NOTICE

This slip opinion is subject to formal revision before it is published in an advance sheet of the Ohio Official Reports. Readers are requested to promptly notify the Reporter of Decisions, Supreme Court of Ohio, 65 South Front Street, Columbus, Ohio 43215, of any typographical or other formal errors in the opinion, in order that corrections may be made before the opinion is published.

Slip Opinion No. 2026-Ohio-3989

THE STATE EX REL. DERRIG *v.* LAROSE, SECY. OF STATE, ET AL.

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Derrig v. LaRose*, Slip Opinion No. 2026-Ohio-3989.]

Elections—Mandamus—Writ sought to compel board of elections and secretary of state to find appointed court-of-appeals judge ineligible from the general-election ballot as a candidate to fill an unexpired term—R.C. 3513.31(I) does not prohibit a party district committee from selecting a candidate for a remaining unexpired court-of-appeals term who had previously been nominated as a candidate for the office of state representative—Writ denied.

(No. 2026-1235—Submitted October 1, 2026—Decided October 9, 2026.)

IN MANDAMUS.

The per curiam opinion below was joined by SHANAHAN, J., and by FISCHER, J., except as to Part II(B). KENNEDY, C.J., concurred and would further hold that relator has standing for the reasons stated in her separate opinion in *State*

ex rel. Koebel v. Erie Cty. Bd. of Elections, 2026-Ohio-3999. BRUNNER, J., concurred and would further hold that relator has standing for the reasons stated in *Koebel* at ¶ 17-20, ¶ 30-45 (Brunner, J., concurring), and ¶ 48-60 (Kennedy, C.J., concurring in part and concurring in judgment only in part). DEWINE, J., concurred in judgment only, with an opinion joined by DETERS and HAWKINS, JJ.

Per Curiam.

{¶ 1} Relator, Mark Derrig, has filed an original action seeking a writ of mandamus ordering respondents, Ohio Secretary of State Frank LaRose and the Summit County Board of Elections ("the board"), to remove intervening respondent, Judge Nathan Manning of the Ninth District Court of Appeals, from the November 3, 2026 general-election ballot as a candidate for an unexpired term on the Ninth District Court of Appeals. Judge Manning won the May 2026 primary nomination for the office of state representative for the 52nd Ohio House District. Later, a sitting judge on the Ninth District Court of Appeals retired before the end of her term, and Governor Mike DeWine appointed Judge Manning to serve in the retired judge's stead until a successor could be elected to fill the remaining unexpired term. Judge Manning sent a letter to the Lorain County Board of Elections seeking to withdraw his candidacy for the office of state representative, and a Republican Party district committee later selected Judge Manning to be the party candidate for the remaining unexpired Ninth District term in the general election. Derrig sent the board a letter arguing that the party district committee's selection of Judge Manning did not comply with R.C. 3513.31(I), which prompted the board to convene a hearing on the matter. The board's vote resulted in a two-to-two tie on whether to remove Judge Manning from the ballot for the remaining unexpired court-of-appeals term, and Secretary LaRose broke the tie in favor of Judge Manning's candidacy.

{¶ 2} In this action, Derrig claims that R.C. 3513.31(I) prohibits the party district committee from selecting Judge Manning as a candidate for the remaining unexpired court-of-appeals term because he had previously been nominated as a candidate for the office of state representative. Derrig therefore argues that the board is required to remove Judge Manning from the ballot.

{¶ 3} The fact that Judge Manning was previously nominated for a different office did not prevent the party district committee from selecting him as a candidate for the remaining unexpired Ninth District term under R.C. 3513.31(I). Consequently, Derrig has not established his clear legal right to Judge Manning's removal from the ballot or respondents' clear legal duty to provide that relief. We therefore deny the writ.

