

STATE OF MICHIGAN
IN THE COURT OF APPEALS

LEE ESTES,

Plaintiff,

Case No.

-AW

v

JOCELYN BENSON, in her official
capacity as Secretary of State, and
BOARD OF STATE CANVASSERS,

URGENT ELECTION MATTER

Defendants.

_____/

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VERIFIED COMPLAINT FOR DECLARATORY
JUDGMENT AND MANDAMUS

There is no other pending or resolved civil action arising
out of the transaction or occurrence alleged in the
complaint.

/s/ Mark Brewer
MARK BREWER (P35661)

Plaintiff Lee Estes (hereinafter “Estes” or “Plaintiff”) for his Verified Complaint for Declaratory Judgment and Mandamus against Secretary of State Jocelyn Benson (“Benson”) and the Board of State Canvassers (“Board”) states as follows:

INTRODUCTION

“No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.”

-US Const, Am XIV, § 3

1. This is an action to prevent State Representative Matt Maddock (“Maddock” or the “Insurrectionist”) from appearing on the November 8, 2022 general election ballot as a candidate for State Representative in House District 51 because he has “engaged in insurrection” in violation of § 3 of the Fourteenth Amendment and therefore is ineligible to serve as a candidate for or a member of the Michigan Legislature.

JURISDICTION AND VENUE

2. This Court has jurisdiction over Plaintiff’s claims in this declaratory judgment action under MCR 2.605 also seeking mandamus relief under MCR 7.203(C)(2) pursuant to MCL 600.4401, MCR 2.605, and MCR 7.203(C)(2).

PARTIES

3. Plaintiff Estes is a resident and registered voter in House District 51 (“HD51”) in Oakland County and intends to vote in the November 8, 2022 general election in HD51.

4. Defendant Jocelyn Benson is the duly elected Secretary of State whose duties

include certifying the names of qualified candidates in HD51 for the November 8, 2022 general election ballot.

5. Defendant Board of State Canvassers is charged with the responsibility to canvass the results of the August 2, 2022 primary elections and certify candidates for the general election ballot. MCL 168.167, 168.584, 168.842.

FACTUAL ALLEGATIONS

Maddock Was Elected Twice to the State House and Took Oaths to Support the U.S. Constitution

6. Maddock was elected to the Michigan House of Representatives on November 6, 2018 and again on November 3, 2020 and took this required oath of office before beginning both of his terms of office:

I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of State Representative according to the best of my ability.

Const 1963 art 11, § 1.

7. On August 2, 2022 he was the unofficial winner of the Republican nomination for State Representative in HD51. His nomination will be certified on or about August 19 or 31, 2022 by the Board after which his name will be placed on the general election ballot.

Maddock's Acts of Insurrection

8. On November 4, 2020 Maddock the Insurrectionist:

- [Attended and incited](#) a mob of protestors to go to the TCF Center where absentee ballots for the City of Detroit were being counted by spreading misinformation about what was occurring there. The mob chanted “stop the count” and “let us in,” and pounded on the windows of the room. Police were needed to keep order. From inside the counting room Maddock posted a Facebook video with false information about activity in the room:

How a Michigan couple radicalized the state's GOP and emboldened insurrectionists

Two months before Trump supporters stormed the U.S. Capitol in Washington, D.C., on Jan. 6, an angry mob descended on the basement of the TCF Center in downtown Detroit.

Shouting "Stop the count!" and "Let us in!" they pounded on the windows of a large conference room, where workers were counting absentee ballots for the general election. A prayer circle broke out, and some held signs that read "No Reason for Treason" and "Christians for Trump."

Police scrambled to stop them from getting inside as election workers looked on in fear.

At the center of the chaos were state State Rep. Matt Maddock, R-Milford, and his wife, Michigan Republican Party co-chair Meshawn Maddock — an antagonistic, Trump-loving power couple whose influence is growing as the state GOP shifts further to the right.

