

**IN THE SUPREME COURT OF FLORIDA**

Case No. SC2025-\_\_\_\_\_

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**GARY S. EDINGER,**

*Petitioner,*

vs.

**RON DeSANTIS,**  
**as Governor of Florida,**

*Respondent.*

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**VERIFIED, TIME-SENSITIVE, NON-ROUTINE  
PETITION FOR WRIT OF MANDAMUS**

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## I. NATURE OF THE CASE AND RELIEF SOUGHT

This is an action seeking a writ of mandamus to remedy Respondent Governor DeSantis’s violation of Article V, Section 11 of the Florida Constitution. The Governor has refused to perform his duty to fill a vacancy on the Eighth Judicial Circuit Court by the sixtieth day after the Judicial Nominating Commission (JNC) certifies its nominations, as Article V, Section 11(c) mandates. The Governor’s failure leaves the court without a full complement of judges, burdens the People of Florida who rely on a fully functioning judiciary for the efficient administration of justice, and threatens to prevent the Circuit’s voters from having the opportunity to vote on the Governor’s appointee at the next election if he does not fill the vacancy by **August 18, 2025**—ten days from today.

Disturbingly, this is the second time *in a month* that the Governor has defied his clear legal duty to appoint a judge within the 60-day deadline. *See Garcia v. DeSantis*, No. SC2025-959 (petition filed and response ordered July 3, 2025). Petitioner, an Eighth Circuit resident and practicing attorney, seeks a writ of mandamus to compel the Governor to perform his duty to make this appointment.

## **II. STATEMENT OF FACTS**

On April 1, 2025, the Honorable Mark Moseley resigned as Circuit Judge, Group 9, on the Eighth Judicial Circuit Court. App'x at A3. The Governor convened the JNC on April 10, 2025. App'x at A4. The JNC certified a list of six nominees on June 4, 2025. App'x at A5. The sixtieth day after June 4 was August 3, 2025. The Governor failed to make an appointment by August 3. His failure is ongoing.

Petitioner Gary S. Edinger is a Florida citizen, a practicing attorney admitted to The Florida Bar for over 35 years, and a resident, elector, and taxpayer of the Eighth Circuit. As a practicing attorney and taxpayer, he wants his local court to function with a full complement of judges, which would benefit him directly in the efficient and expeditious administration of civil and criminal justice. As an Eighth Circuit resident and voter, he would like to exercise his right to vote on the Governor's appointee to the instant vacancy at the next election, as the Constitution requires.

## **III. JURISDICTION**

This Court has original jurisdiction to issue writs of mandamus to the Governor (a state officer) pursuant to Article V, Section 3(b)(8)

of the Florida Constitution and Florida Rules of Appellate Procedure 9.030(a)(3) and 9.100. *Thompson v. DeSantis*, 301 So. 3d 180, 184 (Fla. 2020) (“It is undisputed that article V, section 3(b)(8) gives this Court discretionary jurisdiction to issue writs of mandamus and quo warranto to state officers.”); *see also Mayfield v. Sec’y, Fla. Dep’t of State*, 402 So. 3d 1002, 1005 (Fla. 2025).

The Governor has a clear and indisputable legal duty under Article V, Section 11(c) to make judicial appointments within 60 days of the JNC’s certification of nominees, and thus is subject to this Court’s mandamus jurisdiction. *See Pizzi v. Scott*, 160 So. 3d 897, at \*1 (Fla. 2014) (table) (“A petitioner is entitled to relief under this Court’s authority to issue a writ of mandamus when: (1) the petitioner establishes a clear legal right to the performance of the requested act, (2) the respondent has an indisputable legal duty to perform that act, and (3) no other adequate remedy exists.”); *accord Pleus v. Crist*, 14 So. 3d 941 (Fla. 2009).

This Court’s authority to issue writs mandamus is discretionary and concurrent with other state courts. However, as explained below, this case warrants an expedited decision by this Court since Petitioner and other Circuit voters will be prejudiced—and indeed

irreparably harmed—if the appointment is unlawfully made so late that the appointee is not up for election at the next election, in 2026. The Governor’s repeated, recent failure to abide by the Constitution’s clear mandate also counsels in favor of this Court’s review.

