

STATE OF MICHIGAN
IN THE COURT OF APPEALS

NASSER BEYDOUN,
Plaintiff,

Case No. _____

-v-

BOARD OF STATE CANVASSERS,
Defendants.

EMERGENCY ORIGINAL ACTION FOR WRIT OF MANDAMUS
VERIFIED COMPLAINT

This original action requires immediate review and consideration.

It involves the Board of State Canvassers' decision at its May 31-June 3, 2024, meeting to deny Nasser Beydoun, a U.S. Senate candidate, access to the Michigan Primary Ballot.

MCL 168.552(14) requires the Board of State Canvassers to certify to County Election Commissions the names of qualified candidates by June 7, 2024.

MCL 168.759a requires clerks to transmit absentee ballots to uniformed service members overseas by June 22, 2024 (a Saturday). Time must also be allowed for the ballots to be printed and processed.

Review and a decision on this matter is therefore requested as soon as possible, but not later than June 14, 2024.

A motion for immediate consideration has been filed with this action.

Respectfully Submitted,

/s/ Thomas P. Bruetsch

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Attorney for Nasser Beydoun

June 4, 2024

Plaintiff Nasser Beydoun states as follows for his complaint and request for writ of mandamus.

PARTIES, JURISDICTION, AND NATURE OF THE ACTION

1. Plaintiff, Nasser Beydoun, is a resident of Dearborn, Michigan.
2. Defendants, Board of State Canvassers (“Board”), are State of Michigan officials. The Board is created and empowered under the Michigan Election Law, MCL 168.841 *et. seq.*
3. This Court has jurisdiction over this original action under MCL 600.4401(1) because it is an action for mandamus against State officers.
4. Mr. Beydoun files this original action for mandamus because he has been aggrieved by an action of the Board nullifying each and every one of over 24,000 voter signatures supporting his candidacy that Mr. Beydoun timely filed with the Secretary of State.
5. The Board’s sole rationale for rejecting over 24,000 signatures is that Mr. Beydoun listed a post office box as his address on his nominating petition forms.

APPLICABLE STATUTES

6. In 2023 Beydoun filed a Statement of Candidacy with the United States Federal Election Commission, stating his intent to run as a Democrat for the office of United States Senator from the State of Michigan.
7. To appear on the August 2024 primary ballot in the State of Michigan, the Michigan Election Law requires U.S. Senate candidates to file at least 15,000 valid signatures on nominating petitions with the Michigan Secretary of State. MCL 168.544f.
8. Nominating petitions are reviewed for compliance with statutory requirements by the Board and staff from the Michigan Secretary of State.
9. MCL 168.544c governs the form of the nominating petitions.

10. That statute provides, in subsection 1, that “the name, address, and party affiliation of the candidate and the office for which petitions are signed must be printed” on the nominating petition form.

11. MCL 168.544c(1) further provides that the nominating petition “must be in the following form,” and contains an exemplar of the petition. The exemplar contains a blank line to fill in an address, under which is printed, “Street Address or Rural Route.”

12. A dissent to an Order of this Court in a similar original action noted the ambiguity in the statute:

MCL 168.544c refers twice to a candidate’s address, once as an “address” and a second time as a “street address or rural route.” **Given the ambiguity in MCL 168.544c** and the lack of any claim that a PO Box is not an “address,” I would conclude that the plaintiff’s position complied with the statute. [*Morgan v Bd of State Canvassers*, unpublished opinion of the Court of Appeals, issued June 18, 2018 (Docket No. 344108) (SHAPIRO, J., dissenting), p 2 (emphasis added).]

13. Nominating petitions are circulated by a “circulator” and the statute also contains provisions for the circulator to identify himself or herself. The statute requires a nominating petition circulator to provide his or her “Complete Residence Address (Street and Number or Rural Route) Do not enter a post office box.” MCL 168.544c(1) (exemplar portion).

14. The exemplar form does not contain any prohibition against the use of a post office box in the section of the form pertaining to a candidate.

15. Likewise, in the printed instructions of the back of the nominating petition, the Secretary of State instructs **candidates** to enter their “street address or rural route,” and instructs **circulators** to “enter your complete residence address (street number or rural route – **do not enter a post office Box.**) (emphasis added)”

16. By statute, the exemplar nominating petition is not the only acceptable form that may be used. MCL 168.544d provides that “petitions circulated countywide must be on a form

prescribed by the secretary of state, which form must be *substantially* as provided in sections 482, 544a, or 544c, whichever is applicable.” (emphasis added.)

THE BEYDOUN PETITIONS

17. Nasser Beydoun timely filed nominating petitions containing in excess of 24,000 signatures with the Secretary of State, more than 9,000 required for him to be certified as a candidate for U.S. Senate on the State of Michigan’s 2024 primary ballot.

18. In the space for address on each nominating petition submitted to the Secretary of State, Mr. Beydoun used a post office box address, as reproduced below:

19. The Post Office Box is Mr. Beydoun’s campaign committee post office box.

**THE SECRETARY OF STATE STAFF RECOMMENDATION AND
THE BOARD’S DETERMINATION**

20. Secretary of State staff concluded that by using a PO Box as his address, Beydoun failed to “include a mandatory element of a nominating petition,” and therefore invalidated all of the more than 20,000 signatures that Mr. Beydoun had submitted in support of his candidacy.