Like the violent insurrection on Jan. 6, the protest in Detroit was inspired by falsehoods about the election. Earlier in the day, Matt Maddock falsely claimed on social media that 35,000 ballots "showed up out of nowhere" in the middle of the night and that Democrats "were pretty much cheating in front of poll watchers."

"Who is available to go to (TCF Center) right now to help monitor the vote?" he pleaded on Facebook. "Need help."

An identical message was posted on two Facebook pages operated by right-wing groups founded by the Maddocks. The posts were shared more than 1,800 times, whipping up unfounded fears that Democrats were stealing the election.

• • •

Inside TCF Center, Meshawn Maddock, who wasn't wearing a mask, whipped out her phone, adorned with a Trump 2020 sticker, and recorded video of election workers. Her husband paced back and forth and posted a live Facebook video in which he falsely suggested Republican poll watchers were not allowed to monitor the count.

As the evening grew on, the mob grew bigger and spilled outside the building.

"Thank you all for answering the call," Matt Maddock posted on Facebook later in the day. "Dems are doing every trick in the book to obstruct poll watchers. They are denying access, blocking poll watchers from seeing the voter lists, shutting down elevators, chaining exit doors, telling volunteers to leave as they arrive, prohibiting volunteers from returning when they leave and more."

The truth was, more than 100 Republicans had signed up to monitor the polls, and they were allowed to observe the votes. No evidence of voter fraud was ever found. Like with the Jan. 6 insurrection, Trump supporters were trying to disrupt the democratic process.

A day after the TCF Center incident, Meshawn Maddock urged followers on Twitter to keep up the fight, escalating the kind of dangerous rhetoric that inspired insurrection.

"Do not back down," she tweeted. "Democrats are trying to steal this election and they are not even trying to hide their treachery."

The protest and the falsehoods that led up to it were a prelude to the violent riot at the U.S. Capitol, where five people, including a Capitol Hill police officer, died. For two months, the Maddocks continued to play an outsized role in the "Stop the Steal" movement, pushing false claims about voter fraud, fomenting outrage, and encouraging Trump supporters to challenge the election. They routinely made baseless claims on Twitter and Facebook pages where participants discussed civil war.

As tensions were reaching a boiling point, Meshawn Maddock helped promote and organize busloads of Michigan residents to travel to Washington, D.C., for the Jan. 6 rally, where she delivered a speech a day before the insurrection, fusing together Christian nationalism and Trumpism. Standing next to her husband, she declared Trump was "the greatest president this nation will ever know."

"No matter what happens today or tomorrow, I know that God reigns, we trust the Lord, but we never stop fighting," she told the swelling crowd.

- [Posted](#) a call to action for people to go to the TCF Center based on false information about ballots showing up at 3am (Exhibit 2).
- [Posted](#) a video of the mob yelling “stop the count” at the TCF Center. Maddock himself posted “Stop the count!” (Exhibit 3).

9. On November 7, 2020 Maddock:

- [Posted](#) a link to a Trump-linked website asking people to submit instances of fraud (Exhibit 4).

10. Maddock’s insurrectionist activities continued into December:

Trying to overturn the election

After the TCF Center event, the Maddocks grew in prominence as they continued to push falsehoods about the election. In one bogus claim in early December, Meshawn Maddock insisted she had obtained [a list of dead Michigan voters](#) and posted it on Facebook, along with the home addresses of the allegedly deceased people. She claimed more than 2,000 people “voted in Wayne County by absentee ballot that were CONFIRMED deceased.”

“Just imagine if our Secretary of State (Jocelyn) Benson DID HER JOB and checked all 83 counties?!” Maddock wrote.

The post was shared hundreds of times before people on the list began calling her out.

“I’m certainly not dead!” one woman responded.

Another man said, “Two people in my neighborhood are on this list. They’re very much alive. Hell, their boys play baseball with my sons.”

