In the Supreme Court of Florida

CASE NO. SC2025-0162

Debbie Mayfield,

Petitioner,

v.

Secretary, Florida Department of State, et al.,

Respondents.

RESPONSE BRIEF OF SECRETARY BYRD AND DIRECTOR MATTHEWS

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PRELIMINARY STATEMENT

Citations to Petitioner's appendix is "App." and page numbers refer to the e-page numbers. Citations to Respondents Byrd and Matthews' supplemental appendix is "Supp. App." and page numbers refer to the bates-stamped page numbers (which align with the e-page numbers). The petition is referred to as "Pet."

Petitioner listed Director Matthews as a respondent. The Secretary maintains that any relief entered against her would also be entered against the Secretary, and vice versa.

And as explained more fully below, the Secretary believes that Petitioner could have, at the very least, filed her lawsuit in circuit court. That would allow a factual record to be created. In that absence, however, he asks that this Court take judicial notice of the facts contained in his supplemental appendix.

INTRODUCTION & SUMMARY OF THE ARGUMENT

Petitioner seeks the *wrong* relief in the *wrong* forum in her attempt to secure twelve *consecutive* years in the *same* senate seat; that's four more than the Florida Constitution allows. *See* art. VI, § (4)(c), Fla. Const. Her petition fails on the merits as well.

I. This Court has made clear that quo warranto isn't a substitute for declaratory and injunctive relief in circuit court. *W. Flagler Assocs., Ltd. v. DeSantis*, 382 So. 3d 1284, 1287 (Fla. 2024). Historically, "only the Attorney General" had "standing to seek a writ of quo warranto," *Hall v. Cooks*, 346 So. 3d 183, 189 (Fla. 1st DCA 2022), to guard against the "invasion" of the State's "sovereignty," *State v. Gleason*, 12 Fla. 190, 206 (1868). Petitioner isn't the Attorney General, and her attempt to get on the ballot has nothing to do with state sovereignty. She should have sought other relief in circuit court.

II. Mandamus isn't available, either. "Florida law is well settled that mandamus may be used only to enforce a right that is both clear and certain." *Fla. League of Cities v. Smith*, 607 So. 2d 397, 400 (Fla. 1992) (collecting cases). It isn't the means "to establish the existence of such a right." *Id.* at 401. Nor is mandamus appropriate where "other legal remedies" are "available." *Doe v. DeSantis*, 390 So. 3d

1245, 1249 (Fla. 1st DCA 2024). In this case, there's no clear and certain right for Petitioner to be placed on a ballot so she can run for re-election to an office she held for the preceding eight years. Petitioner simply attempts to *create* such a right to avoid term limits. And, again, Petitioner could have sought declaratory and injunctive relief in circuit court to create or secure this new right. She could have also sought an advisory opinion on her eligibility from the Secretary under section 106.23(2), Florida Statutes, as others have *before* submitting their qualifying paperwork. Supp. App. at 6. She chose not to do either.

III. The petition fails on the merits as well. Petitioner included with her qualification paperwork an "oath" that "she is qualified under the Constitution" "of Florida." § 99.021(1)(a)1., Fla. Stat.; *id.* § 99.061(7)(a)2. (requiring same). App. at 25. But that wasn't all. She provided to the Secretary a legal memorandum, dated November 27, 2024, noting that she held the office she now seeks for the preceding, consecutive eight years (yet arguing that she's still eligible for the office). Supp. App. at 10. At best, the qualifying paperwork conflicts: the oath says that Petitioner satisfies the Florida Constitution's eligibility requirements, including article VI, section (4)(c), but the

facts in the accompanying memorandum say otherwise. Petitioner, therefore, failed to "properly file[]" the necessary paperwork, and the Secretary could not "properly verif[y]" the material needed for qualification. § 99.061(7)(c), Fla. Stat. So the Secretary did not "certify [Petitioner's name] to the supervisor of elections" as a "duly qualified candidate[] for nomination." *Id.* § 99.061(6).

