

IN THE SUPREME COURT OF FLORIDA

DEBBIE MAYFIELD,

Petitioner,

CASE NO.: SC2025-0162

vs.

CORD BYRD, in his official capacity as Florida's Secretary of State, Head of the Florida Department of State, and Florida's Chief Elections Officer, MARIA MATTHEWS, in her official capacity as Director of the Florida Department of State's Division of Elections, and TIM BOBANIC, in his official capacity as the Supervisor of Elections for Brevard County, Florida,

Respondents.

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PRELIMINARY STATEMENT

Pursuant to the Declaration of the Supervisor of Elections¹ submitted with the Response filed by the Secretary and Director, a ruling by this Court on whether Mayfield's name should be included on the Special Election ballots is needed by **Feb. 13** so that the Supervisor can meet the applicable statutory deadlines.

And as explained more fully below, the Secretary's argument that Mayfield should have taken some action earlier and/or in circuit court fails as Mayfield did not learn until Feb. 5 that the Secretary would fail to perform his purely ministerial duty to qualify her.

SUMMARY OF ARGUMENT

Had the Secretary properly performed his ministerial duty to qualify Mayfield for the Special Election, or otherwise advised Mayfield, anytime since she announced on Nov. 27, 2024 that she was running for SD 19, of his position that she was not eligible, this matter may have been resolved earlier. Instead, the Secretary waited until Feb. 5, 2025, to make a determination that Mayfield was not qualified, at which time this matter became ripe for adjudication.

¹ Supp. App. 13-17.

The relief sought in the Petition is appropriate, and under the circumstances, Mayfield had the right to bring the Petition in this Court on an emergency basis. Indeed, the Secretary effectively admits that a writ of quo warranto is the proper form of relief based on this Court's precedent, but urges the Court to overturn that precedent.

It is equally appropriate for Mayfield to seek mandamus relief in this Court. Mayfield has a clear legal right to be qualified for the Special Election because she is eligible to run for SD 19 and properly submitted her Qualifying Paperwork. Meanwhile, the Secretary has an indisputable ministerial legal duty to qualify Mayfield for the Special Election based on her Qualifying Paperwork. And under the circumstances, Mayfield has no other adequate remedy available.

As to the Secretary's argument that he cannot ignore the question of Mayfield's constitutional eligibility, he was free to bring an action in court if he thought Mayfield was ineligible. Related, contrary to what the Secretary states, Mayfield did not submit the referenced Nov. 27, 2024 legal memorandum as part of her Qualification Papers.² Rather, it was provided separately by Mayfield

² Supp. App. 10-12 ("11/27 Memo").

to the Secretary via email on Jan. 24,³ and thus cannot be considered when evaluating the facial adequacy of her Qualification Papers.

On the merits of Mayfield's eligibility, the Secretary's interpretation of Section 4 is wrong. As explained in the Petition, the plain wording and intent of Section 4 is to prohibit **incumbents** from running for **re-election** to an office they have held for the **preceding** eight years. Moreover, it is not true that if Mayfield were elected to SD 19 she would serve twelve consecutive years in that office. She has not been in that office since her term ended in 2024.

Lastly, the "Purcell principle" does not warrant this Court allowing the Secretary to improperly disenfranchise the voters of SD 19 and deny Mayfield's right to be a candidate for that office.

ARGUMENT

I. MAYFIELD SEEKS THE APPROPRIATE RELIEF

The Secretary recognizes in his Response that this Court has held quo warranto relief to be appropriate when, such as here, a state officer or agency has improperly exercised a power or right derived

³ That is why the 11/27 Memo is merely stamped "Received," whereas the Qualification Paperwork bears the "Division of Elections" stamp.

from the State. See *League of Women Voters of Florida v. Scott*, 232 So. 3d 264, 265 (Fla. 2017); *Whiley v. Scott*, 79 So. 3d 702, 707 (Fla. 2011); accord *Thompson v. DeSantis*, 301 So. 3d 180, 184 (Fla. 2020); *Boan v. Florida Fifth Dist. Court of Appeal Judicial Nominating Comm’n*, 352 So. 3d 1249, 1252 (Fla. 2022). Yet the Secretary invites the Court to overturn its precedent and limit the availability of quo warranto relief so as to deny Mayfield relief. There is no reason for the Court to make such a drastic ruling, which would be manifestly unjust both to Mayfield and to SD 19 voters who will be disenfranchised if they are improperly precluded from voting for her.