I. FACTS AND PROCEDURAL HISTORY

A. Judge Manning's nomination, judicial appointment, and subsequent selection

{¶ 4} On May 5, 2026, Judge Manning was nominated in the Republican Party primary election as the party candidate for the office of state representative for the 52nd Ohio House District.[1] On May 31, Judge Donna Carr of the Ninth District Court of Appeals retired before the end of her elected term, creating a vacancy on that court. On July 10, Governor Mike DeWine appointed Judge Manning to fill the vacancy until a successor could be elected and qualified. *See* Ohio Const., art. IV, § 13 (providing that a vacancy in a judicial office "shall be filled by appointment by the governor, until a successor is elected and has qualified"). Three days later, Judge Manning filed a letter with the Lorain County Board of Elections notifying it of his appointment to the Ninth District and stating

1. Judge Manning was not a sitting judge when he received the nomination as the party candidate for the office of state representative for the 52nd Ohio House District. However, to avoid confusion, this opinion refers to him as "Judge Manning" throughout.

that he was "formally withdraw[ing]" his candidacy for the office of state representative for the 52nd Ohio House District.

{¶ 5} Under Article IV, Section 13 of the Ohio Constitution, if the remaining unexpired term of a vacant judicial office ends more than one year after the next general election, the gubernatorial appointee serves only until the general election, at which a successor is elected for the remainder of the term. On August 4, a Republican Party district committee met and selected and certified Judge Manning as the party candidate for the remaining unexpired Ninth District term at the November 2026 general election. The party district committee's certification was received by the board on August 5. On August 25, the board notified the other county boards of elections in the Ninth District that Judge Manning's name should appear on the general-election ballot as the Republican Party candidate for judge of the Ninth District Court of Appeals for the remaining unexpired term. Judge Manning's name now appears as the Republican Party candidate for that office on sample ballots available to electors in at least Lorain and Wayne counties.

B. Proceedings before the board and Secretary LaRose's tie-breaking letter

{¶ 6} On August 31, Derrig filed a letter with the board disputing the validity of the Republican Party district committee's selection of Judge Manning as the party's candidate for the remaining unexpired Ninth District term. Derrig's letter asserted that the selection of Judge Manning violated R.C. 3513.31(I), which pertains to the selection of party candidates for vacant elective offices when the remaining unexpired term of the vacant office is to be filled at a general election. R.C. 3513.31(I)'s last sentence provides that "[i]f a person has been nominated in a primary election . . . , the authorized committee of that political party shall not select and certify a person as the party candidate."

{¶ 7} Citing that language from R.C. 3513.31(I) and our decision in *State ex rel. Trumbull Cty. Republican Cent. Commt. v. Trumbull Cty. Bd. of Elections*, 2022-Ohio-3268, Derrig contended that the board could not "certify or submit to

the voters" Judge Manning's candidacy for the remaining unexpired Ninth District term, because Judge Manning had previously been nominated as the Republican Party candidate for the office of state representative for the 52nd Ohio House District. Derrig further argued that Judge Manning's earlier withdrawal from the state-representative race did not enable the party district committee's selection, because R.C. 3513.052(G) lists the Revised Code sections under which timely withdrawal does not disqualify a candidate from seeking another office at the same election and R.C. 3513.31(I) does not appear in that list.

{¶ 8} The board convened a hearing regarding Judge Manning's candidacy on September 8, at which it heard arguments from Derrig's and Judge Manning's counsel. The board's vote on whether to remove Judge Manning from the ballot resulted in a two-to-two tie. On September 10, the board submitted the question to Secretary LaRose, requesting that he break the tie. *See* R.C. 3501.11(X).

{¶ 9} On September 11, Secretary LaRose broke the tie in favor of Judge Manning's candidacy. In his tie-breaking letter, Secretary LaRose first posited that there is no statutory basis for a "protest" against a party committee's selection of a candidate under R.C. 3513.31(I), which he found was reason alone to reject Derrig's argument. Second, Secretary LaRose concluded that even if Derrig's purported protest letter could be properly considered, he would reject it on its merits. Also quoting our decision in *Trumbull Cty.*, Secretary LaRose found that R.C. 3513.31(I)'s last sentence prevents a party committee from selecting as the party candidate a person "who is already a general-election candidate for another office," 2022-Ohio-3268, at ¶ 18. Secretary LaRose concluded that Judge Manning was not a general-election candidate for another office, because he had withdrawn his candidacy for the house of representatives before the party district committee's selection of him as the candidate for the remaining unexpired Ninth District term. Thus, R.C. 3513.31(I) did not bar Judge Manning's selection or require the board to remove him from the ballot.

