

JUN 23 2026

Shirley A. Johnson-Leigh
Clerk

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

ANTHONY KATHOL,
Appellant,

v.

THE HONORABLE MONAE L.
JOHNSON, in her official capacity
as SECRETARY OF STATE,
Appellee,

and

CELESTINE STADNICK,
Intervenor.

APPELLANT'S BRIEF

Supreme Court Case No. 31510

COMES NOW, Anthony Kathol, Appellant, and submits this Brief in support of his appeal from the Findings of Fact, Conclusions of Law, and Judgment entered by the Sixth Judicial Circuit Court, Hughes County, South Dakota, on May 19, 2026, the Honorable Margo D. Northrup presiding.

The following are the identities of parties and counsel to the referenced case:

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JURISDICTIONAL STATEMENT

Jurisdiction is authorized by SDCL 12-1-13 and governed procedurally by SDCL ch. 15-26A. Appellant timely filed a Notice of Appeal seeking review of the circuit court's order affirming certification of Candidate Celestine Stadnick for District 27 State Senate.

LEGAL ISSUES

- I. Whether the circuit court misapplied South Dakota's substantial-compliance framework by excusing omission of an expressly required statutory element after determining that the county-of-voter-registration requirement of SDCL 12-6-8 is mandatory and essential.

Trial Court: Held in the negative.

- II. Whether the circuit court erred by treating the Declaration of Candidacy as separate from the unified statutory nomination process established by South Dakota election law.

Trial Court: Held in the negative.

STATEMENT OF THE CASE AND FACTS

A. Case History

1. This matter arises from a challenge to the nominating petition of Candidate Celestine Stadnick for District 27 State Senate.
2. Candidate Stadnick submitted a nominating petition for partisan election with 155 petition signatures to the Secretary of State on March 30, 2026.

3. During the Secretary of State's review process, 29 signatures were removed, leaving 126 signatures subject to certification review.
4. The Secretary of State ultimately certified Candidate Stadnick's petition.
5. On April 1, 2026, Appellant timely filed a challenge pursuant to SDCL 12-1-13.

Following the Secretary of State's review and determination pursuant to SDCL 12-1-14, Appellant timely appealed the determination to Hughes County Circuit Court pursuant to SDCL 12-1-13.
6. Following briefing, submission of exhibits, and oral argument, the circuit court entered Findings of Fact, Conclusions of Law, and Judgment on May 19, 2026.
7. The circuit court determined that Candidate Stadnick possessed 53 valid signatures and affirmed certification.
8. Appellant made a timely appeal on May 29, 2026.

B. Statement of Facts

1. Candidate Celestine Stadnick submitted nominating petitions seeking placement on the ballot as a candidate for District 27 State Senate.
2. Candidate Stadnick submitted a total of 155 signatures to the South Dakota Secretary of State in support of her candidacy.
3. During the Secretary of State's initial administrative review process, 29 signatures were removed, leaving 126 signatures for certification review.
4. On April 1, 2026, Appellant Anthony Kathol filed a challenge pursuant to SDCL 12-1-13 contesting the validity of multiple signatures appearing on Candidate Stadnick's nominating petition.

5. Following administrative review of the challenged signatures, 65 signatures remained certified by the Secretary of State.
6. Appellant thereafter timely filed a Petition for Judicial Review in Hughes County Circuit Court pursuant to SDCL 12-1-13.
7. The circuit court conducted a hearing on May 14, 2026, regarding the validity of the challenged signatures and other issues raised in Appellant's petition.
8. During the circuit court proceedings, Appellant identified additional instances of the same county-of-registration issue previously presented to and decided by the Secretary during the administrative challenge. The circuit court concluded that Appellant was not precluded from identifying additional signature concerns during judicial review. (CL ¶ 6.)
9. Following review of the challenged signatures, the circuit court invalidated thirteen additional signatures and concluded that Candidate Stadnick possessed 53 valid signatures.
10. The circuit court took judicial notice that only fifty valid signatures were required for Candidate Stadnick to qualify for placement on the ballot. (CL ¶ 13.)
11. Among the signatures challenged by Appellant were six signatures in which the county of voter registration was identified as "Oglala" rather than "Oglala Lakota County."
12. The circuit court took judicial notice that Oglala Lakota County, formerly Shannon County, became the official name of the county effective May 1, 2015. (CL ¶ 9.)
13. The circuit court further found that SDCL 12-6-8 requires petition signers to provide the county in which the individual is registered to vote and concluded that the Legislature made this requirement mandatory and an essential element of the nominating petition process. (CL ¶ 21.)

14. The circuit court nevertheless concluded that use of the designation "Oglala" substantially complied with the statutory requirement because the omitted portion of the county designation could be supplied through contextual inference. (CL ¶ 23.)
15. The circuit court further concluded that the county could be confirmed through the applicable ZIP codes associated with the petition entries. (CL ¶ 23.)
16. Appellant challenged the validity of those six signatures on the grounds that "Oglala" is not the official county designation contained within the statewide voter-registration records and does not constitute the full county name required by statute.
17. The circuit court also considered Appellant's challenge regarding Candidate Stadnick's Declaration of Candidacy and the relationship between the candidate's residence address, voter-registration information, and nomination requirements.
18. The circuit court concluded that there is no statutory requirement that a candidate's residence address be identical to the address associated with the candidate's voter-registration records and therefore determined that Candidate Stadnick complied with the nomination requirements. (CL ¶¶ 17-18.)
19. The circuit court invalidated Candidate Stadnick's own petition signature after determining that the signature did not sufficiently correspond with the voter-registration records. (FF ¶ 18.)
20. The circuit court ultimately concluded that Candidate Stadnick complied with the applicable nominating-petition requirements and was properly certified as a candidate for District 27 State Senate. (CL ¶¶ 18, 24.)
21. Appellant timely filed a Notice of Appeal seeking review of the circuit court's Findings of Fact, Conclusions of Law, and Judgment.

ARGUMENT

- I. **The circuit court misapplied South Dakota's substantial-compliance framework by excusing omission of an expressly required statutory element after determining that the county-of-voter-registration requirement of SDCL 12-6-8 is mandatory and essential.**

Questions of statutory interpretation are reviewed de novo. The interpretation of election statutes and the effect of legislative amendments present questions of law subject to this Court's independent review.

The circuit court's decision should be reversed because it applies pre-HB 1256 substantial-compliance doctrine in a manner that effectively nullifies the Legislature's deliberate amendments strengthening mandatory identifying requirements governing candidate nominating petitions.

As a preliminary matter, the Circuit Court expressly rejected the argument that Appellant was precluded from identifying additional signature deficiencies during judicial review. (CL ¶ 6.) The court relied upon SDCL 12-1-13, which expressly provides that "a failure to challenge a petition in accordance with this section does not deny a person any other legal remedy to challenge the filing of a nominating, initiative, or referendum petition in circuit court." The statute further provides that "[a] challenge to a petition in circuit court may include items prohibited in this section." Consistent with that statutory language, the court concluded that failure to raise a challenge administratively does not foreclose other legal remedies in circuit court. Because the Circuit Court resolved that issue in Appellant's favor, and because the challenged signatures were presented during the judicial review proceedings, the merits of those challenges are

properly before this Court. With the challenged signatures properly before the Court, the dispositive issue is whether the identifying requirements imposed by HB 1256 permit certification of signatures that do not correspond to the official county designation reflected in the statewide voter-registration records.

The challenged signatures present the same recurring legal issue concerning the Secretary's interpretation and application of the county-of-registration requirement under SDCL 12-6-8. During the circuit court proceedings, Appellant specifically identified Ryan Running Shield's petition entry, contained within Exhibit E, and argued that the appeal concerned whether the Secretary's interpretation and application of the amended statutory requirement was legally correct. In Exhibit E, the Secretary expressly concluded that "Oglala is a common enough abbreviation for Oglala-Lakota." Thus, the county-of-registration issue was presented to and decided by the Secretary during the administrative proceedings. The circuit court admitted Exhibit E into the record without objection and thereafter concluded that additional signature concerns were not procedurally barred. (CL ¶ 6.)

The additional signatures identified during judicial review did not present a new legal theory or category of challenge. Rather, they reflected additional instances of the same county-of-registration issue previously raised before the Secretary, addressed in Exhibit E, and litigated before the circuit court.