In support of his argument for rolling back the availability of quo warranto relief, the Secretary suggests Mayfield could have pursued declaratory and injunctive relief in circuit court. However, until the Secretary made a determination on Feb. 5, 2025 that Mayfield was not qualified, any effort by her to obtain declaratory or injunctive relief in circuit court would have been dismissed for lack of ripeness. One can easily envision the Secretary responding to any such filing by asserting that no determination had been made on Mayfield’s eligibility, and thus there was no justiciable controversy

and any harm to Mayfield was speculative. As for bringing an action in circuit court after the Secretary's Feb. 5 determination, time did not permit, there is no need for fact-finding here, and this Court is the only forum capable of timely providing the necessary relief.

The Secretary's argument that Mayfield should have sought an advisory opinion from the Division of Elections is similarly unavailing. First, Mayfield had no obligation to seek an advisory opinion, and no reason to because she is confident in her eligibility. Second, had she sought an opinion, the Division of Elections had no obligation to provide a timely response. Third, presuming an opinion was issued stating she was ineligible, Mayfield would still have had to seek court intervention. Fourth, Fla. Admin. Code R. 1S-2.010 states that "[t]he Division of Elections has the responsibility to render advisory opinions **as to the application of chapters 97 through 106, F.S.**" (emphasis added). This rule, which implements Fla. Stat. § 106.23(2), does not say the Division of Elections can provide an advisory opinion on provisions of the Florida Constitution. Therefore, it is unlikely the Division could lawfully provide an advisory opinion on Mayfield's constitutional eligibility.

Accordingly, it is not Mayfield that has delayed. Rather, it is the Secretary's failure to notify Mayfield prior to Feb. 5, despite knowing since Nov. 27, 2024 that she was running for SD 19, that he was not going to qualify her as a candidate for the Special Election.

Moreover, again, the 11/27 Memo was not submitted as part of Mayfield's Qualification Paperwork (it was separately provided to the Secretary as a courtesy), nor does it evidence doubt on Mayfield's part as to her eligibility. Regardless, the existence of the 11/27 Memo is irrelevant to Mayfield's eligibility, and in no way suggests she should have taken any legal action prior to the Secretary improperly disqualifying her. Until then, Mayfield had suffered no injury, nor was there a justiciable controversy, and she expected the Secretary would properly perform his ministerial duty to qualify her.

The Secretary's argument that mandamus relief is not appropriate is equally unavailing. Mayfield has a clear legal right to appear on the Special Election ballots because she is constitutionally eligible to run for SD 19 and properly submitted her Qualification Paperwork. Mayfield could not have pursued other remedies prior to the Secretary's Feb. 5 disqualification of her, nor was she under any

obligation to do so. Further, it is the Secretary who caused delay and created the justiciable controversy now before this Court.

Lastly, Mayfield did not “raise the issue of her own *ineligibility*” as alleged by the Secretary. Again, Mayfield did not submit the 11/27 Memo as part of her Qualification Paperwork, and the 11/27 Memo merely confirms Mayfield is eligible. Accordingly, Mayfield appropriately seeks mandamus relief from this Court.

II. THE SECRETARY COULD HAVE BROUGHT AN ACTION IN COURT TO ADDRESS MAYFIELD’S ELIGIBILITY

The Secretary next argues he cannot ignore the question of Mayfield’s constitutional eligibility. First, again, the 11/27 Memo was not part of Mayfield’s Qualification Paperwork. Further, Fla. Stat. § 99.061(7)(c) expressly limits the Department of State to the ministerial function of reviewing the facial adequacy of the Qualification Paperwork, and prohibits any discretion if the paperwork is properly submitted and complete. Moreover, the Secretary has been on notice since Mayfield announced her candidacy for SD 19 in 2024 that she was seeking that office, and that she believed herself to be eligible, yet he failed to take any action.

If the Secretary thought there was a basis to challenge Mayfield's eligibility, he could have brought an action in court to have the issue adjudicated. As the First DCA made clear in *State ex rel. Cherry v. Stone*, a candidate's eligibility for office can only be decided "in an action appropriate to that end **in a court** that is vested with jurisdictional power to effect the appropriate remedy." 265 So. 2d 56, 58 (Fla. 1st DCA 1972) (emphasis added). Thus, the Secretary is not required to ignore the question of constitutional eligibility, but he must raise the question through an appropriate legal action in an appropriate court, not by unlawfully disqualifying candidates.

