

Case No.:24-EW-000251 B

Dept. No.: II

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IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CARSON CITY

MARGARET M. OSBORNE, individually,

Petitioner,

v.

SCOTT HOEN, in his official capacity as
the Carson City Clerk, and JASON
WOODBURY, in his official capacity as
the Carson City District Attorney,

Respondents.

**REPLY IN SUPPORT OF PETITION FOR
WRIT OF MANDAMUS**

Petitioner Margaret M. Osborne ("Petitioner"), Individually, submits her reply in support of her Petition for Writ of Mandamus to compel the Carson City Clerk Scott Hoen ("Clerk") and the Carson City District Attorney Jason Woodbury ("District Attorney") to perform their duties as required by NRS 293.547 and NRS 293.530 by requiring the Clerk to attach the challenges to the challenged voter, notify the registrant of the challenge and take the necessary actions as required under NRS 293.530 and for the Carson City District Attorney to investigate the challenge within

1 14 days and, if appropriate, cause proceedings to be instituted and prosecuted in a court of
2 competent jurisdiction without delay. The Court has allowed four other parties to intervene in this
3 matter, and thus, the Clerk, District Attorney, and Intervenors shall collectively be called
4 “Respondents.”

5 INTRODUCTION

6
7 The Petitioner is seeking extraordinary relief to require the Clerk and the District Attorney
8 to take steps to notify nine (9) individuals who have been challenged and to conduct an investigation
9 into whether the challenges should result in the court or other proceedings to remove the challenged
10 voter from the voter rolls. There are three (3) separate and distinct duties that the Clerk and District
11 Attorney have failed to satisfy and thus, a Writ of Mandamus is necessary and warranted.

12 Nevada law is clear as to what the Clerk and District Attorney must do when a challenge is
13 filed pursuant to NRS 293.547. Indeed, once a challenge is filed, there is ***no discretion*** on the part
14 of the Clerk or District Attorney as the Nevada Legislature clearly passed legislation that expressly
15 imposes a duty to act. *See* NRS 293.547, *see also* NRS 0.025 (“Shall” imposes a duty to act.”) The
16 Petitioner in this case has utilized the specific form provided by the Secretary of State to make a
17 challenge and thus, has complied with the requirements to make a proper challenge. Once this
18 challenge is filed the Clerk and District Attorney must take the specific actions required under NRS
19 293.547.
20

21
22 Additionally, if the Court was to determine that Petitioner did not fully comply with the
23 NRS 203.547, then the Court should find that Petitioner has substantial complied. as the Clerk and
24 District Attorney should not be relieved of their “duty to act” because the Secretary of State now
25 claims the form it requires for Petitioner to file was deficient.

26 Moreover, federal law does not bar processing individual challenges like Petitioner’s later
27 than 90 days before the November general election, especially since NRS 293.547 does not allow
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1 the challenged to be filed with the Clerk until “after the 30th day but not later than the 25th day
2 before an election.” *See* NRS 293.547(1).

3 Finally, Petitioner has standing to bring her claims because she has a cognizable injury-in-
4 fact that she has suffered, or this injury will be redressed by the Court issuing a writ of mandamus
5 requiring the Respondents to act. Moreover, Petitioner has standing to bring this matter of public
6 concern so that the Clerk and District Attorney cannot flout their duty to act with impunity.
7

8 **BACKGROUND**

9 Nevada Law has clear statutory requirements for how the Clerk and the District Attorney
10 process challenges filed by registered voters under NRS 293.547. These procedures are separate
11 and apart from the procedures allowed by statutes for the Clerk to conduct maintenance programs.
12 NRS 293.547 is a mechanism for registered voters, not the State, to challenge a person’s right to
13 vote, and the methods set forth in NRS 293.547 and this procedure are not superseded by federal
14 law. Indeed, federal law allows for voters to be removed “if the voter changed residence.” *See* 52
15 U.S.C. §§ 20507(a)(4).