At a Stop the Steal rally on Dec. 8, Meshawn Maddock declared she won’t end the battle to overturn the election “until my president tells me to stop.”

“It is fake news that Donald Trump supporters are giving up,” Maddock told the crowd. “It is in the Lord’s hands, we trust him, but we are going to do our work while we are here. We have seen too much. Have you seen cheating? Have you seen that they’re trying to steal this election? We’re not going to give up. No matter what happens, we are going to keep fighting.”

The following day, Matt Maddock released a letter demanding a “complete forensic assessment” of the state’s election results, claiming there were “numerous irregularities” and eyewitness accounts of fraud. The letter, posted on Maddock’s Facebook page, inspired outrage.

“Heads need to roll,” Wendy Shank responded.

“So when do we start riot’s,” Michael J. Bayard asked.

On the thread, Matt Maddock posted, “It ain’t over.”

On Dec. 14, when the state’s 16 electoral college delegates voted in support of President-elect Joe Biden, the Maddocks disregarded state law and held their own caucus with an alternate slate of delegates to “certify” the election for Trump. They tried to enter the state Capitol, which was closed because of “credible threats of violence,” to deliver their votes for Trump but were stopped by Michigan State Police.

After the video-recorded stunt, in a conspiracy-laden press conference, Meshawn Maddock declared they weren’t backing down.

“If the fake news and the leftist Democrats and even the deep state never-Trumper Republicans and the media and big tech, if they think that voters who have been disenfranchised and do not trust our election system right now are just going to go away, if they think we’re just going to roll over after what we’ve witnessed has happened and that we’re ever going to trust our elections again, they’re wrong,” Maddock said.

In the Legislature, Matt Maddock made several attempts to overturn the election. In late December, he and Daire Rendon, R-Lake City, joined a federal lawsuit filed by Trump supporters to challenge the results of the election. The suit asked a judge to allow lawmakers to certify states’ election results, a move that would enable the Republican-led Michigan Legislature to reject Biden’s victory. But a judge turned down the suit, calling their arguments “flat-out wrong” and “a fundamental and obvious misreading of the Constitution.”

Exhibit 1 at 8-9.

11. On December 2, 2020 Maddock:
 - [Posted](#) a video about the State Senate and House hearings on the elections, saying there was compelling evidence of fraud, saying he was excited about Rudolph Giuliani coming that night to a hearing, and saying the legislative body needs to do something to fix these “problems” (Exhibit 7).
12. On December 9, 2020 Maddock:
 - [Posted](#) a [letter](#) signed by himself and other Michigan Republican lawmakers replete with false claims of fraud, irregularities, and anomalies about the election (Exhibits 5 and 6) demanding a State House Oversight Committee investigation into the election.
13. On December 10, 2020 Maddock:
 - [Signed](#) onto a frivolous Texas [lawsuit](#) attempting to overturn election results in Michigan, Georgia, Pennsylvania, and Wisconsin. Three days after it was filed the Supreme Court declined to hear the case. *Texas v Pennsylvania*, 592 US ___ (December 11, 2020) (Docket No 220155) (Exhibits 8 and 9).
 - [Posted](#) about joining the lawsuit, falsely saying Michigan didn’t follow election laws (Exhibit 10).
14. On December 14, 2020 Maddock:
 - And other lawmakers [escorted](#) 16 false GOP electors to the Michigan Capitol in an attempt to illegally cast Michigan’s electoral votes for Trump (Exhibit 11).
15. On December 18, 2020:
 - The Michigan Conservative Coalition, founded and run by Maddock, made [numerous posts](#) falsely claiming election fraud, falsely claiming the election was stolen, and opposing certification of the election (Exhibit 12).
16. On December 22, 2020 Maddock:
 - Was a plaintiff in [Wisconsin Voters Alliance v Pence](#) filed in the US District Court for the District of Columbia, which sought to, *inter alia*, enjoin the counting of electoral votes by the Congress (Exhibit 13). The Court denied relief in that frivolous lawsuit. *See*, Memo Op (January 4, 2021) (Case No 20-

cv-03791).

