No. A24-1022

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STATE OF MINNESOTA
IN SUPREME COURT

Michelle MacDonald,

Petitioner,

vs.

Steve Simon, Minnesota Secretary of State,

Respondent.

SECRETARY'S RESPONSE BRIEF

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LEGAL ISSUES

I. Is Petitioner Michelle MacDonald "learned in the law" within the meaning of article VI, section 5, of the Minnesota Constitution?

Most apposite authorities:

In re Scarrella, 221 N.W.2d 562, 563 (Minn. 1974)

In re Daly, 200 N.W.2d 913 (Minn. 1972)

State v. Schmahl, 147 N.W. 425 (Minn. 1914)

II. Does the requirement in Minn. Stat. § 204B.06 that candidates for judicial office be licensed and authorized to practice law violate the Minnesota Constitution?

Most apposite authorities:

Minn. Const. art. VII, § 6

DSCC v. Simon, 950 N.W.2d 280 (Minn. 2020)

Clayton v. Kiffmeyer, 688 N.W.2d 117 (Minn. 2004)

III. Is the requirement in Minn. Stat. § 204B.06 that judicial candidates produce an up-to-date bar card constitutional as a reasonable ballot-access regulation?

Most apposite authorities:

DSCC v. Simon, 950 N.W.2d 280 (Minn. 2020)

Moulton v. Simon, 883 N.W.2d 819 (Minn. 2016)

INTRODUCTION

The Minnesota Constitution requires supreme court justices to be "learned in the law." Minn. Const. art. VI, § 5. Under long-settled precedent, the term "learned in the law" means licensed and authorized to practice law in Minnesota. Consistent with that constitutional requirement, State law requires candidates for judicial office to provide "proof that the candidate is licensed to practice law in this state" with their affidavits of candidacy. Minn. Stat. § 204B.06, subd. 8.

Petitioner Michelle MacDonald seeks to run for the office of supreme court justice. But MacDonald is suspended from the practice of law, so she cannot meet the constitutional and statutory requirements for judicial office. Respondent Steve Simon, in his official capacity as Secretary of State, properly rejected her affidavit of candidacy. The Court should therefore deny MacDonald's petition to be placed on the ballot for the 2024 election.

STATEMENT OF THE CASE

MacDonald's petition alleges that Minn. Stat. § 204B.06, subd. 8, which requires candidates for judicial office to prove that they are licensed attorneys in good standing in this state, violates the Minnesota Constitution. (Pet. ¶¶ 58-81.) MacDonald demands that the Court declare her eligible to run for judicial office in this state and order the Secretary to place her name on the November general-election ballot for the office of Associate Justice of the Minnesota Supreme Court. (*Id.* at 24 ¶ 5.)

STATEMENT OF FACTS

The material facts are not in dispute.[1] On June 4, 2024, MacDonald attempted to file an affidavit of candidacy to run for the office of Associate Justice – Supreme Court 5. (Erickson Decl. ¶ 8; Pet. Ex. 2.) As part of her petition, MacDonald swore (or affirmed) that she was "learned in the law and licensed to practice law in Minnesota." (Pet. Ex. 2.) The Secretary rejected MacDonald's affidavit because she did not produce a copy of her current attorney license. (Erickson Decl. ¶ 8.) MacDonald could not produce a current copy of her attorney license because she is indefinitely suspended from the practice of law in Minnesota. *In re Disciplinary Action Against MacDonald*, 962 N.W.2d 451, 457–58 (Minn. 2021). This Court denied her petition for reinstatement last year. *In re Reinstatement of MacDonald*, 994 N.W.2d 547, 553 (Minn. 2023).

ARGUMENT

Although MacDonald contends that section 204B.06 conflicts with Minnesota's Constitution, the language in that statute merely reflects the language of article VI, section 5: supreme court justices, court of appeals judges, and district court judges must be "learned in the law," which means licensed and authorized to practice law in Minnesota. This interpretation of the phrase "learned in the law" was established by the Court decades ago, and it has been reaffirmed multiple times. The true barrier to MacDonald's candidacy, therefore, is the text of the Constitution itself. And because MacDonald offers no reason

[1] The Secretary responded to the petition's factual allegations on July 23. The Secretary briefly recounts the most relevant facts here.

why this Court should deviate from or amend its precedent interpreting that phrase, her petition fails and must be denied.