21. Staff relied on this Court’s non-binding 2-1 order in another original proceeding, *Morgan*, unpub op at 1.

22. The Board met on May 31, 2024. At its meeting, the Board “reluctantly” voted 4-0 against certifying Mr. Beydoun’s petitions, one board member even expressed sympathy for the safety concerns expressed by Beydoun, noting how elections have changed since 2018. Board of Canvassers Vice-Chair Richard Houskamp specifically indicated that he hoped Mr. Beydoun

could be the poster child for addressing the safety issue of candidates being required to disclose their residential address in nominating petitions.

THE CASELAW AND STATUTORY ANALYSIS

23. There is no appellate decision that deals directly with this issue. However, strong guidance is provided by this Court's decision in *Christenson v Sec'y of State*, 336 Mich App 411; 970 NW2d 417 (2021). In *Christenson*, this Court affirmed a Court of Claims order granting mandamus to a judicial candidate. *Id.* at 413. The same statute, MCL 168.544c, was at issue. *Id.* at 414.

24. The plaintiff in *Christenson* wrote his office address on his nominating petitions. *Id.* After a challenge, the Secretary of State staff concluded that the petitions were insufficient because they did not provide the candidate's residential address. *Id.* at 415. The Board of State Canvassers adopted the recommendation and declined to certify the plaintiff as a candidate for election. *Id.*

25. An action for mandamus was filed in the Court of Claims, which found that:

The statute uses the term "address" and "street address." There has been no dispute that, at least on some level, that which plaintiff provided, i.e., his office address, was an "address" and/or a "street address" that belonged to or was associated with plaintiff. And that is sufficient to effectively end the inquiry, because the plain language of the statute does not leave any room for concluding that the terms "address" or "street address" are subject to a qualifier such as *residential*, i.e., that the statute requires a "residential address." [*Id.* at 416.]

26. The Court of Claims continued:

In this respect, there is no merit to defendants' contention that the purpose of placing a candidate's "address" or "street address" on the petitions is to verify that the candidate is qualified to seek office in the particular district or county. Such verification is already achieved by way of the [Affidavit of Identity]. [*Id.* at 416-417.]

27. Affirming, this Court focused on the language of the first paragraph of MCL 168.544c:

We find nothing ambiguous about the statutory language the Legislature used in MCL 168.544c(1). The provision requires candidates, among other things, to circulate for signing by the electors a nominating petition that states their name, address, and the office for which the petitions are signed. MCL 168.544c(1) does not specify that the address identified in that portion of the nominating petition be the candidate's residential address. [*Id.* at 421-422.]

28. This Court also found it relevant that the Legislature imposed different requirements on petition circulators:

The certification of the circulator portion of nominating petitions, however, must include the name and signature of the circulator with the circulator's "(Complete Residence Address (Street and Number or Rural Route))." The Legislature plainly differentiated between the information required for identification of the candidate and identification of the circulator of the petition. The Legislature qualified the address identification of circulators by specifically requiring the residential address, whereas candidates must merely state an address. [*Id.* at 422.]

29. As this Court noted, "when the Legislature uses different words, the words are generally intended to connote different meanings. *Id.* at 422, quoting *Honigman Miller Schwartz & Cohn LLP v Detroit*, 505 Mich 284, 317; 952 NW2d 358 (2020). "Simply put, the use of different terms within similar statutes generally implies that different meanings were intended." *Id.*, quoting *US Fidelity & Guaranty Co v Mich Catastrophic Claims Ass'n (on Rehearing)*, 484 Mich 1, 14; 795 NW2d 101 (2009).

30. This is equally true when the Legislature omits words from one part of the statute and includes them in another part. See, e.g., *Mays v Snyder*, 323 Mich App 1, 40; 916 NW2d 227 (2018) ("It is a basic tenet of statutory construction that the omission of a statutory provision should be construed as intentional.").

31. Thus, for example, where the Legislature uses the language "do not enter a P.O. Box" in MCL 168.544c when setting out requirements for a Circulator's address, but does not use that language when setting out requirements for a Candidate's address, that omission has meaning.

32. Therefore, this Court affirmed the Court of Claims' order directing the Board to certify the candidate's nominating petitions and place his name on the primary ballot. *Id.* at 424-425.

33. This Court also considered the address issue in an unpublished appellate decision in *Delaney v Bd of State Canvassers*, unpublished per curiam opinion of the Court of Appeals, issued June 16, 2016 (Docket No. 333410).

34. In *Delaney*, the candidate had only placed a street number, and not a street name, on some of his nominating petition sheets. *Id.* at *1.

35. Again, this Court's focus was on the language of the first paragraph of MCL 168.544c, that a nominating petition shall contain "[t]he name, address, and party affiliation of the candidate." *Id.* at *3 (emphasis in original). Because the form omitted a complete address, it was found by the Court to be deficient. *Id.* at *4.

