Mich Republican Party v Secretary of State*, unpublished per curiam opinion of the Court of Appeals, issued August 6, 2025 (Docket No. 372995), p 3.]

The Court acknowledges that time is of the essence when raising election challenges. However, a four-day period to review the rejection of his challenges, draft a complaint and emergency motion, and file pleadings with the Court is not unreasonable. Accordingly, the Court denies the SOS's motion for summary disposition on this ground.

C. STANDING

The SOS also contends that Davis lacks standing to file these actions.

The SOS promulgated Rule 168.5, which requires filing officials to "reject any challenge" that is filed beyond the deadline or that is not filed in the form of a signed and notarized complaint. The SOS imposes no limit on who may challenge a candidate's AOI. The SOS thereby permits anyone to challenge a candidate's AOI, irrespective of whether the challenger is entitled to vote for the challenged candidate. The administrative rules in question were promulgated under the Administrative Procedures Act (APA). "A rule adopted by an agency in accordance with the

[APA], MCL 24.201 *et seq*., is a legislative rule that has the force and effect of law." *Morley v General Motors Corp*, 252 Mich App 287, 290; 651 NW2d 808 (2002). See also *Brightmoore Gardens, LLC v Marijuana Regulatory Agency*, 337 Mich App 149, 161; 975 NW2d 52 (2021).

In each of the consolidated actions, Davis seeks a declaratory judgment. MCR 2.605 provides that a court may enter a declaratory judgment to "declare the rights and other legal relations of an interested party." Davis also seeks mandamus relief, which requires the showing of a clear legal right on the part of the plaintiff. *Rental Props Owners Ass'n of Kent Co*, 308 Mich App at 518-519. These are essentially standing requirements. This Court described in *Davis v Benson*, unpublished opinion and order of the Court of Claims, issued June 16, 2025 (Docket No. 25-000083-MZ), p 4:

> The standing doctrine exists "to assess whether a litigant's interest in the issue is sufficient to ensure sincere and vigorous advocacy . . . . Thus, the standing inquiry focuses on whether a litigant is a proper party to request adjudication of a particular issue" and whether the litigant has a "legal cause of action." *Lansing Schs Ed Ass'n v Lansing Bd of Ed*, 487 Mich 349, 354-356, 372-373; 792 NW2d 686 (2010) (cleaned up). In the absence of a legal cause of action or viable declaratory action, [the plaintiff] must demonstrate a special injury or "a substantial interest" that will be "detrimentally affected in a manner different from the public at large." *Detroit Fire Fighters Ass'n v Detroit*, 449 Mich 629, 633; 537 NW2d 436 (1995). While "the bar for standing is lower when a case concerns election law," this does not ameliorate the need for an actual controversy between the parties. *League of Women Voters of Mich v Sec'y of State*, 506 Mich 561, 587-588; 957 NW2d 731 (2020).

Rule 168.5 gave Davis the authority to file his challenges to the various candidate AOIs. Either the SOS or the Wayne County Clerk rejected each of his challenges. Those rejections gave Davis the particularized interest necessary to establish standing to file these claims. Accordingly, the Court denies the SOS's motions for summary disposition on this ground.

D. MICH ADMIN CODE, R 168.3

In 26-99 and 26-104, the SOS contends that Davis's challenges to Rule 168.3 must be dismissed for failure to exhaust his administrative remedies. Specifically, Davis was required to seek a declaratory ruling from the SOS under MCL 24.263 before he could file a declaratory judgment action in this Court under MCL 24.264. Davis contends that seeking a declaratory ruling would have been an exercise in futility because the SOS did not respond to any of his requests for an expedited declaratory ruling regarding the validity of Rule 168.5.

As a general rule, a plaintiff must exhaust available administrative remedies before filing suit. *L & L Wine & Liquor Corp v Mich Liquor Control Comm*, 274 Mich App 354, 357; 733 NW2d 107 (2007). A plaintiff need not exhaust his administrative remedies, however, when such actions would be futile. *Id.* For the exception to apply, "it must be clear that an appeal to an administrative board is an exercise in futility and nothing more than a formal step on the way to the courthouse." *Id*. at 358 (cleaned up).

The Court finds that seeking an expedited declaratory ruling regarding the validity of Rule 168.3(1) would have been futile given that the SOS still has not responded to Davis's requests for expedited declaratory rulings regarding the validity of Rule 168.5. However, the Court also finds that Rule 168.3(1) is a valid and enforceable regulation.