16 In this case, Nevada has set up a procedure that if a registrant moves outside the jurisdiction,
17 a Clerk will send a notice to the registrant to respond regarding their residence. *See* 52 U.S.C. §§
18 20507(d)(1)(B) and (d)(2). In this case, the Clerk is not immediately removing a voter who does
19 not respond to the notice, as Petitioner is merely seeking to have the Clerk fulfil her duty of sending
20 the registrant notice of the challenge under NRS 293.547 and NRS 293.530. The registrant will not
21 be removed until after the registrant fails to vote in the next two federal elections, or the 2026
22 general election, and the registrant will be specifically told that they are still available and eligible
23 to vote. *See* NAC 293.418.

24 NRS 293.547 is not preempted by federal law because the challenges are not a program
25 aimed at “systemically” removing ineligible voters, but instead, is a registrant-specific proceeding.
26 Indeed, the challenge must be filed by a registered voter in the same precinct as the individual
27 challenged, the challenged individual is provided notice to which it can respond, and the individual
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1 is subject to a “registrant-specific” inquiring. *See Mi Familia Vota v. Fontes*, 69 F. Supp 3d 1077,
2 1093 (D. Ariz. 2023).

3 The Petitioner filed nine (9) individual challenges, and the Clerk and District Attorney
4 acknowledge that they received all nine (9) challenges. The fact that these challenges were
5 submitted by a third party at the request of Petitioner is no different had the U.S. Postal Service
6 delivered the documents. Interestingly, Respondents make statements within the document which
7 are not based upon their own personal knowledge, nor have they authenticated the exhibits they
8 have relied upon. Because Respondents have failed to authenticate the documents submitted as
9 exhibits, this Court should not consider the exhibits, or the arguments and statement based upon
10 the exhibit provided. *See e.g. Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 57 P.,3d 82 (2002)
11 (evidence and documentation must be admissible evidence.).

12 LEGAL DISCUSSION

13 **A. The Clerk and District Attorney Have Failed to Act in Violation of NRS 293.547 and** 14 **NRS 293.530 and Petitioner Has Shown She is Entitled to Mandamus Relief.**

15 **1. *The challenges were filed on the prescribed form developed by the Secretary of State.***

16 NRS 293.247 requires the Secretary of State to adopt regulations, not inconsistent with the
17 election laws of this State. The regulations must prescribe, “any other forms necessary for the
18 administration of this title.” *See* NRS 293.417(3)(i). NAC 293.416 requires that a written challenge
19 authorized under NRS 293.547 must be on a form prescribed by the Secretary of State. *See* NAC
20 293.416(1)(a). The Petitioner filed out the specific form prescribed by the Secretary of State in
21 compliance with NRS 293.247 and NAC 293.416 and filed it with the County Clerk.

22 ***a. The plain language of NRS 293.547 requires the Clerk and District Attorney to*** 23 ***Act.***

24 The Petitioner and Respondents agree that there is no ambiguity to the language in NRS
25 293.547. *See e.g. Opposition*, 7:21. Indeed, the language is clear and unambiguous as to what
26 happens upon the filing of a challenge pursuant to NRS 293.547.

27 ***First***, as for the Clerk, the statute specifically requires the Clerk, upon the filing of the
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1 challenge,

2 5. The county clerk *shall*:

3 (a) Attach a copy of the challenge to the challenged registration in
4 the roster.

5 (b) Within 5 days after a challenge is filed, mail a notice in the
6 manner set forth in NRS 293.530 to the person whose right to vote
7 has been challenged pursuant to this section informing the person of
8 the challenge. If the person fails to respond or appear to vote within
9 the required time, the county clerk *shall* cancel the person's
10 registration. A copy of the challenge and information describing how
11 to reregister properly must accompany the notice.

12 (c) Immediately notify the district attorney. A copy of the challenge
13 must accompany the notice.

14 The plain language of the statutes places a "duty to act" on the Clerk. *See* NRS
15 0.025(1)(d) ("Shall' imposes a duty to act."). This is a mandatory action, not a discretionary
16 action, that must occur upon the filing of the challenge by Petitioner. Indeed, the Nevada
17 Legislature has shown when to provide the Clerk with discretion as to list maintenance, and in
18 this case, the intent set forth in the statutory language clearly requires the Clerk to act pursuant to
19 NRS 293.547.