Even if MacDonald's candidacy were only foreclosed by statute, and not by the text of the Constitution, this Court reviews challenges to the constitutionality of a statute de novo. *Shefa v. Ellison*, 968 N.W.2d 818, 833 (Minn. 2022). The Court "presume[s] Minnesota statutes are constitutional and will strike down a statute as unconstitutional only if absolutely necessary." *Id.* (internal quotation marks and citation omitted). MacDonald has the burden to "demonstrate beyond a reasonable doubt that the statute violates a constitutional provision." *Vermillion State Bank v. Tennis Sanitation, LLC*, 969 N.W.2d 610, 630 (Minn. 2022). She has not met this burden. MacDonald does not have a "fundamental right" to candidacy, and even if she had such a right, section 204B.06, subdivision 8, only sets forth in statute what Minnesota's Constitution already requires—that candidates for judicial office be "learned in the law."

Finally, the petition appears to challenge the requirement that a prospective judicial candidate produce an up-to-date copy of their bar card when they file an affidavit of candidacy. But MacDonald's legal brief does not address this issue, so it is forfeited. Moreover, even if the issue was not forfeited, the obligation to provide proof of licensure at the time of filing for office is a reasonable ballot-access restriction that allows the Secretary to ensure prospective judicial candidates are "learned in the law."

I. MACDONALD IS NOT "LEARNED IN THE LAW" WITHIN THE MEANING OF ARTICLE VI, SECTION 5 OF THE MINNESOTA CONSTITUTION.

Under the Judicial Qualifications Clause of the Minnesota Constitution, candidates for election to the Minnesota Supreme Court must be "learned in the law." Minn. Const. art. VI, § 5. For over 100 years, this Court has interpreted that phrase to mean licensed and authorized to practice law in Minnesota. Section 204B.06, subdivision 8 implements that constitutional requirement. In arguing otherwise, MacDonald ignores the leading precedent, *In re Daly*, 200 N.W.2d 913 (Minn. 1972), and she misreads the main case that she relies on.

A. "Learned in the Law" Means Licensed and Authorized to Practice as an Attorney in Minnesota.

The Minnesota Constitution establishes qualifications for certain judicial offices. It states, in relevant part: "Judges of the supreme court, the court of appeals, and the district court shall be learned in the law." Minn. Const. art. VI, § 5. In an unbroken line of precedent, this Court has held that "learned in the law" means licensed and authorized to practice law in Minnesota.

Daly is the leading case. There, four individuals—one of whom had never been admitted to practice law, and three of whom were disbarred—sought to be placed on the ballot as candidates for either Minnesota's supreme court or its district courts. 200 N.W.2d at 914. The Court held that none of the four individuals were eligible. As for the non-lawyer candidate, the Court's earliest precedents found it "'beyond question'" that the phrase "learned in the law" meant "'attorney[ ] at law.'" *Id.* at 916 (quoting *State v. Schmahl*, 147 N.W. 425, 426 (Minn. 1914)). Indeed, at Minnesota's constitutional-convention debates,

the framers discussed the meaning of "learned in the law." One framer sought to strike the phrase from the Minnesota Constitution, arguing that "the people … should have the right to select such men as they see fit, whether learned in the law or not." *Id.* at 916–17 (cleaned up). In response, another member explained the requirement's meaning:

> I suppose the meaning of the term which the gentlemen proposes to strike out is that the candidate shall be a Counsellor or Attorney at Law. If he has been admitted to the bar, that is all that will be required.

Id. (cleaned up); *see also The Debates & Proceedings of the Constitutional Convention for the Territory of Minnesota* 513 (St. Paul, G.W. Moore ed. 1858), https://perma.cc/A6TU-KLRE. With that clarification, the motion to strike the "learned in the law" requirement was voted down. *Daly*, 200 N.W.2d at 916–17.