36. The Secretary of State staff report relied on an unpublished non-appellate decision, *Morgan v Bd of State Canvassers*, unpublished opinion of the Court of Appeals, issued June 18, 2018 (Docket No. 344108). In *Morgan*, this Court, sitting as a trial court, issued an order holding that the use of a PO Box as a "street address" did not meet statutory requirements. *Id.* at 1.

37. The majority in *Morgan* did not note that the first paragraph of MCL 168.544c only required that a candidate's address be supplied. Instead, the majority focused on the language of the exemplar form, and its "street address language." *Morgan*, unpub op at 1. Nor did the majority cite to *Christenson*, or to any analysis of the Legislature's omission of the "do not enter a post office Box," language for the candidate's address.

38. With due respect to the *Morgan* majority, the *Morgan* dissent was better reasoned.

39. The dissent first noted that there was no argument that a PO Box is not an address. *Morgan* (SHAPIRO, J., dissenting), unpub op at 2.

40. The dissent then noted that the first paragraph of the statute only requires that a candidate provide an “address,” and that it is only in the exemplar form that the words “street address” appears. *Id.*

41. The dissent thus found the statute ambiguous. It also noted that its view was supported by the Secretary of State’s instructions and other documents. *Id.*

REQUEST FOR MANDAMUS

42. Michigan law allows an individual who filed a nominating petition and is aggrieved by a decision of the Board to seek mandamus relief. *Deleeuw v State Bd of Canvassers*, 263 Mich App 497, 502; 688 NW2d 847 (2004). The Plaintiff must show that (1) he 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; and (4) the plaintiff has no other adequate legal or equitable remedy. *Id.* at 500.

Clear Legal Right and Duty

43. Determination of whether Beydoun has a clear legal right to be certified for the primary ballot requires interpretation of MCL 168.544c. *Christenson*, 336 Mich App at 419.

44. When interpreting a statute, the goal is to give effect to the intent of the Legislature. *Id.*, quoting *TCF Nat’l Bank v Dep’t of Treasury*, 330 Mich App 596; 950 NW2d 469 (2019). The language of the statute is the primary indication of Legislative intent. *Id.* Where the statute is clear and unambiguous, the plain meaning of the statute reflects legislative intent. *Id.*

45. The statute requires the Board of State Canvassers to certify a candidate for appearance on the ballot if his nominating petitions meet the statutory requirements. *Christenson*, 336 Mich at 425, citing MCL 168.544c(1). Thus, if Beydoun’s nominating petitions comply with the statute, he has a right, and the Board had a duty, to have his name placed on the ballot.

46. Here, Beydoun’s nominating petitions comply with the statute. The first paragraph of MCL 168.544c(1) requires nominating petitions to contain a candidate’s “address.” Undefined terms used in a statute are given their plain, ordinary meaning, and it is appropriate to consult a dictionary definition for those meanings. *Koontz v Ameritech Servs*, 466 Mich 304, 312; 645 NW2d 34 (2002).

47. A PO Box is an address. Meriam Webster defines “address” as “a place where a person or organization may be communicated with.” *Merriam-Webster’s Collegiate Dictionary* (online ed). Black’s Law Dictionary concurs, defining the term as “[t]he place where mail or other communication is sent.” *Black’s Law Dictionary* (online ed).

48. Reviewing the statute as a whole, the Legislature’s use of the term “street address” in the exemplar form printed in the statute is not intended to exclude the use of PO box numbers. This is evident from the Legislature’s *omission* of the words “do not enter a post office Box,” in the candidate’s section of the exemplar form, a phrase that the Legislature uses just a few lines later in the exemplar form when setting out the requirements for a circulator’s address. *Mays*, 323 Mich App at 40.

49. Moreover, the Secretary of State was allowed by statute to change the exemplar form, so long as the Secretary’s form was “substantially as provided” in MCL 168.544c. See, MCL 168.544d. If the Secretary of State could have changed the form, omitting the word “street” on the form, then it cannot be said that the Legislature intended that PO boxes could not be used by candidates filling in the form.

50. Alternatively, as noted by the *Morgan* dissent, MCL 168.544c is ambiguous.¹ *Morgan*, (SHAPIRO, J., dissenting) unpub op at p 2. Its use of “address” in the first paragraph of subsection 1, the use of “street address” in the exemplar form, and the omission and inclusion of “do not enter a post office box” in different places in the statute are conflicting and confusing, acting as traps for candidates.

51. Access to the ballot implicates two fundamental rights, the “right of individuals to associate for the advancement of political beliefs,” and “the right of qualified voters ... to cast their votes effectively.” *Socialist Workers Party v Secretary of State*, 412 Mich 571, 588; 317 NW2d 1 (1982).

52. Given the existence of these fundamental rights, the ambiguities in MCL 168.544c should be resolved in favor of placing Mr. Beydoun on the primary ballot.