17. On December 28, 2020:

- The Michigan Conservative Coalition, founded and run by Maddock, [posted](#) about the availability of buses to DC for a “wild” January 6 protest and “March for Trump,” urging people to attend (Exhibit 14).

18. On December 31, 2020:

- The Michigan Conservative Coalition, founded and run by Maddock, posts that “the Michigan Republican electors slate were delivered and are in DC” while sharing a post from Meshawn Maddock about Matt Maddock.

19. Maddock’s activities promoting election falsehoods intensified in January:

As the Jan. 6 rally in Washington, D.C., neared, the Maddocks amplified falsehoods about the election and alluded to civil war.

On Twitter, Meshawn Maddock insisted, “@POTUS was robbed of this election” and “Do not back down. Democrats are trying to steal this election and they are not even trying to hide their treachery.”

On New Year’s Day, Meshawn Maddock tweeted, “Good morning January 1st, 1776,” a reference to the Revolutionary War.

In an interview with the anti-lockdown group Stand Up Michigan, Matt Maddock also spoke about civil war.

“As soon as we lose our faith in elections, the next step after that, the same thing that happened after the civil war,” Maddock said. “They lost faith in elections because there was inadequate elections going on. The next step was a civil war, so we’re treading on really, really thin ice.”

Two days before the insurrection, Meshawn Maddock [told the Detroit Free Press](#), “As a leader for Republicans in Michigan, I’m going to stand shoulder to shoulder with Americans that know voter fraud is real. ... Now is not the time for summer soldiers and sunshine Patriots, now is the time for brave men to do the right thing.”

In the meantime, Meshawn Maddock helped organize and promote buses of supporters from suburban Detroit to Washington, D.C., for the rally.

On Jan. 5, a day before the insurrection, Maddock and 10 other Republican lawmakers from Michigan wrote a letter to Vice President Mike Pence, urging him not to certify the election, questioning “the validity of hundreds of thousands of ballots” in battleground states.

Later in the day, Meshawn Maddock, flanked by enormous Trump flags, delivered a speech to thousands of people, saying “over 19 buses” are headed from Michigan to Washington, D.C.

Calling Trump “the greatest president this nation will ever know,” she said, “We have the scales lifted off our eyes. Somehow we are able to see what other people can’t see. It’s our job to show that to them.”

“No matter what happens today or tomorrow, I know that God reigns, we trust the Lord, but we never stop fighting.”

Her husband, standing next to her, lifted his fist.

On the day of the insurrection, Meshawn Maddock declared on Twitter, “It’s Trump’s party now.”

On the day of the insurrection, just hours before Trump supporters stormed the Capitol, smashed windows, and assaulted police, Meshawn Maddock posted a now-deleted video on Instagram in which a man yells, “We need to march on the Capitol when we are done here and drag these people out of power.”