With regard to the disbarred candidates, the Court rejected the same argument that MacDonald advances here. Those candidates argued that "a person once admitted to practice law and later disbarred is 'learned in the law.'" *Id.* at 918. The Court disagreed. Disbarred (and suspended) attorneys have the same status as someone "who has never been admitted to practice." *Id.* at 919 (quoting 7 Am. Jur. 2d, *Attorneys at Law*, § 17). Accordingly, "a disbarred attorney is no more qualified to hold office of justice of the supreme court . . . than any other layman." *Id.* at 920. And "[t]he term 'learned in the law,' which prescribes the qualifications for these judicial positions, clearly prevents a layman from filing for or holding office." *Id.*

This Court has reaffirmed the rule from *Daly* several times. *E.g.*, *In re Scarrella*, 221 N.W.2d 562, 563 (Minn. 1974); *Sylvestre v. State*, 214 N.W.2d 658, 663 (Minn. 1973); *see also In re Nelson*, 519 N.W.2d 209 (Minn. 1994) (Order). Indeed, the rule is so well-

settled that this Court advised the Secretary to amend the affidavit-of-candidacy form to "specify[ ] that to be 'learned in the law' is to be admitted to practice in the courts of the State of Minnesota as a lawyer." *Scarrella*, 221 N.W.2d at 563. The purpose of the revision was to make "resort to the courts in cases so clearly controlled by precedent as this one unnecessary." *Id.* And, save for *Nelson*, the revision this Court recommended in *Scarrella* has had the intended effect for the last 50 years.

MacDonald makes no attempt to address *Daly* or its progeny in her principal brief. To the extent that MacDonald may argue on reply that *Daly* is distinguishable because it involved disbarred attorneys—as opposed to suspended attorneys—*Daly* itself forecloses that argument. As noted above, the *Daly* court ruled that, "during the period of suspension," suspended attorneys are reduced to the status of laymen. 200 N.W.2d at 919 (quoting 7 Am. Jur. 2d, *Attorneys at Law*, § 17). And *Daly* relied on—and found persuasive—precedent holding that suspended attorneys are ineligible for judicial office. *Id.* at 919–20 (citing *State ex rel. Willis v. Monfort*, 159 P. 889 (Wash. 1916)). Most importantly, the principle established in *Daly*—that those who are ineligible to practice law at the time of their candidacy are ineligible for judicial office—applies with equal force to disbarred attorneys and suspended attorneys during their suspension periods.[2] Thus, MacDonald is no more eligible for the office she seeks than the putative candidates were in *Daly*.

[2] MacDonald also references the Code of Judicial Conduct's prohibition on sitting judges practicing law. (*See* Br. 4.) But maintaining a license to practice law and practicing law are two different things: a license can be maintained simply by paying lawyer registration fees, satisfying continuing legal education requirements, and complying with the Rules of

B. *Boedigheimer* Does not Help MacDonald.

MacDonald ignores all of this precedent and effectively relies on a single case—*State ex rel. Boedigheimer v. Welter*—to argue that she qualifies as "learned in the law." *See* 293 N.W. 914 (Minn. 1940); Br. 4, 9–10. But *Boedigheimer* dealt with an entirely different issue: whether the legislature could require *municipal* judges[3] to be attorneys, even though the Eligibility Clause of the Minnesota Constitution (defined further below in Part II) provided that all voters who had resided in their district for at least 30 days were eligible for office. *Id.* at 914–15. Relying on the Eligibility Clause, *Boedigheimer* invalidated a statute requiring municipal judges to be licensed attorneys because the Minnesota Constitution was silent on the qualifications of municipal judges. *Id.* The Court contrasted that silence with the Minnesota Constitution's express provision that judges of the supreme court and the district court be "learned in the law." *Id.* Because no similar language existed regarding municipal judges, the Court reasoned, a candidate was eligible to serve as a municipal judge if the general requirements of the Eligibility Clause were satisfied. *Id.*

Far from establishing a different rule, *Boedigheimer* underscores that candidates for the office of supreme court justice (and other listed offices) must be "learned in the law." To be sure, those judgeships "are the only offices for which the Constitution requires additional qualifications." *State v. Ries*, 209 N.W. 327, 328 (Minn. 1926). But MacDonald

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Professional Conduct. MacDonald offers no evidence that any other judicial candidate has failed to maintain an active law license.

