

**In The
Supreme Court of Ohio**

**STATE, ex rel. JUDGE DAVID L.
ENGLER,**

Relator,

v.

FRANK LaROSE, et al.,

Respondents.

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Case No. 2026-0466

Original Action in Mandamus

**MOTION TO DISMISS OF RESPONDENTS FRANK LaROSE, DAVE YOST, AND THE
OHIO BALLOT BOARD**

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Pursuant to S.Ct.Prac.R. 12.04 and Civ.R. 12(B)(1) & (6), Respondent Frank LaRose, Dave Yost, and the Ohio Ballot Board (“Respondents”) hereby move this Court to dismiss Relator’s petition for a writ of mandamus. A memorandum in support is attached.

Respectfully submitted,

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/s/ Julie M. Pfeiffer

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MEMORANDUM IN SUPPORT

I. INTRODUCTION AND BACKGROUND

On November 7, 2023, Ohio voters adopted Article I, Section 22 of the Ohio Constitution, entitled the “Reproductive Freedom Amendment” (the “Amendment”). Petition, ¶ 1. Two-and-one-half years after the Amendment was adopted, Judge David L. Engler of the Trumbull County Court of Common Pleas, Domestic Relations and Juvenile Division (“Relator”), filed this original action challenging its validity. *Id.* at ¶ 3. Specifically, Relator asserts that the Amendment “establishes a broad right to make reproductive decisions and restricts state interference, and it is being enforced to eliminate parental-consent statutes for minors, thereby treating judicial-bypass proceedings as obsolete.” *Id.* at ¶ 6.¹ He asserts that, as a juvenile judge, he has a clear legal right to continue to preside over judicial-bypass proceedings, *id.* at ¶ 9, and that Respondents Frank LaRose, Dave Yost, and the Ohio Ballot Board (collectively, “Respondents”), are required to “administer and enforce” the Reproductive Freedom Amendment “in a manner” that “preserv[es] juvenile-court jurisdiction under R.C. 2151.85.” *Id.* at ¶ 10.

In addition to a writ of mandamus, Relator seeks “a declaration that Article I, Section 22 is unenforceable to the extent it is construed or applied to eliminate or interfere with juvenile-court jurisdiction over judicial-bypass proceedings . . . ,” *id.* at ¶ 16, and “injunctive relief preventing Respondents from enforcing Article 1, Section 22 in a manner that eliminates or interferes with juvenile-court jurisdiction over judicial-bypass proceedings.” *Id.* at ¶ 20. Finally, Relator asserts the Reproductive Freedom Amendment is “unenforceable as applied to the elimination of judicial-bypass

¹ R.C. 2151.85 establishes a procedure under which “[a] woman who is pregnant, unmarried, under eighteen years of age, and unemancipated and who wishes to have an abortion without the notification of her parents, guardian, or custodian,” R.C. 2151.85(A), may, upon the establishment of specified conditions, “bypass” that notification and obtain an order of the juvenile court “authorizing the [woman] to consent to the performance or inducement of an abortion without the notification of her parents, guardian, or custodian.” R.C. 2151.85(C)(1).

proceedings,” *id.* at ¶ 23, because the voters were misled by the ballot language for the amendment. *Id.* at ¶ 22; *see also id.* at ¶ 10 (“The Amendment reallocates authority away from the judiciary without an express amendment to Article IV and without disclosure of the structural consequence to voters.”).

Relator’s Petition should be dismissed for numerous reasons. *First*, Relator lacks standing because he has not alleged an injury that is fairly traceable to the conduct of any of the Respondents. *Second*, this Court lacks subject matter jurisdiction over claims for declaratory and injunctive relief, and because the real object of Relator’s mandamus claim is the issuance of a declaratory judgment, the Court lacks jurisdiction over that claim as well. *Third*, Relator’s mandamus claim fails because he has no clear legal right to the “continued exercise of juvenile-court judicial power over judicial-bypass proceedings . . . ,” and Respondents have no clear legal duty to provide such relief. *Id.* at ¶ 9. Even if Relator correctly asserts the Amendment “eliminates or interferes with juvenile-court jurisdiction over judicial-bypass proceedings,” the constitutional provision prevails over any conflicting statute. *Id.* at ¶ 20; *see also id.* at ¶ 9, 11, 16. *Fourth*, any claim related to the ballot language for the Amendment is untimely. And *fifth*, Relator fails to include an affidavit that complies with S.Ct.Prac.R. 12.02(B).

