

STATE OF MICHIGAN
COURT OF APPEALS

ARIEL DRISSMAN,

Plaintiff,

V

MICHIGAN DEPARTMENT OF STATE,

Defendant.

FOR PUBLICATION

June 4, 2026

3:55 PM

No. 380984

Before: TREBILCOCK, P.J., and BORRELLO and M. J. Kelly, JJ.

TREBILCOCK, P.J.

This original action for mandamus and declaratory relief involves plaintiff Ariel Drissman’s nominating petitions filed to be placed on the ballot for the upcoming primary election. He seeks relief here after the Secretary of State denied his request to review a determination by the Oakland County Clerk that he failed to submit at least 4,000 valid signatures required to place his name on the ballot. The relief he seeks is neither required nor permitted under Michigan Election Law, MCL 168.1, *et seq.*, and we, therefore, deny the complaint.

I. PERTINENT FACTS AND PROCEDURAL HISTORY

Plaintiff is a candidate for an open position to serve as an Oakland County Probate Court Judge. He filed with the Oakland County Clerk nominating petitions containing 4,716 signatures—716 more than the 4,000-signature threshold set forth in MCL 168.544f relative to Oakland County’s population—to be placed on the August 2026 primary ballot as a judicial nonincumbent. The Oakland County Clerk concluded that only 3,862 of those signatures were valid and therefore declared his petitions “insufficient.”

He then submitted a written request to the Secretary of State to review the Clerk’s decision as permitted by MCL 168.552(6). That statute provides that “[a] person feeling aggrieved by a determination made by the county clerk may have the determination reviewed by the secretary of state by filing a written request with the secretary of state within 3 days after the official declaration of the county clerk” Beginning five days after the three-day window of review closed, plaintiff filed 111 voter statements attesting that they personally signed the petition on dates certain and verifying their signatures as “genuine.”

In a letter dated May 29, 2026, the Director of the Bureau of Elections, Jonathan Brater, rejected plaintiff's request for review for lack of merit. See MCL 168.32(1). Notably, Brater declined to consider the tardy-voter statements: "The signed voter statements were submitted to the Department between May 13 and May 22, after the appeal deadline of May 8. MCL 168.552(6). Because the statements were not received by the appeal deadline, the Department did not consider them in processing your appeal." Instead, Brater reviewed the Clerk's determination regarding the genuineness of signatures by comparison to signatures in the qualified voter file. As part of that review, he concluded that the Oakland County Clerk improperly struck 23 signatures, leaving plaintiff still 115 signatures short. For these and other reasons not pertinent to resolving this action, Brater rejected plaintiff's request for review and upheld the Oakland County Clerk's determination that plaintiff failed to submit the requisite 4,000 signatures for his petitions.

Plaintiff then commenced this original action under MCL 600.310 and MCR 3.305(A)(1). Contemporaneously, he filed motions to expedite and for immediate consideration, seeking a decision by Friday, June 5, 2026, which is the deadline for the Secretary of State to certify the candidates eligible to appear on the August 2026 primary ballot. Plaintiff seeks a writ of mandamus to compel defendant¹ to certify him as a candidate for Probate Court Judge in Oakland County. Defendant has timely answered, and we granted plaintiff's motion to file a reply brief and accepted his reply brief as filed.

II. ANALYSIS

MCL 168.552 sets forth the procedures for investigating and resolving disputes regarding nominating petitions. *Johnson v Bd of State Canvassers*, 341 Mich App 671, 686; 991 NW2d 840 (2022). Under MCL 168.552(3), a County Clerk may, on his or her own initiative, examine petitions and commence an investigation if the Clerk is "in doubt as to the validity of the registration or genuineness of the signature of the circulator or persons signing or purported to have signed the petitions." Such examination may include comparing the signatures to the "digitized signatures in the qualified voter file." MCL 168.552(3). See also MCL 168.552(13) (detailing the use of the qualified voter file to determine the validity and genuineness of signatures). "Upon the completion of the investigation or examination, the county clerk shall immediately make an official declaration of the sufficiency or insufficiency of nominating petitions" MCL 168.552(6). And as set forth, the statute provides for review by the Secretary of State if an aggrieved person files a written request "within 3 days." MCL 168.552(6).

Plaintiff requests in this litigation that we issue a writ of mandamus, which is itself an exceptional ask. By issuing such a writ, a court "compel[s] a public officer to perform a clear legal duty," including those performed by election officials. *Barrow v Wayne Co Bd of Canvassers*, 341 Mich App 473, 484; 991 NW2d 610 (2022). "A 'clear legal right' is a right that is 'clearly founded

¹ Plaintiff identifies the defendant as the Michigan Department of State. However, "the proper defendant in an action for a writ of mandamus is the officer who has the duty of performance." *Grabow v Macomb Twp*, 270 Mich App 222, 231 n 4; 714 NW2d 674 (2006). In this case, plaintiff identifies the Secretary of State as the officer with a duty to certify the names of candidates for the ballots under MCL 168.552(14).

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.’ ” *Neilson v Bd of State Canvassers*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 371256); slip op at 4 (quotation marks and citation omitted). To secure the “extraordinary remedy that is mandamus relief,” a plaintiff has the burden to establish four things: “(1) the plaintiff has a clear legal right to the performance of the duty sought to be compelled, (2) the defendant has a clear legal duty to perform such act, (3) the act is ministerial in nature such that it involves no discretion or judgment, and (4) the plaintiff has no other adequate legal or equitable remedy.” *Id.* (quotation marks and citation omitted).