[3] Municipal courts have not existed in Minnesota since 1977. Minn. Laws 1977, ch. 432, § 49.

seeks one of those offices. So *Boedigheimer* hurts—and does not help—MacDonald's cause. Indeed, in *Daly*, this Court cited *Boedigheimer* as *support* for the rule that supreme court justices must be licensed attorneys. *See* 200 N.W.2d at 355.

C. MacDonald Offers no Compelling Reason for the Court to Abandon Decades of Precedent Regarding the Meaning of "Learned in the Law."

MacDonald essentially argues for a more colloquial interpretation of the phrase "learned in the law," claiming that law school graduates should be considered "attorneys at law" who are eligible for judicial office, regardless of whether they pursue or maintain a license to practice. (Br. 5.) But this petition is about MacDonald, who did obtain a law license, and then lost the privilege to practice law during her suspension. And MacDonald offers no reason, compelling or otherwise, to abandon the Court's long-settled interpretation that individuals who are not currently eligible to practice as lawyers are not "learned in the law." *See Zutz v. Nelson*, 788 N.W.2d 58, 63 (Minn. 2010) (stating that the Court is "extremely reluctant to overrule our precedent under principles of *stare decisis*" and needs a "compelling" reason to do so (internal quotation marks and citation omitted)). One hundred years of precedent have interpreted the phrase "learned in the law" to mean licensed and authorized to practice law in Minnesota. That interpretation is binding and should not be disturbed absent a compelling reason. MacDonald offers none.

Nor does MacDonald explain why the Court should ignore the important policy values that are advanced by the Court's interpretation of "learned in the law." A judge's substantive knowledge of the law is important. But so are legal ethics. *See Daly*, 200 N.W.2d at 919 (legal ethics have "long been recognized as the most important qualification

for one who is entrusted with the sacred duties of an attorney at law" (internal quotation marks and citation omitted)). MacDonald is suspended from the practice of law because she breached her ethical obligations. Unless and until she is reinstated to the practice of law, the plain terms of Minnesota's Constitution foreclose MacDonald's bid for election to the Minnesota Supreme Court. "The matter does not merit further discussion," *Schmahl*, 147 N.W. at 426, and the petition must be denied.

II. THE REQUIREMENT IN MINN. STAT. § 204B.06 THAT JUDICIAL CANDIDATES BE LICENSED AND AUTHORIZED TO PRACTICE LAW DOES NOT VIOLATE THE ELIGIBILITY CLAUSE OF THE MINNESOTA CONSTITUTION.

MacDonald also claims that the attorney-licensure requirement in section 204B.06, subdivision 8, violates her "right to candidacy" under article VII, section 6, of the Minnesota Constitution ("the Eligibility Clause"). (*See* Br. 4, 10–11; Pet. ¶¶ 59–63.) MacDonald's argument fails because this Court has never recognized a fundamental "right to candidacy." And even if such a right exists, the text of the Eligibility Clause—and precedents interpreting that language—forecloses MacDonald's claim, irrespective of section 204B.06, subdivision 8.

A. MacDonald Does Not Have a "Fundamental Right to State Candidacy" that Triggers Strict Scrutiny.

The Minnesota Constitution addresses an individual's eligibility to hold office. The Eligibility Clause provides:

> Every person who by the provisions of this article is entitled to vote at any election and is 21 years of age is eligible for any office elective by the people in the district wherein he has resided 30 days previous to the election, except as otherwise provided in the constitution, or the constitution and law of the United States.

Minn. Const. art. VII, § 6. MacDonald alleges that this provision creates "a fundamental state constitutional right to candidacy," and that the attorney-licensure requirement cannot survive the strict scrutiny test that applies to fundamental rights. (Br. 4, 7; *see also* Pet. ¶¶ 59, 62–63.)