More fundamentally, nothing in Florida law mandates that the Secretary certify the names of candidates who are constitutionally *in*eligible. Section 99.061(7)(a) lists "items" that "must be received" "by the end of the qualifying period." Section 99.061(7)(c) explains that the Secretary "performs a ministerial function" when reviewing these items. Yet neither requires the Secretary to ignore the Florida Constitution's eligibility criteria or the material a candidate herself submits; neither requires the Secretary to suspend common sense or common knowledge. It's for much the same reason that the Secretary can't certify the King of England (a non-U.S. citizen) or a notorious serial killer (a convicted felon) for inclusion on a ballot with the hope that a political opponent (if there is one) will file a challenge. Pet. at 13-14.

IV. To be sure, Petitioner is constitutionally ineligible. She seeks "re-election" to the "office" of "Florida senator" she held from 2016 to 2024, even though, if re-elected, Petitioner would serve "in that office for" twelve consecutive years. Art. VI, § (4)(c), Fla. Const.

V. Finally, the State's analog to the *Purcell* principle cautions against granting the petition. *Compare State ex rel. Haft v. Adams*, 238 So. 2d 843, 845 (Fla. 1970), *with Purcell v. Gonzalez*, 549 U.S. 1, 4-6 (2006). Petitioner notes that the supervisor of elections must send ballots to military and overseas voters by February 14. Pet. at 3. This is to comply with federal and state law. *See* 52 U.S.C. § 20302(a)(8); § 101.62(3)(a), Fla. Stat. But Petitioner fails to appreciate that these ballots must be programmed into the supervisor's system, proofread, checked again, and then sent to specific voters matched by a ballot style unique to their voting precinct. Supp. App. at 14-15. This work is nearing completion. The relief sought would add confusion, increase the chance of error, and cause greater uncertainty in the administration of not one but two separate special elections being administered concurrently by the local supervisor.

The complications aren't worth it when, per her own memorandum, Petitioner had concerns about her eligibility in

November 2024 but chose not to seek declaratory or injunctive relief in circuit court or an advisory opinion from the Secretary.

For any of these reasons, this Court should deny the petition.

STATEMENT OF CASE & FACTS

Petitioner has made a career in state government. She served a term in the state house from 2008 to 2010. Pet. at 4. Then another from 2010 to 2012. *Id.* Then another from 2012 to 2014. *Id.* Then another from 2014 to 2016. *Id.*

Petitioner next turned to the state senate. She served a term in the state senate from 2016 to 2020. *Id.* And then another term from 2020 to 2022. *Id.* And then another from 2022 to 2024. *Id.* That's eight consecutive years in the state senate, more specifically in the now-numbered State Senate District 19.

Petitioner then turned back to the state house. *Id.* She won election to the state house in 2024. *Id.* During that election, Randy Fine won the election for her old senate office. *Id.*

Around November 25, 2024, however, Senator Fine announced that he intended to resign from the state senate. Supp. App. at 18, 21. That created a vacancy in Senate District 19. App. at 30.

Not long after, on November 27, Petitioner received a legal memorandum, opining on the legality of her running for her old senate office. Supp. App. at 10. It stated that Petitioner could, and it largely analyzed article VI, section 4(c) of the Florida Constitution:

> (c) No person may appear on the ballot for re-election to any of the following offices:
>
> (1) Florida representative,
> (2) Florida senator,
> (3) Florida Lieutenant governor,
> (4) any office of the Florida cabinet,
> (5) U.S. Representative from Florida, or
> (6) U.S. Senator from Florida
>
> if, by the end of the current term of office, the person will have served (or, but for resignation, would have served) in that office for eight consecutive years.

The same day she received the legal memorandum, Petitioner announced her candidacy to fill her old senate office. Supp. App. at 22. She sought no advisory opinion from the Secretary on her constitutional eligibility before announcing her candidacy. She initiated no action for declaratory or injunctive relief on the issue. Months passed.

Petitioner submitted her candidate paperwork in late January 2025. In her appellate appendix, Petitioner submits *most* of the paperwork she provided to the Secretary. But she omits a key

document: her November 27 legal memorandum, which notes that she held the Senate District 19 seat for the preceding eight consecutive years. *Id.* at 10. Candidates for office don't normally submit memoranda such as this. Petitioner did.