20 NRS 293.530 is one statute where the Legislature has provided discretion as the "County
21 clerks *may* use any reliable and reasonable means available to correct the portions of the
22 statewide voter registration list which are relevant to the county clerks and to determine whether a
23 registered voter's current residence other than that indicated on the voter's application to register
24 to vote." *See* NRS 293.530(1)(C).

25 Additionally, the Legislature has shown its ability to provide discretion to the Clerk when
26 entering into an agreement with the United States Postal Service or any person authorized by it to
27 obtain the data compiled by the United States Postal Service concerning change of addresses of its
28 postal patrons for use by the county clerk to correct the portions of the statewide voter registration
list relevant to the county clerk. *See* NRS 293.5303 ("use of the word "*may*" enter into an
agreement).

However, again, while the Nevada Legislature has provided the Clerk with discretion to
enter into such an agreement, the Clerk has an affirmative duty to act on the information once it

1 has entered into an agreement with the United States Postal Service or any person authorized by it
2 to obtain the data compiled. Indeed, “[i]f a county clerk enters into an agreement pursuant to
3 NRS 293.5303, **the county clerk shall review each notice of a change of address** filed with the
4 United States Postal Service by a resident of the county and identify each residence who is a
5 registered voter and has moved to a new address.” See NRS 293.5307. Again, this is a required
6 duty to act, and it includes a review of **“all”** change of address filed, not just of registered voters.
7 *Id.* The Nevada Legislature then also places an affirmative duty on the clerk to determine if the
8 change of address is for a registered voter, and if so, the Clerk **“shall** mail a notice to each such
9 registered voter and follow the procedures set forth in NRS 293.530.” *Id.* (emphasis added).

10 As such, NRS 293.547 is clear that the Clerk must act immediately, or upon five (5) days
11 from receiving the challenge to comply with the requirements of NRS 293.547.

12 In addition to the requirements of NRS 293.547, the Clerk is also required to act pursuant
13 to NAC 293.418 as this regulation requires the Clerk to provide notice to the challenged person
14 subject to a written challenge. The notice required by NRS 293.547 is to be mailed to the
15 challenged registrant, and it must include a statement in substantially the following form: **“Even**
16 **though your right to vote has been challenged, you are still registered and eligible to vote.**
17 **Please contact this office immediately for information concerning how you may respond to the**
18 **challenge.”** *Id.* (emphasis added). The notice requirement of NRS 293.547 and NRS 293.530 is
19 equally important to the registrant being challenged because it will provide notice to the registrant
20 that they are not properly registered at their new address, and thus, they may be required to
21 provide additional information at the time they vote, or be forced to vote in a precinct that they no
22 longer live in, and to which the candidates are not the same.

23 The plain language of NRS 293.547 requires the Clerk to act in the affirmative. If the
24 Nevada Legislature wanted to give discretion to the Clerk to review the challenge and make their
25 own decision before acting, then the Nevada Legislature would have given the Clerk discretion to
26 do so. The Nevada Legislature did not do so, and thus, the Clerk has a duty to act under NRS
27 293.547.

28 As to the District Attorney, the Nevada Legislature was equally clear as the language

1 specifically states, “the district attorney *shall investigate* the challenge within 14 days and, if
2 appropriate, cause proceedings to be instituted and prosecuted in a court of competent jurisdiction
3 without delay.” NRS 293.547(6). Again, the Nevada Legislature specifically used the word
4 “shall” investigate and thus, the district attorney must investigate to determine if the person does
5 reside at the residence for which the address is listed in the roster. In this case, the District
6 Attorney undertook no investigation. No contact with Petitioner. No contact with the person who
7 lives at the address. No investigation if the person had filed a change of address with the United
8 States Postal Service, *which the Clerk receives pursuant to an agreement with a third-party*
9 vender, and was required, but didn’t provide notice to the challenged registrant upon receiving the
10 change of address form.

