



IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE
CHALLENGE TO THE CANDIDACY
OF: AMBER LYNN CANDELARIA.

No. 92621

MICHELE “SHELL” MERCER,
Appellant/Cross-Respondent,
vs.
STEVEN B. WOLFSON,
Respondent.
and
AMBER LYNN CANDELARIA,
Respondent/Cross-Appellant.

ORDER VACATING JUDGMENT

This is an appeal from a district court order denying a petition challenging a judicial candidate’s candidacy. Eighth Judicial District Court, Clark County; Nadia Krall, Judge. Because of the imminent deadline for printing ballots, this matter warrants our expedited consideration and decision. Thus, we enter this order to provide the parties an immediate resolution. But because this matter presents important legal issues in need of clarification, an opinion further explaining our decision will be forthcoming.¹

Respondent/cross-appellant Amber Lynn Candelaria submitted a declaration of candidacy for district court judge by email after being instructed to do so by the filing officer. Appellant/cross-respondent Michele Mercer filed a challenge to Candelaria’s candidacy under NRS 293.182, arguing that NAC 293.0604 does not permit email submission of a declaration of candidacy. The district court concluded that Mercer could challenge Candelaria’s candidacy

¹The clerk of this court is directed to stay issuance of the remittitur pending our disposition of this matter by published opinion. NRAP 41(b).

under NRS 293.182, but the court ultimately denied the challenge and denied Candelaria's request for attorney fees and costs. Both Mercer and Candelaria appealed.

NRS 293.182(1) provides that a person's candidacy may be challenged "on the grounds that the person fails to meet any qualification required for the office pursuant to the Constitution or laws of this State." The parties agree that Candelaria meets the personal attributes required for the office of district court judge. *See* NRS 3.060 (listing age, experience, residency, and judicial discipline criteria for district judge candidacy). Thus, the issue is whether compliance with the procedural filing requirements is a "qualification required for the office pursuant to the Constitution or laws of this State." NRS 293.182(1). That issue is subject to our de novo review. *In re Candelaria*, 126 Nev. 408, 411, 245 P.3d 518, 520 (2010).

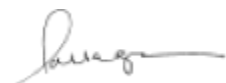
We conclude NRS 293.182's language permitting a challenge based on "any qualification required for the office" limits such challenges to those concerning the substantive qualities required for the specific office, like residency or age. *See generally Qualification, Black's Law Dictionary* (12th ed. 2024) (defining "qualification" as "[t]he possession of qualities or properties (such as fitness or capacity) inherently or legally necessary to make one eligible for a position or office, or to perform a public duty or function <voter qualification requires one to meet residency, age, and registration requirements>"). Because Mercer's challenge concerns Candelaria's compliance with filing requirements, rather than Candelaria's satisfaction of substantive eligibility qualifications necessary to serve as a district court judge, Mercer's challenge falls outside the scope of NRS 293.182. Thus, we vacate the district court's order. Further, because Candelaria sought attorney fees and costs under NRS 293.182, a statute we have concluded is inapplicable

here, Candelaria is not entitled to such an award. Because we conclude Mercer utilized a procedure which is not available for her challenge to Candelaria's candidacy, we need not consider the parties' other arguments. Accordingly, we

ORDER the judgment of the district court VACATED.

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Herndon, C.J.

A handwritten signature in black ink, appearing to be 'Parraguirre'.

Parraguirre, J.

A handwritten signature in black ink, appearing to be 'Bell'.

Bell, J.

A handwritten signature in black ink, appearing to be 'Stiglich'.

Stiglich, J.

A handwritten signature in black ink, appearing to be 'Cadish'.

Cadish, J.

A handwritten signature in black ink, appearing to be 'Lee'.

Lee, J.

PICKERING, J., dissenting:

I would reach and resolve this matter on the merits, without further ado. NRS 293.182 provides an expedited procedure for determining whether a person seeking elective office “fails to meet any qualification required for the office pursuant to the Constitution or laws of this State.” In rejecting Mercer’s appeal on procedural grounds, the majority looks outside NRS 293.182 to NRS 3.060 to determine what qualifications may be contested in a race for district court judge. But while NRS 3.060 lists *some* of the qualifications for district court judge, it does not set out *all* of them. In addition to the age, voter-registration, and bar-membership requirements NRS 3.060 lists, the Nevada Constitution requires that, to qualify for a six-year term as a

district court judge, a person must be elected to that office by the voters. Nev. Const. art. 6, § 5 (providing that “district judges shall be elected by the qualified electors of their respective districts, and shall hold office for the term of 6 years”); *see Lueck v. Teuton*, 125 Nev. 674, 684, 219 P.3d 895, 901-02 (2009) (consistent with the “constitutional framers’ original intent to safeguard the people’s election prerogative,” a vacancy appointment to the district court bench only lasts until the next general election).

