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SLIP OPINION NO. 2026-OHIO-3573

THE STATE EX REL. ONTKO V. SANDUSKY COUNTY BOARD OF ELECTIONS.

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Ontko v. Sandusky Cty. Bd. of Elections*, Slip Opinion No. 2026-Ohio-3573.]

Elections—Prohibition—Mandamus—Writ of prohibition sought to prohibit board of elections from placing candidate’s name on November 2026 general-election ballot—Writ of mandamus sought to compel board of elections to grant protest against candidacy for judicial office—Board of elections could not have granted protest under R.C. 3501.39(A)(2) without violating the restrictions set forth in 13th paragraph of R.C. 3513.05—Board of elections could not have taken action sua sponte to invalidate candidacy under R.C. 3501.39(A)(4) without violating the restrictions set forth in R.C. 3501.39(B)—Because relator’s protest was untimely, she cannot show that she has a clear legal right to have board of elections grant her protest or that board has a clear legal duty to grant her protest—Writs denied.

(No. 2026-1133—Submitted September 4, 2026—Decided September 14, 2026.)

SUPREME COURT OF OHIO

IN PROHIBITION and MANDAMUS.

The per curiam opinion below was joined by DEWINE, DETERS, HAWKINS, and SHANAHAN, JJ. BRUNNER, J., concurred, noting that the law as currently enacted by the General Assembly lacks the requisite authority for this court to provide relief to relator and to the electors who will be presented with a ballot that contains the name of a judicial candidate who is ineligible to hold the office for which he seeks election. KENNEDY, C.J., and FISCHER, J., concurred in judgment only.

Per Curiam.

{¶ 1} This is an expedited election action filed by relator, Kimberly J. Ontko, against respondent, the Sandusky County Board of Elections (“the board of elections”). Ontko seeks a writ of prohibition that prohibits the board of elections from placing Jon Marshal Ickes’s name on the November 3, 2026 general-election ballot as a candidate for the office of judge on the Sandusky County Court of Common Pleas with a term commencing January 1, 2027. Ontko claims that Ickes’s name cannot appear on the ballot in view of our recent decision in *Disciplinary Counsel v. Ickes*, 2026-Ohio-3173, ¶ 68, in which we sanctioned Ickes for judicial misconduct. As an alternative form of relief, Ontko asks for a writ of prohibition that prohibits the board of elections from “taking Ickes’[s] supposed ‘candidacy’ into account when determining and declaring the winner of th[e] election.” As another alternative, Ontko asks for a writ of mandamus compelling the board of elections to grant her protest against Ickes’s candidacy for judicial office. We deny the requested writs.

I. BACKGROUND

{¶ 2} Ontko has been certified by the board of elections as an independent candidate at the upcoming general election for the office of judge on the Sandusky

County Court of Common Pleas with a term commencing January 1, 2027. Ontko's opponent at the general election for this office is Ickes. In January 2026, Ickes filed a declaration of candidacy and petition with the board of elections to be a candidate as the Republican Party nominee for the office. In February 2026, the board of elections certified Ickes as a candidate. Ickes prevailed at the May 2026 primary election as the Republican Party nominee. Under Ohio law, candidates appearing on the general-election ballot for election to the office of judge on a court of common pleas appear on a nonpartisan ballot. R.C. 3505.04.

{¶ 3} Ickes was admitted to the practice of law in Ohio in 1992 and previously served as a judge on the Sandusky County Court of Common Pleas. *Ickes* at ¶ 1. He “was appointed to fill an unexpired term on the Sandusky County Court of Common Pleas, General and Domestic Relations Division, in July 2020” and “was later elected to a full term that commenced on January 1, 2021.” *Id.* During his time in office, Ickes became the subject of a disciplinary complaint filed in this court alleging multiple ethical violations. *Id.* at ¶ 2. In May 2025, a panel of the Board of Professional Conduct held a hearing regarding these allegations, and the board later issued a report finding that Ickes had committed some of the alleged ethical violations and recommending that Ickes be suspended from the practice of law for one year fully stayed on the condition that he commit no further misconduct. *Id.* at ¶ 3. The board adopted the panel's report. *Id.*