Lastly, unlike if Mayfield had brought an action prior to her disqualification, an earlier action brought by the Secretary would be a ripe and justiciable controversy as there would be no question that the Secretary and Mayfield had opposing views of her eligibility.

III. MAYFIELD IS ELIGIBLE TO RUN FOR SD 19

As a threshold matter, "the law requires judges to resolve doubts about qualification of a political candidate in favor of the candidate." *Pacheco v. Jinete*, 393 So. 3d 1274, 1280 (Fla. 3d DCA 2024) (quoting *Smith v. Crawford*, 645 So. 2d 513, 520 (Fla. 1st DCA

1994) (internal quotations omitted); *Martinez v. Hernandez*, 227 So. 3d 1257, 1260 (Fla. 3d DCA 2017) (same) (quoting *Ruiz v. Farias*, 43 So.3d 124, 127 (Fla. 3d DCA 2010)). This Court underscored the basis for that rule of construction in *Wright v. City of Miami Gardens*, stating: “the right to be a candidate for public office is a valuable one and no one should be denied this right unless the Constitution or an applicable valid law expressly declares him to be ineligible.” 200 So.3d 765, 775 (Fla. 2016). And as the Second DCA has explained:

In analyzing a candidate’s qualifications for political office, we must consider and give deference to the rights of the voters. . . . “[T]he primary consideration in an election contest is whether the will of the people has been effected.” . . . **Accordingly, if there are any doubts or ambiguities as to a political candidate’s qualification for office, we resolve them in favor of the candidate.**

Meisman v. Hernandez, 353 So. 3d 669, 673 (Fla. 2d DCA 2022) (emphasis added). Therefore, for the protection of both Mayfield’s rights and the rights of the voters of SD 19, this Court must resolve any doubts as to Mayfield’s qualification to run for SD 19 in her favor.

The Secretary argues that if Mayfield won the Special Election, she would serve in SD 19 for “twelve consecutive years.” Yet this

ignores that Mayfield is not an incumbent of that office, and that if she won the Special Election, her service would not be “consecutive” to her prior service in SD 19. See “consecutive,”⁴ THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE (“Following one after another without interruption”);⁵ CAMBRIDGE DICTIONARY (same);⁶ COLLINS DICTIONARY (“following in order, without interruption”).⁷

The Secretary attempts to sidestep the plain meaning of the word “consecutive,” and the present “interruption” in Mayfield’s service by virtue of Sen. Fine being elected to SD 19 in 2024, and Mayfield being elected to the Florida House in 2024, by arguing that Section 4 is concerned with “consecutive years,” not with gaps measured in months. This argument is unavailing based on the structure and clear and unambiguous language of Section 4.

⁴ “Historically, this Court has resorted to dictionary references in defining terms contained in constitutional provisions.” *Lawnwood Med. Ctr., Inc. v. Seeger*, 990 So. 2d 503, 511 (Fla. 2008).

⁵ Available at

<https://ahdictionary.com/word/search.html?q=consecutive>.

⁶ Available at

<https://dictionary.cambridge.org/us/dictionary/english/consecutive>.

⁷ Available at

<https://www.collinsdictionary.com/us/dictionary/english/consecutive>.

Notably, a prior Secretary of State previously argued against the position now taken by the Secretary. In *Power v. Detzner*, Case No. 2018-CA-466 (Fla. 2d Cir. Mar. 5, 2018), the issue was whether Rep. Grant was eligible to run in the 2018 election for the Florida House. Rep. Grant was first elected to the Florida House in 2010, but his service was interrupted because the 2014 election results were rejected, and the office remained vacant for five months until Rep. Grant won a special election in 2015. When Rep. Grant ran for re-election in 2018, the then-Secretary of State argued he was eligible:

The pertinent language of Section 4 is clear and unambiguous. In order for an office holder to be termed out under Section 4, it must be that the office holder will have served *for eight consecutive years*. Where, as here, there is a five-month vacancy during the office holder's period of service, it cannot be said that the office holder will have served for eight consecutive years. The phrase "for eight consecutive years" denotes service for *all* of each consecutive year.