On February 5, 2025, the Secretary determined that Petitioner was ineligible for ballot placement. He cited article VI, section 4(c) as the reason why. App. at 38.

On February 6, 2025, seventy-one days after receiving her legal memorandum, Petitioner sought extraordinary relief from this Court. As relief, she asks this Court to declare "that the Secretary exceeded his authority by refusing to recognize her as a qualified candidate for the SD 19 Special Election," and to compel "the Secretary to immediately recognize her as a qualified candidate for the SD 19 Special Election, including ensuring her name appears on the requisite Special Election ballots." Pet. at 2.

Petitioner acknowledges that the special election deadlines are tight. She notes that "military and overseas ballots for the SD 19 primary election must be mailed by February 14." *Id.* at 3. That's four days from today. It's two days from the filing of Petitioner's reply.

Respondent Supervisor Bobanic has much work to do before February 14. He must prepare the election for Senate District 19 in his election system. Supp. App. at 14. This requires programming the election such that voters are assigned by their voting precinct into the appropriate ballot style. *Id.* at 14-15. The election for Senate District 19 has two ballot styles, one for voters who live in precincts within Senate District 19, and another for voters who also live within House District 32, which is wholly contained within Senate District 19. *Id.* Each ballot style must be proofed. *Id.* Each must also be tested for "logic and accuracy," i.e., to ensure that votes cast for a candidate on a ballot count for that candidate in the system. *Id.* at 15. Separate testing for disabled voters is also necessary, i.e., ensuring, for example, that a blind voter's computer software can read the ballot to that voter. *Id.* at 15-16. Then the right ballots must be sent to the right voters. *Id.* at 16. Adding Petitioner's name at this late juncture would double the supervisor's work. *Id.* That would be a difficult task. February 13 is the absolute last day he can do the work. *Id.* at 17.

ARGUMENT

I. Quo warranto is not appropriate here.

Quo warranto is an extraordinary writ, *Richardson v. Sec'y, Fla. Agency for Health Care Admin.*, 395 So. 3d 500, 504 (Fla. 2024), that tests "whether a state officer or agency" respondent "has improperly exercised a power or right derived from the State," namely the State's sovereign authority. *Israel v. DeSantis*, 269 So. 3d 491, 494 (Fla. 2019) (cleaned up); *see also Gleason*, 12 Fla. at 206. This extraordinary writ isn't available to Petitioner.

A. As an initial matter, Petitioner shouldn't be able to seek quo warranto relief. Under the common law, "only the Attorney General or a person claiming title to the office in question has standing to seek a writ of quo warranto." *Hall*, 346 So. 3d at 189; *see also State ex rel. Watkins v. Fernandez*, 143 So. 638, 639 (Fla. 1932) (requiring Attorney General's consent). Petitioner is neither the Attorney General, nor does she have the Attorney General's consent to proceed. If quo warranto "is a common-law remedy" and its "scope depend[s] upon the use and limitations authorized by the common law and statute laws of England," *W. Flagler Assocs.*, 382 So. 3d at

1286, then this should be the end of the analysis, and no writ of quo warranto should issue.

True, this Court has in the recent past "drifted" away "from [quo warranto's] common law moorings," *id.* at 1287, something members of this Court have lamented and noted, *id.* (Sasso, J.); *Floridians Protecting Freedom, Inc. v. Passidomo*, 392 So. 3d 777, 783 (Fla. 2024) (Francis, J., concurring); *Boan v. Fla. Fifth Dist. Court of App. Jud. Nominating Comm'n*, 352 So. 3d 1249, 1252 (Fla. 2022) (Muniz, C.J.) ("[a]ssuming the correctness of our precedents on standing in quo warranto cases); *Richardson*, 395 So. 3d at 504-05 (Couriel, J.). But it's now time to stop the drift and preclude Petitioner from seeking this extraordinary relief when she falls outside the narrow band of individuals who can pursue it—like those "claiming title to an office which is exercised by another" after "the Attorney General['s]" "refusal" "to commence an action." § 80.01, Fla. Stat.