{¶ 4} In August 2026, we issued our decision in Ickes's disciplinary case, adopting the Board of Professional Conduct's findings of misconduct but imposing a harsher sanction than what the board had recommended in the form of a two-year suspension from the practice of law and an immediate suspension from judicial office without pay for the suspension's duration. *Ickes*, 2026-Ohio-3173, at ¶ 4, 68; *accord id.* at ¶ 68 (observing that a harsher sanction was justified because Ickes had “pervasively used vulgar language with colleagues, fostered an inappropriate

and unprofessional workplace environment, and adjudicated criminal cases despite the appearance of impropriety”).

{¶ 5} A day after we issued our decision in *Ickes*, Ontko filed with the board of elections a letter captioned “Election protest regarding Jon Marshal Ickes.” In her letter, Ontko called the board of elections’ attention to our decision in *Ickes*, explaining her view that the decision had the effect of disqualifying Ickes’s candidacy for judicial office. Ontko thus requested that the board of elections “take swift action to ensure that his name does not appear on the upcoming general election ballot.” Four days after Ontko filed her protest, the board of elections held a special emergency meeting to address it. There is no indication in the record that sworn witness testimony was taken or that documentary evidence was offered at the meeting. But the board of elections did ask whether any guests present at the meeting wanted to speak. Ontko’s attorney and the chairman of the Sandusky County Democratic Party both spoke to the board of elections. Ontko’s attorney stated that Ickes was no longer qualified for judicial office on the general-election ballot because his law license is suspended. The board of elections denied Ontko’s protest on the grounds that it was untimely.

{¶ 6} Ontko filed this action on the same day that the board of elections denied her protest. Thereafter, we entered an order setting a date for the filing of the board of elections’ answer and scheduling the submission of briefs. 2026-Ohio-3312. After briefing was underway, we granted Ontko’s motion to strike the board of elections’ answer, denied the board of elections’ motion to file an amended answer *instanter*, and denied as moot the board of elections’ motion to withdraw its answer. 2026-Ohio-3430. Because the board of elections has not filed an answer denying the factual allegations in Ontko’s complaint, the board of elections has admitted those factual allegations. *See* Civ.R. 8(D); *see also State ex rel. Barr v. Wesson*, 2023-Ohio-3028, ¶ 18, quoting *Rhoden v. Akron*, 61 Ohio App.3d 725,

727 (9th Dist. 1988) (“It is elementary in the law of pleading that an admission in a pleading dispenses with proof and is equivalent to proof of the fact.”).

II. ANALYSIS

{¶ 7} Ontko advances claims for a writ of prohibition and a writ of mandamus. We address each in turn.

A. Prohibition

{¶ 8} To be entitled to a writ of prohibition, Ontko must prove by clear and convincing evidence that (1) the board of elections has exercised quasi-judicial power, (2) the exercise of that power was unauthorized by law, and (3) denying the writ would result in injury for which no adequate remedy exists in the ordinary course of the law. *State ex rel. M/I Homes of Cincinnati, L.L.C. v. Clermont Cty. Bd. of Elections*, 2025-Ohio-4362, ¶ 9. We will consider these elements against the two forms of relief in prohibition that Ontko has requested.

1. Request to prohibit the board of elections from placing Ickes’s name on the ballot

{¶ 9} The primary form of relief in prohibition that Ontko seeks is a request that this court prohibit the board of elections from placing Ickes’s name on the ballot. Prohibition is a proper vehicle “to prevent the placement of names or issues on a ballot, as long as the election has not yet been held.” *Tatman v. Fairfield Cty. Bd. of Elections*, 2004-Ohio-3701, ¶ 14.

a. Exercise of quasi-judicial power

{¶ 10} The first hurdle Ontko must clear to prevent Ickes’s name from appearing on the ballot is to show that the board of elections exercised quasi-judicial power. *M/I Homes* at ¶ 9. Ontko acknowledges that the board of elections did not conduct a formal hearing, but she insists that the board of elections nevertheless exercised quasi-judicial power because it dismissed her protest against Ickes’s candidacy for judicial office on legal grounds.