20. On January 4, 2021 Maddock:
- [Flew to Washington](#) for January 5 and 6 protests about alleged election fraud (Exhibit 15). The January 5 protest was hosted by “Stop the Steal.” *Id.*
21. On January 5, 2021 Maddock:
- Signed onto [a letter](#) to Vice President Pence illegally asking him to delay the counting of the electoral votes by Congress, which Pence had no legal authority to do (Exhibit 16).
 - Gave a [speech at a rally](#) in Washington, D.C. at Freedom Plaza ([link to speech](#)) (Exhibits 17 and 18). Maddock is described as a Michigan leader of “stop the steal.” He described the letter to Pence.
 - [Comments](#) “see you guys soon” on a live video Angela Rigas posted while traveling to DC where she shows off a collapsible baton she is bringing with her (Exhibit 19).
22. On January 6, 2021 Maddock:
- [Claimed](#) he did not participate in the Capitol protest and riot saying that he and Meshawn walked to the Ellipse for Trump’s rally but could not get in, and stated that he and Meshawn spent the day in their hotel room (Exhibit 20). The facts are otherwise.
 - At 10:34 am Meshawn posted a now deleted [video](#) of her walking through a crowd in downtown Washington, D.C. (Exhibit 21).
 - At 11:00 am in a publicly sourced [video](#), the Maddocks are spotted walking through the crowd near the Ellipse (time is estimated) (Exhibit 22).
 - The Maddock’s “marched with the rioters toward the Capitol.” (Exhibit 17).
 - At 1:18 pm Meshawn Maddock [retweeted](#) a video of people marching to the Capitol saying it’s “the most incredible crowd and sea of people I’ve ever walked with” (Exhibit 23).
 - At 4:45 pm the Maddocks are [spotted](#) approximately two blocks away from the Capitol walking in the direction of it. Matt Maddock has the official state seal on his jacket and is seen a few seconds into the video. (Exhibit 24).

23. Maddock’s insurrectionist activities continued after January 6, 2021.
- On or about January 9, 2021 Maddock [joins Facebook group](#) Milford Conservatives Matter, which is filled with conspiracy theories and talk of a civil war (Exhibit 25).
 - Maddock has supported a “forensic audit” with the goal of overturning the 2020 presidential election. *See Rally in Front of Capitol Demands Action on Forensic Audit*, MIRS (February 8, 2022).

*Maddock Was Participating In and
Executing A Planned Insurrection*

24. The two lawsuits which Maddock jointed (Exhibits 8, 9, and 13) had Plaintiffs from other states and were part of a national coordinated effort which filed dozens of frivolous lawsuits in an attempt to block the certification of the 2020 presidential election. All failed. *See Shamisian & Sheth, Trump and his allies filed more than 40 lawsuits challenging the 2020 election results. All of them failed*, Business Insider (Feb 22, 2021). [Trump, Republican Lawsuits Challenging 2020 Election: List \(businessinsider.com\)](#)

25. As the legal failures mounted, other illegal plans were developed to stop a Biden presidency. A scheme was hatched to pressure or intimidate Vice President Pence and Congress to refuse to count or obstruct the electoral college votes of states Trump had lost. *See Before, During and After Bloodshed*, Wash Post (Oct 31, 2021), <https://wapo.st/3JuvTvi>; *READ: Trump lawyer’s full memo on plan for Pence to overturn the election*, CNN Sept 21, 2021), <https://cnn.it/3qldg4p>; *Trump pressures Pence to throw out the election results – even though he can’t*, POLITICO (Jan 5, 2021), <https://politi.co/3961iTx>. The letter to Pence which Maddock signed (Exhibits 16, 17, and 18) was part of this plan.

26. Related to the plans described in ¶ 25, false slates of Republican “electors” were created

in states where Trump lost. See Broadwater, *Jan. 6 Inquiry Subpoenas 6 Tied to False Pro-Trump Elector Effort*, NY Times (Feb 15, 2022). Maddock was part of this effort in Michigan. See Exhibit 11.

27. Simultaneous with the frivolous lawsuits and faltering efforts to persuade Pence and the Congress to illegally refuse to count the electoral votes, demonstrations were planned in Washington, DC on January 6, 2021 to block counting of the electoral votes. On December 19, 2020, President Trump endorsed this demonstration, urging his followers: “Be there, will be wild!”, a coded call to violence. See *Before, During and After Bloodshed*, Wash Post (Oct 31, 2021), <https://wapo.st/3JuvTvi>. Maddock repeated Trump’s call, urged people to go to the demonstration, and helped arrange transportation to D.C. See Exhibits 14, 17-19.