Not so. This Court has already rejected MacDonald's contention that candidacy is a fundamental right, declaring such arguments "unavailing." *Clayton v. Kiffmeyer*, 688 N.W.2d 117, 127 (Minn. 2004). Instead, this Court has embraced "a more flexible approach in ballot access cases," *id.*, applying the *Anderson-Burdick* balancing test established by the Supreme Court of the United States. *DSCC v. Simon*, 950 N.W.2d 280, 295 (Minn. 2020). Under that "flexible approach," the court weighs "the character and magnitude of the asserted injury" to constitutional rights against the state interest that justifies the burden on those rights. *Id.* (quoting *Anderson v. Celebrezze*, 460 U.S. 780, 788 (1983)); *see also Burdick v. Takushi*, 540 U.S. 428, 433–34 (1992) (rejecting strict scrutiny). To be sure, the Court's cases involving *Anderson-Burdick* have typically focused on *federal* constitutional claims. *See, e.g.*, *De La Fuente v. Simon*, 940 N.W.2d 477, 492–97 (Minn. 2020) (applying *Anderson-Burdick* test to First and Fourteenth Amendment claims). But the Court has also applied the same "flexible approach" to *state* constitutional claims, and it has never suggested that another framework applies. *See DSCC*, 950 N.W.2d at 294–96 (applying *Anderson-Burdick* test to claim that the three-voter limit on delivering a marked ballot violated the United States and Minnesota Constitutions). As a result, MacDonald is wrong when she claims that "strict scrutiny" applies to her claim.

B. Section 204B.06 Cannot Fail *Anderson-Burdick* Balancing Because MacDonald Has Not Suffered Any Constitutional Injury Under the Eligibility Clause.

As noted above, the *Anderson-Burdick* analysis begins with the character and magnitude of the alleged constitutional injury. MacDonald claims that section 204B.06 impairs her rights under the Eligibility Clause, which she characterizes as creating "universal eligibility." (*See* Br. 9, 11–14.) MacDonald draws this characterization from two prior decisions of this Court. (*Id.* (quoting *Minneapolis Term Limits Coal. v. Keefe*, 535 N.W.2d 306, 308–09 (Minn. 1995) and *Pavlak v. Growe*, 284 N.W.2d 174, 176 (Minn. 1979)). However, both of those cases acknowledged the express carveout in article VII, section 6 for eligibility requirements that are "otherwise provided" in the Minnesota Constitution. *See Growe*, 284 N.W.2d 176 (holding that Eligibility Clause's standards "may not be made more restrictive by legislative action *unless expressly authorized by another constitutional provision*" (emphasis added)); *Keefe*, 535 N.W.2d at 308 (quoting same). Because the "learned in the law" requirement is "otherwise provided" in the Minnesota Constitution, MacDonald has not alleged a constitutional injury *at all*—much less one that would fail *Anderson-Burdick* balancing.

This Court has rejected other Eligibility Clause challenges in cases where legislation was authorized by or consistent with the language of Minnesota's Constitution. In *Elbers v. Growe*, for example, a candidate for sheriff's office claimed that various certification and licensure requirements violated the Eligibility Clause. 502 N.W.2d 810, 811–12 (Minn. 1993). This Court disagreed, emphasizing the carveout in the Eligibility Clause. *Id.* 813–14. As the Court explained, "the legislature may provide for qualifications for the office of

county sheriff that exceed the requirements" in the Eligibility Clause because a more specific provision of the Minnesota Constitution gives the legislature the power to set eligibility requirements for county offices. *Id.* (citing Minn. Const. art. XII, § 3).

The Court reached the same conclusion in *Clayton*. In that case, a judicial candidate argued that the one-year residency requirement for certain court of appeals seats violated the Eligibility Clause. 688 N.W.2d at 132; *see also* Minn. Stat. § 480A.02, subd. 3 (providing that one seat on the court of appeals "shall be designated for each congressional district" and limiting eligibility to "persons who have resided in that congressional district for at least one year"). This Court rejected the challenge. *Clayton*, 688 N.W.2d at 132. Once again, the Court explained that a more specific provision of the Minnesota Constitution gave the legislature the authority to establish residency requirements for judicial elections. *Id.* (citing Minn. Const. art. VI, § 7). The more specific provision thus "control[led]" over the more general requirements of the Eligibility Clause. *Id.*