The Michigan Supreme Court has definitively established that the SOS's "mandatory executive duties include . . . promulgating rules pursuant to the APA." *O'Halloran v Secretary of State*, 515 Mich 606, 630-631; 29 NW3d 429 (2024) (cleaned up). Those rules may not conflict with or contravene legislatively enacted laws. *Brightmoore Gardens, LLC*, 337 Mich App at 161. MCL 168.31(1)(a) requires the SOS to promulgate rules "for the conduct of elections and

registrations in accordance with the laws of this state." Rule 168.3 is a rule "for the conduct of elections."

Davis contends that the Rule is not "in accordance with the laws of this state." Specifically, Davis contends that Rule 168.3(1)'s permitting candidates to "correct the omission" of information in an AOI "by filing a new [AOI] up until the filing deadline elapses" conflicts with MCL 168.164 and MCL 168.558(1). MCL 168.164 states:

> After the filing of a nominating petition or filing fee by or in behalf of a proposed candidate for the office of state senator or representative, such candidate shall not be permitted to withdraw unless a written notice of withdrawal is served on the official with whom his or her nominating petitions or filing fee were filed, or his or her duly authorized agent, not later than 4 o'clock, eastern standard time, in the afternoon of the third day after the last day for filing such petition.

MCL 168.558(1) provides, in relevant part:

> When filing a nominating petition, qualifying petition, filing fee, or affidavit of candidacy for a federal, county, state, city, township, village, metropolitan district, or school district office in any election, a candidate shall file with the officer with whom the petitions, fee, or affidavit is filed 2 copies of an [AOI].

Davis contends that these statutes demand that an AOI can only be filed concurrently with a nominating petition or filing fee, and that two copies must be filed. Because Davis insists the statutes require that the AOI can only be filed with a nominating petition or filing fee, the only way to file an "amended" AOI under the MEL is to formally withdraw and refile. Davis's interpretation does not align with the plain language of the statutes. While MCL 168.558(1) requires a candidate to file two copies of the AOI with the nominating petition and fee, it does not govern or limit the amendment or correction of an AOI. And MCL 168.164 governs only the withdrawal of a candidate for office. It in no way requires a candidate to withdraw in order to amend or correct any previously filed AOIs.

Because Rule 168.3(1) relates to the conduct of elections and does not conflict with or contravene the plain language of the MEL, the SOS was empowered to promulgate the Rule. The Rule is not invalid or void. Davis is not entitled to relief in this regard, and the SOS is entitled to summary disposition.

E. MICH ADMIN CODE, R 168.5

Also in 26-99 and 26-104, Davis contends that Rule 168.5 is invalid because it imposes limits on challenges to AOIs when the MEL is silent in that regard. Davis concedes that "the [MEL] does not set forth any explicit procedure for resolving challenges to AOIs." *Moore v Genesee Co*, 337 Mich App 723, 732; 976 NW2d 921 (2021). Davis contends that the SOS cannot establish a procedure that does not exist in the election laws. He believes Rule 168.5's AOI challenge deadline changes the laws enacted by the Legislature, which is outside of the SOS's power and authority. See *Brightmoore Gardens, LLC*, 337 Mich App at 161.

As Davis concedes, the statutes are silent on any procedure to challenge AOIs. Indeed, if Davis successfully argued for the invalidation of Rule 168.5, the Court would be required to dismiss these actions in their entirety because Davis would have no authority to challenge the myriad candidates' AOIs. MCL 168.31(1)(b) specifically requires the SOS to provide the type of advice provided in the Rule—she is required to "[a]dvise and direct local election officials as to the proper methods of conducting elections." With the promulgation of the right to challenge candidate AOIs, the SOS was empowered to create procedures for doing so. This includes placing a temporal deadline on such challenges to ensure the efficient flow of elections. Because there is no statute to the contrary, the SOS did not overstep her authority, and the Rule is valid and enforceable.

Accordingly, Davis is not entitled to declaratory judgments in this regard, and the SOS is entitled to summary disposition in her favor.