{¶ 11} “‘Quasi-judicial authority’ is ‘the power to hear and determine controversies between the public and individuals that require a hearing resembling a judicial trial.’” *State ex rel. Moscow v. Clermont Cty. Bd. of Elections*, 2022-Ohio-3138, ¶ 15, quoting *State ex rel. Wright v. Ohio Bur. of Motor Vehicles*, 1999-Ohio-17, ¶ 7. In the elections context, we have often said that a “‘board of elections exercises quasi-judicial authority when it makes a decision regarding a protest after a mandatory hearing that includes sworn testimony.’” *State ex rel. Miller v. Hamilton Cty. Bd. of Elections*, 2021-Ohio-831, ¶ 23, quoting *State ex rel. Barney v. Union Cty. Bd. of Elections*, 2019-Ohio-4277, ¶ 12. Even so, “sworn testimony is one—but not the *only*—indicator that a hearing resembled a judicial trial.” (Emphasis in original.) *Id.* at ¶ 24. In *Miller*, we concluded that a board of elections had exercised quasi-judicial power notwithstanding the absence of sworn testimony, because the board was required to conduct a quasi-judicial hearing by statute, *id.* at ¶ 25 (“R.C. 3501.39(A)(2) requires the board to conduct a quasi-judicial hearing”), and an attorney for one of the respondents in the case “offered factual statements” to the board at its protest hearing, *id.* at ¶ 27.

{¶ 12} Here, the board of elections’ proceeding, which took the form of a special emergency meeting, appears to have been quite perfunctory. Although there is no transcript in the record of what transpired at that meeting, there is no indication in the record that sworn witness testimony was taken or that documentary evidence was presented. That said, the record shows that Ontko’s attorney spoke to the board of elections concerning the suspension of Ickes’s law license, arguing that the suspension disqualified Ickes from holding judicial office. This statement by Ontko’s attorney, concise as it was, contained factual information concerning the status of Ickes’s law license. Under *Miller*, if Ontko brought her protest in accordance with a statute, the statement by Ontko’s attorney to the board of elections, which was followed by the board of elections’ decision to deny Ontko’s

protest, would qualify the proceeding as reflecting the board of elections' exercise of quasi-judicial power.

{¶ 13} The key question, then, is whether Ontko properly brought her protest in accordance with a statute. If she did not, she cannot claim entitlement to a writ of prohibition. *See State ex rel. Nelsonville v. Athens Cty. Bd. of Elections*, 2025-Ohio-4363, ¶ 26, quoting *State ex rel. Fritz v. Trumbull Cty. Bd. of Elections*, 2021-Ohio-1828, ¶ 10 (“extraordinary relief in prohibition is not available when there is no statute or other law requiring a board of elections to conduct a quasi-judicial hearing on a protest”). We address this question in the next section.

b. Unauthorized exercise of power

{¶ 14} Ontko argues that her protest against Ickes's candidacy for judicial office was properly brought in accordance with the procedures of R.C. 3501.39. This court has said that “R.C. 3501.39 governs pre-election protests concerning petitions and candidacies in election matters.” *Whitman v. Hamilton Cty. Bd. of Elections*, 2002-Ohio-5923, ¶ 12. R.C. 3501.39 provides:

(A) The secretary of state or a board of elections shall accept any petition described in section 3501.38 of the Revised Code unless one of the following occurs:

(1) A written protest against the petition or candidacy, naming specific objections, is filed, a hearing is held, and a determination is made by the election officials with whom the protest is filed that the petition is invalid, in accordance with any section of the Revised Code providing a protest procedure.

