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IN THE DISTRICT COURT OF APPEAL
FOR THE FIRST DISTRICT OF FLORIDA

Case No. 1D2025-1500

ROBERT ROCHFORD,

Appellant,

v.

SECRETARY OF STATE CORD BYRD, *et al.*,

Appellees.

On Appeal from the Circuit Court of the Second Judicial Circuit,
In and For Leon County, Florida, Case No. 2024-CA-1976

ANSWER BRIEF OF SECRETARY BYRD

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STATEMENT OF THE CASE AND OF THE FACTS

This case originated as a post-election challenge to the results of the November 5, 2024, general election for Florida's U.S. Congressional District 14. (R. 7–17) Appellant Robert Rochford ("Appellant"), an unsuccessful candidate in that election, filed his initial Complaint and Contest of the Election pursuant to section 102.168, Florida Statutes, against the elected candidate, the Pinellas County Canvassing Board, the Hillsborough County Canvassing Board, the Florida Elections Canvassing Commission, the Pinellas County Supervisor of Elections, the Hillsborough County Supervisor of Elections, and the Secretary of State. (*Id.*)

In his response to the initial Complaint, Appellee Secretary Byrd ("Appellee") asserted that the Trial Court lacked jurisdiction to determine congressional election contests, that Appellant failed to state a cause of action because he failed to adequately allege that fraud or misconduct occurred, and that the action was barred by laches and requested dismissal of the action. (R. 25–30) Other Defendants also moved to dismiss. (R. 44–50, 77–84, 91–94)

During a January 8, 2025, case management conference, Appellant's counsel conceded that the court lacked jurisdiction over

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the action and that dismissal was proper at that time but requested leave to file a motion to amend the initial Complaint. (*See* R. 140, 160; T. 6:15–20) The Court granted Appellant's *ore tenus* request to file a motion to amend the initial Complaint. (R. 95)

Appellant subsequently filed a Motion for Leave to Amend Complaint and Amend Style of the Cause ("Motion to Amend"), which explained that that the proposed amendment would change the nature of the case's cause of action from an election contest to claims challenging the voter rolls and vote-by-mail request system. (R. 99–102) Appellant also submitted a proposed Amended Complaint, which asserted three causes of action: declaratory relief for a declaration that the voter rolls of Florida are corrupted, a writ of mandamus requiring the Defendants to investigate voter rolls and vote by mail ballot requests, and a pure bill of discovery to obtain voter rolls and related records. (R. 103–18)

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Appellee filed a Response in Opposition to the Motion to Amend, requesting that the trial court deny leave to amend and dismiss the initial Complaint with prejudice. (R. 140-52) Appellee argued that subject matter jurisdiction was lacking and that the proposed Amended Complaint failed to state a cause of action. (*Id.*) Other

Defendants also opposed the Motion to Amend. (R. 119–27, 128–39, 153–54) Appellant subsequently filed a motion for leave to add the U.S. Department of Homeland Security and the U.S. Department of Government Efficiency to the complaint and a reply to the responses to the Motion to Amend. (R. 155–58, 159–70)

During a May 28, 2025, hearing on the Motion to Amend, counsel for Appellee argued that the action could not be amended because the Trial Court lacked jurisdiction over the initial Complaint and no amendment could cure the jurisdictional issue, so the proper course of action would be to dismiss the initial Complaint with prejudice. (T. 38:9–39:6) Counsel also argued that the proposed Amended Complaint raised claims that were not justiciable and failed to state a cause of action and amendment was therefore futile. (T. 39:7–15). Counsel further argued that the proposed Amended Complaint did not allege violations of any specific provisions of Florida's election code and did not allege that fraud or misconduct had occurred. (T. 39:16–41:10, 42:13–23)

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The trial court granted the Defendants' motions to dismiss with prejudice at the hearing and subsequently entered a final written order of dismissal. (T. 51:18–52:7; R. 174)

SUMMARY OF ARGUMENT

Since the proposed Amended Complaint failed to establish standing or state a cause of action, it was insufficiently pled and deficient as a matter of law. Therefore, Appellant's proposed amendment was futile. Accordingly, the Trial Court did not err by denying leave to amend and dismissing the initial Complaint with prejudice. Finally, the Trial Court was not required to state the reasoning for its ruling. Nevertheless, any deficiency in explanation or reasoning in the Trial Court's order was invited by Appellant so any such deficiency cannot be raised on appeal. Accordingly, this Court should affirm the Trial Court's order.