11 As such, the Nevada Legislature provides the District Attorney with avenues once the
12 investigation is conducted and the District Attorney evaluates the facts and circumstances of the
13 investigation to determine if it is appropriate to cause proceedings to be instituted and prosecuted.
14 The District Attorney could not bring an action in court if the facts do not show the person has
15 moved, or the District Attorney could bring proceedings if the person is shown to have moved,
16 and they have not changed their address with the Clerk. The District Attorney cannot simply sit
17 on his hands and refuse to investigate a challenged filed on the form prescribed by the Secretary
18 of State. More importantly, the challenged voter may have received notice from the Clerk that
19 there was a challenged, and thus, because the challenged voter has moved, the challenged voter
20 can request to be removed from the voter rolls. If the Clerk, District Attorney and the Secretary
21 of State work with the Petitioner, and thus that have properly challenged registrants, then this
22 process would be an orderly and straightforward process, while at the same time protecting the
23 integrity of the election process and the ability of an individual to remain on the voters rolls if
24 they are eligible voters in the proper voting precinct.

25 Accordingly, the plain language of NRS 293.547 places an affirmative duty on the Clerk
26 and District Attorney. The Clerk and District Attorney have breached their duty to affirmatively
27 act under the statute, and thus, a Mandamus Writ must be granted.
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1 ***b. The Secretary of State has not provided an Interpretation, and his guidance is not***
2 ***afforded deference.***

3 In carrying out his duties, the Secretary of State is authorized to “provide interpretations ...
4 for the effective administration of the statutes and regulations governing the conduct of primary,
5 general, special and district election in this state.” *See* NRS 293.247(4).

6 In the original petition for Writ of Mandamus, Petitioner argued that the email response to
7 the District Attorney’s request for guidance, which was provided by a staff attorney at the Attorney
8 General’s office, provided her personal thoughts on the matter and was not an interpretation. It
9 appears that the Attorney General’s Office agrees with Petitioner that that communication was not
10 an interpretation because instead of trying to justify the staff attorney’s improper guidance, the
11 Secretary of State, through the Attorney General’s Office is now claiming that there was a different
12 SOS interpretation issued on “personal knowledge” on October 4, 2024. *See* Opposition, Exhibit
13 1.

14 This new memorandum provided as an exhibit, however, is also not an interpretation by the
15 Secretary of State. ***First***, this document specifically states that it is a memorandum, and not an
16 interpretation. It specifically states that the document is “the following guidance” being provided,
17 and not an interpretation. Moreover, it is drafted and issued by Mark Wlaschin, who is not the
18 Secretary of State. The Secretary of State didn’t even sign the document and thus, the document
19 cannot be authenticated unless the Secretary of State appears at the hearing to provide such
20 authentication.

21 When issuing an interpretation in 2011, then Secretary of State Ross Miller issued an
22 Interpretation, not guidance. *See* O’Mara Declaration, Ex. 13. This document included the use of
23 the word “Interpretation,” and is signed by Secretary of State Ross Miller, and not his employee.

24 More importantly, the guidance is not relevant to the issue before this Court because NRS
25 293.547 does not give the Clerk discretion to determine if the person has personal knowledge, nor
26 does it allow the District Attorney discretion before undertaking an investigation. The language of
27 the statute is clear that the Clerk and District Attorney have an express duty to act, and thus, the
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1 Court cannot defer to the Secretary of State's interpretation. *See Nevada State Democratic Party*
2 *v. Nevada Republican Party*, 256 P.3d 1, (2011) *citing: Independent American Party v. Lau*, 110
3 Nev. 1151, 1154-55, 880 P.2d. 1391, 1393 (1994) (noting deference to the Secretary of State as a
4 constitutional officer in the interpretation of an ambiguous election statute but declining to apply
5 deference when the plain language of the election statute contradicts the Secretary's
6 Interpretation.).

7 Moreover, the Secretary of State has failed to promulgate regulations as to how the Clerk
8 and the District Attorney are to handle the challenges. The regulation merely states what must be
9 included in the challenge, not the procedure in which the Clerk and District Attorney should act
10 upon receiving the challenge. *See* NRS 293.416(1)(a)-(c). Indeed, the statute clearly states the
11 procedure of how the Clerk and District Attorney *shall* act upon the filing of a challenge, and that
12 is to follow the requirements of the statute and provide notice to the challenged registrant and
13 investigate.