(2) A written protest against the petition or candidacy, naming specific objections, is filed, a hearing is held, and a determination is made by the election officials with whom the

protest is filed that the petition violates any requirement established by law.

(3) In the case of an initiative petition received by the board of elections, the petition falls outside the scope of authority to enact via initiative or does not satisfy the statutory prerequisites to place the issue on the ballot, as described in division (M) of section 3501.38 of the Revised Code. The petition shall be invalid if any portion of the petition is not within the initiative power.

(4) The candidate's candidacy or the petition violates the requirements of this chapter, Chapter 3513. of the Revised Code, or any other requirements established by law.

(B) . . . [A] board of elections shall not invalidate any declaration of candidacy . . . under division (A)(4) of this section after the sixtieth day prior to the election at which the candidate seeks nomination to office, if the candidate filed a declaration of candidacy

{¶ 15} Ontko argues that she brought a proper protest by way of R.C. 3501.39(A)(2) or, alternatively, R.C. 3501.39(A)(4); she disavows relying on R.C. 3501.39(A)(1) or (3). R.C. 3501.39(A)(3) addresses “initiative petition[s],” which is an election procedure that is not at issue here, so Ontko is correct that this provision is inapplicable. Ontko is also correct to disavow reliance on R.C. 3501.39(A)(1). To better set the stage for Ontko’s arguments concerning R.C. 3501.39(A)(2) and (4), it will help to first explain why R.C. 3501.39(A)(1) would be unavailing to Ontko.

{¶ 16} As this court observed in *Whitman* at ¶ 17, the clause in R.C. 3501.39(A)(1) that speaks to “any section of the Revised Code providing a protest procedure” is a directive to account for the applicable protest procedure under the

relevant facts. As in *Whitman*, which involved an aspiring party candidate for judicial office on a court of common pleas who prevailed at a primary election, the facts here show that Ickes submitted a declaration of candidacy and petition to be “a candidate for a party nomination at a primary election,” R.C. 3513.05. The protest procedure prescribed by the 13th paragraph of R.C. 3513.05, “which relates to declarations of candidacy and petitions in primary elections,” *Whitman* at ¶ 17, provides:

Protests against the candidacy of any person filing a declaration of candidacy for party nomination or for election to an office or position, as provided in this section, may be filed by any qualified elector who is a member of the same political party as the candidate and who is eligible to vote at the primary election for the candidate whose declaration of candidacy the elector objects to, or by the controlling committee of that political party. The protest shall be in writing, and shall be filed not later than four p.m. of the seventy-fourth day before the day of the primary election. . . .

R.C. 3513.05.

{¶ 17} R.C. 3513.05 contains a timing requirement and limits the class of persons who have standing to file a protest. As to timing, the protest must be filed by 4:00 p.m. of the 74th day before the primary election. The primary election occurred here on May 5, 2026. So, to be timely, Ontko’s protest had to have been filed by 4:00 p.m. on February 20, 2026.¹ Ontko’s protest was not filed until August 20, 2026, well after the statutory deadline. It follows that if Ontko had

1. See Ohio Secretary of State, 2026 *Ohio Elections Calendar*, <https://www.ohiosos.gov/assets/election-calendar-2026.pdf> (accessed Sept. 8, 2026) [<https://perma.cc/59VL-JVT4>].

predicated her argument on R.C. 3501.39(A)(1), she would not have succeeded in showing that the board of elections’ denial of her protest was unauthorized by law, because her protest was untimely. *See State ex rel. Harbarger v. Cuyahoga Cty. Bd. of Elections*, 1996-Ohio-254, ¶ 7 (holding that a protest was untimely under the interplay between “R.C. 3513.05 and 3501.39(A)(1)”).