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ARGUMENT

"The standard of review applicable to a motion to amend a complaint is abuse of discretion. Refusal to allow an amendment is an abuse of the trial court's discretion unless it clearly appears that allowing the amendment would prejudice the opposing party, the privilege to amend has been abused, or amendment would be futile. However, whether a complaint is sufficient to state a cause of action is an issue of law subject to de novo review." *Vaughn v. Boerckel*, 20 So. 3d 443, 445 (Fla. 4th DCA 2009) (citations and internal quotations omitted).

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I. The Trial Court did not err by denying leave to amend and dismissing the initial Complaint with prejudice because the proposed amendment was futile.

Appellant initially raised a contest to a congressional election. The validity of such elections are questions exclusively for the respective houses of the legislative branch. *See* U.S. Const. art. I, § 5, cl. 1 (providing that "[e]ach House shall be the judge of the elections, returns and qualifications of its own members"). This provision deprives Florida courts of jurisdiction to determine congressional election contests. *See State v. Crawford*, 10 So. 118, 121 (Fla. 1891) ("The constitution of the United States has not

elsewhere given to this court the power to pass upon the question of the legality of the election of a United States senator, but by [article I, section 5, clause 1] it has expressly excluded from it the right to do so."); *Opinion of the Justices*, 12 Fla. 686, 688–89 (1868) ("[I]t is out of our power to decide that the election was 'illegal and void,' that question being exclusively for the Senate of the United States."). Thus, as conceded by Appellant, the Trial Court did not have subject matter jurisdiction over the initial Complaint.

"Although leave of the court [to amend a pleading] shall be freely given when justice requires, the court need not allow an amendment that would be futile." *Tuten v. Fariborzian*, 84 So. 3d 1063, 1069 (Fla. 1st DCA 2012) (citation omitted). "A proposed amendment is futile if it is insufficiently pled, or is insufficient as a matter of law." *DJB Rentals, LLC v. City of Largo*, 373 So. 3d 405, 413 (Fla. 2d DCA 2023) (citations and internal quotations omitted); *see also Thompson v. Bank of New York*, 862 So. 2d 768, 770 (Fla. 4th DCA 2003) ("[A] proposed amendment is futile where it is insufficiently pled.").

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A. The proposed Amended Complaint failed to establish standing.

Appellant's proposed amendment was futile because he failed to adequately allege standing to bring the new causes of action. The Florida Constitution limits courts to matters where there exists standing, *i.e.*, an "injury" that needs to be "redress[ed]," Art. I, § 21, Fla. Const., through the exercise of "judicial power" directed at the party that caused the injury, Art. V, § 1, Fla. Const., consistent with Florida's explicit separations of powers provision, *see* Art. II, § 3, Fla. Const.

Courts "look to three familiar concepts—injury, causation, and redressability—to assess a plaintiff's standing." *Cmty. Power Network Corp. v. JEA*, 327 So. 3d 412, 415 (Fla. 1st DCA 2021) (citing *State v. J.P.*, 907 So. 2d 1101, 1113 n.4 (Fla. 2004). A plaintiff must: (1) "identify an actual or imminent injury that is concrete, distinct, and palpable;" (2) "establish a causal connection linking the injury to the conduct being challenged;" and (3) "show a substantial likelihood that the relief sought will remedy the alleged injury." *Id.* (citing *DeSantis v. Fla. Educ. Ass'n*, 306 So. 3d 1202, 1213–14 (Fla. 1st DCA 2020).

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Appellant alleged an interest in election integrity that is shared equally among all voters.[1] Such a "generalized grievance" however is insufficient to establish standing, "no matter how sincere." *Hollingsworth v. Perry*, 570 U.S. 693, 706 (2013); *see also Wood v. Raffensperger*, 981 F.3d 1307, 1314 (11th Cir. 2020).

Moreover, Appellant failed to allege any actual or imminent injury to his alleged interest that was not hypothetical. *DeSantis v. Fla. Educ. Ass'n*, 306 So. 3d at 1214 (finding "any injury to students or teachers from being forced to return to the classroom is purely hypothetical" where no students or teachers were alleged to have been so forced). Appellant alleged only a possibility of fraud or misconduct and did not allege that fraud or misconduct did occur.