II. LAW AND ARGUMENT

A. Standard of Review

In reviewing a motion to dismiss for lack of subject-matter jurisdiction pursuant to Civ.R. 12(B)(1), courts look to “whether the complaint raises any cause of action cognizable by the forum.” *State ex rel. Ohio Civ. Serv. Emples. Ass’n v. State*, 2016-Ohio-478, ¶ 12. *See also* Civ.R. 12(H)(3) (“Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction on the subject matter, the court shall dismiss the action.”).

Civ.R. 12(B)(6) provides for dismissal based on failure to state a claim upon which relief can be granted. A motion to dismiss for failure to state a claim upon which relief can be granted challenges the sufficiency of the complaint itself. *Volbers-Klarich v. Middletown Mgt. Inc.*, 2010-Ohio-2057, ¶ 11. When considering a Civ.R. 12(B)(6) motion, a court must accept the factual allegations of the complaint as true and make all reasonable inferences in favor of the nonmoving party. *Mitchell v. Lawson Milk Co.*, 40 Ohio St.3d 190, 192 (1988). “‘However, unsupported legal conclusions, even when cast as factual assertions, are not presumed true for purposes of a motion to dismiss.’” *State ex rel. Duncan v. Am. Transmission Sys.*, 2022-Ohio-323, ¶ 10, quoting *State ex rel. Martre v. Reed*, 2020-Ohio-4777, ¶ 12.

Similarly, Ohio courts have made clear that mere speculation, unsupported by operative facts, is not enough to state a claim. *Id.* Dismissal of a mandamus action under Civ.R. 12(B)(6) is appropriate if, after presuming all factual allegations in the complaint to be true and drawing all reasonable inferences in the relator’s favor, it appears beyond doubt that he can prove no set of facts entitling him to a writ of mandamus. *State ex rel. A.N. v. Cuyahoga Cty. Prosecutor’s Office*, 2021-Ohio-2071, ¶ 8.

B. Relator lacks standing.

A complaint may be dismissed under Civ.R. 12(B)(6) for lack of standing. *Board of Zoning Appeals v. Ball*, 1985 Ohio App. LEXIS 6042, *4-5 (1st Dist. Mar. 13, 1985), citing *Weinman v. Larsh*, 5 Ohio St.3d 85, 87 (1983). “[S]tanding does not depend on the merits of the plaintiff’s contention that particular conduct is illegal or unconstitutional. Rather, standing turns on the nature and source of the claim asserted by the plaintiffs.” *Moore v. City of Middletown*, 2012-Ohio-3897, ¶ 23, citing *Warth v. Seldin*, 422 U.S. 490, 500 (1975). “Standing relates to a party’s right to make a legal claim or seek judicial enforcement of a legal duty or right.” *Albanese v. Batman*, 2016-Ohio-5814, ¶ 24, citing *Ohio Pyro, Inc. v. Ohio Dept. of Commerce*, 2007-Ohio-5024, ¶ 27.

To have standing, a party “must suffer particular harm that is different from some general harm suffered by the public at large.” “Traditional standing principles require litigants to show, at a minimum, that they have suffered ‘(1) an injury that is (2) fairly traceable to the defendant’s allegedly unlawful conduct, and (3) likely to be redressed by the requested relief.’”

Voss v. Quicken Loans, L.L.C., 2026-Ohio-531, ¶ 11, quoting *State ex rel. Martens v. Findlay Mun. Court*, 2024-Ohio-5667, ¶ 12, and *ProgressOhio.org, Inc. v. JobsOhio*, 2014-Ohio-2382, ¶ 7; see also *Albanese* at ¶ 24 (“To have standing, the party *bringing the action* must assert a personal stake in the outcome of the action. A plaintiff establishes standing by showing that she suffered an injury that is fairly traceable to the defendant’s conduct and that is likely to be redressed by the requested relief.”) (emphasis in original.), citing *Bank of Am., N.A. v. Kuchta*, 2014-Ohio-4275, ¶ 23.