**IV. ARGUMENT**

**A. The Governor has an indisputable, ministerial duty to make a judicial appointment within 60 days of the JNC’s certification of nominees.**

Article V, Section 11(b)–(c) of the Florida Constitution lays out a clear process for filling interim vacancies in judicial office:

(b) The governor shall fill each vacancy on a circuit court or on a county court, wherein the judges are elected by a majority vote of the electors, by appointing for a term ending on the first Tuesday after the first Monday in January of the year following the next primary and general election occurring at least one year after the date of appointment, one of not fewer than three persons nor more than six persons nominated by the appropriate judicial nominating commission. An election shall be held to fill that judicial office for the term of the office beginning at the end of the appointed term.

(c) The nominations shall be made within thirty days from the occurrence of a vacancy unless the period is extended by the governor for a time not to exceed thirty days. The governor shall make the appointment within sixty days after the nominations have been

certified to the governor.

That last sentence could not be clearer: once the JNC certifies its nominees to the Governor, the Governor *shall* make the appointment within 60 days. This duty is ministerial and nondiscretionary. As this Court said unequivocally—and unanimously—in *Pleus*, “the Governor is bound by the Florida Constitution to appoint a nominee from the JNC’s certified list, within sixty days of that certification. There is no exception to that mandate.” 14 So. 3d at 946. “[T]he constitution does not grant the Governor the discretion to refuse or postpone making an appointment to fill the vacancy . . . .” *Id.* Accordingly, the Governor has an indisputable duty to make an appointment to fill the instant vacancy by August 3, 2025.

**B. Petitioner has a clear legal right to compel the Governor to perform his duty.**

Petitioner is a citizen, taxpayer, voter, and practicing attorney of the judicial circuit in which the Governor has failed to make the appointment. The administration of justice in Petitioner’s circuit is impaired as a result of the Governor’s inexplicable inaction. The Constitution was designed to minimize vacancies in judicial office so

that these problems are avoided. *See Advisory Op. to Governor (Judicial Vacancies)*, 600 So. 2d 460, 462 (Fla. 1992) (“Vacancies in office are to be avoided whenever possible. We are confident that the framers of article V intended that the nominating and appointment process would be conducted in such a way as to avoid or at least minimize the time that vacancies exist.”).

Furthermore, if the Governor’s illegal inaction continues past the one-year mark before the August 18, 2026 election, Petitioner will be deprived of his constitutional right to vote on the Governor’s appointee at the next election following the appointment.<sup>1</sup> Pursuant to Article V, Section 11(b), had the Governor complied with his duty, his appointee’s term would end on January 4, 2027, allowing voters to elect their candidate of choice at the 2026 election. If the Governor fails to fill this vacancy by August 18, 2025, his appointee may evade the electors until the 2028 election. Fla. Const. art V, § 11(b) (“The governor shall fill each vacancy . . . by appointing for a term ending

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<sup>1</sup> Should the Governor fail to make an appointment within one year of the August 18, 2026 primary election, Petitioner reserves the right to seek relief to ensure the Group 9 seat is up for election in 2026, notwithstanding the Governor’s unconstitutional actions to forestall that election.

on the first Tuesday after the first Monday in January of the year following the next primary and general election occurring at least one year after the date of appointment . . .”). When a governor flouts the constitutionally mandated deadline for appointing a trial judge, that can illegally deprive voters of their right to vote on the judge at the next election.<sup>2</sup> It can also confer an unconstitutional benefit on the appointee by adding an extra two unlawful years to their initial term, which the Constitution does not permit. As this Court has identified, a principal purpose of nominating commissions was “not to replace