C. This mandamus action

{¶ 10} Derrig filed a complaint for a writ of mandamus on September 15 and an amended complaint the next day, seeking a writ of mandamus ordering Secretary LaRose to find that the Republican Party district committee did not comply with R.C. 3513.31(I) and that Judge Manning is consequently ineligible for the November general-election ballot and ordering Secretary LaRose to break the board's tie vote against Judge Manning's candidacy for the remaining unexpired Ninth District term. Derrig further seeks a writ of mandamus ordering the board to find that the Republican Party district committee did not comply with R.C. 3513.31(I), to not submit Judge Manning's candidacy for the November general-election ballot, and to notify the other county boards of elections within the Ninth District that Judge Manning's name should not be placed on the ballot. Shortly after Derrig filed the amended complaint, Judge Manning filed an unopposed motion to intervene, which we granted. 2026-Ohio-3703.

{¶ 11} Secretary LaRose and Judge Manning each filed answers to the amended complaint, merit briefs, and evidence pursuant to our scheduling order. *See* 2026-Ohio-3623. Derrig likewise filed a merit brief, evidence, and a reply brief. The board did not file an answer, a merit brief, or evidence.

II. ANALYSIS

A. Preliminary arguments

1. Derrig has standing to maintain this mandamus action

{¶ 12} As an initial matter, Secretary LaRose argues by footnote in his merit brief that Derrig lacks standing to maintain this mandamus action. We reject this argument.

{¶ 13} "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.' " *ProgressOhio.org, Inc. v. JobsOhio*, 2014-Ohio-2382, ¶ 7,

quoting *Moore v. Middletown*, 2012-Ohio-3897, ¶ 22. In a mandamus case, "the applicable test is whether relators would be directly benefited or injured by a judgment in the case." *State ex rel. Sinay v. Sodders*, 1997-Ohio-344, ¶ 9. The "injury must be personal—that is, the plaintiff or relator must suffer a particular harm, not the general harm that may be suffered by the public at large." *State ex rel. Martens v. Findlay*, 2025-Ohio-5589, ¶ 16.

{¶ 14} Secretary LaRose argues that Derrig, as an elector qualified to vote for Ninth District Court of Appeals judges, has not suffered an "injury different from [any] other registered voter in the Ninth Judicial District." This court has "long held in mandamus cases regarding election matters that an elector is a proper relator because he is beneficially interested in the case." *State ex rel. Martens v. Findlay Municipal Court*, 2024-Ohio-5667, ¶ 12, fn. 1, citing *State v. Brown*, 38 Ohio St. 344, 346-347 (1882), and *State ex rel. Gregg v. Tanzey*, 49 Ohio St. 656, 662 (1892). Indeed, we recently recognized the validity of elector standing, while at the same time explaining that "[o]ur election-mandamus cases represent the outer bounds of the standing requirement." *Id.* "Because of this unique injury to their vote, electors satisfy the standing requirement in these cases." *Id.*

{¶ 15} Secretary LaRose does not mention this line of elector-standing cases, much less argue that they were wrongly decided or that they do not apply to Derrig. Absent such an argument, we decline to revisit these cases. Based on our precedent, Derrig has standing because his "beneficial interest arises from the particular injury to his vote that would occur if election officials disregarded their election duties," *id.*; *see Gregg* at 662 (recognizing the "interest . . . of an elector of the county and judicial circuit" as sufficient to maintain a mandamus action).

2. The doctrine of laches does not bar the writ

{¶ 16} Judge Manning argues that the doctrine of laches—which he raised in his answer as an affirmative defense—bars the requested writ of mandamus. We disagree.

{¶ 17} In an election case, a relator who fails to exercise the "utmost diligence" risks having his action barred by laches. *Blankenship v. Blackwell*, 2004-Ohio-5596, ¶ 19. "'Laches will bar an action when there is (1) an unreasonable delay or lapse of time in asserting a right, (2) the absence of an excuse for the delay, (3) actual or constructive knowledge of the injury or wrong, and (4) prejudice to the opposing party.' " *State ex rel. Miller v. Union Cty. Bd. of Elections*, 2023-Ohio-3664, ¶ 18, quoting *State ex rel. Clark v. Twinsburg*, 2022-Ohio-3089, ¶ 11.