{¶ 18} What is more, even putting aside untimeliness, any argument under R.C. 3501.39(A)(1) would still fail because the record lacks clear and convincing evidence showing that Ontko falls within the class of persons with standing to file a protest under R.C. 3501.39(A)(1). *See Zukowski v. Brunner*, 2010-Ohio-1652, ¶ 9 (observing that the 13th paragraph of R.C. 3513.05 prescribes standing requirements). Specifically, there is no indication that Ontko is a member of the same political party as Ickes and was eligible to vote in the primary election at which Ickes was on the ballot or that Ontko is a member of the Republican Party Controlling Committee.

{¶ 19} Now we turn to R.C. 3501.39(A)(2), on which Ontko does rely. Unlike R.C. 3501.39(A)(1), R.C. 3501.39(A)(2) does not contain the clause that is in R.C. 3501.39(A)(1) regarding “any section of the Revised Code providing a protest procedure.” In view of this difference, we have said that R.C. 3501.39(A)(2) contains no explicit time requirement. *See Whitman*, 2002-Ohio-5923, at ¶ 18; *Harbarger* at ¶ 8. Even so, we have held that R.C. 3501.39(A)(2) cannot be invoked to create an end run around R.C. 3501.39(A)(1). Reading R.C. 3501.39(A)(1) and (2) as a whole, we have said that R.C. 3501.39(A)(2)’s protest procedure cannot be invoked “to circumvent the specific statutory protest procedure of R.C. 3513.05, as incorporated in R.C. 3501.39(A)(1). To hold otherwise would permit R.C. 3501.39(A)(2) to render R.C. 3501.39(A)(1) and incorporated statutory protest procedures a nullity, a result that the General Assembly could not have intended.” *Harbarger* at ¶ 8.

{¶ 20} Consider how this understanding of R.C. 3501.39(A)(2) played out in *Whitman*. In *Whitman*, much like here, a candidate for judicial office on a court of common pleas prevailed at the May 2002 primary election and was the Republican Party nominee for the office at the November 2002 general election. In August 2002, Whitman filed a protest with the Hamilton County Board of Elections against the candidate, claiming that the candidate did not qualify under R.C. 2301.01's requirement related to years of practice as an attorney in Ohio. The board deadlocked on the candidate's motion to dismiss Whitman's protest as untimely, and the secretary of state broke the tie by dismissing Whitman's protest as untimely. Whitman then filed an action in this court seeking a writ of prohibition or, alternatively, a writ of mandamus, requesting that the court prevent the placement of the candidate's name on the ballot or, alternatively, strike the candidate's name from the ballot. In denying the prohibition claim, we explained that Whitman's protest was untimely under R.C. 3513.05 and 3501.39(A)(1). *Whitman* at ¶ 17. Turning to R.C. 3501.39(A)(2), we invoked *Harbarger* for the proposition that that provision, "which contains no time requirement," cannot be invoked to "circumvent the specific statutory protest procedure of R.C. 3513.05, as incorporated in R.C. 3501.39(A)(1)." *Whitman* at ¶ 18, quoting *Harbarger*, 1996-Ohio-254, at ¶ 8.

{¶ 21} Under these principles, we conclude that R.C. 3501.39(A)(2) did not authorize Ontko's protest. It was filed well after the required deadline to file a protest as interpreted in *Whitman*, so it was plainly untimely.

{¶ 22} Ontko has not presented a compelling basis to revise our precedent. Although she does not ask us to overrule our precedent, Ontko advances a series of arguments that, if adopted, would achieve the same basic result. Because this court's precedent forecloses Ontko's reliance on R.C. 3501.39(A)(2), the analysis need not go any further. The General Assembly remains free to rewrite the statute

to allow protests that are foreclosed by *Whitman* and *Harbarger*. See *VVF Intervest, L.L.C. v. Harris*, 2025-Ohio-5680, ¶ 35.