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<sup>2</sup> The voters are similarly harmed when a governor delays in convening the JNC in the first place. *See, e.g.,* Jeff Burlew, *From Forklift Operator to the Bench: Lance Neff Appointed 2nd Judicial Circuit Judge*, Tallahassee Democrat (Oct. 30, 2023) <https://www.tallahassee.com/story/news/2023/10/30/lance-neff-governor-ron-desantis-appointment-2nd-judicial-circuit-judge-kevin-carroll/71293962007/> (where Governor convened the JNC four months after the incumbent passed away, and made an appointment seven months after the vacancy arose, noting the “timing means the seat, which would have appeared on ballots next year had the governor made the appointment sooner, won’t come up for grabs until 2026”); *see also* Jeff Burlew, *Three Months After Judge Kevin Carroll’s Death, DeSantis Has Not Moved on Appointment*, Tallahassee Democrat (June 30, 2023), <https://www.tallahassee.com/story/news/2023/06/30/months-after-judge-kevin-carrolls-death-no-appointment-from-desantis/70356500007/> (“The slow-walking of the appointment has not gone unnoticed by local attorneys or the court, which has had to reassign Carroll’s caseload to other judges.”).

the elective process,” but to restrain “purely political appointments” to assure a “‘merit selection’ of judicial officers.” *Spector v. Glisson*, 305 So. 2d 777, 783 (Fla. 1974).

Given the Governor’s clear legal duty, “Petitioner, as a citizen and taxpayer, has a clear legal right to request that the Governor carry out that duty.” *Pleus*, 14 So. 3d at 945; *see also Chiles v. Phelps*, 714 So. 2d 453, 456 (Fla. 1998) (finding that “citizens and taxpayers” have standing “to challenge alleged unconstitutional acts of the executive branch”).

**C. Petitioner has no adequate remedy at law.**

Petitioner has no other adequate remedy at law. Like the petitioner in *Pleus*, a citizen and taxpayer who was entitled to mandamus relief to compel Governor Crist to make a judicial appointment from the JNC’s certified list, Petitioner here lacks adequate legal remedies. 14 So. 3d at 945–46. Mandamus is thus the appropriate remedy to address the Governor’s unconstitutional failure to make an appointment to the instant vacancy by the Constitution’s deadline. *Cf. Mayfield*, 402 So. 3d at 1008 (finding petitioner had no adequate legal remedies in candidate-qualifying case and emphasizing that election deadlines were “fast

approaching,” the petitioner’s “conduct did not create this timing issue,” and the executive official’s decision had “the effect of preventing [] electors from selecting the candidate of their choice from among those duly qualified to be placed on the primary ballot.”).

## **V. CONCLUSION**

For all these reasons, this Court should grant this Petition and issue a writ of mandamus directing the Governor to make an appointment from the JNC’s certified list of nominees immediately, and in any event at least one year before the August 18, 2026, primary election (*i.e.*, by August 18, 2025).

Respectfully submitted August 8, 2025,

*/s/ Nicholas L.V. Warren*

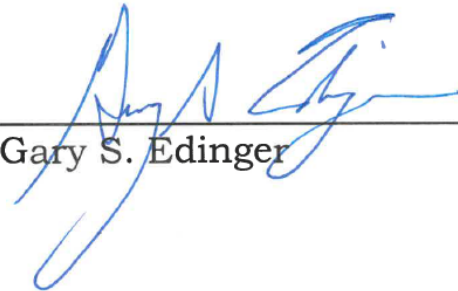
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## VERIFICATION

Under penalties of perjury, I declare that I have read the foregoing Verified, Time-Sensitive, Non-Routine Petition for Writ of Mandamus and that the facts stated in it are true, except as to matters therein stated to be true on information or belief, which are true to the best of my knowledge and belief.

Executed August 8, 2025 in Gainesville, Florida.

  
\_\_\_\_\_  
Gary S. Edinger

**CERTIFICATE OF SERVICE**

I certify that on August 8, 2025, this document has been furnished to Respondent Governor Ron DeSantis by email to Ryan Newman, General Counsel, Executive Office of the Governor, ryan.newman@eog.myflorida.com.

/s/ Nicholas L.V. Warren  
Nicholas L.V. Warren

*Counsel for Petitioner*

**CERTIFICATE OF COMPLIANCE**

I certify that this document contains 1,796 words and complies with the applicable word-count and font requirements of Fla. R. App. P. 9.100(g) and 9.045(b).

/s/ Nicholas L.V. Warren  
Nicholas L.V. Warren

*Counsel for Petitioner*