{¶ 18} Here, Secretary LaRose issued his tie-breaking letter on September 11 and Derrig filed this action on September 15—two business days later. Recognizing this, Judge Manning instead focuses on a different period, contending that Derrig unreasonably delayed by waiting until August 31 to file his purported protest, given that the party district committee's certification of Judge Manning's selection was received by the board on August 5. Judge Manning's laches argument fails because he has not shown that he has suffered prejudice as a result.

{¶ 19} "'[I]n order to successfully prosecute a claim of laches, *the person asserting the claim* must show that *he has been materially prejudiced* by the delay of the adverse party in asserting his rights.' " (Emphasis added.) *State ex rel. Pennington v. Bivens*, 2021-Ohio-3134, ¶ 26, quoting *Smith v. Smith*, 168 Ohio St. 447, 455 (1959). The only prejudice Judge Manning asserts on his own behalf is the fact that he has been forced "to divert his time in the final weeks before the election to defend[] a protest that no statute authorizes." But Judge Manning points to no case holding that a candidate's having to defend his candidacy qualifies as prejudice sufficient to support a successful laches defense. *See State ex rel. Roadway Express, Inc. v. Indus. Comm.*, 1998-Ohio-213, ¶ 20 ("material prejudice is not just any inconvenience or expense suffered by the party asserting laches in a mandamus action"). Moreover, "for laches to apply, the prejudice must have been avoidable" had the relator acted promptly. *State ex rel. Ohio Democratic Party v.*

LaRose, 2024-Ohio-4953, ¶ 31. Judge Manning does not suggest that he would not have defended his candidacy before the board or that he would not have intervened as respondent in this action had Derrig filed his protest sooner.

{¶ 20} The only other prejudice Judge Manning asserts is that Derrig's delay "pushed this litigation past September 19, the day by which absentee ballots had to be ready for transmission to uniformed-services and overseas voters." *See* R.C. 3511.04 (providing that the board of elections shall "mail . . . or otherwise send uniformed services or overseas absent voter's ballots" at least forty-six days before a general election). While we have recognized that impairing a board of elections' ability to prepare absentee ballots may constitute material prejudice, *see State ex rel. Brinda v. Lorain Cty. Bd. of Elections*, 2007-Ohio-5228, ¶ 11, this prejudice is not suffered by Manning. And, notably, neither the board (which did not file either an answer or a merit brief) nor Secretary LaRose has argued any such prejudice arising from Derrig's delay. Indeed, we have previously declined to apply laches when this type of prejudice has been raised by parties other than the board of elections itself. *See State ex rel. Halstead v. Jackson*, 2022-Ohio-3205, ¶ 19 (rejecting respondent property owner's laches argument that were the relators to prevail, the board of elections might not have enough time to prepare absentee ballots before the deadline, because the property owner "must show that it—not the board—has been prejudiced").

{¶ 21} Because Judge Manning has not shown that he has been prejudiced by Derrig's purported delay, we reject his laches argument.

B. Mandamus

{¶ 22} To be entitled to a writ of mandamus, Derrig must establish by clear and convincing evidence that (1) he has a clear legal right to the requested relief, (2) respondents have a clear legal duty to provide that relief, and (3) he lacks an adequate remedy in the ordinary course of the law. *State ex rel. Strbich v. Montgomery Cty. Bd. of Elections*, 2024-Ohio-4933, ¶ 11. Derrig seeks a writ of

mandamus ordering Secretary LaRose and the board to remove Judge Manning's name from the November general-election ballot as a candidate for the remaining unexpired Ninth District judicial term. Because that election will occur in less than 30 days, Derrig lacks an adequate remedy in the ordinary course of the law. *See State ex rel. Leneghan v. Delaware Cty. Bd. of Elections*, 2026-Ohio-1598, ¶ 23; *State ex rel. Evans v. Blackwell*, 2006-Ohio-4334, ¶ 42. Neither Secretary LaRose nor Judge Manning argues otherwise.

{¶ 23} Derrig argues that the board and Secretary LaRose have a clear legal duty to remove Judge Manning's name from the November general-election ballot as a candidate for the remaining unexpired Ninth District term because R.C. 3513.31(I) prohibited the party committee from selecting Judge Manning as the party's candidate. Secretary LaRose and Judge Manning initially argue that we should deny the writ because there is no statutory protest procedure applicable to candidate selections under R.C. 3513.31(I), *see State ex rel. Scherach v. Lorain Cty. Bd. of Elections*, 2009-Ohio-5349, ¶ 20-22. Thus, they say, the board should not have considered Derrig's purported protest letter and therefore could not have sustained it. Because we deny the writ based on the plain language of R.C. 3513.31(I), we need not address that argument.