HB 1256 materially amended South Dakota's election statutes by requiring additional identifying information on candidate nominating petitions and by strengthening the correspondence requirements tied to voter-registration records. The Legislature amended SDCL 12-6-8 and SDCL 2-1-15 to require the inclusion of specific identifying information, including

the signer's county of voter registration, while simultaneously providing that those signatures not substantially corresponding to voter-registration records "may not be counted." Importantly, the title of HB 1256 expressly states that the Act was enacted "to require the inclusion of certain information on a candidate's nominating petition or on a ballot question petition." The Legislature, therefore, expressly connected these amendments to candidate nominating petitions, not merely initiated-measure petitions.

This understanding is consistent with *Nist v. Herseth*, where the Court recognized that petition requirements serve the important function of providing information that permits verification of whether signers are qualified electors and held that required identifying information must be substantially complied with for signatures to be counted. The Court further recognized that petition requirements are designed to provide information that allows challengers and election officials to verify the qualifications of petition signers. The county-of-registration requirement serves that same verification function. The Legislature could reasonably require county information to assist election officials and challengers in accurately identifying petition signers and confirming correspondence with statewide voter-registration records.

The Secretary of State's administrative rules likewise require inclusion of specified identifying information on candidate nominating petitions. See ARSD 5:02:08:01. The circuit court recognized that the county of voter registration constitutes one of the mandatory identifying requirements associated with the petition-review process. (CL ¶ 21.) The court further acknowledged through judicial notice that "Oglala Lakota County f/k/a Shannon County" has been the official legal county name since May 1, 2015. (CL ¶ 9.) Nevertheless, the court concluded that signatures listing only "Oglala" substantially complied with the statutory

requirement because the omitted portion of the county designation could be supplied through contextual inference. (CL ¶ 23.)

That conclusion effectively replaces statutory compliance with judicial reconstruction.

“Oglala” is not the official county designation contained within the statewide voter-registration records. The official county name is “Oglala Lakota County.” The omitted term “Lakota” is not surplus language or a technical suffix. Rather, it forms part of the official governmental designation formally adopted through legislative action and gubernatorial proclamation. Moreover, “Oglala” independently refers to a municipality located within the exterior boundaries of the Pine Ridge Reservation and may also refer to other governmental, geographic, or cultural entities distinct from Oglala Lakota County itself. Accordingly, the omission did not merely shorten the county name through a recognized abbreviation. Instead, it altered the official county designation required by statute.

The circuit court further concluded that the omitted county designation could “be confirmed by the applicable zip codes.” However, SDCL 12-6-8 does not require petition signers to provide ZIP codes, nor does the statute authorize courts to engage in judicial reconstruction of omitted statutory geographic identifying information. The Legislature required the signer to provide the county of voter registration itself. Under the circuit court’s reasoning, compliance with a mandatory statutory requirement turns not upon the information actually provided by the signer, but upon information a court may later derive through contextual inference and judicial review. Such interpretation materially weakens the mandatory identifying requirements enacted and strengthened through HB 1256.

South Dakota courts have historically applied substantial-compliance principles in election matters to avoid defeating the will of voters through mere technical defects. See *Larson v. Hazeltine*, 552 N.W.2d 830 (S.D. 1996); *Nist v. Herseth*, 270 N.W.2d 565 (S.D. 1978); *Bjornson v. City of Aberdeen*, 296 N.W.2d 896 (S.D. 1980). However, those decisions predate HB 1256, through which the Legislature materially strengthened the identifying-information requirements governing nomination petitions and voter-registration correspondence.

Importantly, *Larson v. Hazeltine* itself recognized that where the Legislature expressly requires identifying information on a petition, those requirements constitute essential elements rather than mere technicalities. *Larson v. Hazeltine*, 552 N.W.2d 830, 836 (S.D. 1996) (“where the statute required both the residence address and post office address, both are considered essential elements and the omission of one or both is not a technicality to be disregarded”). Here, SDCL 12-6-8 expressly requires the signer to include the county in which the signer is registered to vote. The circuit court correctly acknowledged that the Legislature made this requirement mandatory and essential. (CL ¶ 21.) That conclusion accords with *Headley v. Ostroot*, 76 N.W.2d 474, 475-76 (S.D. 1956), which recognized that the Legislature’s judgment is entitled to deference in the first instance and that, in cases of doubt, courts should give effect to the will of the Legislature.

The circuit court also relied upon *Rans v. State*, 390 N.W.2d 64, 66 (S.D. 1986), for the proposition that substantial compliance may exist where the purpose of a statute has been satisfied. However, *Rans* does not eliminate the threshold requirement that courts first identify and enforce those elements the Legislature has expressly designated as mandatory. Once the circuit court concluded that the county of voter registration is a mandatory and essential statutory

requirement under SDCL 12-6-8 (CL ¶ 21), The analysis should have ended with the statutory text itself rather than whether the omitted information could later be supplied through contextual inference.

Even assuming *Rans* applies, it does not support the circuit court's conclusion. *Rans* teaches that substantial compliance exists only when the purpose of the statute has been served. Here, however, the Legislature expressly required petition signers to provide the county in which they are registered to vote and, through HB 1256, strengthened the correspondence requirements tied to voter-registration records. Thus, even under *Rans*, the relevant inquiry is whether excusing omission of part of the official county designation advances or undermines the legislative purpose reflected in those amendments.

The circuit court articulated a two-step substantial-compliance framework derived from *Larson*. First, the court must determine whether the challenged information is expressly required by statute or administrative rule. If the omitted information constitutes an expressly required element, the defect is presumptively fatal because the requirement is not a mere technicality. (CL ¶ 19.) Only if the challenged information is not expressly required does the analysis proceed to the second step, which examines whether the purpose of the requirement was nonetheless served despite the omission. (CL ¶ 19.) The distinction between these two analytical steps is critical because the first step governs compliance with expressly required statutory elements, whereas the second step permits a more flexible purpose-based inquiry only when the challenged information is not itself an expressly required statutory element. Appellant does not dispute the applicability of *Larson's* substantial-compliance framework. Rather, Appellant submits that the

circuit court misapplied that framework after determining that the county-of-registration requirement is a mandatory and essential statutory element under SDCL 12-6-8. (CL ¶¶ 19, 21.)

The circuit court's own analytical framework demonstrates the error. The court correctly recognized that South Dakota's substantial-compliance inquiry begins by determining whether the challenged information is expressly required by statute. (CL ¶ 19.) The court further acknowledged that under *Larson v. Hazeltine*, omission of an expressly required element is presumptively fatal because such elements are not mere technicalities to be disregarded. (CL ¶ 19.) Having concluded that SDCL 12-6-8 makes the signer's county of voter registration a mandatory and essential statutory requirement, the analysis should have ended. (CL ¶ 21.) Instead, the court proceeded to excuse the omission through contextual inference, concluding that "Oglala" substantially complied because the omitted portion of the county designation could allegedly be supplied through judicial reconstruction. (CL ¶ 23.) In doing so, the court bypassed the first step of its own stated framework and treated an expressly required statutory element as though it were a nonessential detail subject to judicial reconstruction.

Having reached that conclusion, however, the circuit court nevertheless proceeded to uphold the challenged signatures through contextual inference and purpose-based reconstruction analysis. In doing so, the court effectively merged the two analytical steps together and diluted the distinction *Larson* recognized between expressly required statutory elements and nonessential technical defects. Once the omitted information constitutes an expressly required mandatory identifier tied directly to voter-registration correspondence requirements, the purpose-based substantial-compliance inquiry carries materially reduced force. Otherwise, expressly

required statutory identifiers become functionally optional whenever a court later determines the intended information can be inferred from context.

Likewise, *Nist and Bjornson* arose under materially different statutory frameworks, predating HB 1256's amendments that tie petition validity more directly to voter-registration correspondence requirements. Those earlier decisions did not address a legislative scheme in which the Legislature simultaneously strengthened mandatory identifying requirements while providing that signatures not substantially corresponding with voter-registration records may not be counted. Accordingly, while substantial-compliance principles remain relevant, those cases cannot be mechanically applied in a manner that effectively restores the same degree of judicial flexibility the Legislature deliberately narrowed through statutory amendment.

While SDCL 12-6-64 reflects a legislative preference for preserving ballot access where possible, that principle cannot be applied in a manner that nullifies specific mandatory identifying requirements that the Legislature subsequently strengthened through HB 1256. South Dakota precedent has long recognized that liberal construction does not permit courts to disregard mandatory statutory requirements. As the Court observed in *Bjornson*, although election statutes are to be liberally construed, "it was not meant thereby that substantial compliance with the law can be ignored." That principle applies with particular force where, as here, the circuit court expressly determined that the challenged requirement is mandatory and essential. (CL ¶ 21.)