To be elected to the office of district court judge, a person must qualify for the ballot. A person does so by filing a declaration of candidacy with the appropriate filing officer and paying the filing fee by a certain time. NRS 293.177(1). NAC 293.0604 delineates how a person files that declaration of candidacy. This action challenges whether Candelaria timely and properly filed her declaration of candidacy, thereby qualifying for the ballot and, ultimately, for election to the office of district court judge. *See Nev. State Democratic Party v. Nev. Green Party*, No. 89186, 2024 WL 4116388, at *2 (Nev. Sept. 6, 2024) (Order of Reversal and Remand and Directing Immediate Issuance of Remittitur) (recognizing that regulations have the force of law). By its plain terms, NRS 293.182 therefore authorizes this action, because the petition challenges Candelaria’s failure to meet “*any* qualification required for the office pursuant to the Constitution *or laws of this State*.” (emphasis added). If the legislature meant to limit NRS 293.182 to the qualifications listed in NRS 3.060, it could have, but it did not. Instead, NRS 293.182 broadly applies to a candidate’s failure to meet “any qualification” required for the office sought.

Statutory interpretation starts with the language of the text being interpreted, and I read NRS 293.182 as clearly contemplating an expansive list of qualifications under the Constitution and state law. *State ex rel. Masto v.*

Montero, 124 Nev. 573, 576, 188 P.3d 47, 49 (2008) (holding that when the language of the statute is plain and unambiguous, “courts are not permitted to search for its meaning beyond the statute itself”). But even if the statute could reasonably be read more narrowly since it does not specify which “qualifications” may be contested, the statute’s evident purpose and legislative history support this reading over the majority’s narrower one. See *DeMaranville v. Employers Ins. Co. of Nev.*, 135 Nev. 259, 264, 448 P.3d 526, 531 (2019) (explaining that when a statute is ambiguous, it “should be interpreted consistent with the Legislature’s [object], according with reason and public policy”). The legislative history shows that the Legislature adopted and amended NRS 293.182 to create a quicker, simpler, and less expensive process for challenging candidacies. See, e.g., Hearing on A.B. 487 Before the Assemb. Comm. on Elections, Procedures, and Ethics, 71st Leg., at 11 (Nev., March 29, 2001) (Assemblyperson Vonne Chowning recognized that the bill was intended to create a “simpler and least costly procedure” to challenge a candidacy, compared to the lawsuits that had been previously used to challenge candidacies); Hearing on A.B. 21 Before the Assemb. Comm. on Legislative Operations and Elections, 79th Leg., at 22 (Nev., Feb. 23, 2017) (Assemblyperson Elliot T. Anderson acknowledging “the need to convince candidates to file challenges quicker”). Originally, NRS 293.182 applied to “any qualification” required for the office by “the Constitution *or a statute* of this State.” NRS 293.182 (2001). In 2017, the Legislature replaced “a statute” with “laws,” thereby broadening NRS 293.182 to reach regulatory requirements like those in NAC. 293.0604, in addition to those imposed by Nevada’s Constitution and statutes. 2017 Nev. Stat., ch. 502, § 5, 3301. This quicker and more efficient challenge procedure safeguards the election process by removing candidate names that do not belong on the ballot as soon as

possible. In turn, this ensures fair elections and avoids the disenfranchisement of voters that can occur when candidate challenges are not timely resolved. Thus, permitting a challenge to a candidate's compliance with filing requirements is consistent with the public policy underlying NRS 293.182.

Finally, Mercer has indicated that if the court credits Candelaria's procedural challenge, she will simply refile the petition as an original petition for a writ of mandamus from this court, add the Registrar of Voters, and ask for the merits of the matter to be decided on the briefs already filed, hopefully before the ballots are printed on August 22 and at least before the election in November. This proposal tracks the path taken in *Lueck*, where the sitting district court judge was challenged as not having met the election requirement the Constitution imposes for the office. 125 Nev. at 677-78, 219 P.3d at 897. Although the quo warranto petition failed on procedural grounds, the court issued an original writ of mandamus invalidating the judge's commission under the Constitution and directing the Governor, whom it added as a party, to declare the office vacant. *See id.* at 686, 219 P.3d at 902 (stating that these measures were appropriate "[i]n light of this court's duty to administrate Nevada's judicial system and ensure the integrity of the judicial process"). Similarly expediting the challenge in this case would avoid confusion at the polls, potential voter disenfranchisement, and the prospect of a person serving as district judge who has not met the Constitution's election requirement. Therefore, even if the majority was correct in concluding that NRS 293.182 did not apply here, I would convert this appeal to a petition for a writ of mandamus and resolve the matter on the merits. *See Jarstad v. Nat'l Farmers Union Prop. & Cas. Co.*, 92 Nev. 380, 383-84, 552 P.2d 49, 51 (1976) (providing that this court may treat an appeal as a petition for writ relief in the interests of fairness); *see also We the People Nev., ex rel. Angle v. Miller*, 124 Nev. 874, 892

n.58, 192 P.3d 1166, 1178 n.58 (2008) (noting that the expedited nature of election cases requires this court to resolve such matters quickly).

In sum, the plain language of NRS 293.182 permits a person to challenge a candidate's compliance with filing requirements. The legislative history of NRS 293.182 supports reading the statute in this way. Lastly, even if NRS 293.182 did not permit such a challenge, this court should treat this appeal as a petition for a writ of mandamus and resolve the matter on its merits in the interests of juridical efficiency, fairness, and avoiding the possible disenfranchisement of voters. Accordingly, I dissent.

A handwritten signature in cursive script, appearing to read "Pickering".

Pickering, J.

cc: Bravo Schrager, LLP
Clark County District Attorney
Clark County District Attorney/Civil Division
Womble Bond Dickinson (US) LLP/Las Vegas
Hon. Nadia Krall, District Judge
Eighth Judicial District Court Clerk