STATE OF MICHIGAN

COURT OF CLAIMS

KIMBERLY THOMAS,

Plaintiff,

v

Case No. 26-000113-MZ

MICHIGAN BUREAU OF ELECTIONS and JOCELYN BENSON, in her official capacity as Secretary of State,

Hon. James Robert Redford

Defendants.
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OPINION AND ORDER GRANTING DEFENDANTS' 6/1/26 MOTION FOR SUMMARY DISPOSITION

On May 28, 2026 at 3:38 p.m., plaintiff, Kimberly Thomas, who sought to be included on the Democratic Party primary ballot for Governor, filed a complaint for declaratory judgment, writ of mandamus, and emergency permanent injunction, along with a motion for immediate consideration. Plaintiff claims that defendants, the Michigan Bureau of Elections and Secretary of State Jocelyn Benson, denied her the right to due process during the period of time during which the signatures on her nominating petitions were canvassed. There is no vested property interest in being named a candidate or holding public office. Even if such an interest existed, defendants provided notice and an opportunity to be heard to all candidates. Accordingly, plaintiff cannot demonstrate a due-process violation or a clear legal right or duty for the Court to compel. The Court GRANTS defendants' motion for summary disposition and DISMISSES plaintiff's complaint with prejudice.

I. BACKGROUND FACTS

Plaintiff timely filed her nominating petitions, affidavit of identity, and fees to be placed on the August 2026 primary ballot. Pursuant to MCL 168.544f, the minimum number of valid signatures that needed to be collected in order to be placed on the ballot was 15,000. According to the staff report prepared after reviewing her petitions, plaintiff's petitions included a total of 17,976 signatures.[1]

On April 30, 2026, the Michigan Board of Canvassers (the Board) provided notice that "samples are now available for partisan candidates who have submitted at least 15,000 signatures for" gubernatorial and United States Senate candidates. The sampling procedure was adopted by the Board in 1980, and has been updated over the years. This procedure uses statistical analysis to determine the number of signatures from each candidate's nominating petitions that will be reviewed by staff members, and the percentage of those signatures that must be valid in order for the nominating petitions to be deemed to have sufficient signatures to certify a candidacy. See Secretary of State, *Petition Manual: Nominating Petitions for Partisan State and Federal Offices* (July 31, 2025), p 23 (the Manual).[2]

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[1] Plaintiff claimed in a May 28, 2026 e-mail to the Board of Canvassers that her petitions contained 22,500 signatures. In her response to defendants' motion for summary disposition, plaintiff concedes to submitting 18,000 signatures.

[2] The Manual, p 23, describes:

> To canvass a petition, the BOE staff utilize a single-stage random sampling process. The selection of random signatures is completed utilizing specially designed software. As soon as it is available, BOE staff post online the randomly generated list of sheets and signatures to be sampled, and the total number of sheets and signatures submitted and in the universe.

The Board indicated that the deadline to challenge these random samples was May 7, 2026.[3] Any person or entity may file a request under the Freedom of Information Act (FOIA), MCL 15.231 *et seq.*, for production of the samples. The Manual, p 21, states that the Board had adopted "an electronic scanning and numbering plan that" not only "makes the sampling process more efficient," but also "facilitates the fulfillment of FOIA requests quickly."[4]

According to plaintiff's submissions to this Court, on May 7, 2026, a full week after the samples became available, a reporter left plaintiff a voicemail to ask for a quote about some signatures that the reporter believed to be problematic. The reporter indicated that he had been "looking over some of the petition signatures for some of the gubernatorial candidates" and the challenges that had been filed. The reporter noted, "[S]ome of the signatures filed by one of your [circulators] and Omar McCain are remarkably similar and entire sheets" had identical signatures with identical handwriting. Plaintiff opines that the reporter could not have requested, received, and reviewed the samples in that timeframe and alleges that someone within the Department of State must have "leaked" information to the press.