And *State v. Poole* charts a course back to quo warranto's common law moorings. 297 So. 3d 487, 507 (Fla. 2020). This Court's principle decision allowing "a citizen and taxpayer" to use the writ is of relatively recent vintage, *Whiley v. Scott*, 79 So. 3d 702, 706 (Fla. 2011), and mostly relies on cases where one branch of government

challenged the actions of another branch of government, *e.g.*, *id.* at 706 n.4 (collecting cases). Neither *Whiley v. Scott* nor quo warranto itself implicate the kind of reliance interests that are "at their acme in cases involving property and contract rights." *Poole*, 297 So. 3d at 507 (cleaned up). A private challenge to government action is an unplanned activity where declaratory and injunctive relief remains available in circuit court. Simultaneously making quo warranto available makes little sense when State sovereignty isn't at issue and those wielding sovereign powers aren't seeking the writ.

B. In a similar vein, as with all extraordinary writs, this Court should decline to issue the writ after "consider[ing] all the circumstances of the case." *Floridians Protecting Freedom,* 392 So. 3d at 782 (cleaned up). Acquiescence and non-objections in the matter, *id.*, availability of other forms of relief, *W. Flagler*, 382 So. 3d at 1287, delay in seeking judicial relief, *Thompson v. DeSantis*, 301 So. 3d 180, 187 (Fla. 2020), and even the exigencies inherent in election administration, *State ex rel. Walker v. Best*, 163 So. 696, 697 (Fla. 1935), have served as reasons to deny an extraordinary writ. Several of these circumstances tilt decidedly against the issuance of a writ.

First, as in *West Flagler Associates v. DeSantis*, Petitioner could have pursued declaratory and injunctive relief in circuit court. 382 So. 3d at 1287. And, unlike *West Flagler*, she could have sought an advisory opinion from the Secretary on her eligibility to run for yet another senate term. § 106.23(2), Fla. Stat.

Declaratory relief could have "establish[ed] that the Secretary," as Petitioner puts it, "exceeded his authority by refusing to recognize her as a qualified candidate for the SD 19 Special Election." Pet. at 2; *see also* ch. 86, Fla. Stat. (declaratory judgments). A mandatory injunction may have "compell[ed] the Secretary" to "ensur[e] her name appears on the requisite Special Election ballots." Pet. at 2; *see Zetrouer v. Zetrouer*, 103 So. 625, 626 (Fla. 1925) ("a mandatory injunction is one which goes beyond a mere restraint and commands acts to be done or undone, and may require the performance of some affirmative acts").

As a practical matter, a circuit court case would have benefited all parties. The Secretary and the local supervisor, for example, could have presented live testimony to underscore their concerns about election administration. Petitioner could have cross examined the

witnesses presented by Respondents. But now this Court must do with a declaration filed with an appendix.

Petitioner's decision not to file an action in circuit court is still more puzzling because she twice cites in her brief *Power v. Detzner*, a circuit court case concerning candidate eligibility. Pet. at 40. Petitioner thus knew that circuit court action was available to her. She provides no explanation for her failure to pursue that action.

That's not all. Petitioner could have sought an advisory opinion from the Division of Elections. Under section 106.23, Florida Statutes, such an opinion is available to any "candidate" "relating to any provisions or possible violations of Florida election laws with respect to actions such" "candidate" "has taken or proposes to take." § 106.23(2), Fla. Stat. Its effects are "binding on any person or organization who sought the opinion or with reference to whom the opinion was sought, unless material facts were omitted or misstated in the request for the advisory opinion." *Id.* Advisory opinions have been used to opine on candidate eligibility issues. Supp. App. at 6. While Petitioner sent a legal memorandum to the Secretary on eligibility, she never explains her decision *not* to seek an advisory opinion from the Secretary on it.