The Court need not choose between SDCL 12-6-64 and HB 1256 because the statutes are capable of harmonious construction. SDCL 12-6-64 continues to protect candidates and voters from disqualification based upon nonessential technical defects. HB 1256, however, reflects the

Legislature's determination that certain identifying information is sufficiently important to be expressly required and tied to voter-registration correspondence requirements. Giving effect to both statutes requires courts to liberally construe election laws while still enforcing the mandatory identifying requirements the Legislature chose to enact.

Under the circuit court's interpretation, the statutory requirement becomes not the actual county written on the petition, but rather whether a court may later infer the intended county through surrounding circumstances, ZIP codes, or contextual reconstruction. That interpretation materially weakens the Legislature's mandatory identifying requirements and risks rendering HB 1256 functionally ineffective.

Courts should not replace the Legislature's chosen wording with contextual approximation standards. The statutory requirement enacted by the Legislature requires the signer to identify the "county in which the individual is registered as a voter." SDCL 12-6-8. Under the circuit court's interpretation, however, the statutory requirement effectively becomes whether sufficient surrounding information exists from which the county may later be inferred.

That approach risks transforming mandatory statutory identifiers into flexible contextual approximations untethered from the Legislature's actual text. If omission of part of an official county designation may be excused whenever the intended county can later be reconstructed through inference, courts are no longer enforcing the statutory requirement as written but instead applying a contextual approximation standard.

This concern is not unique to Oglala Lakota County. Similar issues could arise whenever only part of an official two-word county designation is provided, including counties such as Bon

Homme County, Fall River County, or Charles Mix County. The question presented is therefore not merely whether a court may rely upon contextual inference, but whether courts may substitute judicial reconstruction for the Legislature's expressly required identifying information.

The record further demonstrates that compliance with the statutory county-identification requirement was both feasible and routinely achieved. Eighty-two Oglala Lakota County petition signers correctly identified "Oglala Lakota County" or "OLC" on Candidate Stadnick's petition circulated within District 27. This demonstrates that the statutory requirement was neither impractical nor confusing to ordinary voters. Rather, the record reflects that petition signers routinely understood and complied with the Legislature's requirement to identify the county of voter registration using the official county designation. As the Court observed in *Nist*, petition requirements that are readily capable of compliance do not impose an onerous burden upon the electoral process merely because some signers fail to satisfy them.

The consistency reflected across multiple District 27 candidate petitions further confirms that petition signers and circulators routinely understood and complied with the statutory county-identification requirement. The widespread use of "Oglala Lakota County" or "OLC" undermines any contention that the official county designation was unclear, impractical, or incapable of ordinary compliance.

Additionally, the challenged signatures at issue are limited in number, readily identifiable, and outcome-determinative. The circuit court concluded that Candidate Stadnick possessed 53 valid signatures, only three above the statutory minimum required for ballot access. Accordingly, the validity of the six challenged signatures is not a theoretical dispute concerning harmless error, but a dispositive issue that directly affects Candidate Stadnick's eligibility for placement

on the ballot. A numerical summary of the petition-review process is provided below for reference.

Numerical Summary of Petition Review

- 155 signatures submitted by Candidate Stadnick
- 29 signatures removed during the Secretary of State's initial administrative review process
- 126 signatures remaining following administrative review
- 61 signatures challenged by Appellant during administrative proceedings
- 65 signatures remained following the Secretary of State's review of Appellant's challenges
- 13 additional signatures invalidated through the Hughes County Circuit Court proceedings
- 53 signatures ultimately determined valid by the circuit court
- The present appeal concerns six additional outcome-determinative signatures listing "Oglala" rather than "Oglala Lakota County" as the county of voter registration
- Exclusion of those six signatures would reduce the petition below the statutory minimum of 50 valid signatures required for ballot access

Appellant, therefore, includes in Appendix A a focused summary identifying the six challenged signatures where the petition signer listed "Oglala" rather than the official county designation "Oglala Lakota" reflected in the statewide voter-registration files pursuant to SDCL 12-4-37. (CL ¶ 10.) The Appendix identifies the signer's name, petition sheet number, line

number, petition entry, corresponding voter-registration county designation, and resulting statutory deficiency associated with each challenged signature.

The issue before this Court is, therefore, whether omission of part of the official county designation satisfies the Legislature's mandatory identifying requirements enacted and amended through HB 1256.

If courts may excuse omission of expressly required identifying information whenever the intended county can later be supplied through contextual inference, the Legislature's amendments imposing mandatory voter-identification requirements lose meaningful legal effect. Under the circuit court's reasoning, the statutory requirement effectively becomes not the signer's county of voter registration, but merely enough information from which a court may later infer the intended county. That interpretation conflicts with both the text and purpose of HB 1256.

Accordingly, the circuit court erred in concluding that the challenged signatures substantially complied with SDCL 12-6-8 and related statutory requirements enacted and strengthened through HB 1256. Once the invalid signatures are excluded, Candidate Stadnick's petition falls below the statutory minimum number of valid signatures required for ballot access, and certification should therefore be reversed.

II. The Circuit Court Erred in Treating the Declaration of Candidacy as Separate from the Unified Statutory Nomination Process Established by South Dakota Election Law.

A candidate seeking nomination must file a Declaration of Candidacy pursuant to SDCL 12-6-7. The declaration is not an isolated administrative form divorced from the nomination process. Rather, it is a sworn election filing submitted for the purpose of obtaining ballot access and is executed pursuant to statutory authority granted by the Legislature. The declaration requires the candidate to swear under oath to matters directly related to ballot eligibility, including residency, voter-registration status, and qualification to seek the office. Those representations are not independent concepts. They are submitted as part of the same nomination process through which a candidate seeks certification for placement on the ballot.

The circuit court's analysis compartmentalized the Declaration of Candidacy and the nominating petition into separate and independent components of the ballot-access process. In doing so, the court concluded that Candidate Stadnick complied with the nomination requirements notwithstanding Appellant's argument that the declaration and petition operate together as part of a single statutory nomination framework. (CL ¶ 18.)

The historical development of SDCL 12-6-8 further demonstrates that the Legislature has long viewed the Declaration of Candidacy and nominating petition as interconnected components of a unified nomination process. Prior to the 2025 amendments, SDCL 12-6-8 expressly provided that "the signed declaration of the candidate shall accompany and be a part of the petition." That language worked in conjunction with SDCL 12-6-7, which requires the filing of a Declaration of Candidacy, and reflected the Legislature's understanding that the declaration and petition together formed the nomination instrument through which a candidate sought ballot access.

Although SDCL 12-6-8 was rewritten by 2025 S.L. ch. 14, § 3, nothing in those amendments indicates a legislative intent to sever the longstanding relationship between the declaration and petition or transform the declaration into a wholly independent document detached from the nomination process. To the contrary, the historical language confirms the Legislature's treatment of the declaration and petition as components of a single nomination framework rather than isolated administrative filings.

This unified framework is further reflected in the Legislature's increasing emphasis upon correspondence between information supplied during the nomination process and the statewide voter-registration records. HB 1256 strengthened statutory requirements connecting petition information to voter-registration records and reinforced the Legislature's objective that identifying information provided during the nomination process correspond with official voter-registration data. The declaration, petition, and voter-registration records therefore function together within a common statutory framework designed to ensure accuracy, transparency, and public confidence in ballot-access procedures.

The circuit court reasoned that "residence address" is not separately defined within Title 12 and instead relied upon the statutory definition of "resident" contained in SDCL 12-1-4. (CL ¶ 16.) Based upon that analysis, the court concluded that no statute expressly requires a candidate's residence address listed on a Declaration of Candidacy to correspond identically with the address associated with the candidate's voter-registration records. (CL ¶¶ 16-18.) Appellant does not dispute that SDCL 12-1-4 supplies a definition of residency for election purposes. Rather, Appellant submits that the court's analysis viewed the declaration in isolation and failed to

consider the declaration, petition, and voter-registration records as interconnected components of the broader nomination framework established by South Dakota election law.