14 ***c. Legislative History requires the challenge to be processed.***

15 Contrary to the Secretary of State's claim, NRS 293.547 was first amended in 1991 to include
16 the language the "challenge is based on the personal knowledge of the registered voter. *See* 1991
17 Statutes of Nevada, Page 2225 (Chapter 6785, AB 652). The difference was that in 1991, the
18 challenger could either be in the district "or" have personal knowledge of the registered voter." In
19 1991, the Nevada Legislature made it clear that the use of DMV records was not precluded for a
20 challenger to obtain personal knowledge of the challenged registered voters. *See* O'Mara Decl.,
21 Exhibit 14. In 2007, Larry Lomax was seeking to change the use of "personal knowledge" and
22 instead, stated that the person has "firsthand knowledge" *See* Intervenor Organizations¹, Exhibit 2,
23 page 3. Nevada Legislature. This was rejected by the Nevada Legislature who continued to utilize
24 the word, "personal knowledge" instead of the use of "firsthand" knowledge. During the Assembly
25 Hearing, Assemblyman Conklin and Lomax had the following colloquy:
26

27 _____
28 ¹ Intervenor Organization are the Intervenor Rise, Institute for a Progressive Nevada, and the Nevada Alliance for Retired Americans.

1 Assemblyman Conklin: Is the term “firsthand” defined anywhere in
2 the statute?

3 Larry Lomax: If there is a better legal term, I would be happy to use
4 it.

5 Assemblyman Conklin: To clarify, we are talking about a person
6 who, through his own experience, knows something to be true.

7 Larry Lomax: That is my intent. I simply want to eliminate these
8 blind scattered challenges.

9 Assemblyman Conklin: I want to understand your intent in case the
10 word “firsthand” is changed.

11 *See* Intervenor Organization, Exhibit 2, page 3. While “personal knowledge” was defined, the word
12 “firsthand” does not have a definition within the regulation. Petitioner, through her own experience
13 and observation, obtained the personal knowledge, that something was true, ie: “the registrant no
14 longer lives at the address and has moved. Certainly, obtaining this individualized information by
15 experience and observation of the personal address gets rid of the “blind, scattered challenges” that
16 were being discussed at the Legislative hearing.

17 Moreover, the use of “firsthand” within the definition of personal knowledge” conflicts
18 with the statutory language of NRS 293.547, and thus, NAC 293.416 is invalid because it
19 nullifies and contradicts Nevada’s statutory scheme. *See Jerry’s Nugget v. Keith*, 111 Nev. 49,
20 54, 888 P.2d 921, 924 (1995).

21 *2. The NVRA does not bar processing the challenges.*

22 The nine (9) challenges by Petitioner are not subject to the NVRA preclusion during the 90
23 days before a federal election because each challenge is an individual change based upon
24 individualized information regarding each challenged registrant. *See Mi Familia Vota v. Fontes*,
25 69 F. Supp 3d 1077, 1093 (D. Ariz. 2023).

26 Respondents rely upon several cases claiming that mass challenges are precluded within 90
27 days of a federal election. All of these cases are not relevant to the facts and circumstances of this
28 case.

Indeed, in *Marjority Forward v. Ben Hill County Board of Elections*, the Court was dealing
with mass challenges based on data from the National Change of Address (NCOA) registry. This

1 is not a case based on the NCOA, but instead, based upon the specific information that was obtained
2 by Petitioner that the challenged registrant no longer lives at the address on their registration.

3 In *Arcia*, the Court held that “individualized removals are safe to conduct at any time because
4 this type of removal is usually based on individual correspondence or rigorous individualized
5 inquiry, leading to smaller chance for mistakes. *See Arcia*, 772 F.3d 1335, 1344 (2014). In this
6 case, the District Attorney has an affirmative duty to conduct an individualized investigation into
7 the challenged to determine if the challenged individual should be removed because they no longer
8 reside at the address provided. Moreover, the Clerk is to send individualized correspondence to the
9 challenged registrant, but the correspondence would not change anything regarding the registrants’
10 voting eligibility because the registrant has 30 days, which is after the election, to return the post
11 card before the registrant can be designated as inactive. *See* NRS 293.530.

