STATE OF MICHIGAN

COURT OF CLAIMS

JAMES GALEN, JR. and CINDY JAKUBISZEN,

Plaintiffs,

v Case No. 26-000176-MB

SECRETARY OF STATE JOCELYN BENSON, Hon. Michael J. Riordan

Defendant.
_____ /

OPINION AND ORDER GRANTING DEFENDANT'S 8/24/26 MOTION FOR SUMMARY DISPOSITION

Plaintiffs seek to compel Secretary of State (SOS) Jocelyn Benson to decertify the candidacy of a district court judge contender. In response, the SOS filed a motion for summary disposition pursuant to MCR 2.116(C)(10). On August 27, 2026, the Court heard oral arguments on the motion. For the reasons stated herein, this Court GRANTS the SOS's motion for summary disposition pursuant to MCR 2.116(C)(10) and under the doctrine of laches.

I. BACKGROUND

On April 15, 2026, Richard W. Goodman filed an Affidavit of Identity (AOI) and nominating petitions to run for a 38th District Court judgeship. The 38th District Court serves the city of Eastpointe in Macomb County. Goodman owns a home in Fraser and he and his wife have claimed a primary residence exemption over this home for income tax purposes. Goodman still owns his home in Fraser, and his wife and child continue to live at that address. At some point,

however, Goodman decided to run for office in Eastpointe. Goodman then announced his candidacy for judge of the 38th District Court, and his relocation, on social media on February 22, 2026.

To be eligible for the office of district court judge, a person must be "a registered and qualified elector of the judicial district and election division in which election is sought by the filing deadline or the date the person files the affidavit of candidacy." MCL 168.467. A "qualified elector" is a person who meets the elector qualifications detailed in Const 1963, art 2, § 1 and "who has resided in the city or township 30 days." MCL 168.10(1). Const 1963, art 2, § 1 provides, in relevant part, that a qualified elector must "meet[] the requirements of local residence provided by law." "Residence" for purposes of registration and voting under the Michigan Election Law:

> means that place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If a person has more than 1 residence, or if a person has a residence separate from that of his or her spouse, that place at which the person resides the greater part of the time shall be his or her official residence for the purposes of this act. This section does not affect existing judicial interpretation of the term residence. [MCL 168.11(1).]

A person's intentions are a major factor in the existing judicial interpretation of the term residence. *Harbaugh v People*, 33 Mich 241, 252 (1876).

On January 10, 2026, Goodman attests that he moved into a home owned by James Stefanowicz on Boulder Road in Eastpointe and paid Stefanowicz monthly rent.[1] On January 14, 2026, Goodman registered to vote at the Boulder Road address. On April 1, 2026, Goodman

[1] Plaintiffs contend that Goodman presented conflicting evidence regarding the nature of his residency with Stefanowicz.

signed a lease to rent an apartment on Kelly Road in Eastpointe. The next day, Goodman registered to vote at the Kelly Road address and voted in a May 5, 2026 election.

On April 27, 2026, plaintiff James Galen, Jr. filed a formal objection with the Board of State Canvassers (BSC), contending that Goodman was not qualified to run for a 38th District Court judgeship because, Galen stated, Goodman was not residing at the Kelly Road apartment and continued to live in Fraser. Plaintiff Cindy Jakubiszen filed a similar objection the following day. Plaintiffs presented documents establishing Stefanowicz's ownership of the Boulder Road residence and Goodman's ownership of and PRE claim over the Fraser home, nominating petitions circulated by Goodman's wife that identified the Fraser address as her residence, and an affidavit from Private Investigator Robert Eisenmann.

Eisenmann conducted limited surveillance at the Fraser address and at the Eastpointe apartment. He did not conduct 24-hour surveillance. He attested that between April 18 and April 26, 2026, he "observed a silver vehicle known to be driven by Richard W. Goodman parked in the driveway of the Fraser property during overnight hours, typically between approximately 7:00 p.m. and 6:30 a.m." Eisenmann visited the Boulder Road address on April 19 and April 23, 2026, and claimed he "observed no signs of occupancy." He visited the Kelly Road apartment only once, at approximately 8:12 p.m. on April 19, 2026. Eisenmann described that the apartment appeared vacant. Eisenmann made no observations of Goodman's movements during the relevant period of the 30 days before Goodman filed his AOI. Nor is there anything in the record that he conducted any type of surveillance since the time period of April 18 through April 26, 2026.

On May 2, 2026, Galen sent a letter to the BSC requesting "guidance" regarding the timeline for considering his objection to Goodman's AOI and how service should be effectuated

on the challenged candidate. At the Court's August 27, 2026 hearing, counsel for the SOS indicated Galen's and Jakubiszen's objections and the letter seeking guidance were forwarded by the BSC to the Bureau of Elections (BOE) because the BSC does not handle challenges to candidate AOIs. Goodman responded to the challenges on May 6, 2026, challenging the procedure employed by plaintiffs, but also attaching the same evidence later presented with his amicus brief in this Court to support his claim of residency in Eastpointe.