On May 20, 2026, the Board advised plaintiff, and all gubernatorial candidates, that the Bureau of Elections had completed its review of the nominating petitions and prepared staff reports. The Board directed the candidates on where to find the publicly available staff reports on

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[3] It is noted that defendants and the Board review the nominating petitions of all candidates for statewide office, not just those that have been challenged. MCL 168.552(8).

[4] Plaintiff did not file a FOIA request for the sample petition sheets that would be reviewed by defendants.

the Board's website and advised that the candidates could speak at the May 28, 2026 Board meeting.

The May 20, 2026 staff report indicated that defendants reviewed a sample of 750 signatures on plaintiff's nominating petitions. A vast majority of those signatures—690—were invalidated: 558 signatures were either missing or did not sufficiently match the individual's signature in the Qualified Voter File (QVF), 108 of the signatories were not registered to vote, and the remainder of signatures were disqualified for various other reasons.

At 7:09 a.m. and 7:11 a.m. on May 28, 2026, plaintiff e-mailed remarks to the Board ahead of its meeting. Plaintiff also appeared at the meeting in person and made a statement at the Board meeting that afternoon. Although the Court does not have a transcript of her statement at the meeting,[5] the e-mailed version of her statements did not address any of the invalidated signatures. Instead, plaintiff contended the sampling and review process was "corrupt," "unscientific," and "toxic." Plaintiff accused defendants of leaking information to "political insiders and select media outlets" before the sampling was completed, and then withholding the staff report "until the absolute eleventh hour." With a long holiday weekend falling in the mix, plaintiff alleged that her campaign staff would have had only five seconds to review each signature, working around the clock.

After the close of the May 28, 2026 Board meeting, plaintiff was officially notified that her name would not appear on the ballot.

[5] Defendants assert that plaintiff's comments followed the written version provided ahead of time.

In her complaint, plaintiff contends that defendants violated her right to due process by denying her a formal hearing, proper notice, and an opportunity to challenge this determination. She also seeks an immediate internal audit of defendants' FOIA logs to identify the source of the May 7, 2026 disclosure to the media. Defendants move for summary disposition under MCR 2.116(C)(8) and (10).

II. LEGAL PRINCIPLES

As noted, defendants seek summary disposition under MCR 2.116(C)(8) and (10).

> A motion under MCR 2.116(C)(8) tests the *legal sufficiency* of a claim based on the factual allegations in the complaint. When considering such a motion, a trial court must accept all factual allegations as true, deciding the motion on the pleadings alone. A motion under MCR 2.116(C)(8) may only be granted when a claim is so clearly unenforceable that no factual development could possibly justify recovery.
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> A motion under MCR 2.116(C)(10), on the other hand, tests the *factual sufficiency* of a claim. When considering such a motion, a trial court must consider all evidence submitted by the parties in the light most favorable to the party opposing the motion. A motion under MCR 2.116(C)(10) may only be granted when there is no genuine issue of material fact. A genuine issue of material fact exists when the record leaves open an issue upon which reasonable minds might differ. [*El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 159-160; 934 NW2d 556 (2019) (quotation marks and citations omitted).]

Plaintiff titles her complaint as seeking a declaratory judgment, mandamus, and a permanent injunction. The gravamen of her complaint, however, is more direct: she claims she was denied due process. "A writ of mandamus is issued by a court of superior jurisdiction to compel a public officer to perform a clear legal duty," and "is the appropriate remedy for a party

seeking to compel action by election officials." *Barrow v Wayne Co Bd of Canvassers*, 341 Mich App 473, 484; 991 NW2d 610 (2022) (quotation marks and citation omitted).[6]

> To be entitled to a writ of mandamus, a 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. [*Id.* at 484-485 (quotation marks and citation omitted).]

To support a claimed due-process violation, a plaintiff must establish the "deprivation of life, liberty, or property," without notice and an opportunity to be heard. *Bonner v Brighton*, 495 Mich 209, 235; 848 NW2d 380 (2014).