So too here. The Minnesota Constitution provides that supreme court justices must be "learned in the law." Minn. Const. art. VI, § 5. This Court has, in turn, definitively construed that language to mean licensed and authorized to practice law in Minnesota. *E.g.*, *Sylvestre*, 214 N.W.2d at 663 ("That term means that in order to hold a judicial position a person must be admitted to practice law and in good standing."); *see also* Part I, *supra*. Because the learned-in-the-law requirement is "otherwise provided" in the Minnesota Constitution, the corresponding attorney-licensure requirement in section 204B.06, subdivision 8 does not violate any "right to candidacy" embraced by the Eligibility Clause

(to the extent such a right even exists). Thus, section 204B.06 does not violate the Eligibility Clause and does not injure any constitutional right.[4]

None of MacDonald's authorities change that analysis. She cites several cases for the proposition that the legislature cannot create greater eligibility requirements for candidates than what the Minnesota Constitution prescribes. *See* Br. 13–15. Other than *Boedigheimer*, none of these cases involved judicial candidates. *See Pavlak v. Growe*, 284 N.W.2d 174, 176–77 (Minn. 1979) (collecting cases). And all recognized the carveout in the Eligibility Clause for requirements "otherwise provided" in the Minnesota Constitution. *Id.* at 177; *Ries,* 209 N.W. at 328; *Hoffman v. Downs*, 177 N.W. 669, 670 (Minn. 1920); *State ex rel. Childs v. Holman*, 59 N.W. 1006, 1006 (Minn. 1894). Because MacDonald's candidacy is foreclosed by a requirement "otherwise provided" in Minnesota's Constitution, the authorities that she cites are irrelevant.

III. ANY CLAIM ABOUT THE COPY-OF-LICENSE REQUIREMENT IS FORFEITED, AND EVEN IF IT WERE NOT, THE REQUIREMENT IS CONSTITUTIONAL.

MacDonald suggested in her petition that the requirement that an attorney produce a physical copy of her license—in the form of an up-to-date bar card—is unconstitutional. (*See, e.g.*, Pet. at 19; *see also id.* at 24 (seeking an order from the court declaring that the copy-of-license requirement is unconstitutional).) But she did not brief this issue, so it is forfeited. *State v. Beaulieu*, 859 N.W.2d 275, 278 (Minn. 2015). Even if the issue was not

[4] Even to the extent such a right exists, section 204B.06 is still justified, and satisfies the *Anderson-Burdick* balancing test, for the same reasons as the proof-of-license requirement for the reasons explained in Part III.B.

forfeited, the copy-of-license requirement is a reasonable ballot-access regulation that violates no state or federal constitutional right.

A. MacDonald Failed to Sufficiently Brief or Argue the Copy-of-License Claim.

As a threshold matter, the Court can dispose of the copy-of-license claim on the ground that MacDonald has failed to sufficiently brief or argue it. *See State v. Andersen*, 871 N.W.2d 910, 915 (Minn. 2015) (refusing to consider due process argument because appellant "cites no authority and provides no further argument to support this assertion"). The heading of one part of the petition asserts that copy-of-license requirement is unconstitutional. (Pet. at 19; *see also id.* 24 (seeking an order from the court declaring that the copy-of-license requirement is unconstitutional). But MacDonald does not brief the issue or develop any independent argument as to why the copy-of-license requirement is unconstitutional. It appears that this argument was specific to former Petitioner Eric Anunobi. But Anunobi voluntarily stipulated to dismiss his claims with prejudice, and those claims are no longer before the Court. MacDonald's portion of the petition itself, like her brief, focuses almost entirely on the argument that judges should not have to be licensed at all. The copy-of-license-requirement claim should therefore be deemed forfeited.

B. The Copy-of-License Requirement is a Reasonable Ballot-Access Regulation.

If the Court nonetheless reaches the merits of this claim, the copy-of-license requirement is constitutional. MacDonald does not identify any state or federal constitutional right that the requirement supposedly violates that is distinct from her claims under the Judicial Qualifications and Eligibility Clauses. Minn. Const. art. VI, § 5; Minn.