On May 14, 2026, BOE Director Jonathan Brater responded to Galen's and Jakubiszen's objections. Brater noted that Goodman had responded and challenged the procedure employed by plaintiffs because it is not the duty of the BSC to certify or decertify a candidate; rather, it is the duty of the filing official responsible for reviewing candidate AOIs, i.e., the SOS. Brater reviewed Goodman's AOI and the qualified voter file, determined that Goodman had been living in and registered to vote in Eastpointe since January 14, 2026, and therefore found the AOI to be facially compliant with MCL 168.558. Therefore, Brater rejected plaintiffs' challenges.

Despite that Brater was the individual who rejected the AOI challenges, plaintiffs did not initially file suit against Brater or the SOS. Instead, plaintiffs filed suit against Macomb County Clerk Anthony Forlini and Goodman in Macomb Circuit Court on May 19, 2026. On May 27, 2026, Macomb County Assistant Corporation Counsel Molly Zappitell notified plaintiffs' counsel via e-mail that the Macomb County Clerk was not a proper defendant in this matter because judicial candidacies are certified by the SOS and that an action against the SOS should be filed in this Court. Plaintiffs would not agree to dismiss their claims against the County Clerk and continued to pursue their claim in the Macomb Circuit Court. Various judges from the Macomb Circuit Court recused themselves before the matter was assigned by the Supreme Court Administrative Office (SCAO) to an Oakland County judge. The parties have not presented any order or opinion

resolving that matter. However, it appears the Oakland Circuit Court judge sitting by assignment dismissed the matter on or about August 19, 2026.

Finally, on August 18, 2026, plaintiffs filed suit in this Court seeking a writ of mandamus to compel the SOS to decertify Goodman's candidacy based on their claim that Goodman did not meet the residency requirements to qualify as a candidate and therefore that he made a false statement in his AOI.

The SOS moved for summary disposition of plaintiffs' complaint pursuant to MCR 2.116(C)(10) on the ground of laches and also contends that plaintiffs cannot establish the required elements for mandamus relief. The Court heard arguments from both sides at a hearing on August 27, 2026.

II. MANDAMUS

A motion under (C)(10) "tests the *factual sufficiency* of a claim." *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 160; 934 NW2d 665 (2019) (emphasis in original). The Court must consider the evidence in the light most favorable to plaintiffs as the nonmoving party and only grant summary disposition if there is no genuine issue of material fact for trial. *Id*.

Mandamus is an extraordinary remedy; it "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); *Rental Props Owners Ass'n of Kent Co v Kent Co Treasurer*, 308 Mich App 498, 518-519; 866 NW2d 817 (2014). To support a claim for mandamus, a plaintiff must demonstrate 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*, 308 Mich App at 518-519.

> An executive agency may have a clear legal duty when there is a statute that plainly instructs that agency to perform a certain action. Similarly, 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. [*Barrow v Wayne Co Bd of Canvassers*, 341 Mich App 473, 485; 9981 NW2d 610 (2022) (quotation marks and citations omitted).]

Plaintiffs have not established that the SOS has a clear legal duty to decertify Goodman's candidacy or that they have a clear legal right to that act. In ¶ 40 of plaintiffs' amended complaint, they assert that this Court has authority to issue a writ of mandamus declaring that Goodman does not meet the residency requirements of the Michigan Election Law to be included on the ballot. However, a writ of mandamus can only enter when it is based on facts that are not in dispute. *Garner v Mich State Univ*, 185 Mich App 750, 762-763; 462 NW2d 832 (1990). At the hearing, plaintiffs' counsel admitted that residency had not been conclusively established, stating her belief that plaintiffs had established Goodman's residency "significantly enough." It was not until their response to the SOS's motion for summary disposition that plaintiffs honed their position, arguing that if this Court were to declare that Goodman was not qualified to be a 38th District Court candidate, then the SOS would have a clear legal duty to decertify his candidacy.

To support a clear duty on the SOS's part, this Court would first need to engage in an intensive fact-finding analysis and resolve whether Goodman met the residency requirement. At the August 27 hearing and in filings prior to that hearing, the SOS offered that the election ballots that will include the 38th District Court race must be approved and prepared for printing no later than September 4, 2026. Plaintiffs do not contest this timeline. As such, given the nature of the factual dispute before it, there is not sufficient time for the Court to adequately conduct such a

hearing and render its factual findings. Accordingly, the Court concludes that plaintiffs have not met their burden of establishing a clear legal right or a clear legal duty.

The existence of a factual dispute also precludes a finding that the SOS had a ministerial duty to disqualify Goodman. 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). Again, plaintiffs conceded that conflicting evidence was presented regarding Goodman's residency. Before concluding that disqualification was required as a matter of law, the SOS would have to exercise discretion and judgment to review that evidence and resolve the factual dispute. Accordingly, plaintiffs also have not met their burden of establishing a ministerial duty that could be compelled by a writ of mandamus. Further, as was noted at the August 27 hearing, plaintiffs offer no evidence that Goodman was not residing in the 38th District in the 30 days prior to filing an AOI, the evidence plaintiffs offered relates to a time period after the AOI's filing.