The circuit court's treatment of Candidate Stadnick's own petition signature illustrates the tension within the court's analysis. The court invalidated the candidate's petition signature because the signature did not sufficiently correspond with the voter-registration records, thereby recognizing the importance of statutory correspondence requirements within the nomination process itself. (FF ¶ 18.) The court's consideration of that issue further reflects its conclusion that judicial review was not limited to the precise grounds asserted during the administrative proceedings. Throughout the proceedings, the court considered arguments concerning voter-registration correspondence requirements that extended beyond the Secretary's initial administrative determinations, consistent with its conclusion that SDCL 12-1-13 preserves additional legal remedies in circuit court. (CL ¶ 6.) Yet the court simultaneously concluded that Candidate Stadnick complied with the nomination requirements notwithstanding Appellant's argument that the declaration and petition operate together as components of a unified statutory filing. Thus, the court applied correspondence-based scrutiny to one aspect of the nomination process while treating the declaration as analytically separate from the same statutory framework.

Appellant does not contend that every discrepancy appearing within a nomination filing automatically invalidates a candidacy. Rather, Appellant submits that the circuit court erred by treating the declaration and petition as legally distinct compartments when South Dakota's nomination statutes historically and structurally contemplate a unified process through which a candidate seeks ballot access. The sworn representations contained within the declaration derive

their significance from the nomination process itself. Consequently, the declaration should be interpreted in conjunction with the petition and related voter-registration information rather than in isolation.

Accordingly, the circuit court's conclusion that Candidate Stadnick fully complied with the nomination requirements rests upon an unduly compartmentalized interpretation of South Dakota's election statutes. By treating the Declaration of Candidacy as analytically separate from the petition process through which ballot access is obtained, the court failed to give proper effect to the integrated nature of the statutory nomination framework. For these reasons, the circuit court's analysis of the declaration-of-candidacy issue should be reversed and reconsidered under a unified interpretation of the nomination process.

CONCLUSION

The circuit court correctly recognized that SDCL 12-6-3 requires petition signers to identify the county in which they are registered to vote and further concluded that this requirement constitutes a mandatory and essential element of the nominating petition process. (CL ¶ 21.) The court also recognized that South Dakota's substantial-compliance framework first requires a determination of whether the challenged information is expressly required by statute. (CL ¶ 19.) Nevertheless, the court excused the omission of part of the official county designation through contextual inference and substantial-compliance analysis. In doing so, the court effectively replaced statutory compliance with judicial reconstruction and failed to give meaningful effect to the Legislature's amendments enacted through HB 1256.

The six challenged signatures identified in Appellant's Appendix A omit part of the official county designation reflected in the statewide voter-registration records and therefore fail to

satisfy the mandatory requirements of SDCL 12-6-8. Exclusion of those signatures reduces Candidate Stadnick's petition below the statutory minimum number of valid signatures required for ballot access.

Additionally, the circuit court's analysis improperly compartmentalized the Declaration of Candidacy from the broader statutory nomination framework. South Dakota's election statutes historically and structurally contemplate a unified nomination process in which the declaration, petition, and voter-registration records operate together to establish ballot eligibility. The court's contrary interpretation further contributed to an erroneous application of the nomination statutes.

Because the dispositive county-of-registration issue was presented to the Secretary during the administrative proceedings, addressed in Exhibit E, and preserved throughout the judicial review process, the Court should reach the merits of Appellant's statutory challenge.

For the foregoing reasons, Appellant respectfully requests that this Court reverse the circuit court's judgment, hold that the challenged signatures do not comply with SDCL 12-6-8, direct that those signatures be excluded from Candidate Stadnick's nominating petition, and remand with instructions to decertify Candidate Stadnick for placement on the ballot because the petition would then contain fewer than the statutorily required fifty valid signatures.

APPENDIX A

SUMMARY OF OUTCOME-DETERMINATIVE CHALLENGED SIGNATURES

Name	Petition Page	Line	Petition Entry	Official County Designation Reflected in Statewide Voter Registration Records	Defect Asserted
Twila Zephier	3	3	"Oglala"	"Oglala Lakota"	Incomplete statutory county designation
Michelle Vocu	5	6	"Oglala"	"Oglala Lakota"	Incomplete statutory county designation
Brend Bad Milk	10	16	"Oglala"	"Oglala Lakota"	Incomplete statutory county designation
Ryan Running Shield	12	14	"Oglala"	"Oglala Lakota"	Incomplete statutory county designation
Edson Briggs	14	13	"Oglala"	"Oglala Lakota"	Incomplete statutory county designation
Cecillia Borlesk	19	5	"Oglala"	"Oglala Lakota"	Incomplete statutory county designation

CERTIFICATE OF COMPLIANCE

I, Anthony Kathol, certify that this brief complies with the type-volume limitation of SDCL 15-26A-66(b). Using the word-processing system employed to prepare the brief, the brief contains 5,004 words, excluding the portions exempted by SDCL 15-26A-66(b)(3), and is within the applicable type-volume limitation.

Dated this 23rd day of June 2026, in Martin, South Dakota.

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CERTIFICATE OF SERVICE

I, Anthony Kathol, hereby certify that on the 23rd day of June 2026, a true and correct copy of the foregoing **APPELLANT'S BRIEF** was served upon the following counsel by electronic mail:

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ANTHONY KATHOL

IN THE SUPREME COURT
STATE OF SOUTH DAKOTA

No. 31510

ANTHONY KATHOL,

Appellants,

v.

THE HONORABLE MONAE L.
JOHNSON, in her official capacity
as SECRETARY OF STATE,

Appellee and Cross-Appellant,

and

CELESTINE STADNICK,

Appellee and Intervenor,

APPEAL FROM THE CIRCUIT COURT
SIXTH JUDICIAL CIRCUIT
HUGHES COUNTY, SOUTH DAKOTA

THE HONORABLE MARGO D. NORTHRUP
Circuit Court Judge

APPELLEE'S BRIEF

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Notice of Appeal filed May 29, 2026.

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PRELIMINARY STATEMENT

Throughout this brief, Appellant, Anthony Kathol, is referred to as “Appellant.” Appellee and Cross-Appellant, South Dakota Secretary of State, Monae L. Johnson, is referred to as “Appellee.” Intervenor, Celestine Stadnick, is referred to as “Intervenor.” The settled record in the underlying case is denoted as “SR,” followed by the e-record pagination.

JURISDICTIONAL STATEMENT

On May 19, 2026, the Honorable Margo D. Northrup entered Findings of Facts and Conclusions of Law in *Kathol v. Johnson*, Hughes

County Civil File Number 26-124. SR:313-20. Appellant filed his Notice of Appeal on May 29, 2026. SR:311-12. This Court has jurisdiction under SDCL §§ 12-1-13 and 15-26A-3.

STATEMENT OF LEGAL ISSUES AND AUTHORITIES

- I. WHETHER THE TRIAL COURT PROPERLY CONSIDERED ADDITIONAL PETITION SIGNATURES FOR DEFICIENCIES THAT WERE NOT ORIGINALLY PRESENTED TO THE SECRETARY OF STATE?

The Circuit Court found that it was within the trial court's discretion to consider challenges to signatures not presented to the Secretary of State as part of the initial challenge.

Larson v. Hazeltine, 1996 S.D. 100, 552 N.W.2d 830

State v. Jensen, 2003 S.D. 55, 662 N.W.2d 643

In re B.Y. Development, Inc., 2000 S.D. 102, 615 N.W.2d 604

Stanley County School Dist. No 57-1 v. Stanley County Ed. Ass'n., 310 N.W.2d 162 (S.D. 1981)

- II. WHETHER THE TRIAL COURT ERRED IN AFFIRMING THE SECRETARY OF STATE'S DETERMINATION THAT INTERVENOR COLLECTED SUFFICIENT VALID SIGNATURES TO APPEAR ON THE BALLOT?

The Circuit Court found that Intervenor collected sufficient valid signatures to appear on the ballot.

Larson v. Hazeltine, 1996 S.D. 100, 552 N.W.2d 830

Nist v. Herseth, 270 N.W.2d 565 (S.D. 1978)

Bjorson v. City of Aberdeen, 296 N.W.2d 896 (S.D. 1980)

- III. WHETHER THE TRIAL COURT ERRED IN REJECTING APPELLANT'S CLAIM THAT THE RESIDENCE ADDRESS INTERVENOR LISTED ON HER DECLARATION OF CANDIDACY INVALIDATED HER PETITION?

The Circuit Court found that Intervenor's Residence Address on her Declaration of Candidacy was not required to match her voter registration address.