In this case, Relator fails to adequately allege that he has suffered any injury as a result of the adoption of Article I, § 22. Rather, Relator asserts without specificity that the “enforcement of Article I, § 22 is being applied to eliminate parental consent requirements for minors and to render judicial-bypass proceedings unnecessary or unavailable.” Petition at ¶ 9. But no court has so held, nor has Relator pointed to any instances of such enforcement. Respondents maintain that R.C. 2151.85 is not inconsistent with Article I, § 22. Indeed, nothing in the Amendment addresses parental notification or consent, and R.C. 2151.85, as well as other statutes requiring parental consent for medical treatment of minors, see e.g., R.C. 2317.54, R.C. 3129.03, & R.C. 2919.12(B), remain valid and enforceable.² In the absence of such a declaration, Relator has simply failed to adequately allege an injury.

² “An enactment of the General Assembly is presumed to be constitutional, and before a court may declare it unconstitutional it must appear beyond a reasonable doubt that the legislation and constitutional provisions are clearly incompatible.” *State ex rel. Dickman v. Defenbacher*, 164 Ohio St. 142 (1955), paragraph one of the syllabus. See also *Mahoning Educ. Ass’n of Developmental Disabilities v. State Employment Relations Bd.*, 2013-Ohio-4654, ¶ 13.

Moreover, even if Relator adequately alleged a cognizable injury, he has failed to allege that any such purported injury is fairly traceable to the conduct of the Respondents. Nor could he. None of the Respondents have any enforcement authority over the provisions of the Article I, § 22. Indeed, the Amendment provides that “[t]his Section is self-executing.” Ohio Const., art. I, § 22(D). While Relator claims that the Amendment “is being applied” to eliminate judicial bypass procedures, the Petition is completely silent with respect to *any* action taken by the Respondents with respect to enforcement of the Amendment. *See* Petition at ¶¶ 1, 6, 7, 9. Because Relator has not alleged any injury fairly traceable to the conduct of any of the Respondents, his Petition should be dismissed.

C. This Court lacks jurisdiction over Relator’s mandamus, declaratory judgment, and injunctive claims.

This Court “do[es] not have original jurisdiction over declaratory-judgment claims.” *State ex rel. Repp v. Best*, 2023-Ohio-3924, ¶ 18, citing *State ex rel. JobsOhio v. Goodman*, 2012-Ohio-4425, ¶ 14. And, under “well-established precedent . . . this court lacks original jurisdiction in prohibitory injunction.” (Citations omitted.) *State ex rel. Esarco v. Youngstown City Council*, 2007-Ohio-5699, ¶ 11. This Court has explained the difference between a prohibitory injunction and a mandatory injunction:

A prohibitory injunction preserves the status quo by enjoining a defendant from performing the challenged acts in the future. A mandatory injunction, however, is an extraordinary remedy that compels the defendant to restore a party's rights through an affirmative action. The distinction between these two categories of injunctive relief can best be summed up as follows: a prohibitory injunction is used to prevent a future injury, but a mandatory injunction is used to remedy past injuries.

(Citations omitted.) *State ex rel. General Motors Corp. v. Indus. Comm'n*, 2008-Ohio-1593, ¶ 12.

In this case, Relator seeks a prohibitory injunction—one “*preventing* Respondents from enforcing Article I, Section 22 in a manner that eliminates or interferes with juvenile-court jurisdiction over

judicial-bypass proceedings.” (Emphasis added.) Petition, ¶ 20. Accordingly, this Court must dismiss Relator’s claims for declaratory and injunctive relief.