53. Additional policy reasons support the use of PO Boxes on nominating petitions. In an era of political violence, an interpretation of the statute as allowing the use of a PO Box makes good public policy. Mr. Beydoun’s staunch opposition to Israel’s war in Gaza has made him the target of threats and harm. Mr. Beydoun is also the first Muslim American candidate for the office he seeks. For that, he has received countless threats against his wife, his children, and himself. Further publicizing his street address on his nominating petitions puts yet another target on his back. In just the past few years, we have seen a kidnap plot against Governor Whitmer, and attacks and threats on other political leaders and their families, including Paul Pelosi, Rep. Eric Swalwell, and others on all sides of the political spectrum. Indeed, a recent Reuters study identified 213 cases of political violence between 2021 and 2023, including 39 deaths. Requiring candidates to

¹ Beydoun recognizes that the *Christenson* court found MCL 168.544c to be unambiguous. However, in the context of that opinion, where the Court did not need to reach that conclusion, and was not faced with analyzing the differences between “address” and “street address,” that statement was *dicta* and is also distinguishable. See, e.g., *Estate of Pearce v Eaton Cty Rd Comm’n*, 507 Mich 183, 197; 968 NW2d 323 (2021).

place not only their lives in peril but that of their family in order to sit for election effectively forecloses them the opportunity to seek office and represent the diverse viewpoint they bring to it.

54. Perhaps if the statute were not ambiguous, the Secretary of State could ignore such concerns in her interpretation. But given the statute's inherent conflicts and inconsistencies, allowing the use of a PO Box is not simply allowed by law, it is good policy.

Ministerial Act and No Alternative

55. Nominating petition cases rise and fall on the clear legal right and duty elements. In cases like this one, the Courts have consistently found that the other mandamus elements are met. The Board of Canvassers' duties are set out by statute and are ministerial. See, e.g., *McLeod v State Bd of Canvassers*, 304 Mich 120, 127; 7 NW2d 240 (1942). As evidenced by the numerous cases granting mandamus in nominating petition cases, Beydoun has no other available form of relief.

RELIEF SOUGHT

56. Nasser Beydoun requests that this Court issue a writ of mandamus ordering the Board of State Canvassers to (1) certify his nominating petitions, and (2) place his name on the statewide primary ballot as a Democratic candidate for United States Senate.

CONCLUSION

Politicians, commentators, and average voters from all political backgrounds complain that “democracy is under attack”. Make no mistake about it, the constant efforts of professional activists and politically motivated political operatives to restrict ballot access play an insidious role in undermining the public's trust in the integrity of our elections. There are, indeed, many ways to rig elections before the votes are even cast. What better way than to clear the field for those who espouse the prevailing ideologies of the ruling class at the expense of candidates who are average Americans and not professional politicians? If it's a functioning democracy that reflects

the will of the people that we want, this Court should not allow the Board of Canvassers to undermining the will of 24,000 voters---a large portion of the Michiganders who signed U.S. Senate nominating petitions---who say they want to see Plaintiff's name appear on the ballot.

Respectfully Submitted,

SCHENK & BRUETSCH PLC

By: /s/ Thomas P. Bruetsch
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Detroit, Michigan 48226
(313) 774-1000
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June 4, 2024

I verify that the facts in this complaint are true and correct to the best of my knowledge and ability based on the information available to me at this time.



Nassar Beydoun

Dated: June 4, 2024

Subscribed and Sworn to before me,
a Notary Public this 4th Day of June, 2024



Notary Public

Printed Name: Dana Schultz

State of Michigan, County of Wayne

Commission Expires: 1/26/26

Acting in the County of Wayne

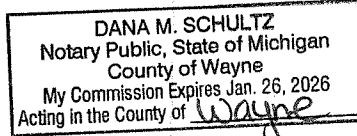


EXHIBIT A

INSTRUCTIONS ON REVERSE SIDE

NOMINATING PETITION

(COUNTYWIDE PARTISAN)

* The "Countywide" Partisan Petition form may be used by any partisan candidate. Exception: the form may not be used by a partisan candidate who seeks the office of County Commissioner; such candidates must use the "City/Township" Partisan Petition form.

We, the undersigned, registered and qualified voters of the County of Detroit and State of Michigan, nominate Nasser Beydoun PO Box 32131
(City or Township) (Name of Candidate) (Street Address or Rural Route)
as a candidate of the Democratic Party for the office of U.S. Senate / Jan 3 2031
(Title of Office / Term Expiration Date) (District, if any)
to be voted for at the Primary Election to be held on the 6th day of August, 2024.

WARNING--A PERSON WHO KNOWINGLY SIGNS MORE PETITIONS FOR THE SAME OFFICE THAN THERE ARE PERSONS TO BE ELECTED TO THE OFFICE, SIGNS A PETITION MORE THAN ONCE, OR SIGNS A NAME OTHER THAN HIS OR HER OWN IS VIOLATING THE PROVISIONS OF THE MICHIGAN ELECTION LAW.