Matter of Election Contest as to Reorganization of New Effington Indep. Sch. Dist. No. 54-3, 462 N.W.2d 185 (S.D. 1990)

STATEMENT OF THE CASE

The Secretary of State's Office received Appellant's initial challenge to Intervenor's petition on April 5, 2026. *See* SR:162.¹ *See also* SR:154-60. The Secretary of State's Office notified Appellant that his challenge was unsuccessful on April 14, 2026. SR:162. Appellant filed a Petition for Judicial Review/Notice of Appeal, seeking to overturn the dismissal of his petition challenge, on April 16, 2026. *See* SR:1-3. Intervenor moved to intervene on May 5, 2026. Appellant, Appellee, and Intervenor each submitted briefs to the Circuit Court. *See generally* SR:22-46, 116-28, 186-93. An oral argument hearing was held before Judge Northrup on May 14, 2026. SR:331. Judge Northrup filed written Findings of Fact and Conclusions of Law: and Order on May 19, 2026, denying

¹ Where submissions to the circuit court are duplicative, Appellee's reference to the Settled Record will be to the exhibits attached to the Declaration of Grant M. Flynn in support of Appellee's Brief. *See* SR:129-70.

Appellant's Appeal and affirming Appellee's decision. SR:301.²

Appellant filed a Notice of Appeal on May 29, 2026. SR:311-12.

STATEMENT OF FACTS

To appear on the June 2, 2026, primary, and subsequently the November 3, 2026, general, election ballot, a candidate must have filed a nominating petition with the Secretary of State's Office by March 31, 2026. SDCL § 12-6-4. On March 30, 2026, the South Dakota Secretary of State's Office received and filed a nominating petition for Intervenor to appear as a candidate for District 27 State Senate in the Democratic Party's primary election. SR:131-53. Intervenor was the only Democratic Party candidate to timely submit a petition for District 27 State Senate. SR:117.³ As such, there was not a Democratic Party Primary Election for State Senate in District 27, and Intervenor will appear on the general election ballot. See SDCL § 12-6-9.

² During the oral argument hearing and throughout her Findings of Fact, Judge Northrup took judicial notice of several facts that could be "accurately and readily determined from sources whose accuracy cannot reasonably be questioned." SDCL § 19-19-201; *see also State ex rel. Kornmann v. Larson*, 81 S.D. 540, 547, 138 N.W.2d 1, 5 (1965) (quoting McCormick, Evidence, § 325) (holding that courts may take judicial notice "of those facts 'capable of immediate and accurate demonstration by resort to easily accessible sources of indisputable accuracy.'") Appellee respectfully requests that this Court also take judicial notice of the same facts and those additional facts that Appellee references herein that cannot be reasonably questioned.

³ See 2026 Primary Election Candidate List, South Dakota Secretary of State's Office website, <https://vip.sdsos.gov/candidatelist.aspx?eid=773> (last visited July 15, 2026). See also fn. 2 *supra*.

Likewise, Appellant is the only Republican Party candidate to timely submit petitions for District 27 State Senate, so he will also appear on the general election ballot on November 3, 2026.⁴ *Id.*

On April 5, 2026, the Secretary of State's Office received an affidavit from Appellant, challenging Intervenor's petition on two grounds pursuant to SDCL § 12-1-13. SR:154-60. First, Appellant alleged that Intervenor's declaration of candidacy was invalid because the principal address listed on the declaration was different than that listed on her voter registration. *Id.* at 154. Intervenor listed 42 Medicine Root Drive on her declaration, but 193 Wanbli Wakitan Canku Drive on her voter registration.⁵ *Id.* Second, Appellant asserted that several of the petition signatures Intervenor submitted were invalid for various reasons. *Id.*

Intervenor submitted 155 signatures with her initial petition. SR:131-50. *See also* SR:163. After an initial review of the petition pursuant to SDCL § 12-1-36, the Secretary of State's Office determined that 127 of those 155 signatures were valid. SR:163. In his petition to the Secretary of State's Office, Appellant alleged that 100 of Intervenor's

⁴ *See* fn. 3 *supra*. *See also* fn. 2 *supra*.

⁵ Both addresses are found in Kyle, Ogalala County, South Dakota. All of Ogalala Lakota County falls within District 27. Find My Legislators map, South Dakota Legislative Research Council website, <https://sdlegislature.gov/Legislators/Find?District=27> (last visited May 1, 2026). *See also* fn. 2 *supra*.

initial petition signatures were invalid.⁶ SR:155-60. Of Intervenor’s 127 initially valid signatures, Appellant successfully challenged 64, leaving 63 valid signatures. SR:163. Based on the population of her district, Intervenor only required 50 valid signatures to appear on the ballot. SDCL § 12-6-7. Along with the notice of unsuccessful challenge, the Secretary of State’s Office provided Appellant a spreadsheet listing each challenged signature and the result of the Office’s review. SR:162-69. Appellant appealed his unsuccessful challenge to the circuit court. SDCL § 12-1-13.

STANDARD OF REVIEW

Review of a petition challenge to the Secretary of State is governed by South Dakota’s administrative procedures act. *See* SDCL 1-26-30 (authorizing “a person who has exhausted all administrative remedies available within any agency... [to be] entitled to judicial review under this chapter.” “The court shall give great weight to the findings made and inferences drawn by an agency on questions of fact.” SDCL § 1-26-36. Meanwhile, “[t]he Supreme Court shall give the same deference to the findings of fact, conclusions of law, and final judgment of the circuit court as it does to other appeals from the circuit court. Such appeal may not be considered de novo.” SDCL § 1-26-37. Legal questions will be

⁶ Appellant did not, in fact, challenge 100 signatures as several of the challenges referenced lines in the petition that were left blank. SR:155-60.

reviewed de novo. *Schupp v. S. Dakota Dep't of Lab. & Regul.*, 2023 S.D. 4, ¶ 7, 984 N.W.2d 722, 725 (quoting *Dakota Trailer Mfg., Inc. v. United Fire & Cas. Co.*, 2015 S.D. 55, ¶ 11, 866 N.W.2d 545, 548. With regard to administrative appeals, the Supreme Court is

actually making the same review of the administrative tribunal's action as did the circuit court. The agency's findings are reviewed for clear error. However, findings based on documentary evidence ... are reviewed de novo. Questions of law are also reviewed de novo. [The Court] perform[s] that review of the agency's findings unaided by any presumption that the circuit court's decision was correct.

Dakota Trailer Mfg., Inc. v. United Fire & Cas. Co., 2015 S.D. 55, ¶ 11, 866 N.W.2d 545, 548. (cleaned up) (internal citations omitted).

ARGUMENT

This Court currently has three discreet issues before it. First, the circuit court improperly considered challenges that were outside the scope of the record because the challenges were not presented to the Secretary of State's Office for consideration. Second, the circuit court properly determined that Intervenor collected sufficient valid signatures to appear on the ballot. Finally, the circuit court correctly concluded that the law does not require a principal address on a declaration of candidacy to match the candidate's voter registration address. Appellee's ask this Court to clarify the proper scope of the record and affirm the circuit court's conclusion.

I. THE CIRCUIT COURT IMPROPERLY EXPANDED THE RECORD ON APPEAL BY CONSIDERING CHALLENGES NOT RAISED BEFORE THE SECRETARY OF STATE.

Despite challenging 100 signatures to the Secretary of State, Appellant failed to address all of the petition signatures that he found deficient within Intervenor's petitions. *See* SR:124-25, 160. In turn, Appellant attempted to raise those additional challenges for the first time before the circuit court who considered them over Appellee's objections. SR:124-25. Petition challenges to the Secretary of State's Office constitute administrative proceedings governed by South Dakota's Administrative Procedures Act. *See* SDCL § 1-26-37. The circuit court erred in expanding the scope of the appellate record to consider these additional challenges, and they should be discounted by this Court. *See* SDCL § 1-26-35.

To appear on a ballot, a candidate for office must file a nominating petition with the Secretary of State's Office. SDCL § 12-6-4. These petitions must satisfy certain statutory requirements, including containing a certain number of signatures of registered voters within the district voting for the office sought. SDCL § 12-6-7. For District 27's Senate seat, a candidate need only obtain 50 signatures. *Id.* Statute further sets forth specific criteria that each signature must meet to be valid. SDCL § 12-6-8.