F. DAVIS DID NOT ESTABLISH GOOD CAUSE TO EXTEND THE CHALLENGE DEADLINE

Davis argues that if this Court affirms the promulgation of Rule 168.5, the Court must consider whether he established good cause to file his challenges beyond the April 28, 2026 deadline. Rule 168.5(3) provides that "[t]he filing official may exercise discretion to accept a challenge that does not meet the requirements in subrules (1) and (2) of this rule on a showing of good cause." An "abuse of discretion" occurs "when [the filing official] chooses an outcome falling outside the range of principled outcomes." *Davis v Secretary of State*, 346 Mich App 445, 459; 12 NW3d 653 (2023).

Davis filed his challenge to Ervin's AOI with the Wayne County Clerk on May 1, 2026. Davis asserted that good cause existed under Rule 168.5(3) to accept his challenge

> because I had to request documents under Michigan's [FOIA] from multiple governmental agencies, including the Department of State and the Wayne County Clerk after the challenged candidate, Darryl Jerome Ervi [sic], filed his $100 filing fee and amended [AOIs] with the Wayne County Clerk.

Davis noted that the public entities had an initial five business days to respond to the requests and, when they did respond, they did not provide "the pertinent and relevant documents that are relevant to the instant challenge until after" the challenge deadline. Davis asserted that he could not file an adequately supported complaint without the documents requested via FOIA.

The Wayne County Clerk rejected Davis's grounds for finding good cause because Ervin filed his amended AOI on December 9, 2025, more than four months before the challenge deadline. This gave Davis "ample enough time" to collect the documents he needed to file a challenge.

Davis did not file his challenge to Anderson's AOI with the SOS until May 8, 2026. Davis similarly contended that good cause existed to accept his belatedly filed challenge because he had to file FOIA requests with the Department of State and Wayne Circuit Court for the documents necessary to support his challenge. As of May 8, 2026, Davis still had not received the requested documents from the circuit court, supporting his claim of good cause. The SOS found insufficient Davis's claim of good cause, noting that Davis did not even file his FOIA requests until the challenge deadline.

The Court agrees that Davis failed to establish good cause to extend the deadline for filing his challenges and the Wayne County Clerk and the SOS did not abuse their direction by rejecting his challenges. Davis admits that time is of the essence in election challenges. Tight deadlines are imposed to ensure that ballots are sent to the printer in time to have absent voter ballots sent to qualified electors positioned overseas and then to all other absent voters. A party seeking to challenge the AOI of a candidate must be vigilant and seek the information necessary to support the challenge as soon as possible. That the challenge might enable a candidate to remedy errors in the AOI before the AOI filing deadline is not cause to wait until the final moment and beyond to file a challenge. The law does not condone such gamesmanship.

Davis's challenges to Ervin's and Anderson's AOIs were untimely and the Court finds no error in the filing officials' determinations that he failed to establish good cause to extend those deadlines. Accordingly, the SOS is entitled to summary disposition of Davis's claims regarding Ervin in 26-99 and Anderson in 26-104.

G. NAME CHANGES

Davis seeks a declaration that Mua's and Anderson's AOIs did not comply with the statutory requirements for identifying the candidate's name. The Court will not consider the challenge in relation to Anderson because that challenge was properly rejected as being filed beyond the deadline without good cause. Moreover, as stated on the record at oral argument, the Court GRANTS Mua's motion to participate as amici in this proceeding and has taken into consideration the arguments in her brief and of her counsel at oral arguments.

Davis argues if a person secures a name change in court under MCL 711.1 *et seq*., that person cannot also assert a common-law name change; the person must choose one way or the other in his estimation. This is contrary to the plain reading of the main cases, i.e. the common law, analyzing this issue. In *Piotrowski*, 71 Mich App at 216, the Court of Appeals held that the name-change statute affirms and adds to the common law:

> In Michigan, as in most states, a statute authorizes procedures by which a court can, upon petition, change the name of any person. MCL 711.1. Such change of name statutes *do not abrogate or supersede the common law*. To the contrary, they *affirm the common law* right and *afford an additional method* by which a name change may be effected as a matter of public record. [Emphasis added.]

More recently, the Court of Appeals explained *In re Warshefski*, 331 Mich App 83, 94; 951 NW2d 90 (2020):

> As previously stated, this Court has long recognized two methods for effectuating a name change under Michigan law. *Piotrowski*, 71 Mich App at 216. Under the common law, an individual may adopt any name he or she wishes, without resort to any court or legal proceeding, provided it is not done for fraudulent purposes. *Id.* . . .
>
> Alternatively, an individual may petition the court for a name change under MCL 711.1. *Piotrowski*, 71 Mich App at 216. MCL 711.1(1) provides that the family division of the circuit court may enter an order to change the name of an

> individual who has been a resident of the county for at least one year and petitions the court in writing. The petition must demonstrate a "sufficient reason for the proposed change and that the change is not sought with a fraudulent intent." *Id*. . . .