{¶ 24} R.C. 3513.31(I) states:

> If a person holding an elective office dies or resigns subsequent to the one hundred fifteenth day before the day of a primary election and prior to the eighty-sixth day before the day of the next general election, and if, under the laws of this state, a person may be elected at that general election to fill the unexpired term of the person who has died or resigned, the appropriate committee of each political party, acting as in the case of a vacancy in a party nomination, as provided in [R.C. 3513.31(A) through (D)], may

> select a person as the party candidate for election for such unexpired term at that general election, and certify the person's name to the appropriate election official not later than four p.m. on the eighty-sixth day before the day of that general election, or on the tenth day following the day on which the vacancy occurs, whichever is later. . . . Thereupon the name shall be printed as the party candidate under proper titles and in the proper place on the proper ballots for use at the election. *If a person has been nominated in a primary election or nominated by petition under section 3517.012 of the Revised Code, the authorized committee of that political party shall not select and certify a person as the party candidate.*

(Emphasis added.)

{¶ 25} Derrig contends that the last sentence of R.C. 3513.31(I) prohibits Judge Manning's selection as the party candidate because he had previously been nominated in a primary election for a different office—namely, office of state representative for the 52nd Ohio House District. In other words, Derrig reads the last sentence of R.C. 3513.31(I) as prohibiting a party district committee from "select[ing] and certify[ing]" as a candidate "a person who was nominated in a primary election." Secretary LaRose and Judge Manning offer a different interpretation. They assert that because R.C. 3513.31(I)'s candidate-selection window opens *before* the deadline for declarations of candidacy for nomination at a primary election, the statute contemplates a situation in which (1) a vacancy arises before a primary election, (2) one or more persons declare their candidacy for the now-vacant unexpired term, and (3) a person is nominated as a candidate at the primary election for the unexpired term. In their view, then, the last sentence of the statute serves to prevent a party committee from supplanting the existing primary

winner with its own selection, thereby protecting the expressed will of the primary voters.

{¶ 26} In determining the meaning of a statute, we begin with the statute's plain language, "'read[ing] words and phrases in context and construe[ing] them in accordance with rules of grammar and common usage.' " *State ex rel. Spencer v. Stark Cty. Bd. of Elections*, 2026-Ohio-966, ¶ 22, quoting *State ex rel. Russell v. Thornton*, 2006-Ohio-5858, ¶ 11. "If the meaning of a statute is unambiguous and definite, then it must be applied as written and no further interpretation is appropriate." *State ex rel. Herman v. Klopfleisch*, 72 Ohio St.3d 581, 584 (1995). Moreover, it is well settled that related statutory provisions should be construed together and that the Revised Code should be read as an interrelated body of law. *Riffle v. Physicians & Surgeons Ambulance Serv., Inc.*, 2013-Ohio-989, ¶ 21.

{¶ 27} R.C. 3513.31(I) provides that if a vacancy arises within 115 days of a primary election, a party committee may select and certify a person as the party's candidate for the vacant unexpired term at the general election. However, "[i]f *a person* has been nominated in a primary election . . . , the authorized committee of that political party shall not select and certify *a person* as the party candidate." (Emphasis added.) *Id.* Notably, this sentence twice uses the phrase "a person." The word "a" is an indefinite article, *Judy v. Ohio Bur. of Motor Vehicles*, 2003-Ohio-5277, ¶ 19, which "'points to a nonspecific object, thing, or person that is not distinguished from the other members of a class,' " *Z.J. v. R.M.*, 2025-Ohio-5662, ¶ 23, quoting *Chicago Manual of Style* 250 (17th Ed. 2017). Thus, put another way, R.C. 3513.31(I) provides that if *any* person has been nominated in a primary election, the party committee may not select and certify *any* person as the party candidate.

{¶ 28} This, then, leads to the question of what the phrase "a primary election" means. Although this phrase also uses an indefinite article, we are not persuaded that this is tantamount to a primary election for *any* office. R.C.