Upon receiving a nominating petition, the Secretary of State's Office reviews a random sample of the petition's signatures for facial validity and extrapolates from that sample whether the petition has sufficient signatures to certify the candidate for the ballot. SDCL § 12-1-36. In its ministerial capacity, this statutory process constitutes the extent of the Secretary of State's authority to review petition signatures. *Larson v. Hazeltine*, 1996 S.D. 100, ¶ 17, 552 N.W.2d 830, 835 (recognizing that the Secretary of State was "without authority to exercise discretion" with regard to review of petition signatures.)

On the other hand,

any interested person who has researched the signatures contained on the petition or, for a nominating petition, has researched the information contained in the declaration of candidacy, may submit an affidavit [to the Secretary of State] stating that the petition contains deficiencies as to the number of signatures of persons who are eligible to sign the petition or that the declaration of candidacy is not valid.

SDCL § 12-1-13. Such a challenge may only address certain items specifically set forth in the statute, and the challenge may not be brought a second time. *Id.* But the Secretary of State's decision may be appealed to the Hughes County circuit court, and ultimately, to this Court. *Id.* "A failure to challenge a petition in accordance with this section does not deny a person any other legal remedy to challenge the filing of a nominating, initiative, or referendum petition in circuit court." *Id.* A challenge to a petition in circuit court may include items prohibited in this section. *Id.* Said another way, only certain challenges may be

brought to the Secretary of State's Office, and any other legally cognizable claim must be brought directly to the circuit court. Moreover, failing to file a challenge with the Secretary of State's Office "does not deny that person any other legal remedy to challenge the filing of a nominating, initiative, or referendum petition." SDCL § 12-1-16.

These statutes establish two distinct and mutually exclusive tracts for individuals to challenge nominating petitions. An individual is permitted to bring a challenge to the Secretary of State's Office; to the circuit court; or, potentially, both. But what the statutes do not permit is transitioning an appeal of a Secretary of State challenge into a circuit court challenge while introducing new facts as Appellant did in this matter. A petition challenge to the Secretary of State's Office constitutes an administrative appeal governed by South Dakota's Administrative Procedures Act which means the record is closed. SDCL § 1-26-35.

"A person who has exhausted all administrative remedies within any agency... is entitled to judicial review under this chapter." SDCL § 1-26-30. An agency is an "association, authority, board, commission, committee, council, department, division, office, officer, task force, or other agent of the state vested with the authority to exercise any portion of the state's sovereignty." SDCL § 1-26-1(1). As an executive officer of the State, the Secretary of State exercise's a portion of the state's sovereign power, making it an agency pursuant to SDCL Ch. 1-26. *See* S.D. Const. art. IV, § 7. SDCL § 12-1-13 permits only one challenge of a

petition to the Secretary of State, so resolution of that initial challenge constitutes complete exhaustion of the administrative remedies available under the statute. Accordingly, appeals of petition challenges brought to the Secretary of State constitute administrative proceedings governed by the Administrative Procedures Act.

By extension, appeals of failed challenges under SDCL § 12-1-13 are subject to the procedural requirements of SDCL Ch. 1-26. For example, circuit court review of agency decisions “shall be conducted by the court without a jury and shall be *confined to the record*.” SDCL § 1-26-35 (emphasis added). Further, SDCL § 1-26-34 sets forth an explicit procedure by which a circuit court may return a case to the administrative agency to consider additional evidence prior to a hearing. But once an appeal is presented to the circuit court for a hearing, the facts before the court are “confined to the record.” SDCL § 1-26-35.

In further support of a closed record, SDCL § 12-1-13 requires “[t]he [petition challenge] affidavit shall include an *itemized listing* of the *specific deficiencies* in question. (emphasis added). This provision demands that petition challenges brought to the Secretary of State explicitly list the alleged deficiencies of the challenged signatures with specificity. SDCL § 12-1-13. This requirement would be rendered a nullity if a challenger could introduce additional challenges on appeal. *State v. Jensen*, 2003 S.D. 55, ¶ 15, 662 N.W.2d 643, 648 (recognizing “a

presumption against a construction which would render a statute ineffective or meaningless.”).

Here, Appellant challenged 100 signatures from Intervenor’s petitions as a part of his initial challenge to the Secretary of State’s Office. SR:154. In his appeal to the circuit court, Appellant challenged six additional signatures that were not included in his initial petition. SR:124-25. In addition, Appellant challenged two signatures listed in his original petition based on different grounds not presented to the Secretary of State. *Id.* at 125. Judge Northrup acknowledged that six signatures addressed in Appellant’s brief to the circuit court were not challenged to the Secretary of State. SR:296. But the lower court determined that Appellant was “not precluded from identifying additional signature concerns at the circuit court level...” because SDCL § 12-1-13 explains that “failure to challenge a petition in accordance with this section does not deny a person any other legal remedy to challenge the filing of a nominating, initiative, or referendum petition in circuit court.” SR:299; *see also* SDCL § 12-1-13.

The circuit court’s interpretation of the “failure to challenge” provision within SDCL § 12-1-13, while understandable, lacks context. The “failure to challenge” provision permits an individual to bring specific challenges to the Secretary of State while bringing additional challenges, beyond those permitted by SDCL § 12-1-13, directly to the circuit court. But the statute does not allow the challenger to change horses

midstream and convert a confined appeal of a Secretary of State decision into an entirely separate matter. Similarly, Appellant would not have been able to challenge the petitions before the circuit court on additional grounds beyond those specifically listed in the statute. SDCL §12-1-13(1)-(6). Such an interpretation would render the entire Secretary of State challenge process inconsequential because each challenge could start fresh before the circuit court with no memory of the agency's determination. *Jensen*, 2003 S.D. 55, ¶ 15. Not to mention, the circuit court's reading of the "failure to challenge" provision renders the "itemized listing of specific deficiencies" requirement found in the statute null and void. *Id.*

As a judicial review of an administrative agency decision pursuant to SDCL § 1-26-30, the record of a petition challenge to the Secretary of State's Office on appeal must be closed. SDCL § 1-26-35. The same result was reached in other cases before this Court. In the matter of *In re B.Y. Development, Inc.*, the circuit court on appeal considered affidavits that were not submitted to the underlying agency but only "insofar as they're specifically referenced and it's evident that that evidence was considered by the Commission." 2000 S.D. 102, ¶ 7, 615 N.W.2d 604, 608. While reiterating that the circuit court was confined to the below record, this Court determined that the circuit court did not improperly expand the scope of the record on appeal. *Id.* at 608-09. Similarly, in *Stanley County School Dist. No 57-1 v. Stanley County Ed. Ass'n.*, this

Court held that evidence not presented to the underlying agency was not properly considered by the lower court. 310 N.W.2d 162, 164 (S.D. 1981).

Petition challenges to the Secretary of State's Office under SDCL § 12-1-13 constitute administrative agency decisions pursuant to SDCL § 1-26-30. As such, judicial review of the Secretary of State's decision is governed by SDCL Ch. 1-26. Judicial reviews pursuant to the Administrative Procedures Act are confined to the record that was presented to the reviewing agency. SDCL § 1-26-35. The circuit court erred in expanding the scope of the record on appeal to consider additional signatures and additional challenges that Appellant did not initially present to the Secretary of State's Office.

II. THE CIRCUIT COURT CORRECTLY
DETERMINED THAT INTERVENOR HAS
SUFFICIENT VALID SIGNATURES TO APPEAR
ON THE BALLOT.

A. Substantial Compliance Standard.

"The laws of this state pertaining to primary elections shall be liberally construed so that the real will of the voters may not be defeated by a mere technicality." SDCL § 12-6-64. The Courts are directed to review petition signatures to determine whether the signatures "substantially comply" with the applicable statutes and administrative rules. *Larson*, 1996 S.D. 100, ¶ 17; *see also Nist v. Herseth*, 270 N.W.2d 565, 572 (S.D. 1978).

“Substantial compliance” with a statute means actual compliance in respect to the substance essential to every reasonable objective of the statute. It means that a court should determine whether the statute has been followed sufficiently so as to carry out the intent for which it was adopted. Substantial compliance with a statute is not shown unless it is made to appear that the purpose of the statute is shown to have been served. What constitutes substantial compliance with a statute is a matter depending on the facts of each particular case.

Id. at ¶ 19 (quoting *Rans v. State*, 390 N.W.2d 64, 66 (S.D.1986)).

