STATE OF MICHIGAN

COURT OF CLAIMS

ROBERT F. KENNEDY, JR.,

Plaintiff,

v

Case No. 24-000138-MB

JOCELYN BENSON, in her official capacity as the Secretary of State,

Hon. Christopher P. Yates

Defendant.
_____/

OPINION AND ORDER DENYING REQUEST FOR MANDAMUS RELIEF, INJUNCTIVE RELIEF, AND DECLARATORY JUDGMENT

Elections are not just games, and the Secretary of State (SOS) is not obligated to honor the whims of candidates for public office. Months ago, Plaintiff Robert F. Kennedy, Jr., obtained the nomination of the Natural Law Party to represent that party in 2024 as its candidate for President of the United States. But then, plaintiff changed his mind and attempted to have his name removed from the ballot for the 2024 general election. The SOS rejected that eleventh-hour change of heart, so plaintiff has come to the Court at the very last minute seeking immediate relief on the basis that the SOS has violated Michigan law in denying his request to be removed from the ballot. Because the Court concludes that the SOS acted well within the bounds of the law, the Court shall deny the requests by plaintiff for mandamus relief, injunctive relief, and declaratory relief.

I. FACTUAL BACKGROUND

Plaintiff was nominated by the Natural Law Party as its candidate in the State of Michigan in the 2024 general election for President of the United States. But plaintiff signed a "Withdrawal

Notice" and submitted that document via e-mail to the SOS on August 23, 2024, seeking to have his name removed from the general-election ballot. On August 26, 2024, the SOS responded: "we cannot accept this filing" because "Michigan Election Law does not permit minor party candidates to withdraw. MCL 168.686a(2)." An e-mail debate between the parties ensued, with the parties discussing the withdrawal deadline prescribed by MCL 168.686a(4), but the SOS refused to budge, so plaintiff filed this action on August 30, 2024, seeking relief from the position of the SOS. The Court must now determine whether plaintiff is entitled to any relief. Because time is of the essence for appellate review and for the printing of ballots, the Court shall promptly decide the case.

II. LEGAL ANALYSIS

The language of MCL 168.686a cited by the SOS is clear and conclusive. The statute deals with candidates nominated by so-called minor parties, i.e., parties whose candidates for Secretary of State failed to poll "at least 5% of the total vote cast for all candidates for secretary of state at the last preceding election at which a secretary of state was elected[.]" MCL 168.686a(1). Every so-called minor party "entitled to a position on the ballot" may nominate a candidate for President of the United States "not later than the August primary." See *id.* The Natural Law Party nominated plaintiff in timely fashion, thereby ensuring his place on the general-election ballot. And in doing so, the Natural Law Party gave up the opportunity to nominate anyone else to run for President of the United States once the primary election date in early August 2024 came and went.

In putting forward the slate of candidates for the 2024 general election, each candidate had to sign – and the Natural Law Party had to provide to the SOS – "a separate written certificate of acceptance of nomination[,]" MCL 168.686a(4), so plaintiff formally accepted the nomination of the Natural Law Party to run for President of the United States. Once that step was completed, the language of MCL 168.686a(4) dictated that "[t]he names of the candidates so certified . . . shall be

printed on the ballot for the forthcoming election." Significantly, those "[c]andidates so nominated and certified *shall not be permitted to withdraw*." MCL 168.686a(4). Accordingly, plaintiff – as a nominee of the Natural Law Party who had accepted the party's nomination – could not withdraw as a matter of Michigan law.

In his brief, plaintiff focuses on the timing of his withdrawal and cites MCL 168.686a(2), but that subsection does not provide the basis for the SOS's obligation to print plaintiff's name on the 2024 general-election ballot as the Natural Law Party's candidate for President of the United States. Instead, the SOS is required to print plaintiff's name on the general-election ballot pursuant to MCL 168.686a(4), which unambiguously states that a candidate nominated by a so-called minor party who has accepted the party's nomination "shall not be permitted to withdraw." Permitting a candidate to unilaterally withdraw after the August primary election date leaves the party without a candidate on the general-election ballot, so plaintiff's request to withdraw at this late date is just a self-serving act that would cause harm to the party that nominated him by leaving the party with no candidate at the top of the ticket.

The rest of plaintiff's arguments offer nothing that convinces the Court relief is warranted. Plaintiff observes that MCL 168.686a(2) speaks only of "candidates for the office of representative in congress, state senator, and state representative[,]" but that language is contained in a sentence explaining when county caucuses – as opposed to a state convention – "may nominate candidates." Plaintiff cites *Mich Republican State Central Comm v Secretary of State*, 408 Mich 931 (1980), for the proposition that "[t]here must be compelling reason to enforce time limitations provided by a statute which compromise the process of nominating candidates for the office of President and the right of the people to vote for candidates of their choice." *Id.* at 931. But that language comes from the statement of one justice, who disagreed with the majority's resolution of the application.

Moreover, the quote speaks of time limits, a concept not even in issue in the instant case. Plaintiff's final argument about compelled speech reveals that he does not appreciate his role as the nominee of a party based on a nomination he accepted, as opposed to a candidate simply in his own right. The Court must balance plaintiff's interest in withdrawing from the race for President of the United States against the Natural Law Party's interest in having a candidate at the top of its ticket. Had plaintiff obtained the requisite number of signatures on nominating petitions to appear on the ballot as a candidate, his desire to withdraw as a candidate might be a result he could unilaterally pursue. But he is the nominee of a party, which put forward his name for the ballot after he accepted that party's nomination. In this context, the directive in MCL 168.686a(4) makes perfect sense. Thus, the Court must deny relief to plaintiff because "[c]andidates so nominated and certified [by a minor party] shall not be permitted to withdraw." MCL 168.686a(4).

Therefore, IT IS ORDERED that plaintiff's motion for immediate consideration is granted, but plaintiff's August 30, 2024 motions for immediate mandamus relief, and temporary restraining order/injunction are denied, and plaintiff's verified complaint is dismissed with prejudice.

IT IS SO ORDERED.

This is a final order that resolves the last pending claim and closes the case.

Date: September 3, 2024

9/4/2024

Christopher P. Yates
Judge, Court of Claims