3513.31(I) applies when a vacancy in an elective office needs to be filled; therefore, in context, the phrase "a primary election" most naturally refers to a primary election for the vacant office sought to be filled. *See State ex rel. New Carlisle v. Clark Cty. Bd. of Elections*, 2025-Ohio-814, ¶ 14, quoting *State v. Wilson*, 1997-Ohio-35, ¶ 9 ("we 'cannot pick out one sentence and disassociate it from the context, but must look to the four corners of the enactment to determine the intent of the enacting body' ").

{¶ 29} As Secretary LaRose and Judge Manning correctly note, this reading is in harmony with R.C. 3513.05, which provides that a person "desiring to become a candidate for a party nomination at a primary election" shall file a declaration of candidacy "not later than . . . the ninetieth day before the day of the primary election." Because R.C. 3513.31(I) contemplates a vacancy arising as early as 115 days before a primary election, the statute leaves open the possibility that one or more persons could declare their candidacy for primary nomination within the remaining 25 days. Thus, under R.C. 3513.31(I), "a person" could be nominated in a primary election as the party candidate for the unexpired term of the vacant office and, in such a situation, the final sentence of the statute precludes a party committee from selecting "a person"—i.e., any person—as the party candidate. The last sentence of R.C. 3513.31(I) therefore prevents a party committee from selecting any person as the party candidate for the unexpired term of a vacant office if any person has already been nominated for that unexpired term of office in a primary election.

{¶ 30} Derrig's contrary interpretation suffers three related problems. First, it would have us disregard the context of R.C. 3513.31(I) to conclude that "a primary election" refers to a primary election for any office, rather than the vacant office to which the selection procedure of R.C. 3513.31(I) is directed. Second, it would require us to substitute a definite article before the second occurrence of "person," which would require us to add the following italicized words to the

statute: "If a person has been nominated in a primary election . . . , the authorized committee of that political party shall not select and certify [*that previously nominated*] person as the party candidate." *See Brinda*, 2007-Ohio-5228, at ¶ 24 (in interpreting a statute, a court may not add or delete words); *Judy* at ¶ 19 (rejecting defendant's proffered statutory interpretation because it would have required us to "substitute the word 'each' for the word 'a' " [emphasis deleted]). Third, insofar as Derrig's proposed interpretation of R.C. 3513.31(I) would prevent a person who has been nominated for a different office in a primary election from being selected as a party candidate at the ensuing general election, it would render the last sentence of that statute mostly superfluous. R.C. 3513.052(A) already prohibits a person from seeking election to multiple offices at the same election, and this prohibition extends to "the filling of a vacancy under [R.C. 3513.31]," unless the person withdraws as a candidate for the first-sought office "before the applicable deadline for the filling of a vacancy under [R.C. 3513.31]," R.C. 3513.052(H)(2)(b).

{¶ 31} Derrig claims that Secretary LaRose and Judge Manning's interpretation is untenable because R.C. 3513.31(I) does not explicitly provide for a primary election; rather, he says, R.C. 3513.31(I) is a completely distinct nominating mechanism that "only applies when a primary election is not held." But nothing in R.C. 3513.31(I) suggests this conclusion, and such an interpretation would needlessly conflict with R.C. 3513.05, which permits declarations of candidacy to be filed after R.C. 3513.31(I)'s candidate-selection window opens. *See Riffle*, 2013-Ohio-989, at ¶ 21 (statutory provisions should be construed together and read as an interrelated body of law).

{¶ 32} Finally, Derrig leans heavily on our decision in *Trumbull Cty.*, 2022-Ohio-3268. In *Trumbull Cty.*, Sarah Kovoor had unsuccessfully sought nomination as the Republican Party candidate for a seat on the Eleventh District Court of Appeals. After she lost the nomination, a sitting judge on the Trumbull County

Court of Common Pleas retired, creating a vacancy and triggering the procedure under R.C. 3513.31(I). A Republican Party committee selected Kovoor as the party's candidate for the unexpired common-pleas-court term. A registered voter filed a protest against Kovoor's candidacy, citing R.C. 3513.04 for the proposition that Kovoor should be disqualified from running for the unexpired common-pleas-court term because she had unsuccessfully run for nomination to a different office in the immediately preceding primary election. R.C. 3513.04 provides that

> [n]o person who seeks party nomination for an office or position at a primary election by declaration of candidacy or by declaration of intent to be a write-in candidate . . . shall be permitted to become a candidate . . . by filling a vacancy under section 3513.31 of the Revised Code at the following general election for any office other than the office of member of the state board of education, office of member of a city, local, or exempted village board of education, office of member of a governing board of an educational service center, or office of township trustee.