Specifically, Appellant alleged there were "*suspect* ballots" and "*questionable* ballots." *See* R. 107-08, ¶ 25 (emphasis added). Appellant alleged "misconduct and fraud" were "*invited*." *See* R. 109,

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[1] Any interest Appellant had as a former "candidate" was immaterial because his proposed Amended Complaint did not challenge the results of his failed candidacy. *See* R. 100, ¶ 3; R. 103–04, ¶¶ 1–4. Thus, the only pertinent alleged interest in the proposed Amended Complaint was Appellant's interest as an alleged "registered Republican." *See* R. 104. ¶ 2.

¶ 32 (emphasis added). Appellant alleged the vote-by-mail process "is *compromised*" and this "*allows*, *invites*, and *encourages* fraud, misconduct, and corruption." *See* R. 111, ¶¶ 40-41 (emphasis added); *see* also R. 112, ¶ 43 ("considered null and compromised"); R. 111-12, ¶ 42 ("could allow for unchecked fraudulent activities"); R. 113, ¶ 46 ("creates an environment which invites rampant fraudulent behavior"). But nowhere did Appellant allege any fraud or misconduct actually *occurred*.

Moreover, Appellant conceded that he does "not know[] or understand exactly who or how the Voter Roll is being corrupted," and can only assume that the clones mean "the system is open" for "hack[ing]" and "cast[ing] votes of the dormant clones" "undetected." *See* R. 106, ¶ 16; R. 113-14, ¶ 48. Indeed, Appellant's causes of action for declaration, writ of mandamus, and writ of discovery sought to compel the Secretary and two Supervisors of Elections to figure out if something is even amiss to begin with. See R. 114-17, ¶¶ 50-61. Appellant's alleged hypothesis and suspicion were not injuries sufficient to establish standing. *See McCall v. Scott*, 199 So. 3d 359, 366 (Fla. 1st DCA 2016) (explaining that speculative and conclusory allegations of harm cannot confer standing).

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Additionally, with respect to the Secretary, any injury relating to fraudulent votes, assuming that could have been inferred from Appellant's alleged suspicions, is not traceable to or redressable by the Secretary. The Supervisors of Elections are tasked with the actual administration of elections, including: registering voters and maintaining accurate voter rolls by removing ineligible voters or duplicate registrations, §§ 98.015(10), 98.045, 98.065, 98.075, Fla. Stat.; receipt and processing of vote-by-mail requests, including data reporting, § 101.62, Fla. Stat.,; and receipt, safekeeping, and canvassing of vote-by-mail ballots, §§ 101.67-101.68, Fla. Stat. Thus, any explanation or correction of the voter rolls or vote-by-mail data that Appellant sought would come from the Supervisors.

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To be sure, Appellant alleged only that the Secretary has "allow[ed]" violations (that were not alleged or pursued in the action) "by" the two Defendant Supervisors of Elections.[2] *See* R. 111, ¶ 39.

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[2] Appellant also alleged that "[b]ecause it is the responsibility of the Secretary of State as the chief elections officer of the State of Florida to obtain and maintain uniformity in the interpretation and implementation of the election laws, Chief Election Officer Cord Byrd is in violation" of various statutes himself for allowing the Supervisors' alleged violations occur. *See* R. 111, ¶ 39. But Appellant did not bring any cause of action to enforce those alleged violations.

Of course, Appellant's request for statewide relief would require joining the other 65 Supervisors as necessary parties—which Appellant did not do.

B. The proposed Amended Complaint failed to state a cause of action.

Even if Appellant had sufficiently alleged standing, the proposed amendment was still futile because it failed to state a cause of action.

Count I sought declaratory relief for a declaration that the voter rolls of Florida are corrupted. *See* R. 115. In order to be entitled to declaratory relief, Appellant was required to allege: (1) a good-faith dispute between himself and the Secretary; (2) a justiciable question concerning the existence or non-existence of a right or status, or some fact on which such right or status may depend; (3) that he is in doubt as to any right or status; and (4) a bona-fide, actual, present, and practical need for the declaration. *Rhea v. District Bd. Of Trustees of Santa Fe College*, 109 So. 3d 851, 859 (Fla. 1st DCA 2013). Appellant did not allege any of these elements.