{¶ 23} Ontko’s next argument pertains to R.C. 3501.39(A)(4), but it fares no better. Unlike R.C. 3501.39(A)(2), which expressly contemplates a “written protest” followed by a “hearing,” R.C. 3501.39(A)(4) does not contemplate either a written protest or a hearing. Indeed, by its own terms, R.C. 3501.39(A)(4) does not create a protest procedure at all; rather, it authorizes a board of elections to act on its own initiative subject to certain time constraints (discussed below). Under this court’s precedent, Ontko cannot rely on R.C. 3501.39(A)(4), which does not create a protest procedure, as a means of obtaining relief in prohibition. See *Nelsonville*, 2025-Ohio-4363, at ¶ 26, quoting *Fritz*, 2021-Ohio-1828, at ¶ 10 (“extraordinary relief in prohibition is not available when there is no statute or other law requiring a board of elections to conduct a quasi-judicial hearing on a protest”).

{¶ 24} What is more, in *Whitman*, we determined that the Hamilton County Board of Elections “lacked authority under R.C. 3501.39(A)(3) [now R.C. 3501.39(A)(4)] to invalidate sua sponte [the candidate’s] petition and candidacy at the time that *Whitman* filed his protest” in view of R.C. 3501.39(B)’s time restriction. *Whitman*, 2002-Ohio-5923, at ¶ 19, citing *Harbarger*, 1996-Ohio-254, at ¶ 8.² R.C. 3501.39(B) states that “a board of elections shall not invalidate any declaration of candidacy . . . under division (A)(4) of this section after the sixtieth day prior to the election at which the candidate seeks nomination to office, if the candidate filed a declaration of candidacy.” Consistent with *Whitman*, we conclude

2. When *Harbarger* and *Whitman* were decided, the language of current R.C. 3501.39(A)(4) was set forth in former R.C. 3501.39(A)(3), 146 Ohio Laws, Part I, 549, 619-620. In enacting 2016 Sub.H.B. No. 463, the General Assembly renumbered former R.C. 3501.39(A)(3) to what is current R.C. 3501.39(A)(4). Any cite in *Harbarger* and *Whitman* to former R.C. 3501.39(A)(3) should be understood to refer to what is found in current R.C. 3501.39(A)(4).

that R.C. 3501.39(B) bars a board of elections from sua sponte invalidating a candidacy under R.C. 3501.39(A)(4) past the date specified by R.C. 3501.39(B).

{¶ 25} It follows that R.C. 3501.39(A)(4) does not authorize the relief that Ontko seeks in this case. The 60th day before the May 5, 2026 primary election was March 6, 2026. So, after March 6, 2026, R.C. 3501.39(B) deprived the board of elections of any authority to invalidate Ickes’s candidacy for judicial office under the sua sponte procedure set forth in R.C. 3501.39(A)(4). *See Whitman* at ¶ 19; *State ex rel. Yeager v. Richland Cty. Bd. of Elections*, 2013-Ohio-3862, ¶ 20.

{¶ 26} Having considered and rejected Ontko’s reliance on R.C. 3501.39(A)(2) and (4), we now turn to consider whether our decision in *State ex rel. Flynn v. Cuyahoga Cty. Bd. of Elections*, 164 Ohio St. 193 (1955), *overruled on other grounds by State ex rel. Schenck v. Shattuck*, 1 Ohio St.3d 272, 274 (1982), which Ontko heavily emphasizes in her merit brief, calls for a different result. In *Flynn*, we stated that “one who would be ineligible to hold a public office has no right to be a candidate for election thereto, since his election would be a nullity.” *Id.* at 200, quoting 18 Am.Jur., Elections, § 126, at 260 (1938). In doing so, we stated that a board of elections has the authority to determine whether a candidate meets the qualifications of the office that is being sought. *Id.* But in *Flynn*, the question pertaining to the candidate’s qualifications arose by way of a protest proceeding that included notice and a hearing. *Id.* at 195. Here, in contrast, Ontko has failed to identify a proper protest vehicle. Any suggestion that a board of elections possesses freewheeling authority to examine a candidate’s qualifications outside of the statutorily prescribed procedures for conducting such an examination cannot be sustained under *Flynn*. *See State ex rel. Williams v. Trumbull Cty. Bd. of Elections*, 175 Ohio St. 253, 254 (1963) (construing *Flynn* as standing for the rule that a “board of elections is authorized and required in a protest proceeding to determine whether the candidate is eligible under the statutes for the office which he seeks”).