B. Intervenor’s petition contained at least 50 valid signatures.

In his present appeal, Appellant maintains that Intervenor lacks the fifty valid signatures necessary to appear on the upcoming general election ballot. Appellant’s Brief, pg. 8-19. But Appellant narrows the issues before this Court by only challenging those signatures listing their county of residence as “Ogalala” rather than “Ogalala Lakota.” *Id.* According to Appellant, SDCL § 12-6-8 mandates that a petition signatory provide the complete name of their county, and any signature lacking the complete county name is *per se* invalid. Appellant’s Brief, pg. 8-19. Appellant further purports that the terms of SDCL § 12-6-8 insulated it from the doctrine of substantial compliance. *Id.* Appellant simply reads SDCL § 12-6-8 too broadly. Substantial compliance remains a component of the Court’s review of petition signatures, and the listing of “Ogalala” rather than “Ogalala Lakota” county satisfies the essential elements of the statute. *Larson*, 1996 S.D. 100, ¶ 19.

Consistent with Appellant’s allegations, Judge Northrup identified six signatories of Intervenor’s petition that listed only “Ogalala” rather

than “Ogalala Lakota” for their county. These six signatories are (1) Twila Zephier, (2) Michelle Vocu, (3) Brenda Bad Milk, (4) Ryan Running Shield, (5) Edson Briggs, and (6) Cecillia Borlesk. SR:297-98. As the circuit court found, each of these signatures were in substantial compliance with the statute. SR:300. And none of the amendments made to SDCL § 12-6-8 alter that conclusion.

Along with his or her voter registration address, a petition signer must also include the “county in which the individual is registered as a voter.” SDCL § 12-6-8. Appellant contends that a petition signature cannot substantially comply with this requirement and must precisely list the official name of the signer’s county. Appellant’s Brief, pg. 8-19. Perplexingly, Appellant simultaneously asserts that “OLC” would serve as a perfectly acceptable abbreviation for the official name of Ogalala Lakota County, but “Ogalala” County violates the statute. Appellant’s Brief, pg. 17.

Pursuant to SDCL § 12-6-64, election related statutes must be “liberally construed so that the real will of the voters may not be defeated by a mere technicality.” Contrary to Appellant’s assertions, SDCL § 12-6-64 remains a valid statute and was not repealed or undermined by any amendments to SDCL § 12-6-8. As the circuit court found, the signatures listing only “Ogalala” for the county substantially complied with the statute because the correct county “can be reasonably inferred from the context”, the omission of Lakota “did not prevent the petition’s

purpose from being served, and the county can be confirmed from the listed zip code. SR:300 (citing *Bjorson v. City of Aberdeen*, 296 N.W.2d 896 (S.D. 1980)).

A signature substantially complies with a statute when the signer has actually complied with the “substance essential to every reasonable objective of the statute.” *Larson*, 1996 S.D. 100 at ¶ 19. Where a signer has followed the statute sufficiently to carry out its intent, the signer has substantially complied. *Id.* If the purpose of the statute has been served, the challenged signature is valid. *Id.*

As Judge Northrup correctly determined, providing Ogalala as a signers registered county meets these objectives. SR:300. And the same result was reached in similar cases. For example, the *Nist* Court held that addresses lacking street and house numbers substantially complied with the requirement that petition signers include their residence address because mail would generally be delivered without such numbers. *Nist*, 270 N.W.2d at 571. Likewise, in *Larson*, the Court concluded that petitions that did not include the circulator’s city substantially complied with the requirement that the circulator’s address be included. *Larson*, 1996 S.D. 100 at ¶ 25.

This Court reached a similar conclusion when it held that petition signature addresses were valid even though the signatures did not include a city or state. *Bjornson*, 296 N.W.2d at 900. In fact, this Court went so far as to say that addition of this information by the circulator of

the petition did not invalidate the signatures since the information was not required regardless. *Id.* The Court further found that “where the numerical designation for the month was used, the signature is not rendered invalid in any instances where the circulator later wrote the name of or abbreviation for the month over the number.” *Id.* at 901.

Importantly, Appellant never alleges that any of Intervenor’s petition signatories could not be correctly identified based on the information they provided but merely relies on invalidation based on technical deficiencies. Rather, he challenges the county name as specifically violating a formulaic statutory interpretation. Appellant’s Brief, pg. 8-19. In fact, Appellant’s own case research underscores this point. Appellant opposes the application of substantial compliance, asserting that even though election statutes are to be liberally construed, “it was not meant thereby that *substantial compliance* with the law can be ignored.” Appellant’s Brief, pg. 15 (quoting *Bjornson*, 296 N.W.2d at 900) (emphasis added). This reference does not support the proposition that election laws must be technically construed. This Court specifically held that “substantial compliance” with the law may not be ignored, and it has not been here as providing “Ogalala” substantially complies with the requirement in SDCL § 12-6-8 that a petition signatory provide their county of voter registration.

Legislative amendments to SDCL § 12-6-8 did not *de facto* repeal SDCL § 12-6-64, and election statutes must still be “liberally construed

so that the real will of the voters may not be defeated by a mere technicality.” The circuit court applied proper construction to the requirements of SDCL § 12-6-8 and validated Intervenor’s petition signatures that listed “Ogalala” for the county of voter registration. SR:300. As the court found, the identity and location of the signer could be readily determined from the information provided on the petition, sufficiently carrying out the statute’s intent of identifying signers and confirming that they are properly registered to vote within the relevant district. *Id.*; *see also Larson*, 1996 S.D. 100 at ¶ 19.

III. THE CIRCUIT COURT CORRECTLY
DETERMINED THAT SOUTH DAKOTA LAW
DOES NOT REQUIRE A CANDIDATE’S
PRINCIPAL ADDRESS LISTED ON HER
DECLARATION OF CANDIDACY TO MATCH
HER VOTER REGISTRATION ADDRESS.

Finally, Appellant asserts that Intervenor’s entire petition should be invalidated because the “principal residence address” that she listed on her Declaration of Candidacy does not match the address at which she is registered to vote. Appellant infers from the requirement in SDCL § 12-6-8 that petition signatories list their voter registration address that the Declaration of Candidacy must also include the candidate’s voter registration address. South Dakota law does not require these addresses to match, and Appellant did not direct the Secretary of State’s Office, the circuit court, or this Court to any authority establishing such a requirement. Appellant’s challenge to Intervenor’s principal residence address should be rejected.

SDCL § 12-6-7 sets forth the components of a nominating petition. SDCL § 12-6-8 establishes various requirements related to petition signatures. Neither statute makes any reference to the candidate's address. *See* SDCL §§ 12-6-7 and 8. While SDCL § 12-6-8 blatantly requires a petition signatory to provide the signer's voter registration address, the statute does not require the candidate to list a specific address. SDCL § 12-1-9 permits the State Board of Elections to promulgate rules related to "[p]etition forms." *See* SDCL § 12-1-9(7). As authorized by this statute, the Board of Elections established a form for a "Nominating Petition for Partisan Election" at ARSD 05:02:08:01. While this form includes a space for the candidates mailing address as well as the candidate's "principal residence address", neither the form nor any other administrative rule requires the principal address listed on the form to mirror the candidate's voter registration address.

Moreover, no South Dakota statute requires a candidate to update their voter registration before submitting a nominating petition. SDCL Ch. 12-4, in conjunction with federal law, establishes South Dakota's voter registration requirements, including defining when individuals may be removed from the active voter rolls. These statutes do not set forth a specific deadline when a voter or candidate must update their voter registration after changing residences. Rather, Article VII § 2 of the South Dakota Constitution establishes that "[e]ach elector who qualified to vote within a precinct shall be entitled to vote in that precinct until he

establishes another voting residence.” In addition, the South Dakota Supreme Court held that “the mere change of residency from one precinct to another within the same county does not prohibit a voter from voting at his ‘voting residence.’” *Matter of Election Contest as to Reorganization of New Effington Indep. Sch. Dist. No. 54-3*, 462 N.W.2d 185, 192 (S.D. 1990) (emphasis in original).

Finally, Intervenor substantially complied with South Dakota law in completing her nominating petition. Intervenor substantially complied with the intent of the statute by providing an address on her nominating petition at which she could be contacted. *Larson*, 1996 S.D. 100 at ¶ 19. To invalidate Intervenor’s petition would serve to frustrate the will of the voters based on a mere technicality in violation of SDCL § 12-6-64.

South Dakota law does not require a candidate’s principal address on her nominating petition to match her voter registration address, and Appellant has failed to direct this Court to any statute or case that establishes such a requirement. As such, Intervenor’s nominating petitions, including her listed principal address, are valid and Appellant’s challenge fails.