12 In *NAACP*, the Court did cite *Arcia*, but the citation of *Arcia* provides support for Petitioner’s
13 position because it states, federal allow does allowed individualize removals because they are
14 based, on individual correspondence or rigorous individualized inquiry, which the nine (9)
15 individual challenges are doing. Indeed, the challenge and notice in and of itself does not remove
16 the challenged person from the voter rolls, but instead, gives them notice of the challenge and
17 allows the District Attorney to conduct an individualized investigation before any removal would
18 be allowed. In fact, Nevada regulations specifically state that, the notice must substantially inform
19 the challenged voter that, **“Even though your right to vote has been challenged, you are still**
20 **registered and eligible to vote.”** *See* NAC 293.418 (emphasis added).

21 Contrary to Respondents’ arguments that Petitioner relies on data compiled by the U.S. Postal
22 Service, there is nothing in the challenge filed by Petitioner that supports this allegation. Indeed,
23 the challenge provides all the information set forth in NAC 293.416 and says nothing about the
24 NCOA. Petitioner has provided the address of the person, the number of the precinct, Petitioner’s
25 name, address, telephone number, and precinct of the person filing the challenge² the date of the
26 challenge, a statement upon which each ground of the challenge was based, a statement that the

27 ² What is the purpose of the obtaining the phone number of the person making the challenged, but to allow the district
28 attorney to start an investigation, and to see what other information the person has. Unfortunately, it was not to
contact the person to inform her that they are not going to process the challenges that she filed.

1 challenged is based on personal knowledge of the facts upon which each ground for the challenge
2 is based. *See* NAC 293.416. No where in the challenge does it state she obtained information from
3 the U.S. Postal Service, but instead, she obtained the information showing that the person does not
4 live at the address from her experience and observation of the facts upon which she made her
5 challenge, just as she stated.

6 The nine (9) individualized challenges are not precluded by federal law.

7 3. *The rule of substantial compliance requires the Clerk and District Attorney to act.*

8
9 The plain language of NRS 293.547 requires the Clerk and District Attorney to act and to
10 satisfy their express duty to provide notice and to investigate the challenge. The Petitioner has
11 clearly complied with the statute and regulations promulgated by the Secretary of State, and the
12 challenges must be processes, notice provided to the challenged registrant, and an investigation
13 conducted.

14 If the Court determines that Petitioner did not fully comply with the requirements, then the
15 Court should find that Petitioner substantially complied.

16 Respondent seeks to utilize *Nevada State Democratic Party v. Nevada Green Party*, 555
17 P.3d 1161, 2024 WL 4116388 (2024) in support of its argument that substantial compliance is not
18 available if there is a complete failure to meet a specific requirement of a statute [or regulation].
19 Interestingly, in *Democratic Party v. Green Party*, the Democrats sought to keep the minor political
20 party candidates off the 2024 general election ballot. Unfortunately for the Green Party, they did
21 not utilize the affidavit for minor party ballot access, but instead circulated an affidavit for initiative
22 and referendum petitioners. *Id.* In this case, Petitioner has utilized the form prescribed by the
23 Secretary of State and provided all the information required under the promulgated regulation.

24 Again, as shown above, the Petitioner provided all the information required by the Secretary
25 of State's promulgated rules, and the form prescribed by the Secretary of State and required to be
26 used. The Petitioner should not be precluded from filing a challenge based upon the form provided
27 by the Secretary of State. NRS 293.127 provides that "[t]his title must be liberally construed to the
28 end that... (c) the real will of the electors is not defeated by any informality or by failure

1 substantially to comply with the provisions of this title with respect to giving any notice or the
2 conducting of an election or certifying the results thereof.” See NRS 293.127(1)(c). Petitioner did
3 exactly what she was asked to do as set forth in the form provided by the Secretary of State, and
4 thus has, at a minimum, substantially complied with the statute.

5 Respondents seem to argue that NRS 293.530 provides the Clerk with discretion to
6 determine, for any reason, what is reliable and reasonable means available. However, NRS 293.547
7 is not subject to any of the requirements of NRS 293.530, save and except that “notice in the manner
8 set forth in NRS 293.530” must be mailed to the person who’s right to vote has been challenged.
9 See NRS 293.547(5)(b). This does not give the Clerk authority to determine what is reliable and
10 reasonable under NRS 293.547, but instead, requires the Clerk to mail written notice to the voter
11 which, unlike the mail-in ballot is required to forward; and that Clerk’s notice must have a return
12 postcard that provides a place for the voter to write his or her new address, the address to the county
13 clerk and has postage guaranteed.