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Appellant, at best, alleged that he was suspicious about matters ultimately within the control of the 67 Supervisors of Election and therefore stated *no* dispute between himself and the Secretary or any actual, present, and practical need for a declaration against anyone as explained in section A. Nor did Appellant allege any justiciable question concerning any right. Fair elections and clean and accurate voter rolls are accomplished through compliance with the various statutes in Florida's Election Code and related provisions. Appellant did not allege that any of those provisions had been violated in some way or that any one of those provisions provided a cause of action to compel an investigation into any person's suspicions.

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There must be a right or status set forth in statute or the constitution to question through use of Chapter 86. Chapter 86 is not a catchall. *Torres v. Shaw*, 345 So.3d 970, 976 (Fla. 1st DCA 2022). Moreover, that statute must include an enforcement provision, *i.e.*, a right of private action, a determination that cannot be made without knowing what statute to evaluate. *See Jones v. Schiller*, 345 So. 3d 406 (Fla. 1st DCA 2022) (holding that section 99.021 provided no right that could be enforced through

declaratory judgment and comparing that provision to various others that do provide a right of action). Appellant did not allege any right or status in question to begin any analysis and therefore failed to properly allege a cause of action for declaratory judgment.

Count II sought an extraordinary writ of mandamus requiring the Defendants to generally investigate voter rolls and vote by mail ballot requests. *See* R. 115-16. To obtain a writ of mandamus against the Secretary, Appellant must have a "clear legal right" to the requested relief already certainly established in law, the Secretary must have an "indisputable legal duty" to perform the requested action, such that "the performance being required is directed by law" without any discretion, and Appellant must have no other adequate remedy available. *Fla. Agency for Healthcare Admin. v. Zuckerman Spaeder, LLP*, 221 So. 3d 1260, 1263 (Fla. 1st DCA 2017). Appellant did not allege a prima facie case for mandamus relief.

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Appellant failed to allege where or what right to an "investigation" or right to undefined "changes" exist, let alone rights that are "clearly and certainly established in the law." *Fla. League of Cities v. Smith*, 607 So.2d 397, 401 (Fla. 1992) (denying

mandamus relief where there was at least a provision cited but the Court would have to "establish[] the 'clear' and 'certain' legal right in the same opinion in which mandamus would be granted").

Moreover, any "investigation" lacks defined bounds that would cabin the exercise of discretion and the alleged responsibility to "make whatever changes necessary" established that the endeavor was quintessentially *not* ministerial. *See Thompson v. Reno*, 546 So.2d 83 (Fla. 3d DCA 1989) (affirming dismissal because state attorney's "decision to investigate and file [a civil removal] action is a discretionary decision which cannot be controlled by a writ of mandamus"). Nor are they duties that the Defendants were "directed by law" to perform.

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Count III sought a "pure bill of discovery" to obtain voter rolls and related records so that Appellant could investigate his alleged suspicions "to determine the issues" if, indeed, there are any. *See* R. 116-17. This is not an acceptable use of a bill of discovery. "In the absence of an adequate legal remedy, equity has long authorized a pure bill of discovery as an appropriate remedy to obtain information such as the identity of a proper party defendant or the appropriate legal theory for relief. However, a party may not

utilize this mechanism to determine whether a cause of action exists or as a 'fishing expedition.'" *Trak Microwave Corp. v. Culley,* 728 So.2d 1177, 1178 (Fla. 2d DCA 1998) (citations omitted).

For example, in *Kaplan v. Allen*, the personal representative of a decedent's estate "believe[ed] that the circumstances of the decedent's death suggested suicide, and perhaps professional malpractice on the part of her psychiatrist," whom she had just left an appointment with. 837 So. 2d 1174, 1175 (Fla. 4th DCA 2003). The personal representative therefore sought a bill of discovery to obtain the medical records and depose the psychiatrist. *Id.* Because the personal representative's suspicion lacked any alleged evidence "sufficient to justify the good faith filing of a medical malpractice claim," the trial court granted the psychiatrist's motion to dismiss. *Id.* at 1176. The Fourth District affirmed "[b]ecause of the speculative nature" the claims. *Id.*

Here too, Appellant's allegations were based on his "good reason to suspect" from "unexplained" data and "unanswered" questions, rather than any allegations sufficient to, in good faith, state any particular cause of action. *See* R. 116, ¶ 60. Appellant

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expressly sought the discovery to "find evidence" and "determine the issues pertaining to the Voter Rolls in Florida..." R. 116-17, ¶¶ 60-61. Appellant was not even seeking discreet items or testimony, which is also required. *Publix Supermarkets, Inc. v. Frazier*, 696 So.2d 1369, 1371 (Fla. 4th DCA 1997) (citing *First Nat' Bank of Miami v. Dade–Broward Co.*, 171 So. 510, 510–11 (Fla. 1936)). Rather, Appellant sought "any and all records related to the Voter Rolls and the voting which was done in 2024." *See* R. 117. For these reasons, Appellant's proposed bill of discovery failed to state a cause of action.