III. ANALYSIS

As aptly noted by defendants, "the law has long been clear that there is no property interest in holding public office." *People v Smith*, 502 Mich 624, 638; 918 NW2d 718 (2018). See also *Taylor v Beckham*, 178 US 548, 576; 20 S Ct 890; 44 L Ed 1187 (1900) (holding that "[t]he view that public office is not property has been generally entertained in this country" in an action filed by potential candidates for Kentucky state offices regarding the qualifications set for those offices). Plaintiff has no property right in being a candidate for Governor, and this alone defeats her due-process challenge.

Plaintiff contends, without citing any legal authority, that "[w]hen a state agency arbitrarily, prematurely, and unevenly handles a candidate's signature verification, it inflicts a

[6] Because a writ of mandamus is the appropriate remedy in this type of action, the Court will not consider plaintiff's request for a temporary restraining order or preliminary injunction.

distinct constitutional injury upon the voters themselves." In *Anderson v Celebrezze*, 460 US 780, 786-787; 103 S Ct 1564; 75 L Ed 2d 547 (1983), the United States Supreme Court reasoned:

> [T]he rights of voters and the rights of candidates do not lend themselves to neat separation; laws that affect candidates always have at least some theoretical, correlative effect on voters. Our primary concern is with the tendency of ballot access restrictions to limit the field of candidates from which voters might choose. Therefore, in approaching candidate restrictions, it is essential to examine in a realistic light the extent and nature of their impact on voters.
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> The impact of candidate eligibility requirements on voters implicates basic constitutional rights. . . . [I]t is beyond debate that freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of the liberty assured by the Due Process Clause of the Fourteenth Amendment, which embraces freedom of speech. [Cleaned up, alterations added.]

Even if plaintiff could assert a protected property interest on behalf of the electorate, however, the documents presented by the parties definitively establish that plaintiff received notice and was given an opportunity to be heard. In elections, time is of the essence. Tight deadlines must be set to ensure the ballots can be printed and distributed to voters positioned overseas in a timely fashion. In the 2026 election cycle, the candidate filing deadline was April 21, and the deadline to file challenges was April 28. Defendants and the Board must then review the candidacy documents filed by everyone running for the particular office. Even employing the sample method, this requires a review of many thousand signatures. MCL 168.552(10) requires the staff report be published only two days before the Boad meeting, here May 26, 2026. Defendants published the staff report regarding plaintiff's petitions six days before the statutory deadline. It cannot be helped that the Memorial Day holiday fell between the early release of the staff reports and the Board meeting. The timing of the holiday impaired all parties equally.

Plaintiff was also given adequate opportunity to be heard. She was notified that the adequacy of her nominating petitions would be taken up at the May 28, 2026 Board meeting.

Plaintiff provided a prepared statement ahead of the meeting. She exercised her right to speak at the meeting and answered questions. However, plaintiff did not convince the Board that the many challenged signatures were valid or that she otherwise provided petitions containing at least 15,000 valid signatures. Instead, she made a blanket statement of her belief that the signatures were not fraudulent, challenged the sampling method, and accused defendants of leaking information. Had plaintiff taken the opportunity to request the sample sheets when they became available on April 30, her campaign staff could have reviewed the signatures and been prepared to defend them at the May 28 Board meeting.

Moreover, contrary to plaintiff's contention, the evidence presented with her complaint and response to defendants' motion for summary disposition does not support that defendants interfered with her opportunity to be heard by leaking information to the press. Plaintiff claims that only "blank or unverified" nominating petition sheets are available to the public through a FOIA request. Such blank forms are in the public domain even without a FOIA request. The information available upon a FOIA request beginning on April 30 was actually the candidates' circulated petition sheets, containing signatures collected by the circulators, and that were randomly selected by a computer program to be subject to signature verifications. The Manual explains that defendants and the Board had created a process to streamline and quickly respond to FOIA requests for this information. The reporter specifically stated that he compared the petition sheets of plaintiff and another candidate and noticed remarkable similarities. This was not information uniquely in the hands of department insiders.

Accordingly,

1. Defendants' motion for summary disposition is GRANTED.
2. Plaintiff's complaint is DISMISSED WITH PREJUDICE.
3. This is a final order resolving all issues in this case.

Date: June 4th, 2026

James Robert Redford
Judge, Court of Claims