Second, Petitioner's delay in pursuing clarity on the question of her eligibility is inexcusable. *E.g.*, *Thompson*, 301 So. 3d at 187 ("by her unexcused delay Petitioner has forfeited any challenge to the composition of the JNC's list or to the JNC's nomination process").

The November 2024 legal memorandum is evidence that Petitioner had doubts about her candidacy months ago. Supp. App. at 10. And she did have doubts; confident candidates don't submit legal memoranda along with their candidate paperwork.

Put another way, Petitioner had Thanksgiving, Christmas, and New Years to think about her candidacy. At any time, she could have sought declaratory and injunctive relief in circuit court. Or she could have sought an advisory opinion from the Secretary. Or she could have done both, if the Secretary's opinion proved disagreeable to her. Yet she did nothing. Petitioner has now waited too long—until after governmental action forced her hand.

Third, Petitioner's delay in an election-related case is particularly problematic. Judicial intervention at this late hour invites electoral "disorder, confusion[,] and disturbance[s]." *Haft*, 238 So. 2d at 844. In earlier extraordinary writ cases, specifically mandamus cases, this Court held that judicial interference fifteen

days before an election deadline was too late. *Walker*, 163 So. at 697. If fifteen days before a deadline was too late, then surely four days before a deadline is even worse. As one of the earlier cases put it: "[t]o undertake to interfere with the election process at this late date, even if a clear legal right were shown, would result in confusion and injuriously affect the rights of third persons." *Haft*, 238 So. 2d at 845. These concerns are further discussed in the *Purcell* section below.

In sum, whether it's adherence to quo warranto's common law roots, or an assessment of the circumstances presented, this Court should deny Petitioner's request for quo warranto relief.

II. Mandamus is not appropriate, either.

Mandamus is also an extraordinary writ, *Richardson*, 395 So. 3d at 504, and it, too, is unavailable to Petitioner. Mandamus requires that Petitioner have "a clear legal right to the requested relief," that Respondents "have an indisputable legal duty to perform the requested action," and that Petitioner "must have no other adequate remedy available" to her. *Huffman v. State*, 813 So. 2d 10, 11 (Fla. 2000). "[M]andamus will not be allowed in a case of doubtful right." *State ex rel. Bergin v. Dunne*, 71 So. 2d 746, 749 (Fla. 1954). And, as discussed above, as with all extraordinary writs, this Court

can choose to deny relief after "consider[ing] all the circumstances of the case." *Floridians Protecting Freedom,* 392 So. 3d at 782 (cleaned up). In this instance, there should be no mandamus relief.

First, there's no clear legal right for Petitioner to have her name added to the ballot, to serve more consecutive years in office. As discussed below, the Florida Constitution serves as a bar. And Petitioner can point to no binding decision that requires otherwise.

Second, as discussed above, Petitioner could have pursued other remedies. She didn't. Mandamus is unavailable for this reason.

Third, again, as discussed above, Petitioner's delay in pursuing these other available remedies cuts against her. It's delay caused by Petitioner's own inaction. And it's delay that makes relief in an election-related case particularly problematic.

Fourth, the old mandamus cases that Petitioner relies on—*Davis ex rel. Taylor v. Crawford*, 116 So. 41 (Fla. 1928); *State ex rel. Hall v. Hildebrand*, 168 So. 531 (Fla. 1936); and *State ex rel. Cherry v. Stone*, 265 So. 2d 56 (Fla. 1st DCA 1972)—are inapposite. For starters, the facts of those cases are dissimilar to the facts here: in those cases, a candidate for office didn't raise the issue of her own *in*eligibility when submitting documents to the Secretary. Those cases were also

decided before article VI, section 4(c) was approved by Florida voters in 1992, and before section 97.012, Florida Statutes, enumerated the powers of the Secretary as Chief Election Officer of the State, including the power to "maintain uniformity in the interpretation and implementation of the election laws," in 1975, § 97.012(1), Fla. Stat.

In sum, like the extraordinary writ of quo warranto, the extraordinary writ of mandamus is unavailable for Petitioner.