Moreover, the Court “lack[s] jurisdiction to consider the merits of [a] purported mandamus claim [when] it is actually a claim for declaratory and injunctive relief.” *State ex rel. Evans v. Blackwell*, 2006-Ohio-5439, ¶ 28. “It is axiomatic that ‘if the allegations of a complaint for a writ of mandamus indicate that the real objects sought are a declaratory judgment and a prohibitory injunction, the complaint does not state a cause of action in mandamus and must be dismissed for want of jurisdiction.’” *State ex rel. United Auto., Aerospace & Agricultural Implement Workers of Am. v. Ohio Bur. of Workers’ Comp.*, 2006-Ohio-1327, ¶ 41, citing *State ex rel. Grendell v. Davidson*, 86 Ohio St.3d 629, 634 (1999); see also *State ex rel. JobsOhio*, 2012-Ohio-4425, ¶ 14; *State ex rel. Rupp v. Best*, 2023-Ohio-3924, ¶ 18; *State ex rel. Ohio Civ. Serv. Employees Assn. v. State Emp. Relations Bd.*, 2004-Ohio-6363, ¶ 11. Although the allegations of Relator’s Petition may be “couched in terms of compelling affirmative duties . . . , the manifest objectives of relator’s complaint,” *State ex rel. United Auto., Aerospace & Agricultural Implement Workers of Am.*, 2006-Ohio-1327, ¶ 42, are a declaratory judgment that the Amendment is invalid as applied to judicial-bypass proceedings and a prohibitory injunction preventing that Amendment from being construed or applied to eliminate or interfere with such proceedings. Petition, ¶ 9, 11. Because the real objects of Relator’s mandamus claim are a declaratory judgment and a prohibitory injunction, this Court lacks subject matter jurisdiction over that claim as well. Consequently, all three claims—for mandamus, declaratory judgment, and a prohibitory injunction—should be dismissed.

D. Relator’s Mandamus Claim Fails as a Matter of Law.

A writ of mandamus is an extraordinary remedy, exercised by this Court with caution and issued only when the right to it is clear. *State ex rel. Baker v. Indus. Comm.*, 2015-Ohio-1191, ¶ 12; *State ex rel. Brown v. Ashtabula County Bd. Of Elections*, 2014-Ohio-4022, ¶ 11. To survive a motion

to dismiss, a relator must allege facts that establish: (1) a clear legal right to the relief requested; (2) a clear legal duty to perform the requested act on the part of the respondent; (3) and that no plain and adequate remedy exists in the ordinary course of the law. *State ex rel. Cherry v. Breaux*, 2022-Ohio-1885, ¶ 8.

Relator cannot establish that he has a clear legal right to the continued exercise of judicial power over judicial-bypass proceedings. Petition at ¶ 9. Whittled to its core, Relator’s claim is that Article I, § 22 cannot interfere with a juvenile court’s statutory jurisdiction to preside over judicial bypass proceedings under R.C. 2151.85. To the extent that Relator is asserting that juvenile court jurisdiction is protected under Article IV, he is simply mistaken as his claim rests on the erroneous assumption that a constitutional amendment cannot prevail over a statutory grant of jurisdiction to Ohio’s juvenile courts.

Article IV of the Ohio Constitution does not expressly bestow juvenile courts with jurisdiction over judicial-bypass proceedings. Indeed, Article IV, § 18 expressly provides that “[t]he several judges . . . of the common pleas . . . shall . . . have and exercise such power and jurisdiction, at chambers, or otherwise, *as may be directed by law*.” (Emphasis added.). “By law” generally means “by enactment of a statute.” *State ex rel. One Person One Vote v. LaRose*, 2023-Ohio-1992, ¶ 26, citing *State ex rel. Foreman v. Brown*, 10 Ohio St.2d 139, 141 (1967). Consequently, the General Assembly appropriately vested juvenile courts with jurisdiction over judicial-bypass proceedings “by law” in R.C. 2151.85.

It is axiomatic, however, that any law that is inconsistent with the Constitution “must be held unconstitutional and void” *State v. Medbery*, 7 Ohio St. 522, 528 (1857). Statutes that were constitutional when enacted may nevertheless become unconstitutional “after the adoption of later constitutional language” *Schwartz v. Cuyahoga Cty. Bd. of Revision*, 2015-Ohio-3431, ¶ 23.

This Court, however, need not address Relator’s contention that R.C. 2151.85 is inconsistent with Article I, § 22 because a constitutional provision always prevails over a conflicting statute. That said, Relator simply cannot establish that he has a clear legal right to the continued exercise of jurisdiction under R.C. 2151.85. Quite simply, Relator cannot establish, as he claims, that Article I, § 22, may not “be enforced to eliminate judicial-bypass proceedings and thereby extinguish juvenile-court jurisdiction without express revision of Article IV.” Petition, ¶ 14; *see also id.* at ¶ 10. Because a constitutional provision always prevails over a statute, Relator cannot, as a matter of law, possess a clear legal right that cannot be trumped by a later-adopted constitutional amendment.