14 *4. Petitioner has standing to bring this action.*

15 To have standing, Nevada courts have examined “whether the party seeking relief has a
16 sufficient interest in the litigation,” so as “to ensure the litigant will vigorously and effectively
17 present his or her case...” *Nevada Policy Research Inst., v. Cannizaro*, 507 P.3d 1203, 1207 (Nev.
18 2022)(citing *Schwartz v. Lopez*, 382 P.3d 886, 894 (Nev. 2016) (“NPRI”).

19 A petitioner, generally, “must suffer a personal injury traceable” to the act they are
20 challenging. *Id.*; see also *Morency v. Dept. of Education*, 496 P.3d 584, 588 (Nev. 2021) (stating
21 “a requirement of standing is that the litigant personally suffer injury that can be fairly traced to the
22 allegedly unconstitutional statute and which would be redressed by invalidating the statute”)(citing
23 *Elley v. Stephens*, 260 P.2d 768, 770 (Nev. 1988)).

24 In this case, Petitioner is a Nevada voter that is seeking a writ of mandamus compelling
25 Respondents to process the challenge she filed against nine (9) individual registrants, so that their
26 names are placed in the challenged log. The Petitioner is also seeking to compel the Clerk to send
27 notice, pursuant to NRS 293.530, to the challenged individuals so the registrant has notice of the
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1 challenge. Further, *See Mi Familia Vota v. Fontes*, 69 F. Supp 3d 1077, 1093 (D. Ariz. 2023). The
2 Petitioner is seeking to compel the District Attorney to investigate on the nine (9) individuals to
3 determine if in fact, they have left the residence that is attached to the residence voter registration.

4 It is common sense that a Nevada registered voter, especially one in the same precinct as
5 the challenged voter, has a right to seek that Respondents are following Nevada statutes to allow a
6 registered voter to challenge another voter eligibility. No one is in a better position to personally
7 suffer an injury traceable to the Clerk's, District Attorney and Secretary of State's action and to
8 vigorously and effectively present that case.

9 Moreover, in 2016, the Nevada Supreme Court first recognized the public-importance
10 exception to traditional standing rules. *See Schwartz v. Lopez*, 382 P.3d 886. The court "recognized
11 that a public-importance exception applies when an appropriate party sues to protect public funds
12 by raising a constitutional challenged to a legislative expenditure or appropriation in a case
13 involving an issue of significant public importance." *NPRI*, 507 P.3d at 1206. The public
14 importance exception was expanded in *NPRI* when the court held that "traditional standing
15 requirements may not apply when an appropriate party seeks to enforce a public official's
16 compliance with Nevada' separation-of-powers clause (even if it does not involve an expenditure
17 or appropriation.)" *Id.* The exception applies so long as "the issue is likely to recure and there is
18 a need for guidance." *Id.* *See also id.*, at 1208 (citing *Thompson v. Heineman*, 857 N.W.2d 731,
19 823 (Neb. 2015) ("Without an exception for matters of great public concern, elected representatives
20 could flout constitutional violations with impunity... The exception for matters of great public
21 concern ensures that no law of public official is placed above our constitution.") The court in *NPRI*
22 ultimately chose to expand the standing exception because "in limited circumstances this court
23 must use its discretion to exercise jurisdiction in cases involving separation-of-powers questions
24 "as a matter of controlling necessity[,] 'because the conduct at issue affects, in a fundamental way,
25 the sovereignty of the state, its franchise or prerogatives, or the liberties of its people.'" *Id.* at 1207-
26 08 (citations omitted). Indisputably, this case involves the sovereignty of the state, the franchise of
27 voting, and the liberty of people of Nevada. As. such, Petitioner has standing and by granting the
28 writ of mandamus, the injury will be redressed by the Court's actions.

1 **CONCLUSION**

2 For the forgoing reasons, Petitioner is entitled to a Writ of Mandamus compelling the Clerk
3 and District Attorney to comply with their duty under NRS 293.530.

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5 Dated: October 28, 2024

THE O'MARA LAW FIRM, P.C.

6 Respectfully submitted,

/s/ David C. O'Mara, Esq.

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