Plaintiffs also have not met their burden of establishing that no other adequate legal or equitable remedy exists that might achieve the same result. If Goodman wins the election, plaintiffs have another avenue to seek his removal from the bench or to prevent his ascension to the bench: a quo warranto action. Quo warranto "is a common-law writ used to inquire into the authority by which a public office is held or a franchise is claimed. *Barrow v Mayor of Detroit*, 290 Mich App 530, 540; 802 NW2d 658 (2010). Quo warranto actions are governed by MCR 3.306, which describes an original action brought "against a person who usurps, intrudes into, or unlawfully holds or exercises a state office, or against a state officer who does or suffers an act that by law works a forfeiture of the office." Although plaintiffs contend that quo warranto actions are disfavored by the court system, such an action was successfully brought in *Davis v Chatman*,

292 Mich App 603; 808 NW2d 555 (2011), to unseat an elected Highland Park School Board member who falsely claimed residence in the city.

The Court concludes that summary disposition is warranted pursuant to MCR 2.116(C)(10). But laches also plays a part in the Court's decision.

III. LACHES

As explained in *Davis v Secretary of State*, 346 Mich App 445, 462; 12 NW3d 653 (2023):

> Laches is an equitable tool that may be used to remedy the inconvenience or prejudice to a party caused by an improper delay in asserting a right. *Pub Health Dep't v Rivergate Manor*, 452 Mich 495, 507; 550 NW2d 515 (1996). The issue of whether relief will be withheld on the basis of laches is contingent upon the facts and circumstances of the particular case. *Henderson v Connolly's Estate*, 294 Mich 1, 19; 292 NW 543 (1940). When no acceptable explanation is proffered for a plaintiff's delay, a plaintiff's requested relief should be barred by unexcused laches. See *id*. Rather, equity will aid the vigilant, not those that "slumber on their rights." *Id*. The purpose of the rule is to promote diligence, discourage laches, and "prevent the enforcement of stale demands." *Id*. As the Court of Claims observed, legal challenges that affect elections are especially prone to causing profound harm to the public and to the integrity of the election process the closer in time those challenges are made to the election, making laches especially appropriate to apply in such matters. *Purcell v Gonzalez*, 549 US 1, 4-6; 127 S Ct 5; 166 L Ed 2d 1 (2006); *New Democratic Coalition v Secretary of State*, 41 Mich App 343, 356-357; 200 NW2d 749 (1972). "[E]lections require the existence of a reasonable amount of time for election officials to comply with the mechanics and complexities of our election laws." *Id*. at 356. "Courts can reasonably endeavor to avoid unnecessarily precipitate changes that would result in immense administrative difficulties for election officials." *Id*. at 357.

Plaintiffs initially filed suit in the Macomb Circuit Court on May 19, 2026. That suit was filed in the wrong court and against the wrong defendant. It is clear from the record that plaintiffs were on notice as of May 14, when BOE Director Brater rejected plaintiff's challenges, that the duty to validate or invalidate Goodman's AOI was the duty of the SOS and not of a county clerk. On May 27, 2026, defense counsel in the Macomb Circuit Court case also warned plaintiffs that

they had filed the wrong action, but plaintiffs would not be persuaded. As a result, plaintiffs unnecessarily delayed in bringing this mandamus action against the SOS in this Court for three months.

Had plaintiffs filed suit in this Court in May, the Court could have arranged a trial or evidentiary hearing at which the parties could have presented witnesses and evidence to establish Goodman's true residence. The Court could have reached a judgment on the evidence and, if the Court found that Goodman was not an Eastpointe resident, the Court could have entered a declaratory judgment that Goodman was not a qualified elector in Eastpointe. This hypothetical judgment would have created a clear legal duty that could be enforced against the SOS.

Because of plaintiffs' delay, however, the Court and the parties have had essentially only two weeks for the parties to fully brief the issues and the Court to reach a final decision. It would be impossible to arrange a trial or even an evidentiary hearing and to coordinate with witnesses in such a short time period. Even if the Court could accomplish such a feat, there would be no opportunity for post-trial briefing or appellate review before the September 4, 2026 ballot deadline.

Contrary to plaintiffs' insistence, the dismissal of this action will not preclude relief. If indeed Goodman is not a resident and qualified elector in Eastpointe, it is of utmost importance to ensure he does not serve as a 38th District Court judge. Again, if Goodman wins his election, plaintiffs are free to file a quo warranto action and present their evidence for judicial review and a resolution of the residency question.

IV. CONCLUSION

1. The Court GRANTS defendant's August 24, 2026 motion for summary disposition.

2. The Court DISMISSES plaintiffs' mandamus action in its entirety and with prejudice.

3. This is a final order resolving all issues in this case.

Date: 08/31/2026

Michael J. Riordan
Judge, Court of Claims