Nor can he establish that Respondents have a clear legal duty to perform the act that he requests—“to administer and enforce the Ohio Constitution in a manner that does not extinguish judicial power vested by Article IV” *Id.* at ¶ 10. To establish a clear legal duty, Relator must allege that there is a statutory duty imposed on the public officials to perform the requested acts. *State ex rel. Ullmann v. Hayes*, 2004-Ohio-5469, ¶ 11. Relator can point to no provision of Ohio law that creates a duty upon any of the Respondents to “administer and enforce” Article I, § 22 of the Ohio Constitution. Indeed, as previously noted, that “Section is self-executing.” Ohio Const., art. I, § 22(D). None of the Respondents have a duty to enforce or administer the Amendment in any way, let alone in a way demanded by Relator.

Finally, Relator’s mandamus claim also rests upon the mistaken assumption that the voters who adopted Article I, § 22, were required to have been “informed” that its adoption “would eliminate judicial-bypass proceedings or strip juvenile courts of jurisdiction” and the failure to so inform constitutes “a material omission.” Petition, ¶ 11. As discussed in the next section, any claim that the ballot language for Article I, § 22 was misleading is time barred. But even if Relator correctly posits that the Amendment somehow interferes with or eliminates R.C. 2151.85 judicial-bypass

proceedings, his claim that voters were required to be so “informed” is without merit. This Court has already concluded—in a case involving the ballot language for this very Amendment—that a petition proposing a constitutional amendment not need include the text of a statute that would be amended or repealed by the proposed amendment’s adoption. *Giroux v. Committee Representing the Petitioners*, 2023-Ohio-2786, ¶ 16, citing R.C. 3519.01(A). Accordingly, Relator can point to no authority that would require ballot language for a proposed constitutional amendment to “inform” voters that a particular statute would become void by the proposed amendment’s adoption, *see Giroux*, ¶ 21-24 (Fischer, J., concurring in judgment), and the failure to so inform, therefore, creates no duty enforceable in mandamus.

E. Relator’s Claim that the Ballot Language for Article I, § 2 was Misleading is Untimely.

Relator asserts that the ballot language for State Issue I—which became Article I, § 22 following its adoption by Ohio voters on November 7, 2023—failed to expressly “inform” voters that the Amendment “would eliminate judicial-bypass proceedings or strip juvenile courts of jurisdiction” Petition, ¶ 23. Some two-and-a-half years after the Amendment’s adoption, Relator asks this Court to “police” the “ballot language for accuracy and transparency,” *id.* at ¶ 22, and to rule that this purportedly “material omission . . . renders the Amendment unenforceable as applied to the elimination of judicial-bypass proceedings.” *Id.* at ¶ 23. Relator’s challenge to the ballot language for the Amendment is, however, untimely and should be dismissed.

Article XVI, § 1 of the Ohio Constitution provides, in pertinent part:

The Supreme Court shall have exclusive, original jurisdiction in all cases challenging the adoption or submission of a proposed constitutional amendment to the electors. *No such case challenging the ballot language, the explanation, or the actions or procedures of the General Assembly in adopting and submitting a constitutional amendment shall be filed later than sixty-four days before the election.*

(Emphasis added). This provision requires actions challenging the ballot language for a constitutional amendment to be brought in this Court “prior to sixty-four days before the election” or they are “time barred.” *State ex rel. Creamer v. Brown*, 7 Ohio St.3d 5, 6 (1983); *see also State ex rel. Ohio Roundtable, Inc. v. Taft*, 76 Ohio S.3d 643, 644 (1996) (“Since relators filed this action later than sixty-four days before the election, their action is barred by Section 1, Article XVI of the Ohio Constitution.”). The requirement that actions challenging the ballot language for a constitutional amendment be brought at least 64 days prior to the election at which it will be voted on applies to amendments proposed by initiative as well as those proposed by the General Assembly. *State ex rel. Cappelletti v. Celebrezze*, 64 Ohio St.2d 1, 2 (1980).³ The “failure to timely file” an action challenging the ballot language for a proposed constitutional amendment “results in this court’s lack of jurisdiction to determine the validity of the ballot language.” *Id.*