III. The Secretary can't ignore the question of constitutional eligibility.

Though this Court need not address the merits of the petition, it fails there, too. Relying on section 99.061(7)(c), Petitioner argues that the Secretary had no choice but to certify Petitioner for the ballot regardless of her ineligibility under the Florida Constitution. Pet. at 11. Not so. The statute must be read as a whole, together with *all* the paperwork that Petitioner submitted to the Secretary. The Secretary's role must also be considered within the broader legal framework; that broader framework doesn't give the Secretary carte blanche to ignore constitutional eligibility requirements. Either of these two roads leads the Secretary to the action he took.

A. Begin with the qualification statute. Section 99.061(7)(a) lists "items" that "must be received" by the Secretary "by the end of the qualifying period." Items include an executed check drawn on the campaign account, the appointment of a campaign treasurer, disclosure of political affiliation, and disclosure of financial information. § 99.061(7)(a)1.-5., Fla. Stat. Among these items is also "[t]he candidate's oath required by s. 99.021," "which must be verified under oath or affirmation." *Id.* § 99.061(7)(a)2. The Secretary must ensure that this oath has been "properly filed," "is complete on its face," and has "been properly verified." *Id.* § 99.061(7)(c). The "oath," in turn, requires a candidate to affirm that "she is qualified under the Constitution" "of Florida." *Id.* § 99.021(1)(a)1.

In this case, Petitioner provided to the Secretary an oath affirming that she is qualified under the Florida Constitution, App. at 25, and a memorandum noting that she served in the senate seat she now seeks for the preceding eight years and intends to hold that seat for more consecutive years in office, Supp. App. at 10. This latter document, taken at face value, provides facts from Petitioner sufficient to establish that she sought re-election, putting her

consecutive service in that seat at twelve years in contravention of article VI, section (4)(c).

At best, the information provided by Petitioner conflicts. That's because she signed the oath attesting to constitutional eligibility but also provided facts that make her constitutionally ineligible. Based on a facial review of the materials, the Secretary can't mark the candidate oath requirement as properly completed and properly verified. § 99.061(7)(c), Fla. Stat.

An example helps illustrate the point. Suppose that a candidate affirmed that he's constitutionally eligible. Suppose further that he attached with the required financial disclosure form a document clearly showing his ineligibility to run because he's a citizen of Canada who only spends his winters in Florida. In that instance, based on a facial review of the material provided to the Secretary, the Secretary could not "certify [the person's name] to the supervisor[s] of elections" as a "duly qualified candidate[]." *Id.* § 99.061(6).

So too here. After reviewing the facts provided by Petitioner in her legal memorandum, the Secretary could not certify Petitioner's name to the supervisor of elections.

B. Separately, when viewing his broader role in election administration, the Secretary can't simply ignore clearly presented questions of constitutional eligibility, as Petitioner suggests, when certifying candidates to the supervisors. After all, the Secretary serves as the State's Chief Election Officer with the power to obtain and maintain uniformity, through litigation against the supervisors of elections, if necessary. *Id.* § 97.012(1). He's also responsible for properly qualifying candidates like state senators for office, and then certifying the results of those elections. *Id.* §§ 99.121, 100.051, 101.2512.

If given information demonstrating a candidate's ineligibility, from the candidate herself, the Secretary, as the State's Chief Election Officer, can't put his head in the sand and certify that same candidate's name for the ballot. His "ministerial function" under section 99.061(7)(c), specific to the "items" in section 99.061(7)(a), doesn't require a contrary result.

Nor, as Petitioner suggests, does the Secretary need to certify an obviously ineligible person for the ballot and then sue himself or wait for someone else to sue. Pet. at 13-14. Suing himself for an action he's taken really isn't an option for the Secretary (or anyone

else). Hoping that the ineligible person has an opponent willing and able to sue simply invites mischief and collusion—a gap for otherwise constitutionally ineligible candidates to exploit.

In sum, the Secretary could not ignore constitutional eligibility, especially when Petitioner provided the pertinent facts.

IV. Petitioner is ineligible under article VI, section (4)(c), because she's attempting to serve twelve consecutive years in the same senate seat.