SIGNATURE	PRINTED NAME	STREET ADDRESS OR RURAL ROUTE	NAME OF CITY OR TOWNSHIP	ZIP CODE	DATE OF SIGNING		
					MO	DAY	YEAR
1.							
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							

CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above petition asserts that he or she is 18 years of age or older and a United States citizen; that each signature on the petition was signed in his or her presence; that he or she has neither caused nor permitted a person to sign the petition more than once and has no knowledge of a person signing the petition more than once; and that, to his or her best knowledge and belief, each signature is the genuine signature of the person purporting to sign the petition, the person signing the petition was at the time of signing a registered elector of the City or Township indicated preceding the signature, and the elector was qualified to sign the petition.

If the circulator is not a resident of Michigan, the circulator shall make a cross [X] or check mark [✓] in the box provided, otherwise each signature on this petition sheet is invalid and the signatures will not be counted by a filing official. By making a cross or check mark in the box provided, the undersigned circulator asserts that he or she is not a resident of Michigan and agrees to accept the jurisdiction of this state for the purpose of any legal proceeding or hearing that concerns a petition sheet executed by the circulator and agrees that legal process served on the Secretary of State or a designated agent of the Secretary of State has the same effect as if personally served on the circulator.

WARNING--A CIRCULATOR KNOWINGLY MAKING A FALSE STATEMENT IN THE ABOVE CERTIFICATE, A PERSON NOT A CIRCULATOR WHO SIGNS AS A CIRCULATOR, OR A PERSON WHO SIGNS A NAME OTHER THAN HIS OR HER OWN AS CIRCULATOR IS GUILTY OF A MISDEMEANOR.

Michigan Election Resources - Form No. 202 - Revised 10/2019 - Approved by the Director of Elections, State of Michigan

CIRCULATOR - DO NOT SIGN OR DATE CERTIFICATE UNTIL AFTER CIRCULATING PETITION.

(Signature of Circulator) _____ (Date) _____

(Printed Name of Circulator) _____

(Complete Residence Address [Street and Number or Rural Route]) - [Do not enter a post office box] _____

(City or Township, State, Zip Code) _____

(County of Registration, If Registered to Vote, of a Circulator who is not a Resident of Michigan) _____

PAID FOR BY COMMITTEE TO ELECT NASSER BEYDOUN, PO BOX 32132, DETROIT MI 48232

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READ BEFORE CIRCULATING PETITION

Complete the heading of the petition before circulating it.

- Enter the county where the petition will be circulated. Do not list more than one county.
- Enter the candidate's complete name and street address or rural route, the office sought, the district number (if applicable), the term expiration date (if applicable), and the candidate's political party affiliation.
- Enter the date of the **primary election**.

Make sure that all signers complete the petition. Have each signer:

- Sign and print his or her full name on the petition.
- Enter the street address or rural route where registered to vote. A P.O. Box provided in lieu of a residential address is not acceptable.
- Write the city or township of registration, which must be located within the county listed in the petition heading. (Note: for information regarding the signer's entry of the name of a post office or unincorporated place, see MCL 168.552a.)
- Write the zip code and date of signing.

Complete the circulator's certificate after circulating the petition.

- Sign and print your full name and enter the date of signing. Signatures on the petition which are dated after the date on the circulator's certificate are invalid.
- Enter your complete residence address (street and number or rural route – do not enter a P.O. Box), city or township, and state.
- If you do not reside in Michigan, check the box located in the lower left corner of the petition sheet and enter your county of registration (if you are registered to vote in your home state).

Remember:

- Ask potential signers whether and where they are registered to vote. Voter registration information may be found at Michigan.gov/Vote.
- Review each signer's entry for completeness. If information is omitted, ask the signer to fill in the blank(s).
- Do not leave the petition unattended.

Michigan Election Resources - Form No. 202 - Revised 10/2019 - Approved by the Director of Elections, State of Michigan



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EXHIBIT B



STATE OF MICHIGAN
BUREAU OF ELECTIONS
LANSING

May 24, 2024

REVIEW OF NOMINATING PETITIONS

Nasser Beydoun
Democratic Candidate for U.S. Senate

NUMBER OF VALID SIGNATURES REQUIRED: 15,000 signatures.

TOTAL FILING: 20,634 signatures.

SIGNATURE SAMPLE: 0 valid signatures, 750 invalid signatures.

Total number of sampled signatures		750
Total number of signatures determined to be invalid		
Invalid heading (failure to include valid address)	Less:	750
Total number of valid signatures in sample		0

Staff's face review of Nasser Beydoun's signature sample identified 750 invalid signatures and 0 valid signatures, which dropped him below the 545-signature threshold and rendered him ineligible for the ballot.

HEADING ERRORS: Headings on all 2,924 sheets of Beydoun's filing, including all 750 sheets in the sample, indicated that his "street address or rural route" was a P.O. Box (example below), which is a failure to include a mandatory element of a nominating petition.

In *Morgan v Board of State Canvassers*, Docket No. 344108 (Mich App, June 8, 2018) the Michigan Court of Appeals determined that a candidate could not indicate a P.O. Box in the field for "street address or rural route." Specifically, the court found,

MCL 168.544c specifically sets forth a "form" with which a nominating petition must conform, including that the candidate's name and "Street Address or Rural Route," "shall" be listed on the form. Plaintiffs "street address or rural route" was not listed on the petition forms that defendants rejected. Instead, those forms contained plaintiff's campaign office P.O. Box, contrary to MCL 168.133 and MCL 168.544c. Therefore, the Board was entirely within its discretion to reject the petition forms because the lack of a street address or rural route was plain on the face of the forms.