(Appx. F). As this analysis supports, if elected to SD 19 in the Special Election, Mayfield would not serve in that office for twelve consecutive years because there has been an interruption in her service, and thus she would not serve "for *all* of each consecutive year."

While the Secretary may not be precluded from taking a position on the interpretation of Section 4 contrary to that of his predecessor, the fact is that the interpretation advanced by his predecessor was correct, and the Secretary's current interpretation is not. Contrary to the Secretary's allegation, it is not Mayfield, but rather the Secretary himself, that seeks "to evade the constitutional text."

This is also the case with respect to the Secretary's argument that the term "re-election" in the context of Section 4 is not tied to incumbency. The Secretary is plainly wrong. As an initial matter, if the term "for re-election" in Section 4 was not meant to refer to an incumbent officeholder seeking re-election to the same office, Section 4 could have and should have used the term "for election." Regardless of any colloquial use of the term "re-election," Section 4 used the term "for re-election" (rather than "for election"), which when read in the context of Section 4 can only refer to an incumbent seeking to be re-elected to the same office. Indeed, this is confirmed by the language in Section 4 which states: ". . . if, by the end of the **current term of office**, the person will have served . . . in **that office** for eight consecutive years." (emphasis added). Mayfield's "current term of

office” is not in SD 19, as she was elected to the Florida House in 2024, and thus “that office” does not refer to SD 19.

Thus, when read in context, the plain language of Section 4 makes clear that it applies to incumbents seeking “re-election” to the same office after having served in “that office” for eight consecutive years. As this Court has emphasized, the words of a governing text are of paramount concern in interpreting the Florida Constitution:

Our approach to interpreting the constitution reflects a commitment to the supremacy-of-text principle, “recognizing that **‘[t]he words of a governing text are of paramount concern, and what they convey, in their context, is what the text means.’**” *Coates v. R.J. Reynolds Tobacco Co.*, 365 So. 3d 353, 354 (Fla. 2023) (alteration in original) (quoting *Levy v. Levy*, 326 So. 3d 678, 681 (Fla. 2021)) The goal of this approach is to ascertain the original, public meaning of a constitutional provision—in other words, **the meaning as understood by its ratifiers at the time of its adoption.** See *City of Tallahassee v. Fla. Police Benevolent Ass’n, Inc.*, 375 So. 3d 178, 183 (Fla. 2023) (“[W]e give the words of the constitution their plain, usual, ordinary, and commonly accepted meanings at the time they were written.”).

Planned Parenthood of Sw. & Cent. Florida v. State, 384 So. 3d 67, 77 (Fla. 2024) (emphasis added); see also *City of Tallahassee v. Florida*

Police Benevolent Ass’n, Inc., 375 So. 3d 178, 183 (Fla. 2023) (“[W]e give the words of the constitution their plain, usual, ordinary, and commonly accepted meanings at the time they were written. . . . To discern that ordinary meaning . . . words must be read and interpreted in their context, not in isolation.”) (internal quotations and citations omitted). Here, the text of Section 4 is clear and unambiguous, and the Court need go no further in determining that Mayfield is eligible.

Nonetheless, it is equally clear Section 4 was not intended to apply to a non-incumbent. The ballot summary for the amendment resulting in Section 4 stated the amendment “[l]imits terms by prohibiting **incumbents** who have held the **same elective office** for the **preceding** eight years from appearing on the ballot **for re-election** to **that office**.” *Ray v. Mortham*, 742 So. 2d 1276, 1279 (Fla. 1999) (emphasis added). Moreover, at the time of the amendment, this Court recognized that the purpose of the amendment was solely to limit incumbents from seeking re-election to an office they had held for the preceding eight consecutive years. As this Court stated:

The chief purpose of the proposed amendment is to limit the terms of **incumbents** in certain elective offices. The proposal seeks to achieve

this, as the ballot summary indicates, by prohibiting an **incumbent** who has held the office for the **preceding** eight years from appearing on the ballot for **reelection**. The language of the summary and ballot title **are clear and unambiguous**.

Advisory Opinion to Attorney Gen.--Ltd. Political Terms in Certain Elective Offices, 592 So. 2d 225, 228 (Fla. 1991) (emphasis added).