And when it comes to the question of constitutional eligibility, Petitioner contends that she can serve in the same senate office from 2016 to (assuming she wins the upcoming special election) 2028. That's twelve consecutive years in office. But article VI, section 4(c) prevents her from doing so. Again, the provision states that:

> (c) No person may appear on the ballot for re-election to any of the following offices:
>
> (1) Florida representative,
> (2) Florida senator,
> (3) Florida Lieutenant governor,
> (4) any office of the Florida cabinet,
> (5) U.S. Representative from Florida, or
> (6) U.S. Senator from Florida
>
> if, by the end of the current term of office, the person will have served (or, but for resignation, would have served) in that office for eight consecutive years.

To construe this constitutional provision, this Court "must examine the actual language used in the Constitution." *Advisory Opinion to the Governor Re: Implementation of Amendment 4*, 288 So. 3d 1070, 1078 (Fla. 2020). It should also consider the provision's context and helpful tools of textual interpretation. *Conage v. United States*, 346 So. 3d 594, 598 (Fla. 2022).

A. Article VI, section 4(c) turns on three elements. It (1) applies to an individual in an enumerated political "office," (2) prevents her from "appear[ing] on the ballot for re-election," (3) "if, by the end of the current term of office," she will or would have served "in that office for eight consecutive years." Petitioner meets all three elements.

First, Petitioner is running for an enumerated office, a state "senator." Art. VI, § 4(c)(2), Fla. Const.

Second, Petitioner hopes to appear on the ballot for "re-election" to her old senate office. Petitioner held that office for Senate District 19. She's running for the very same seat—she wishes to be re-elected to that seat. *See generally Reelect*, American Heritage Dictionary of the English Language (3d ed. 1992) ("to elect again"); *Reelect*, Webster's New Collegiate Dictionary (9th ed. 1990) ("to elect for

another term in office"); *Reelect*, Oxford Concise English Dictionary (10th ed. 1999) ("elect again").

"Re-election" doesn't hinge on *incumbency. Supra.* An incumbent can be re-elected, but so too can a previous officeholder. President Trump, for example, was re-elected to the office he previously held despite President Biden being the incumbent. Petitioner similarly seeks re-election to the office she held from 2016 to 2024. *See, e.g.*, *Reelect*, Merriam-Webster.com Dictionary (last accessed Feb. 9, 2025) (referencing a January 2025 Newsweek article: in "September, Trump made a bold campaign promise to the Lumbee Tribe during a rally, vowing to grant them federal recognition if reelected").

Third, the "current term of office" Petitioner seeks ends in 2028. If elected to that office, Petitioner would have served in the same office for twelve *consecutive* years, from 2016 to 2028, far beyond the "eight consecutive years" limitation in article VI, section 4(c).

B. Petitioner's attempts to evade the constitutional text fail.

First, Petitioner tries to reinterpret "re-election." She contends that it only applies to an incumbent seeking re-election. It doesn't apply to her, in her telling, because she "is not seeking to appear on

the Special Election ballot for 're-election' to an office she has held for eight (8) consecutive years," since she "ran for the Florida House, and was elected thereto in 2024." Pet. at 16. She also references section 106.143(6), which imposes political advertising requirements on using "re-election," and article VI, section 4(c)'s ballot summary, which mentions "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." *Id.* at 16, 19.

But Petitioner's arguments are unavailing. Under re-election's common usage and understanding, the word "re-election" isn't limited to incumbency. Nor does Petitioner explain how and why a political advertising statute crimps the usage and understanding of a constitutional provision. A ballot summary may not encapsulate "every detail or ramification of" a "proposed amendment," particularly when the text's purpose is clear. *Advisory Opinion to Att'y Gen. re Ltd. Pol. Terms*, 592 So. 2d 225, 228 (Fla. 1991). Finally, while Petitioner may have served a few months in the state house between 2024 and 2025, article VI, section 4(c) turns on "consecutive years," not gaps measured in months. If Petitioner got her way, she'd serve in the same office for twelve consecutive years, 2016 to 2028.