In that case, the court found that section 133 of the Michigan Election Law (MEL) requires congressional candidates to comply with the requirements of MCL 168.544c, as described above. The corresponding section of the MEL for candidates for United States senator—section 93—likewise requires that “[n]ominating petitions shall be in the form as prescribed in 544c.” MCL 168.93. The court determined that section 544c “provides that a street address or rural route must be supplied, and a P.O. Box is neither.”

This error invalidated all 750 sampled signatures submitted by Beydoun.

INSTRUCTIONS ON REVERSE SIDE	NOMINATING PETITION (COUNTYWIDE PARTISAN)	<small>* The "Countywide" Partisan Petition form may be used by any partisan candidate. Exception: the form may not be used by a partisan candidate who seeks the office of County Commissioner; such candidates must use the "City/Township" Partisan Petition form.</small>
We, the undersigned, registered and eligible voters of the City/Township of <u>WASHBURN</u> and State of Michigan, nominate	<u>Nasser Beydoun</u>	<u>PO Box 32131</u>
<u>Detroit</u>	<u>Democratic</u>	<u>U.S. Senator / Jan 3 2023</u>
<small>(City or Township)</small>	<small>(Party for the office of *)</small>	<small>(Street Address or Rural Route)</small>
to be voted for at the Primary Election to be held on the <u>6th</u> day of <u>August</u> , 20 <u>24</u> .	<small>(Date of Office / Term Expiration Date)</small>	<small>(District, if any)</small>

CHALLENGE: Hill Harper filed a challenge to Beydoun’s nominating petitions, alleging that many of Beydoun’s petitions should be rejected because the signatures included all of the following:

- Invalid address.
- Signer not registered at listed address.
- Name and address not legible.
- Heading/circulator error.

In sum, Harper challenged 99 signatures or petition sheets.

For the reasons following, none of the challenges submitted were valid challenges. All but two of the alleged challenges were to *sheets* that were not included in the sample used to determine the validity of the submission.¹ Five of those alleged challenges did not include a line number, which would have made them impossible to consider even if they were to signatures eligible for challenge. Finally, the two challenges to *signatures* on sheets that made up the sample—to signature 4 on page 20 and signature 3 on page 56—were to signatures that did not exist; both of those sheets contained only one signature.

Beydoun responded to the challenge, arguing that the identity of the challenger “is unknown and cannot be clearly discerned from the sworn statement” because the signature and printed name on the challenge were illegible. Additionally, he argued that the challenger did not attest to being a Michigan citizen or registered voter or provide an address. Finally, the response disagreed with many of the individual challenges to signatures, arguing that duplicative challenges exist for 11 signatures (however, staff notes that none of these allegedly challenged signatures exist in the sample), and that several of the reasons given in the challenge were invalid.

Because Beydoun was left with 0 valid signatures following review, and because no challenges submitted were to signatures included in Beydoun’s sample, staff did not process either the challenge or Beydoun’s response.

¹ At its March 20, 2023 meeting, the Board of State Canvassers approved proposed updates to staff’s random sampling procedures, including expansion to statewide candidate petitions. Accordingly, only signatures included in the random sample generated for Beydoun’s submission would be eligible for challenge.

FINAL RESULT OF SIGNATURE SAMPLE:

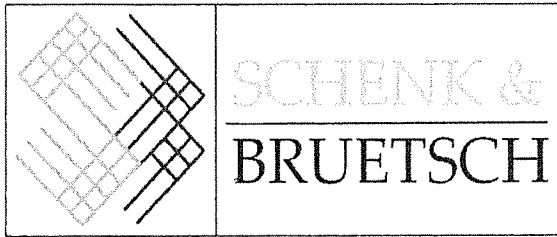
<u>Number of valid signatures</u>	<u>Formula result</u>	<u>Sample result</u>
545 or more	Certify	
544 or fewer	Deny certification	0

ESTIMATED NUMBER OF VALID SIGNATURES FOR PETITION: Based on the results of the random sample, it is estimated that the petition contains 0 valid signatures (at a confidence level of 99.9%),² 15,000 signatures fewer than the minimum threshold for certification.

STAFF RECOMMENDATION: Determine petition insufficient.

² In order to be determined sufficient, the sample had to have a validity rate of at least 72.6%. The validity rate of Beydoun's sample is 0%. The formula results in a confidence level of 99.9% that the sample's validity rate is 0%.

EXHIBIT C



Thomas P. Bruetsch
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Detroit, Michigan 48226
(313) 774-1000
Thomas.Bruetsch@SBDetroit.com

May 30, 2024

Board of State Canvassers
PO Box 20126
Lansing, Michigan 48909

Via Email – MDOS-Canvassers @Michigan.gov

Re: Nasser Beydoun, Candidate for United States Senate

To the Members of the Board of State Canvassers:

I write on behalf of my client, Nasser Beydoun, Democratic candidate for United States Senate. Over 20,000 Michigan residents signed petitions on Mr. Beydoun's behalf in support of his nomination. Although he is not the candidate favored by the party establishment, Mr. Beydoun enjoys considerable grass-roots support and carries forward a critical message ignored by others in the race that deserves to be heard.