Const. art. VII, § 6. Instead, MacDonald broadly alleges that the requirement violates the "United States and Minnesota Constitutions." (Pet. ¶ 65.) She also makes passing reference to a case involving the due process and equal protection clauses of the Fourteenth Amendment. *Id.* ¶ 74 (citing *Schware v. Bd. of Bar Exam'rs*, 353 U.S. 232, 238 (1957)).[5]

As explained above, this Court applies the *Anderson-Burdick* framework to claims that ballot-access regulations violate state or federal constitutional rights. *See DSCC*, 950 N.W.2d at 294–96. The copy-of-license requirement imposes a minimal burden on judicial candidates. As this Court has explained, an attorney complies with the copy-of-license requirement by producing the license card issued by Lawyer's Registration Office. *See Moulton v. Simon*, 883 N.W.2d 819, 825–26 (Minn. 2016). The license card is issued on an annual basis by the Lawyer Registration Office and "simply confirms the attorney's authorized or unauthorized status based on compliance (or lack thereof) with the rules that [the supreme court] establish[es]." *Id.* Producing a copy of the license card is not onerous; the other 115 candidates for judicial office in the 2024 election all satisfied this requirement.[6] (Erickson Decl. ¶ 7.)

At the same time, although the law is not subject to strict scrutiny, the copy-of-license requirement serves several compelling state interests. First, the state has a strong interest in ensuring that only those candidates who satisfy the constitutional threshold for

[5] *Schware* is not an election law case and lends no support to MacDonald. *See* 353 U.S. at 238–40 (considering whether a state could, consistent with due process, deny a law license based on the applicant's past affiliation with the Communist Party).

[6] Even MacDonald sought to provide her license card. (Pet. ¶ 6.) The issue, however, is that the card she provided was expired. (*Id.*; *see id.* at Ex. 6.)

judicial office appear on the ballot. *See Clements v. Fashing*, 457 U.S. 957, 964-65 (U.S. 1982) (holding that states have a strong interest "in protecting the integrity of their political processes from frivolous or fraudulent candidacies"). By requiring attorneys to produce a copy of their current license, the members of the Secretary's staff who process affidavits of candidacy can quickly and easily confirm that a candidate is "learned in the law," as that term has been construed by this Court.

Second, the state has a related interest in avoiding ballot clutter and ensuring that only viable candidates are placed on the general-election ballot. *Id.* (holding that states have an interest "in avoiding voter confusion created by an overcrowded ballot").

Finally, the state has a compelling interest in "ensuring excellence in the judiciary." *Bullock v. Minnesota*, 611 F.2d 258, 260 (8th Cir. 1979) (rejecting equal protection challenge to requirement that judicial candidates be eligible to practice law in Minnesota); *accord O'Connor v. Nevada*, 27 F.3d 357, 361–62 (9th Cir. 1994) (rejecting same type of challenge in Nevada). The underlying constitutional "requirement that candidates be eligible to practice law in Minnesota clearly advances the state's compelling need to obtain candidates who are qualified to understand and deal with the complexities of law." *Bullock*, 611 F.2d at 260. The copy-of-license requirement serves that same interest: a current copy of an attorney's license confirms that a candidate has both the substantive knowledge and the adherence to ethical and court rules required to practice law in Minnesota at the time of their candidacy.

These strong state interests are more than "sufficient to justify" the minimal burden imposed by the copy-of-license requirement. Thus, even if the copy-of-license challenge was properly before the Court, it should be rejected.

CONCLUSION

Under decades of this Court's precedent, MacDonald is not currently "learned in the law." She has not been "learned in the law" since July 2021, and she will not be "learned in the law" again unless her license to practice law in Minnesota is reinstated. Until then, MacDonald is barred from holding judicial office not only by section 204B.06 but by the plain text of Minnesota's Constitution. Her challenge to section 204B.06 fails under settled precedent, and it does not cure her ineligibility for judicial office. For these reasons, the Court should deny the petition in its entirety and with prejudice.

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