{¶ 33} The board of elections held a special meeting to certify candidates to the November ballot, and its vote on whether to certify Kovoor's candidacy resulted in a two-to-two tie. The board submitted the question to Secretary LaRose, who ultimately voted against Kovoor's candidacy, citing R.C. 3513.04. Kovoor filed an original action for a writ of mandamus in this court, seeking an order compelling the board of elections and Secretary LaRose to certify Kovoor to the general-election ballot. We denied the writ, explaining that R.C. 3513.04 plainly and unambiguously "prohibits a candidate . . . from running for an office in the general election if the candidate unsuccessfully ran for office in the preceding primary election." *Trumbull Cty.* at ¶ 12. Thus, because Kovoor had

unsuccessfully run for nomination in the preceding primary, she was "barred from being a candidate for judge in the November election." *Id.*

{¶ 34} One of Kovoor's arguments for a contrary result was that R.C. 3513.31(I)'s last sentence permits a party committee to select "a primary-election *loser*," notwithstanding the clear prohibition in R.C. 3513.04. (Emphasis in original.) *Trumbull Cty.*, 2022-Ohio-3268, at ¶ 17. We rejected that argument as an attempt to manufacture conflict between related statutory provisions where none existed. In doing so, we stated that

> R.C. 3513.31(I) simply makes clear that a party central committee may not choose a *winner* from the previous primary election to be its party's nominee to fill a vacancy for an unexpired term of office in the ensuing general election. In other words, the last sentence of R.C. 3513.31(I) ensures that a party central committee will not select someone who is already a general-election candidate for another office.

(Emphasis in original.) *Id.* at ¶ 18.

{¶ 35} Derrig seizes on the first quoted sentence. But, as explained above, this language from *Trumbull Cty.*—which appears to view R.C. 3513.31(I) as a candidate-specific prohibition—cannot be squared with the plain text of the statute. And it is not controlling in any event. The core of our holding in *Trumbull Cty.* was that R.C. 3513.04 barred Kovoor from being a candidate for common-pleas-court judge at the general election because she had unsuccessfully run for another office in the preceding primary. The discussion of R.C. 3513.31(I) was necessary only to reject Kovoor's argument that R.C. 3513.31(I) overrode the plain meaning of R.C. 3513.04. Thus, the additional gloss on how and to whom R.C. 3513.31(I)'s final sentence *would* apply was dicta, and we are not constrained by it here.

{¶ 36} The fact that Judge Manning was previously nominated for a different office did not prevent the party district committee from selecting him as a candidate for the remaining unexpired Ninth District term under R.C. 3513.31(I). Consequently, Derrig has not established his clear legal right to Judge Manning's removal from the ballot or respondents' clear legal duty to provide that relief.

III. CONCLUSION

{¶ 37} For the foregoing reasons, we deny the writ.

Writ denied.

DEWINE, J., joined by DETERS and HAWKINS, JJ., concurring in judgment only.

{¶ 38} Like the per curiam opinion, I would not grant a writ of mandamus in this case. But while the per curiam opinion would deny the writ on the merits, I would dismiss the writ based on the failure of the relator, Mark Derrig, to establish standing.

{¶ 39} My reasons for doing so are the same as those I explained in detail in *State ex rel. Koebel v. Erie Cty. Bd. of Elections*, 2026-Ohio-3999, ¶ 85-102 (DeWine, J., concurring in judgment only). The per curiam opinion's analysis in this case suffers the same defects as the per curiam opinion's analysis in *Koebel*. And I refer the reader to my opinion in that case for a fuller explanation of why the majority is wrong to jettison standing requirements in election cases like this one.