{¶ 27} For similar reasons, Ontko’s reliance on *State ex rel. Emhoff v. Medina Cty. Bd. of Elections*, 2018-Ohio-1660, must fail. It is true that in *Emhoff*, this court scrutinized a candidate’s qualifications to be a judge on a court of common pleas under R.C. 2301.01. *See id.* at ¶ 1, 43. But unlike here, there is no indication that the underlying protests in *Emhoff* were untimely. Nor does Ontko get any traction out of *State ex rel. Addis v. McClenen*, 2008-Ohio-4924. She implies that that decision could be read to permit the postprimary protest that she filed with the board of elections, but *Addis* did not address R.C. 3501.39, so it has no bearing on this case.

{¶ 28} In the end, Ontko cannot show that what the board of elections did was unauthorized by law. The board of elections could not have granted her protest under R.C. 3501.39(A)(2) without violating the restrictions set forth in the 13th paragraph of R.C. 3513.05. And the board of elections could not have taken action sua sponte to invalidate Ickes’s candidacy for judicial office under R.C. 3501.39(A)(4) without violating the restrictions set forth in R.C. 3501.39(B). Moreover, a hearing is not required under R.C. 3501.39(A)(4), which is an essential ingredient of a cognizable prohibition claim. *See Nelsonville*, 2025-Ohio-4363, at ¶ 26. Accordingly, Ontko has not shown that she is entitled to a writ of prohibition that prohibits the board of elections from placing Ickes’s name on the ballot.

2. Request to prohibit the board of elections from taking Ickes’s candidacy for judicial office into account

{¶ 29} As an alternative form of relief in prohibition, Ontko asks in her complaint for a writ of prohibition that prohibits the board of elections from “taking Ickes’s[s] supposed ‘candidacy’ into account when determining and declaring the winner of th[e] election.” It is not exactly clear what this request means. Ontko cites no authority in her merit brief in which this court has granted a writ of prohibition ordering such relief. The lack of meaningful analysis to support this claim for relief is grounds alone to reject it. *See, e.g., State ex rel. Mauk v. Sheldon*,

2025-Ohio-5611, ¶ 21 (“the lack of meaningful analysis to support an argument is a sufficient basis for rejecting the argument”), citing *Adams v. Harris*, 2024-Ohio-4640, ¶ 62.

{¶ 30} In her merit brief, Ontko recasts her requested relief as asking for a judgment from this court that orders the board of elections “to count only votes for qualified persons.” Such a prohibition claim must fail for the simple reason that it seeks to compel action on the part of the board of elections, which is not the function of a writ of prohibition. *Compare State ex rel. Gadell-Newton v. Husted*, 2018-Ohio-1854, ¶ 10 (observing that the function of a writ of mandamus is to set in motion and compel action) *with State ex rel. Barton v. Butler Cty. Bd. of Elections*, 39 Ohio St.3d 291, 292 (1988) (observing that the function of a writ of prohibition is to restrain).

{¶ 31} And finally, as discussed above, Ontko has failed to show that the board of elections was required by any provision of R.C. 3501.39(A) to conduct a quasi-judicial hearing on her protest, so any claim by her requesting that the board of elections be prohibited from counting votes for Ickes fails. *See Nelsonville*, 2025-Ohio-4363, at ¶ 26, quoting *Fritz*, 2021-Ohio-1828, at ¶ 10 (““extraordinary relief in prohibition is not available when there is no statute or other law requiring a board of elections to conduct a quasi-judicial hearing on a protest”).

{¶ 32} We deny Ontko’s prohibition claim.