MCL 711.1 appears to codify common-law changes, giving applicants an official means of changing their name in a manner consistent with a common-law name change. The applicant must state the purpose of the name change and must not bear fraudulent intent, just as with a common-law name change. Accordingly, Mua is not barred from claiming a common-law name change just because she secured an official court order to ensure her name change was accepted legally.

Further, the Attorney General provided guidance on the issue of common-law name changes in an official Attorney General opinion in 2003—OAG 2003, No. 7142 (October 17, 2003).

> The Department advises that under its current practice, when an applicant requests issuance of a driver license in a new name at a branch office, the applicant must submit written verification of current usage of the new name. The applicant must present sufficient documentation to substantiate that the applicant has been publicly using the common law name for at least six months before application. If the branch employee is not satisfied with the information presented, management concurrence is sought and the applicant is informed that the submitted proof is not sufficient. The applicant is instructed to either bring in additional information or seek a court order changing his or her name.

The Attorney General acknowledged that a common-law name change can be effectuated by common and public usage of the name for at least six months. While the Attorney General noted that the SOS may instruct an applicant to secure a court order under MCL 711.1, this is not an alternative to a common-law name change. Rather, a person unable to present the type of evidence necessary to support the common-law name change for official purposes may need a court order to provide the evidence required.

Here, candidate Mua could do both. Mua presented significant evidence that she had used the name "Toni Price Mua" publicly and officially since at least 2019. The SOS reviewed the documentation Mua provided and agreed that it established a common-law name change. Accordingly, Mua was permitted by MCL 168.558(3)(e) and MCL 168.560b(3) to list only her common-law name—Toni Price Mua—on the AOI and ballot.

Davis, however, challenges the method by which the SOS issued instructions to branch offices regarding common-law name changes, suggesting the SOS violated the APA.[4] In response to Davis's FOIA request, the SOS provided the instructions available to branch office counter workers regarding common-law name changes. Davis argues that to effectuate these instructions, the SOS would have been required to promulgate official regulations under the APA. But *the Legislature* decided that the "guidelines" of the Michigan Department of State are sufficient to reference when deciding whether to place common-law names on an AOI and ballot. MCL 168.560b(3). Contrary to Davis's argument, the statute does not require the SOS to promulgate official regulations under the APA. The SOS therefore acted within the law by allowing Mua to establish her common-law name through evidence of public, everyday use of the name "Toni Price Mua."

[4] To this end, Davis filed an emergency ex parte motion on May 21, 2026 to include as an exhibit a letter from the Michigan Legislative Counsel in response to his FOIA inquiry. The letter purportedly evidences that the SOS never officially promulgated any regulations under the APA regarding common-law names. The Court denied this motion because, as explained in the opinion, the MEL only references Department of State "guidelines," and does not require official regulations.

Because candidate Mua complied with the law in listing her name on the AOI, the Wayne County Clerk properly rejected Davis's challenge. There was no error for the SOS to remedy through proper instruction.

IV. CONCLUSION

The SOS and Wayne Court Clerk complied with properly promulgated, valid regulations in accepting the challenged AOIs for filing and in rejecting untimely challenges to the AOIs of Ervin and Anderson. The Wayne County Clerk also properly rejected Davis's timely challenge to Mua's AOI based on the MEL, guidance from the Attorney General and SOS, and case law. Because the law was properly interpreted and applied, there is no ground for this Court to issue a declaratory judgment to the contrary or any clear legal right to invalidate the AOIs. Davis has not demonstrated that he is entitled to any relief, while the SOS has established entitlement to a judgment as a matter of law. Accordingly,

1. The Court DISMISSES plaintiff's Count III in 26-000099-MB pertaining to the affidavit of identity of candidate Koroi as MOOT.
2. The Court GRANTS defendant's motions for summary disposition under MCR 2.116(C)(8) and (10) as to the remaining claims in 26-000099-MB, 26-000103-MB, and 26-000104-MB.
3. The Court DISMISSES plaintiff's complaints in their entirety and with prejudice.
4. This is a final order resolving all issues in this case.

Date: May 26, 2026

Sima G. Patel
Judge, Court of Claims