{¶ 40} "Standing is a threshold requirement that must be met before a court may consider the merits of a legal claim." *Beaver Excavating Co. v. Testa*, 2012-Ohio-5776, ¶ 8. The burden is on the relator to establish standing to sue. *Ohio Pyro, Inc. v. Ohio Dept. of Commerce*, 2007-Ohio-5024, ¶ 27.

{¶ 41} The standing requirement comes from the Ohio Constitution. *See Voss v. Quicken Loans, L.L.C.*, 2026-Ohio-531, ¶ 10; Ohio Const., art. IV, § 1. Thus, we may only "decide actual controversies between parties legitimately

affected by specific facts." *Fortner v. Thomas*, 22 Ohio St.2d 13, 14 (1970). To establish standing, "a plaintiff must show an actual injury fairly traceable to the defendant's conduct and that it is likely that a court can redress the injury." *State ex rel. Martens v. Findlay Mun. Court*, 2024-Ohio-5667, ¶ 12; *accord ProgressOhio.org, Inc. v. JobsOhio*, 2014-Ohio-2382, ¶ 7. In mandamus, that means the relator must show both that he "would be directly benefitted or injured by a judgment in the case" and that he suffers "particular harm that is different from some general harm suffered by the public at large." (Cleaned up.) *Martens* at ¶ 12; *Voss* at ¶ 11.

{¶ 42} Derrig seeks to have Judge Nathan Manning removed from the ballot on the basis that the Republican Party district committee improperly selected Manning as a candidate for an unexpired Ninth District Court of Appeals term. Although it is Derrig's burden to demonstrate standing, *see Ohio Pyro* at ¶ 27, he has submitted nothing that would establish his standing to sue. He asserts only that he is a qualified elector and member of the Democratic Party. He claims that his "standing and particular injury arise[] from the injury to his vote for his preferred candidate that would occur if [respondents, the Summit County Board of Elections and Ohio Secretary of State Frank LaRose,] disregarded their election duties."

{¶ 43} Nothing in Derrig's allegations demonstrates that he has suffered "an actual injury fairly traceable to [respondents'] conduct and that it is likely that a court can redress the injury," *Martens* at ¶ 12. Derrig cannot plausibly show an injury from the decision to certify Judge Manning to the ballot. Derrig does not allege that he is a candidate for that office. Derrig is not a member of the Republican Party, so he cannot establish any injury stemming from the selection and placement on the ballot of the Republican Party's candidate. Nor does Derrig allege that he is being deprived of an opportunity to vote for the candidate of his choice in the upcoming election—he simply wants to prevent other people from being able to vote for Judge Manning.

{¶ 44} This case is not like other election cases where the legislature has created a statutory procedure and we have assumed that an elector who has exercised that statutory right has a particularized injury sufficient to establish standing to pursue an action in mandamus to challenge the denial of the protest. *See, e.g.*, *State ex rel. Duckett v. Hancock Cty. Bd. of Elections*, 2026-Ohio-3747, ¶ 3, 5-6; *see also Koebel*, 2026-Ohio-3999, at ¶ 93-94 (DeWine, J., concurring in judgment only).

{¶ 45} In short, Derrig has failed to allege an injury to himself different from the electorate at large and has failed to show that he would be directly benefitted or injured by a judgment in this case. *See Martens*, 2024-Ohio-5667, at ¶ 12. He has no redressable injury and no beneficial interest in this lawsuit.

{¶ 46} Standing is a constitutional requirement. And standing—by definition—requires a particularized injury. *See Voss*, 2026-Ohio-531, at ¶ 11. The majority would dispense with the particularized-injury requirement in election cases and instead allow any elector to pursue a generalized grievance. But if standing is really a constitutional requirement, we can't simply ignore the standing requirement in election cases.

{¶ 47} Because Derrig has failed to meet his burden to establish standing, I would resolve the case on that basis. Because the per curiam opinion does otherwise, I respectfully concur in judgment only.

McTigue & Colombo, L.L.C., J. Corey Colombo, and Helen G. Lohre, for relator.

D. Andrew Wilson, Ohio Attorney General, and Ann Yackshaw, Mark D. Tucker, Michael A. Walton, and Stephen P. Tabatowski, Assistant Attorneys General, for respondent Ohio Secretary of State Frank LaRose.

Taft Stettinius & Hollister, L.L.P., W. Stuart Dornette, and Cary M. Snyder, for intervening respondent.