The Secretary of State recommends that the Board disenfranchise Mr. Beydoun's supporters and deny him the opportunity to run for Senate and serve his country and the State of Michigan because he listed a post office box as his "candidate's ... address" on his nominating petition forms. This trivial alleged error, the Secretary claims, overrides the express will of the people.

The Secretary relies on a 2-1 non-binding order of the Michigan Court of Appeals, sitting as a trial court, in the 2018 case of *Morgan v. Board of State Canvassers*. The Board should review that case, including its dissent, which is better reasoned. As the dissent points out, the statute under which the Secretary seeks to disenfranchise Mr. Beydoun's supporters (MCL 168.544c) is ambiguous:

[The Board of Canvassers] does not argue that a PO Box is not an address. Rather, [the Board] argues that the statute required plaintiff to enter a street address.... The statute has an introductory paragraph, which states that the nominating petition shall provide ... "[t]he name, address, and party affiliation of the candidate...." Notably this provision of the statute refers to a candidate's "address" and not his or her "street address." This paragraph is followed by an exemplar petition introduced by the phrase, "the petition shall be in the following form." That exemplar contains a space in which the

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candidate is directed to provide his “street address or rural route.” Thus, MCL 168.544c refers twice to a candidate’s address, once as an “address” and a second time as a “street address or rural route.” **Given the ambiguity in MCL 168.544c** and the lack of any claim that a PO Box is not an “address,” I would conclude that the plaintiff’s position complied with the statute. *Morgan, supra* (Shapiro, J., dissenting) (emphasis added).

This ambiguity should be resolved in favor of democracy.

Indeed, it appears that the Secretary of State has previously interpreted the statute as allowing a PO box for the candidate’s address. The Secretary of State’s instructions for filling out the nominating petitions do not caution a candidate not to use a PO box for his or her address. But the same instructions do inform a petition circulator not to use a PO Box. The Secretary of State would not prepare the instructions in this manner if it believed that a candidate could not use a PO Box as its address. Clearly, if the Secretary of State truly interpreted the statute to require a *candidate* to assume the potential risk of identifying their street address on the petition, it knew how to specify as much. The Secretary’s failure to specifically do so is an implicit admission that no such requirement exists.

Terms used in statute are given their ordinary meanings. *Guardian Environmental Servs, Inc v Bureau of Constr Codes & Fire Safety*, 279 Mich App 1, 6 (2008). There can be no serious question that a PO Box is an address. Meriam Webster defines “address” as “a place where a person or organization may be communicated with.” Black’s Law Dictionary concurs. *See, e.g., Bank of Am., NA v. Condos*, 2011 Mich.App. LEXIS 2060, *21-22 (quoting Black’s Law Dictionary).

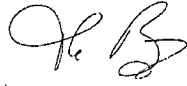
Moreover, by statute, the form of petition only need be in substantial compliance with the form set out in MCL 168.544c. MCL 168.544d provides: “Petitions circulated countywide must be on a form prescribed by the secretary of state, which form must be substantially as provided in sections 482, 544a, or 544c, whichever is applicable.”

Finally, in an era of political violence, an interpretation of the statute as allowing the use of a PO Box makes good public policy. Mr. Beydoun’s staunch opposition to Israel’s war in Gaza has made him the target of threats and harm. Further publicizing his street address on his nominating petitions puts yet another target on his back. In just the past few years, we have seen a kidnap plot against Governor Whitmer, and attacks and threats on other political leaders and their families, including Paul Pelosi, Rep. Eric Swalwell, and others on all sides of the political spectrum. Indeed, a recent Reuters study identified 213 cases of political violence between 2021 and 2023, including 39 deaths.

Perhaps if the statute were not ambiguous, the Secretary of State could ignore such concerns in her interpretation. But given the statute’s inherent conflicts and inconsistencies, allowing the use of a PO Box is not simply allowed by law, it is good policy.

The use of a PO Box was the only alleged deficiency noted by the Secretary in her review of Mr. Beydoun's petitions. Therefore, the Board of Canvassers should vote to certify Nasser Beydoun's candidacy for US Senate.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'T. Bruetsch', written in a cursive style.

Thomas P. Bruetsch

EXHIBIT D

Court of Appeals, State of Michigan

ORDER

Matthew Morgan v Board of State Canvassers

Docket No. 344108

Christopher M. Murray
Presiding Judge

Jane E. Markey

Douglas B. Shapiro
Judges

Plaintiff filed this complaint for mandamus seeking an order of this Court directing defendants to certify his candidacy and include his name on the August 7, 2018, primary ballot. Defendants timely responded to the complaint. We order that the complaint for mandamus be DENIED.