This interpretation and understanding of Section 4 is also consistent with Fla. Stat. § 106.143(6), which states that “[n]o political advertisement of a candidate who is not an **incumbent** of the office for which the candidate is running shall use the word ‘re-elect.’”) (emphasis added). While the term “re-elect” and/or “re-election” are not expressly defined by Florida statute, Section 106.143(6) nonetheless strongly suggests that those terms are and should be understood to apply only to incumbents who are seeking to be re-elected to the same office they presently hold.

Accordingly, whether one looks solely to the text of Section 4, or also to its history and the intention behind it, it is clear that it limits solely incumbents of an office who had held that office for the “preceding” eight years from seeking “re-election” to that same office.

IV. PURCELL HAS NO APPLICATION HERE OR, IF ANYTHING, FAVORS GRANTING MAYFIELD'S REQUESTED RELIEF

Finally, the Secretary suggests that “changes this late in the process introduce the increased possibility of error, voter confusion, and erosion of voter confidence.” First, Mayfield is not seeking to “change” anything that would cause such concerns. The SD 19 ballots have yet to be printed, and the Supervisor has advised that as long as he is given guidance from the Court by Feb. 13 concerning whether Mayfield’s name should appear on the Special Election ballots, he can meet the statutory deadlines. (Supp. App. 13-17).

In that regard, it should be noted that if Mayfield’s name is not included on the ballots, and this Court later rules that it should have been, there is no recourse for Mayfield or SD 19 voters as there will be no way for recipients of ballots excluding Mayfield’s name to vote for her. Conversely, if the SD 19 ballots include Mayfield’s name, and this Court later rules that she is not an eligible candidate for the Special Election, such information can be communicated to voters, and any votes for can simply be disregarded. In sum, Mayfield and SD 19 voters will be **disenfranchised and irreparably harmed** if

Mayfield's name is unlawfully excluded from the SD 19 ballots, whereas any harm that could result from her name being improperly included on the ballots can be mitigated or entirely avoided.

Accordingly, if for some reason the Court is unable to rule on the merits of this dispute by Feb. 13, **at a minimum the Court should issue an order by Feb. 13 requiring that Mayfield's name appear on the SD 19 Special Election ballots.** That is the only way to protect against Mayfield and SD 19 voters potentially being disenfranchised and irreparably harmed by the unlawful exclusion of an eligible candidate from the SD 19 Special Election ballots.

Second, Mayfield has been running for SD 19 since Nov. 27, 2024. Only the Secretary was in a position to know that he would unlawfully disqualify Mayfield even if she properly submitted her Qualification Paperwork. As such, as discussed above, only the Secretary could have taken legal action in an appropriate court prior to his Feb. 5 disqualification of Mayfield to obtain a ruling on Mayfield's eligibility to run in the Special Election.

Lastly, this Court has recognized that no one should be denied the right to be a candidate "unless the Constitution or an applicable

valid law expressly declares him to be ineligible.” *Wright*, 200 So. 3d at 775. That is why judges are required to resolve doubts about the qualification of a candidate in favor of the candidate. *Pacheco*, 393 So. 3d at 1280. As such, the most harmful thing this Court could do to undermine the integrity of the electoral process and shake the confidence of Florida voters would be to allow an eligible candidate to be unlawfully removed from the ballot by the Secretary. Therefore, any concerns about potential errors, voter confusion, or erosion of voter confidence weigh decisively in favor of ensuring that Mayfield’s name appears on the ballots for the SD 19 Special Election.

CONCLUSION

For the reasons set forth in the Petition and herein, the Court should issue writs of quo warranto and writs of mandamus to the Secretary, Director, and/or Supervisor, as necessary to ensure that Mayfield’s name appears on the ballots (primary and general) for the SD 19 Special Election. Nonetheless, in the event this Court is unable to issue a ruling on the merits of this dispute by Feb. 13, as needed by the Supervisor to meet the statutory deadlines, the Court should, at a minimum, issue an order requiring Mayfield’s name to appear

on the SD 19 Special Election ballots so to avoid the risk to Mayfield and SD 19 voters of disenfranchisement and irreparable harm.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 12, 2025, the foregoing document was filed electronically via the Florida Court's E-Filing Portal, which will send a copy of this filing to the following:

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CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY pursuant to Florida Rule of Appellate Procedure 9.045 that this document complies with the applicable font and word count limit requirements provided for in the Florida Rules of Appellate Procedure, including in Rule 9.100.

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