The Insurrection Clause and Its Meaning

28. Section 3 of the Fourteenth Amendment states in pertinent part:

No person shall . . . hold any office, civil or military . . . under any State, who, having previously taken an oath . . . as a member of any State legislature . . . to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same.

29. Under the Supremacy Clause, the Insurrection Clause applies to any state official such as Maddock who has taken an oath to support the U.S. Constitution. It applies to insurrectionist state and local officials regardless of whether they’ve been charged with a crime or whether Congress has taken action against them. See *Worthy v Barrett*, 63 NC 199 (1869) (county sheriff who held office before and during the Civil War disqualified from office by § 3); *In re Tate*, 63 NC 308 (1869) (state solicitor who was a county attorney before the Civil War and served in the Confederate Army disqualified by § 3).

30. A person violates the Insurrection Clause by “voluntary[ily] . . . assist[ing] the Insurrection or Rebellion,” *United States v Powell*, 65 NC 709, 27 F Cas 605, 607 (DCNC 1871),

or by “[v]oluntarily aiding the rebellion, by personal service, or by contributions, other than charitable, of any thing that was useful or necessary in the Confederate service.” *Worthy, supra*, 63 NC at 202.

31. An insurrection does not have to result in an organized rebellion. *See The Amy Warwick (The Prize Cases)*, 67 US 635, 666-68 (1862). Nor does a lack of success – here, failure to stop the counting of electoral votes and overturn the presidential election – mean that an insurrection didn’t occur. *See Home Ins Co of NY v Davila*, 212 F2d 731, 736 (CA1 1954) (“An insurrection aimed to accomplish the overthrow of the constitutional government is no less an insurrection because the changes of success are forlorn.”).

*The Events Leading Up To and Occurring On
January 6, 2021 Were An Insurrection.*

32. On January 6th, speakers repeatedly advocated violence. Trump’s lawyer, Rudy Giuliani, called for “trial by combat.” Representative Mo Brooks urged the crowd to be prepared to sacrifice their “blood” and “lives,” and to “do what it takes to fight for America” by “carry[ing] the message to Capitol Hill,” since “the fight begins today.” Trump told the mob to march on the Capitol, saying “if you don’t fight like hell, you’re not going to have a country anymore.” *See* Wash Post, *Trump, Republicans incite crowd before mob storms Capitol*, YouTube (Jan 6, 2021) <https://youtu.be/mh3cbd7niTQ>; The Hill, *Mo Brooks give FIERY speech against anti-Trump Republicans, socialists*, YouTube (Jan 6, 2021), <https://www.youtube.com/watch?v=ZKHwV6sdrMk>; *During: Bloodshed*, Wash Post (Oct 31, 2021), <https://www.washingtonpost.com/politics/interactive/2021/what-happened-trump-jan-6-insurrection/>.

33. Events at the Capitol that day are infamous and well-known: barriers were taken down by the mob and used as weapons; armed protestors attacked Capitol police and broke into

the Capitol which was ransacked; the House and Senate were forced to adjourn and evacuate; the insurrectionists took control of offices and both legislative chambers; 5 people died and over 150 police officers were injured; and Congress' tallying of the electoral votes was delayed by 6 hours. *Id.*, *What Happened on Jan 6*, Wash Post (Oct 31, 2021).

34. Those events were an insurrection. As then-Senator Majority Leader McConnell stated in the evening January 6, 2021, it was a “failed insurrection.” Fandos, *Resuming electoral counting, McConnell condemns the mob assault on the Capitol as a ‘failed insurrection,’* NY Times (Jan 6, 2021). He reiterated that conclusion a year later:

We saw it happen. It was a violent insurrection for the purpose of trying to prevent the peaceful transfer of power after a legitimately certified election, from one administration to the next. That’s what it was.

Weisman & Karni, *McConnell Denounces RNC Censure of Jan 6 Panel Members*, NY Times (Feb 8, 2022).