B. Mandamus

{¶ 33} As an alternative to her prohibition claim, Ontko requests a writ of mandamus compelling the board of elections to grant her protest against Ickes’s candidacy for judicial office. To be entitled to a writ of mandamus, Ontko must establish by clear and convincing evidence that (1) she has a clear legal right to the requested relief, (2) the board of elections has a clear legal duty to provide it, and (3) she does not have an adequate remedy in the ordinary course of the law. *State ex rel. Lambert v. Medina Cty. Bd. of Elections*, 2023-Ohio-3351, ¶ 12.

1. Jurisdiction

{¶ 34} As a threshold matter, we must decide whether we have jurisdiction over Ontko’s mandamus claim. The board of elections argues that we lack jurisdiction based on *State ex rel. Phillips v. Lorain Cty. Bd. of Elections*, 2001-Ohio-1627. In *Phillips*, Phillips (similar to Ontko here) asked for a writ of mandamus ordering the Lorain County Board of Elections to grant his protest as a means of preventing a council-at-large candidate’s name from appearing on the general-election ballot. This court dismissed the mandamus claim as an “ill-conceived request for prohibitory injunctive relief.” *Id.* at ¶ 11. Applying *Phillips*, we similarly dismissed for want of jurisdiction a mandamus claim brought in *Whitman*, when Whitman sought a writ of mandamus ordering the Hamilton County Board of Elections to remove a candidate from the ballot after his protest was dismissed. *Whitman*, 2022-Ohio-5923, at ¶ 8-10. In *Whitman*, we disclaimed mandamus jurisdiction notwithstanding Whitman’s argument that he was requesting affirmative relief, i.e., the removal of the candidate’s name from the ballot. *Id.* at ¶ 9.

{¶ 35} More recently, however, we determined that we had jurisdiction over a claim for a writ of mandamus ordering a board of elections to sustain a protest. *State ex rel. Thomas v. Wood Cty. Bd. of Elections*, 2024-Ohio-379, ¶ 25. In doing so, we expressly departed from *Whitman*, observing that our more recent cases had recognized that mandamus is an appropriate remedy to keep a measure from the ballot when there is a failure to comply with a statutory ballot-access requirement. *Thomas* at ¶ 25. As we held in *Thomas*, that type of claim properly sounds in mandamus because it “seek[s] an affirmative act of the board.” *Id.*; accord *State ex rel. Hildreth v. LaRose*, 2023-Ohio-3667, ¶ 1, 12 (granting a writ of mandamus ordering a board of elections to sustain a protest and remove an initiative from the ballot because the initiative petition was defective); *Fritz*, 2021-Ohio-1828, at ¶ 21 (granting a writ of mandamus ordering a board of elections to remove a defective

recall election from the ballot). Applying *Thomas*, we conclude that we have jurisdiction over Ontko’s mandamus claim.

2. Merits

{¶ 36} We turn now to the merits of Ontko’s claim seeking a writ of mandamus compelling the board of elections to grant her protest against Ickes’s candidacy for judicial office. Recall that Ontko invoked R.C. 3501.39(A)(2) and (4) as the vehicles for achieving her relief in prohibition. But unlike R.C. 3501.39(A)(2), which contemplates a “written protest,” R.C. 3501.39(A)(4) makes no mention of a “written protest” procedure. It follows that to support her requested relief in mandamus, Ontko must rely on R.C. 3501.39(A)(2).

{¶ 37} As discussed above, Ontko’s protest was untimely under R.C. 3513.05 and 3501.39(A)(2). Because Ontko’s protest was untimely, she cannot show that she has a clear legal right to have the board of elections grant her protest or that the board of elections has a clear legal duty to grant her protest.

{¶ 38} We deny Ontko’s mandamus claim.

III. CONCLUSION

{¶ 39} We deny both the writ of prohibition and the writ of mandamus.

Writs denied.

Mayle, L.L.C., Andrew R. Mayle, Richard R. Gillum, Benjamin G. Padanilam, and Nichole Kanios Papageorgiou, for relator.

Beth A. Tischler, Sandusky County Prosecuting Attorney, and Laura E. Alkire, Assistant Prosecuting Attorney, for respondent.
