Supreme Court of Texas

No. 26-0010

In re David Rogers,

Relator

On Petition for Writ of Mandamus

PER CURIAM

Chief Justice Blacklock and Justice Busby did not participate in the decision.

Relator sought to be a candidate for Justice of the Supreme Court in this year's Republican primary election. He presented a ballot application to Respondent, the chair of the Texas Republican Party, who rejected it as deficient. Relator contests that determination, claiming that his initial application was not deficient and that, in any event, he cured any defects by submitting an amended application after the statutory deadline. Relator now asks this Court for a writ of mandamus directing Respondent to certify to the Secretary of State that he should be listed as a candidate.

Our precedents strongly favor a candidate's "[a]ccess to the ballot," which "lies at the very heart of a constitutional republic." *In re Walker*, 683 S.W.3d 400, 402 (Tex. 2024) (quoting *In re Francis*, 186 S.W.3d 534,

542 (Tex. 2006)). "As we have long and consistently held, '[t]he public interest is best served when public offices are decided by fair and vigorous elections, not technicalities leading to default.'" *Id.* at 401 (quoting *Francis*, 186 S.W.3d at 542). Accordingly, the Legislature has authorized courts to grant mandamus relief when a candidate's exclusion from the ballot violates a ministerial duty or constitutes a clear abuse of discretion. *See* TEX. ELEC. CODE § 273.061(a).

Mandamus is an "extraordinary remedy" that is "available only in limited circumstances" and issues "only in situations involving manifest and urgent necessity and not for grievances that may be addressed by other remedies." *City of Houston v. Hou. Mun. Emps. Pension Sys.*, 549 S.W.3d 566, 580 (Tex. 2018) (quoting *Walker v. Packer*, 827 S.W.2d 833, 840 (Tex. 1992)). To confine mandamus's limited role to "correct clear errors in exceptional cases," *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 138 (Tex. 2004), we have articulated two cabining principles relevant here. First, we have traditionally declined to issue mandamus relief when the relator's claim for relief necessarily depends on the resolution of genuinely disputed material facts. *See, e.g.*, *In re Angelini*, 186 S.W.3d 558, 559-60 (Tex. 2006); *Brady v. Fourteenth Ct. of Appeals*, 795 S.W.2d 712, 714 (Tex. 1990); *Dick v. Kazen*, 292 S.W.2d 913, 914-15 (Tex. 1956). Second, we have insisted that "invoking judicial authority in the election context requires unusual dispatch—the sort of speed not reasonably demanded of parties and lawyers when interests less compelling than our society's need for smooth and uninterrupted elections are at stake." *In re Khanoyan*, 637 S.W.3d 762, 764 (Tex. 2022). That is, "[a]ll parties must move with maximum expedition so that the courts—which also must

act quickly when properly called upon—do not themselves contribute to electoral confusion." *Id.* at 765.

Both principles compel us to deny mandamus relief here. Relator and Respondent genuinely dispute a material factual issue: whether the signatures Relator submitted with his ballot application are valid and sufficient to meet the law's requirements. The parties vigorously contested this factual dispute in the trial court, and a vigorous dispute remains. The trial court did not resolve the dispute in Relator's favor; it instead denied temporary injunctive relief. Relator neither appealed that denial nor sought emergency relief in the court of appeals. *See* TEX. CIV. PRAC. & REM. CODE § 51.014(a)(4); TEX. R. APP. P. 29.3. Instead, he appears to have abandoned those proceedings, changing tactics to pursue mandamus relief a week after the trial court denied relief. As this case reaches us, therefore, the only court to weigh in on its core factual dispute ruled against Relator, and that determination remains unchallenged. Under these circumstances, where any factual dispute could have been resolved in the ordinary—albeit expedited—course, it would be improper for this Court to be the first to decide this factual dispute in Relator's favor.

Although Relator denies that his application was deficient, he counters that, even if it were, any factual dispute is irrelevant because he cured any defect in his original application by submitting an amended application with additional signatures after the statutory deadline. But as we recently observed, the opportunity to cure application defects is not automatic but rather "extends to '*early filings that allow time for corrections* after the [party] chair's review,' thereby giving candidates 'the same opportunity to cure as a proper review before the filing deadline

would have allowed them.'" *Walker*, 683 S.W.3d at 403-04 (emphasis added) (quoting *Francis*, 186 S.W.3d at 541, 542).

Relator admits that he submitted his application materials the afternoon of December 8, only a few hours before the statutory deadline. Respondent reviewed those materials and notified Relator four days later, on December 12, that his application was rejected. We have never held that, several days after the statutory filing deadline, an election official has a ministerial duty to accept a revised application purporting to cure defects in an application that, because of its comparatively late submission, the official could review only after the deadline had passed. In our most recent analogous case—*In re Walker*—we rejected an effort to disqualify a judicial candidate whose application had been accepted and approved by his party at the *start* of the filing period when ample time remained before the statutory deadline to cure any defects that the relator could have identified, but did not identify, far sooner. *Id*. at 403. It does not follow from the circumstances of *Walker* that Respondent here violated a ministerial duty or clearly abused his discretion.

Indeed, since 2019, the law has forbidden the acceptance of an "amend[ed]" application filed "[a]fter the filing deadline." TEX. ELEC. CODE § 172.0222(i). We have no occasion here to address that statute's full scope or applicability, but both it and our precedents foreclose the argument that any candidate may freely supplement an application after the filing deadline. Such an argument would treat every initial application as only a rough draft. Here, it was not Respondent's denial that deprived Relator of a chance to cure; indeed, Respondent did nothing during the filing period to prejudice Relator's efforts to submit a valid application.

Rather, it is because Relator filed his application in the filing period's very final hours that any deficiency could be identified only after that period closed.

Relator has made no other argument about why the circumstances here would lawfully allow post-deadline amendments even if the law generally forbids them for those who file late in the period. We therefore must conclude, as a matter of law, that Relator cannot show that denying him an opportunity to "cure" any deficiencies days after the statutory deadline constitutes the violation of a ministerial duty or a clear abuse of discretion.

The only arguments before us, then, cannot justify the extraordinary relief of mandamus. There is an extremely narrow timeframe in which the judiciary can grant relief once the filing period ends. The election must proceed, as Relator effectively concedes, acknowledging that most counties' ballot-order draws have already occurred and that ballots are being printed for mailing as soon as this week.

It is for this reason that our cases, including *Khanoyan*, have so vigorously demanded otherwise unjustifiable expedition in election-related litigation. *See* 637 S.W.3d at 764. But that need for expedition and precision is a two-way street, and we acknowledge the serious concern that Relator lodges: that Respondent's explanation for why the application was deficient lacked the speed, granularity, specificity, and clarity called for under these circumstances, and may in some ways have evolved. Election officials owe it to candidates and voters to act with transparency and the utmost alacrity. Texas law requires that, "[i]f an application does not comply with the applicable requirements, the [chair] shall reject

the application and immediately deliver to the candidate written notice of the reason for the rejection." TEX. ELEC. CODE § 172.0222(g). If the proffered "reason" does not supply the candidate (and thus a reviewing court) with the specific information necessary to rapidly assess whether the decision complied with the law or constituted a clear abuse of discretion, it is unlikely to constitute the kind of "reason" the statute requires. The statutory requirement of a "reason" must be read in light of the serious constitutional interests at stake, which affect the self-governance of the State.

That serious concern, however, is not dispositive here because, on the record before us, we cannot say that Respondent violated a ministerial duty or clearly abused his discretion. We therefore must deny the petition for writ of mandamus.

OPINION DELIVERED: January 13, 2026