35. Representative Peter Meijer of Michigan described the January 6 attack as “a violent attempt to interfere with the proceedings of Congress, and specifically the certification of the Electoral College results.” *Death threats, primary challenge follow Rep. Meijer’s vote to impeach Trump after Jan 6*, PBS (Jan 4, 2022).

36. Those events were an insurrection. *See, e.g.*, Articles of Impeachment, 167 Cong Rec No 28 (Feb 13, 2021) (describing the assault on the Capitol as an “insurrection” in articles of impeachment adopted on a bipartisan basis).

37. The Department of Justice has charged more than ten individuals with seditious conspiracy for their role in the January 6 attack, in which two or more persons “conspire to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, or to oppose by force the authority thereof, or by force to prevent, hinder, or delay

the execution of any law of the United States, or by force to seize, take, or possess any property of the United States contrary to the authority thereof.” 18 U.S.C. § 2384. *See* Department of Justice Press Release, *Leader of Oath Keepers and 10 Other Individuals Indicted in Federal Court for Seditious Conspiracy and Other Offenses Related to U.S. Capitol Breach* (Jan 13, 2022), <https://bit.ly/3twSYYp>. One of the co-conspirators has pleaded guilty to seditious conspiracy. Department of Justice Press Release, *Leader of Alabama Chapter of Oath Keepers Pleads Guilty to Seditious Conspiracy and Obstruction of Congress* (Mar. 2, 2022), <https://bit.ly/3iru3zo>.

38. State House Resolution No 10 sets forth that:

Whereas, Representative Matt Maddock was present for, and assisted in organizing Michiganders to participate in, the seditious insurrection that took place in Washington, D.C., on January 6, 2021, during the counting of electoral votes[.]

2021 H Res 10.

Maddock Seeks Reelection to the State House of Representatives

39. After all of this insurrectionist activity, on March 4, 2022 Maddock paid a \$100 fee and filed an Affidavit of Identity to become a candidate in the August 2, 2022 Republican primary in House District 51. By signing that affidavit he swore under penalty of perjury that he met all the constitutional requirements for the office of State Representative:

I am a citizen of the United States and I meet the statutory and constitutional requirements for the office sought.

I swear, or affirm, that the facts I have provided and the facts contained in the statement set forth below are true.

At this date, all statements, reports, late filing fees, and fines due from me or any Candidate Committee organized to support my election to office under the Michigan Campaign Finance Act, PA 388 of 1976, have been filed or paid.

I acknowledge that making a false statement in this affidavit is perjury - a felony punishable by a fine up to \$1,000.00 or imprisonment for up to 5 years, or both and may result in disqualification from the ballot (MCL 168.558, 933, and 936).

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sign here		date here
notary signature _____	notary name _____	
subscribed and sworn to me on the _____ day of _____,		
notary public, state of Michigan, county of _____ my commission expires ____ / ____ / ____.		
acting in the county of _____		

On August 2, 2022 Maddock was the unofficial winner of the Republican primary.

40. It is the responsibility of Benson to certify the names of qualified candidates in HD51 for the general election.

41. It is the responsibility of the Board to canvass the results of the August 2, 2022 primary and certify candidates for the general election. MCL 168.167, 168.584, 168.842.

COUNT I – DECLARATORY JUDGMENT: MADDOCK IS AN INSURRECTIONIST UNDER § 3 OF THE FOURTEENTH AMENDMENT AND IS DISQUALIFIED FROM SEEKING OFFICE

42. Plaintiff incorporates the prior paragraphs as if set forth word for word.

43. MCR 2.605(A)(1) states: “In a case of actual controversy within its jurisdiction, a Michigan court of record may declare the rights and other legal relations of an interested party seeking a declaratory judgment, whether or not other relief is or could be sought or granted.” The Michigan Supreme Court has held that “[a]n actual controversy exists when a declaratory judgment is needed to guide a party’s future conduct in order to preserve that party’s legal rights.” *League of Women Voters of Mich v Sec’y of State*, 506 Mich 561, 586; 957 NW2d 731 (2020).