Because this Court lacks jurisdiction to consider Relator’s challenge to the validity of the ballot language for the Reproductive Freedom Amendment,⁴ it may not, as suggested by Relator, determine that the amendment is “unenforceable.” *Reveria Tavern, Inc. v. Summit County Bd. of Elections*, 2004-Ohio-6733, ¶ 40 (9th Dist.) (“protest matters must be brought and *resolved* before an election is held, or else they are rendered moot and no further remedy is available” (emphasis in original)), citing *State ex rel. Hills Communities, Inc. v. Clermont Cty. Bd. of Elections*, 91 Ohio

³ Article XVI, § 1 of the Ohio Constitution governs constitutional amendments proposed by the General Assembly. Article II, § 1g, which governs amendments proposed by initiative petition, as was Article I, § 22, provides that “[t]he ballot language shall be prescribed by the Ohio ballot board in the same manner, and subject to the same terms and conditions, as apply to issues submitted by the general assembly pursuant to Section 1 of Article XVI of this constitution.” In *State ex rel. Cappelletti*, this Court concluded that the 64-day filing deadline was “a ‘term and condition’ incorporated into Section 1g Article II” 64 Ohio St.2d at 2.

⁴ The Court did resolve a timely challenge to the ballot language for proposed Article I, § 22 on grounds other than those presented by Relator herein. *State ex rel. Ohioans United for Reproductive Rights v. Ohio Ballot Bd.*, 2023-Ohio-3325.

St.3d 465, 467 (2001); *see also Brink v. Franklin County Bd. of Elections*, 21 Ohio App.3d 283, 285 (10th Dist. 1985) (“To allow a protest to a petition for a local option election to be considered after the general election when an adequate opportunity was available for the plaintiff to challenge the petition beforehand, would unjustly disenfranchise those in the majority who chose to vote in favor of the local option.”); *Reveria Tavern, Inc.*, 2004-Ohio-6733, ¶ 43, citing *Stern v. Board of Elections of Cuyahoga Cty.*, 14 Ohio St.2d 175, 184 (1968), and *State ex rel. Ashbrook v. Brown*, 39 Ohio St.3d 115 (1988). Relator’s claim that the ballot language for the Amendment was misleading should, therefore, be dismissed.

F. Relator fails to comply with S.Ct.Prac.R. 12.02(B).

Finally, Relator’s Petition should be dismissed for failure to comply with this Court’s Rules of Practice. S.Ct.Prac.R. 12.02(B)(1) requires that all complaints in original actions before this Court “shall be supported by an affidavit specifying the details of the claim” *See also* R.C. 2731.04 (“Application for the writ of mandamus must be by petition, in the name of the state on the relation of the person applying, and verified by affidavit.”). In turn, S.Ct.Prac.R. 12.02(B)(2) requires that “[t]he affidavit required by this division *shall be made on personal knowledge*, setting forth facts admissible in evidence, *and showing affirmatively that the affiant is competent to testify to all matters stated in the affidavit.*” (Emphasis added).

“An affidavit that is made ‘to the best of’ an affiant’s ‘personal knowledge and information’ does not satisfy S.Ct.Prac.R. 12.02(B)(2), because that type of statement does not make clear ‘which allegations are based on personal knowledge and which allegations are based simply on information.’” *State ex rel. Simonetti v. Summit Cty. Bd. of Elections*, 2017-Ohio-8115, ¶ 11 (citation omitted); *see also State ex rel. Henderson v. Clermont County Bd. of Elections*, 2024-Ohio-333, ¶14. Similarly, an affidavit attesting “that the factual allegations were true ‘to the best of [the affiant’s] knowledge, information, and belief . . . does not comport with

S.Ct.Prac.R. 12.02(B).” *State ex rel. City of Youngstown v. Mahoning County Bd. of Elections*, 2015-Ohio-3761, ¶ 14, quoting *State ex rel. Esarco v. Youngstown City Council*, 2007-Ohio-5699, ¶ 15-16.

Although Relator submitted an affidavit with his Petition, that affidavit merely provides that “the foregoing is true and correct to the best of my knowledge and belief.” Engler Aff. at 3. Relator’s affidavit fails to comply with S.Ct.Prac.R. 12.02(B), and his Petition should, therefore, be dismissed.

III. CONCLUSION

For the foregoing reasons, Respondents respectfully urges this Court to grant their motion to dismiss Relator’s Petition for a writ of mandamus.

Respectfully submitted,

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/s/ Julie M. Pfeiffer

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served by electronic mail on May 11,
2026, upon the following:

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