In his complaint and supporting brief, plaintiff argues that (a) defendant erred by “closing the record” and thus not considering the 111 voter statements; (b) 27 signatures should be rehabilitated for various reasons related to the voters’ addresses or because they signed a name on the petition that was a diminutive or alternate form of the voters’ legal names; (c) 10 signatures were improperly disqualified for invalid dates that are merely scrivener’s errors; and (d) as to the duplicates, each internal-duplicate voter should be counted once and that he should thus receive 53 additional signatures. In his view, defendant violated a clear legal duty by failing to verify his petitions and place his name on the ballot. We cannot agree. Plaintiff is not entitled to writ of mandamus because he failed to carry his burden to establish that he is entitled to the extraordinary relief he seeks. See *Johnson*, 341 Mich App at 684-685.

Voter Statements. We first address plaintiff’s attempt to rehabilitate 111 signatures with the after-the-fact voter statements. MCL 168.552(6) requires the Secretary of State to review the county clerk’s determination, but that statute does not authorize a carte blanche investigation of signatures “as a candidate sees fit.” *Neilson*, ___ Mich App at ___; slip op at 5. As this Court noted in *Neilson*, Michigan Election Law “does not afford a candidate unlimited opportunities to rehabilitate ‘doubtful’ signatures” *Id.* This is so, because how to conduct a review of petition signatures is a matter of discretion, *id.* at ___; slip op at 5-6; and MCL 168.552(13) expressly allowed the Oakland County Clerk to use the qualified voter file to determine the genuineness of signatures. Nor is there anything in the statute that required defendant to consider documents submitted by plaintiff after the deadline for him to seek review. See *Neilson*, ___ Mich App at ___; slip op at 5.² Plaintiff’s claim that defendant violated a clear legal duty by failing to consider the voter statements filed after the deadline belies the broad discretionary authority granted to the Oakland County Clerk to conduct its mandatory investigation. See *id.* at ___; slip op at 5-6. For this same reason, plaintiff’s assertion that reviewing the voter statements is a ministerial task fails. See *id.* at ___; slip op at 6. Consequently, plaintiff does not show that he was entitled to review of the voter statements, and he has not shown that defendant owed a clear legal duty to count the

² In his reply brief here, plaintiff submitted to us eight additional voter statements that he did not provide to defendant during its review process. Assuming these records are properly before us, they do not advance plaintiff’s arguments—as set forth in text, the statute did not require defendant to review any of the belatedly filed voter statements, and we additionally fail to see how defendant violated a clear legal duty on the basis of statements plaintiff never submitted to defendant.

rejected signatures. See *McCoy v Berrien Co Clerk*, 348 Mich App 602, 618; 19 NW3d 897 (2023).

Other signatures. Plaintiff raises arguments involving an additional 90 signatures. We would ordinarily not consider them because they are not enough to overcome plaintiff's 115 signature deficit. But given the expediated nature of this case, we do so in summary fashion and find them without merit based on the plain language of the statute and our controlling precedent. Plaintiff was not entitled to have 53 initial signatures accepted for voters who signed his petition twice. See *id.* at 621-622 (“[S]ignatures appearing twice or more upon the same or several sections of a petition should be rejected.”) (quotation marks and citation omitted). As to 27 other signatures, plaintiff raises arguments regarding addresses and voters' names. For those voters who moved to a different city or township and thus were not registered to vote in the city or township designated on the petition, their signatures are presumptively invalid. See MCL 168.552(13). More generally, plaintiff makes factual allegations regarding addresses and voters' names, but he failed to provide this Court with sufficient record evidence to support his allegations. See *Holliday v Bd of State Canvassers*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 372267); slip op at 7 (recognizing a plaintiff's burden to produce sufficient record evidence to support a request for mandamus). From the available evidence, it is not apparent that plaintiff provided defendant with adequate information to rehabilitate the signatures at issue, and when the facts are not clear, mandamus cannot lie. See *Neilson*, ___ Mich App at ___; slip op at 6. Lastly, plaintiff identifies 10 signatures rejected for issues related to dates. See MCL 168.544c(2) and (5). He acknowledges that the dates were “sloppy,” difficult to read, or in some cases incorrect, but he asserts that the dates should be read to allow for poor handwriting and human error in writing the wrong year. Contrary to plaintiff's arguments, defendant “was not required to count signatures with dates that could not be properly verified.” See *McCoy*, 348 Mich App at 620-621.

* * *

In sum, plaintiff has not established that defendant violated a clear legal duty in carrying out its review under MCL 168.552(6). Absent the requisite number of signatures, plaintiff cannot establish that defendant owed a clear legal duty to certify plaintiff's name to appear on the primary ballot. He is thus not entitled to mandamus relief. Derivatively, we also dismiss for lack of jurisdiction his meritless request for declaratory relief. See *Musselman v Governor of Michigan*, 200 Mich App 656, 667; 505 NW2d 288 (1993); see also *O'Connell v Dir of Elections*, 316 Mich App 91, 102-103 n 3; 891 NW2d 240 (2016).

We end with an observation. The currently enacted legislative scheme seemingly does not permit a candidate to rehabilitate signatures through submission of affidavits because of the discretionary enforcement of the filing deadline as a deadline to submit supporting documentation and the statutory mandate that signatures be compared solely through use of the qualified voter file. These are policy choices our Legislature has made and ones we must enforce. We question, however, whether that decision rightly limits review of legitimate ballot-access considerations for those aspiring to hold public office.

III. CONCLUSION

For these reasons, we deny plaintiff's complaint. This constitutes our final judgment in this case, see MCR 7.215(E)(1), which shall have immediate effect pursuant to MCR 7.215(F)(2). No taxable costs are awarded under MCR 7.219(A), as matters of significant public interest are involved.

/s/ Christopher M. Trebilcock
/s/ Stephen L. Borrello
/s/ Michael J. Kelly