44. There is an actual controversy because Plaintiff has a legal right to have only eligible candidates on the ballot in HD51. *See Barrow v City of Detroit Election Comm’n*, 301 Mich App 404, 412; 836 NW2d 498 (2013), *lv den*, 494 Mich 866; 831 NW2d 461 (2013).

45. Maddock has violated the Insurrection Clause, is ineligible to appear on the general election ballot, has no legal right to appear on that ballot, and Plaintiff is entitled to declaratory judgment to preserve his right to have only eligible candidates on the general election ballot.

COUNT II – MANDAMUS: DEFENDANTS SHOULD BE ORDERED NOT TO PLACE MADDOCK ON THE PRIMARY ELECTION BALLOT

46. Plaintiff incorporates the prior paragraphs as if set forth word for word.

47. A writ of mandamus is issued by a court to compel a public officer to perform a clear legal duty. *Jones v Dep’t of Corrections*, 468 Mich 646, 658; 664 NW2d 717 (2003).

“Mandamus is the appropriate remedy for a party seeking to compel action by election officials.” *Attorney General v Bd of State Canvassers*, 318 Mich App 242, 248; 896 NW2d 485 (2016) (citation omitted).

48. To be entitled to a writ of mandamus, a plaintiff must show that: “(1) the plaintiff has a clear, legal right to performance of the specific duty sought, (2) the defendant has a clear legal duty to perform, (3) the act is ministerial, and (4) no other adequate legal or equitable remedy exists that might achieve the same result.” *Rental Props Owners Ass’n of Kent Co v Kent Co Treasurer*, 308 Mich App 498, 518; 866 NW2d 817 (2014) (citation omitted).

49. A clear legal right is “one clearly founded in, or granted by, law; a right which is inferable as a matter of law from uncontroverted facts regardless of the difficulty of the legal question to be decided.” *Rental Props Owners Ass’n*, 308 Mich App at 518-19 (citation omitted).

50. Plaintiff has a clear legal right to have only qualified candidates on the general election ballot. *See Barrow*, 301 Mich App at 412.

51. Defendants have a clear legal duty, grounded in statute, to place only eligible candidates on the general election ballot. *See id.*

52. “The inclusion or exclusion of a name on a ballot is ministerial.” *Id.*

53. Plaintiff has no other adequate legal or equitable remedy that might achieve the same results and mandamus is the proper remedy to prevent ineligible candidates such as the Insurrectionist Maddock from being placed on the ballot. *See id.*

54. Maddock is not qualified to be on the general election ballot, Plaintiff has a clear legal right that Maddock not appear on that ballot, Defendants have a clear legal duty not to place Maddock on that ballot, and Plaintiff has no other remedy except mandamus.

THIS IS AN URGENT ELECTION MATTER REQUIRING IMMEDIATE ACTION

55. Plaintiff incorporates the previous paragraphs fully set forth word for word.

56. The Board will meet on or about August 19 and 31 to canvass the primary election results and certify candidates for the general election.

57. Declaratory judgment actions may be expedited, MCR 2.605(D), and election matters should be expedited, *see* MCR 7.213(C)(4); *Scott v Mich Dir of Elections*, 490 Mich 888; 804 NW2d 119 (2011); *Ferency v Secretary of State*, 409 Mich 569, 599; 297 NW2d 544 (1980).

PRAYER FOR RELIEF SOUGHT

For the reasons stated Plaintiff asks that the Court:

1. Declare that Matt Maddock has violated the Insurrection Clause and is ineligible to be a candidate for the Michigan Legislature;
2. Order the Defendants not to certify or place Maddock on the general election ballot;
3. Expedite the hearing and disposition of this matter; and
4. Grant such other relief as necessary or appropriate.

Respectfully submitted,

/s/ Mark Brewer

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