Because the proposed Amended Complaint failed to establish standing or state a cause of action, it was insufficiently pled and deficient as a matter of law. Therefore, the proposed amendment was futile. Accordingly, the Trial Court did not err by denying leave to amend and dismissing the initial Complaint with prejudice.

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II. Any deficiency in explanation or reasoning in the Trial Court's order was invited error.

Appellant takes issue with the lack of "explanation" or "reasoning" in the Trial Court's order. *See* IB, pp. 11–12. However, the case relied upon by Appellant, *Harrison v. Dep't of Mgmt. Services*,

339 So. 3d 504, 506 (Fla. 1st DCA 2022), did not hold that a trial court is required to state its reasoning whenever denying leave to amend or dismissing a complaint with prejudice. Rather, in *Harrison*, the Court merely noted that such findings were not stated by the trial court in that case before conducting a *de novo* review of the trial court's ruling. *Id.* Moreover, a trial court does not commit reversible error by failing to state its reasons for dismissing a complaint with prejudice. *City of Gainesville Code Enf't Bd. v. Lewis*, 536 So. 2d 1148, 1149–50 (Fla. 1st DCA 1988) (noting that "nothing in the Florida Rules of Civil Procedure requires a trial court to specify the grounds for dismissal").

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Nevertheless, even if it was improper to deny leave to amend without providing findings, any such error was invited by Appellant. At the hearing on the Motion to Amend, after the Trial Court announced its ruling, Appellant's counsel and the Court had the following exchange:

> THE COURT: Okay. Anything else before we sign off?
>
> MR. TICKTIN: Yes. I was just concerned that I don't – I'm hoping not to have a whole long order of findings, since Your Honor's findings are limited, that we only use the findings that Your Honor had, rather than embellish upon it, since it's only going to be –

> THE COURT: I mean, I'm relying on all the arguments made by the defendants, but I don't think the order needs to be real long. But I'll certainly carefully look at the wording of the order and edit it –
>
> MR. TICKTIN: I -- and I will undertake not to use any issue of there not being sufficient words in the final -- in your order. I will not -- that -- I waive any objection to not being sufficient, because I think the record should speak for itself.
>
> THE COURT: Okay. Okay. Right. I mean, and I'm relying on all the papers that were filed as well as the oral arguments that were made today.
>
> MR. TICKTIN: I get that.

See T. 52:14–53:12. Thus, the brevity of the trial court's order resulted from Appellant's request and waiver of objection to lack of findings.

"Under the invited-error doctrine, a party may not make or invite error at trial and then take advantage of the error on appeal … Counsel cannot sandbag a trial judge by requesting and approving something they know will result in an automatic reversal, if given." *Anderson v. State*, 93 So. 3d 1201, 1206 (Fla. 1st DCA 2012) (citations and internal quotation marks omitted). Because any deficiency in the Trial Court's order was invited by Appellant, any such deficiency cannot be raised on appeal.

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CONCLUSION

Based on the foregoing arguments and authorities, Appellee Secretary Byrd requests that this Court affirm the Trial Court's order.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing document is being filed electronically with the Clerk of Court on March 31, 2026, by using the Florida Courts E-Filing Portal and that a copy will be served upon all counsel of record through the E-Filing Portal.

/s/ Bilal Ahmed Faruqui
Bilal Ahmed Faruqui

CERTIFICATE OF COMPLIANCE

Pursuant to Fla. R. App. P. 9.045(e), I certify that this answer brief was computer generated using Bookman Old Style 14-point font, in compliance with Fla. R. App. P. 9.045(b), and contains 3,702 words, in compliance with Fla. R. App. P. 9.210(a)(2)(B).

/s/ Bilal Ahmed Faruqui
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