Second, Petitioner invokes *Power v. Detzner*, where Secretary Detzner once offered a take in an article VI, section 4(c) circuit court case. Yet this is a pure atmospheric point. At no point does Petitioner contend that Secretary Detzner's position (in the Scott administration) binds Secretary Byrd's position (in the DeSantis administration). She can't and shouldn't. Different administrations can take different legal positions. They can view the same law, and its accompanying duties, differently. Governor Chiles didn't bind Governor Bush's legal positions, nor did Governor Crist bind Governor Scott's. *See generally Arizona v. City & County of San Francisco*, 596 U.S. 763, 765 (2022) (Roberts, C.J., with Thomas, J., Alito, J., and Gorsuch, J., concurring) ("A new administration is of course as a general matter entitled to" take different legal and policy positions.)

Third, Petitioner puts words in the Secretary's mouth. She contends that the Secretary supports a hard and fast, brightline rule: that eight is enough, and that after eight consecutive years in an enumerated office, an individual can never seek that office again. Pet. at 18. In arguing against this purported position, Petitioner points to "no objection[s]" from the Secretary when Senator Gaetz was placed

on the ballot and won re-election to the state senate in 2024, despite serving there from 2006 to 2014, and her own ballot placement and re-election to the state house in 2024, despite serving there from 2008 to 2016. *Id.*

But this isn't the Secretary's position. His position, grounded in article VI, section 4(c), is this: after eight *consecutive* years in office, an individual can't seek election to that office if it would allow her to serve a ninth *consecutive* year. By seeking re-election to serve in the same state senate office in 2025, Petitioner seeks to serve for more than eight *consecutive* years. That's unlike Senator Gaetz. And that's exactly what article VI, section 4(c) prevents. It doesn't prevent Petitioner from seeking a non-consecutive term in the same office.

In sum, Petitioner is ineligible under article VI, section 4(c). Her attempts to say otherwise aren't grounded in the provision's text. And her requested relief—the ability to seek twelve consecutive years in the same office—is "untenable," "startling," and goes against the "'text's manifest purpose.'" *Thompson*, 301 So. 3d at 185-86 (relying, and quoting, Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 63 (2012)).

V. *Purcell* and its State analogs caution against granting relief.

Finally, the fast-approaching deadline to send ballots to voters provides yet another reason to deny the relief sought. Stability and predictability in election-related laws promote "[c]onfidence in the integrity of our electoral process," which "is essential to the functioning of our participatory democracy." *Purcell*, 549 U.S. at 4. Conversely, courts risk "voter confusion" and "incentive to remain away from the polls" when they order changes on the eve of elections, with the risk "increas[ing]" "[a]s an election draws closer." *Id.* at 4-5. Relying on this *Purcell* principle, the U.S. Supreme Court has "'repeatedly'" held that it's improper for courts to interfere in election administration close to an election. *New Ga. Project v. Raffensperger*, 976 F.3d 1278, 1283-84 & n.2 (11th Cir. 2020) (collecting cases).

This Court's precedents line up neatly with *Purcell*. To reiterate, this Court said in an extraordinary writ case that "[t]o interfere with the election process at [a] late date, even if a clear legal right were shown, would result in confusion and injuriously affect the rights of third persons." *Haft*, 238 So. 2d at 845. This potential for interference

provides reason enough to deny relief in the state courts just as it does in the federal courts. *Id.*; *see also Walker*, 163 So. at 697 (same).

Supervisor Bobanic's declaration provides still more support for denying the extraordinary relief Petitioner seeks. Much work has been done and must be done to meet the February 14 deadline—on top of the broader vote-by-mail preparations, in-person early-voting preparations, and election-day preparations for the two special elections scheduled concurrently. *Id.* at 16.

In sum, changes this late in the process introduce the increased possibility of error, voter confusion, and erosion of voter confidence. *Id.* at 17. This is particularly inexcusable when, as discussed above, Petitioner could have sought guidance and judicial resolution on her eligibility much sooner.

CONCLUSION

For any of the foregoing reasons, this Court should deny her petition.

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Certificate of Service

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