According to MCL 168.133, nominating petitions for Congressional Representative candidates “shall be in the form as prescribed in section 544c.” MCL 168.544c specifically sets forth a “form” with which a nominating petition must conform, including that the candidate’s name and “Street Address or Rural Route,” “shall” be listed on the form. Plaintiff’s “street address or rural route” was not listed on the petition forms that defendants rejected. Instead, those forms contained plaintiff’s campaign office P.O. Box, contrary to MCL 168.133 and MCL 168.544c. Therefore, the Board was entirely within its discretion to reject the petition forms because the lack of a street address or rural route was plain on the face of the forms. See MCL 168.552(9); *Auto Club of Michigan for Lower Rates Now v Bd of State Canvassers (On Remand)*, 195 Mich App 613, 624; 491 NW2d 269 (1992). Plaintiff’s reliance on the “substantial compliance” language in MCL 168.456 is misplaced because he did not print his own nominating petition forms. The statute states that a candidate may print his own forms, but that “they must comply substantially” with the form set forth in section 544c. Additionally, there is nothing confusing or ambiguous about these requirements, foreclosing any constitutional argument. The only relevant statute provides that a street address or rural route must be supplied, and a P.O. Box is neither. The Board of Canvassers can discern this defect by simply reviewing the face of the petition forms, significantly distinguishing this case from *Protecting Michigan Taxpayers v Board of State Canvassers*, ___ Mich App ___, ___ NW2d ___ (2018) (Docket No. 343566, issued May 11, 2018), which is also distinguishable because of the separate remedies applicable to that case. Although the certificate of circulator provision explicitly directs that a P.O. Box not be listed, the failure to so specify with respect to the candidate does not allow a P.O. Box to be provided when the statute plainly requires a street address or rural route.

This order shall have immediate effect. MCR 7.215(F)(2).

SHAPIRO, J. (*dissenting*).

The Board of Elections concluded that plaintiff’s petitions were facially defective, i.e., that they contained “a deficiency found on the face of the petition that does not require verification

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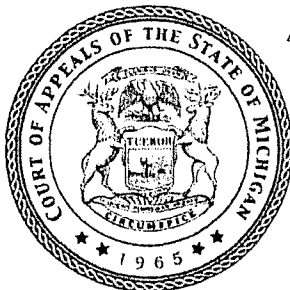
against data maintained in the qualified voter file or in the voter registration files maintained by a city or township clerk.” MCL 168.552(9). The sole cited deficiency is the use of a P.O. Box, rather than a street address, as the candidate’s address in the heading of the great majority of his submitted petitions.

The question then is whether the form, as completed by plaintiff, complied with the requirements of MCL 168.544c(1). In other words, does the use of a P.O. Box as the candidate’s address comply with the requirements of MCL 168.544c(1). Defendant does not argue that a P.O. Box is not an address.¹ Rather, defendant argues that the statute required plaintiff to enter a street address, and that a P.O. Box is noncompliant under MCL 168.544c(1). This statute has an introductory paragraph, which states that the nominating petition shall provide “in type not larger than 24-point,” “[t]he name, address, and party affiliation of the candidate and the office for which petitions are signed. . . .” Notably this provision of the statute refers to a candidate’s “address” and not his or her “street address.” This paragraph is followed by an exemplar petition introduced by the phrase, “the petition shall be in the following form.” That exemplar contains a space in which the candidate is directed to provide his “street address or rural route.” Thus, MCL 168.544c(1) refers twice to a candidate’s address, once as “address” and a second time as “street address or rural route.” Given the ambiguity in MCL 168.544c and the lack of any claim that a P.O. Box is not an “address,” I would conclude that the plaintiff’s position complied with the statute. This view is also supported by documents drafted by the Secretary of State and provided to the candidates. The Secretary of State’s form petitions have directions on the back, which in capital letters is captioned “READ BEFORE CIRCULATING.” The second direction states, “[e]nter the candidate’s complete name and address.” It does not state that a “street address” must be entered. Similarly, the Bureau of Elections’ official publication, “Circulating and Canvassing Countywide Nominating and Qualifying Petition Forms” states “[t]he heading of each petition sheet must include the candidate’s name, address”

Defendant refers us to *Delaney v Bd of State Canvassers*, unpublished per curiam opinion of the Court of Appeals, issued June 16, 2016 (Docket No. 333410), p 3, in which we affirmed the candidate’s non-certification because plaintiff’s address was listed only as “2839” without any street identified. *Delaney* is not on point because in that case, the petitioner did not include an “address.” Four numbers, without more, were wholly inadequate to allow an interested party to contact the candidate. In this case, however, plaintiff did provide an address, i.e. the P.O. Box, but not his street address. Thus, the question here, unlike *Delaney* is whether information that does in fact constitute an address is insufficient because the form says “street address.”

Because plaintiff complied with the requirements of MCL 168.544c(1) I would grant his complaint for mandamus and direct the Board of State Canvassers to place plaintiff’s name on the August 2018 primary ballot.

¹ Plaintiff’s residency within his district is not in question and his Affidavit of Identity provides his street address where it requested his “Residence Address.”



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

JUN 08 2018

Date


Chief Clerk

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