CONCLUSION

Based upon the foregoing arguments and authorities, Appellee respectfully requests that the Circuit Court's decision be affirmed.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

1. I certify that the Appellee's Brief is within the limitation provided for in SDCL 15-26A-66(b) using Bookman Old Style typeface in 12-point type. Appellee's Brief contains 4,496 words.

2. I certify that the word processing software used to prepare this brief is Microsoft 365.

Dated this 22nd day of July, 2026.

/s/ Grant M. Flynn
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Assistant Attorney General

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 22, 2026, a true and correct copy of Appellee's Brief in the matter of *Anthony Kathol v. Monae L. Johnson, in her official capacity as Secretary of State* was served electronically through Odyssey File and Serve upon Thad Titze @ ttitze@robinskaplan.com, and directly to Anthony Kathol at Kathol4D27@goldenwest.net.

/s/ Grant M. Flynn
Grant M. Flynn
Assistant Attorney General

IN THE SUPREME COURT
STATE OF SOUTH DAKOTA

Nos. 31510, 31547, 31548

ANTHONY KATHOL,

Appellant,

v.

THE HONORABLE MONAE L.
JOHNSON, in her official capacity
as SECRETARY OF STATE,

Appellee and Cross-Appellant,

and

CELESTINE STADNICK,

Intervenor and Cross-Appellant,

APPEAL FROM THE CIRCUIT COURT
SIXTH JUDICIAL CIRCUIT
HUGHES COUNTY, SOUTH DAKOTA

THE HONORABLE MARGO D. NORTHRUP
Circuit Court Judge

INTERVENOR'S BRIEF

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Notice of Appeal filed May 29, 2026.

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IN THE SUPREME COURT
STATE OF SOUTH DAKOTA

No. 31510, 31547, 31548

ANTHONY KATHOL,

Appellant,

v.

THE HONORABLE MONAE L.
JOHNSON, in her official capacity
as SECRETARY OF STATE,

Appellee and Cross-Appellant,

and

CELESTINE STADNICK,

Intervenor and Cross-Appellant,

PRELIMINARY STATEMENT

Throughout this brief, Appellant Anthony Kathol is referred to as “Kathol,” Appellee The Honorable Monae L. Johnson is referred to as the “Secretary,” and Intervenor Celestine Stadnick is referred to as Stadnick. The settled record is denoted as “SR,” followed by the pagination according to the Clerk’s index.

JURISDICTIONAL STATEMENT

On May 19, 2026, the Honorable Margo D. Northrup entered Findings of Fact and Conclusions of law in *Kathol v. Johnson*, Hughes County Case No.

32CIV26-000124. SR:295-301. Kathol timely filed his Notice of Appeal on May 29, 2026, SR 311-12, and the Secretary and Stadnick filed their respective Notices of Review on June 18, 2026, both noticing the same issue for review. This Court has jurisdiction under SDCL §§ 1-26-37, 12-1-13, 15-26A-3.

STATEMENT OF LEGAL ISSUES AND AUTHORITIES

I. DID THE CIRCUIT COURT ERR BY EXPANDING THE SCOPE OF THE APPELLATE RECORD AND CONSIDERING CHALLENGES TO THE PETITION THAT HAD NOT BEEN PRESENTED TO THE SECRETARY OF STATE?

The Circuit Court ruled that Kathol was not precluded from presenting new challenges at the circuit court level.

Most relevant authority:

SDCL § 12-1-13

SDCL ch. 1-26

II. DID THE CIRCUIT COURT CORRECTLY CONCLUDE THAT STADNICK HAS A SUFFICIENT NUMBER OF VALID SIGNATURES TO APPEAR ON THE BALLOT?

The Circuit Court found that Stadnick has 53 valid signatures, in excess of the 50 required, and therefore is properly certified as a candidate.

III. DOES A CANDIDATE'S PRINCIPAL RESIDENCE ADDRESS ON THEIR DECLARATION OF CANDIDACY HAVE TO MATCH THEIR VOTER REGISTRATION ADDRESS?

The Circuit Court found that there is no requirement that the declaration of candidacy contain the candidate's voter registration address or that the

candidate's principal residence address must be the same as her voter registration address.

Most relevant authority:

SDCL ch. 12-6

ARSD 05:02:08:01

STATEMENT OF THE CASE

Pursuant to SDCL § 15-26A-67, Stadnick adopts by reference the Secretary's Statement of the Case.

STATEMENT OF FACTS

Stadnick adopts by reference the Secretary's Statement of Facts, except to clarify that Stadnick had 126 valid signatures after the Secretary's initial review, and she had 65 valid signatures following Kathol's challenge presented to the Secretary. SR 296. There are 46 signatures on Stadnick's petitions that Kathol has not challenged at any point and the Secretary has not invalidated. SR 296-97 ¶ 17. *See also* SR 189-90; SR 133-46.

STANDARD OF REVIEW

Stadnick adopts by reference the Secretary's Standard of Review.

ARGUMENT

I. The Circuit Court improperly considered new challenges presented by Kathol on appeal.

Kathol chose to challenge Stadnick's petitions through the administrative process outline in SDCL § 12-1-13 and not through an action in circuit court.

SDCL § 12-1-13 states:

[A]ny interested person...may submit an affidavit stating that the petition contains deficiencies as to the number of signatures of persons who are eligible to sign the petition or that the declaration of candidacy is not valid. The affidavit shall include an itemized listing of the specific deficiencies in question.

Id. Kathol properly submitted an affidavit to the Secretary alleging various deficiencies in Stadnick's petitions. SR 154-160. None of Kathol's challenges were of the six (6) types of challenges specifically prohibited by § 12-1-13 from being submitted to the Secretary. *Id.*; SR 155-160. Kathol properly submitted one affidavit. *See* SDCL § 12-1-13 (requiring that a challenger's petition challenges be confined to one affidavit). This requirement makes sense so that challenges are not piecemeal. *See id.*

While the Secretary ruled in favor of Kathol on some individual challenges, the Secretary found that the challenge was unsuccessful on the whole because Stadnick still had 65¹ valid signatures – more than the 50 signatures required. SR 163; SR 296 ¶ 9.

¹ Although the Secretary's ruling on Kathol's challenges states that 64 valid signatures remain after his challenge, SR 163, the Secretary appears to have incorrectly placed a "1" in the far-right "invalid count" column next to the

Next, Kathol filed his Petition for Judicial Review/ Notice of Appeal, SR 1-3, to the Circuit Court. Kathol agreed that his appeal was an administrative appeal to the Circuit Court under SDCL chapter 1-26. SR 22, 26-27. But as part of his appeal, Kathol sought to expand the record, challenging six signatures that he had not challenged to the Secretary. These signatures, all of which were identified for the first time in Kathol’s Appendix B to his Circuit Court Appellate Brief, are:

Twila Zephier (SR 133 (Petition 2, line 3))
Michelle Vocu (SR 135 (Petition 3, line 6))
Brenda Bad Milk (SR 140 (Petition 5, line 16))
Tricia Bear Eagle (SR 143 (Petition 7, line 6))
Edson Briggs (SR 144 (Petition 7, line 13))
Miriam Jealous of Him (SR 145 (Petition 8, line 6))

Compare SR 163-69 (showing Kathol’s challenges to the Secretary) *with* SR 37-45 ¶¶ 6, 8, 9, 10, 12, 16 (lodging the above-listed challenges for the first time in Circuit Court). Additionally, Kathol’s appeal to the Circuit Court also identified for the first time a new basis to challenge the petition signature of Stadnick herself. *Compare* SR 163 (challenging Stadnick’s petition signature arguing that she is “not allowed to sign [her] own petition”) *with* SR 37 ¶ 1 (arguing that Stadnick’s address on her petition does not match her voter registration).

The Circuit Court erred when it considered Kathol’s new challenges on appeal, thereby expanding the record. Under SDCL § 12-1-13, because Kathol

challenge to petition 7, line 3 (Carol Big Crow), SR 166, which was an unsuccessful challenge.

chose to challenge signatures first through the Secretary and then appeal to Circuit Court, he was required, in “one affidavit” to identify all of his challenges. He could have chosen to bring all of his challenges as lawsuit in Circuit Court in the first instance, but instead he chose to go through the administrative challenge and appeal route identified in SDCL § 12-1-13. Bringing challenges in Circuit Court was an option Kathol chose not to utilize:

A failure to challenge a petition in accordance with this section does not deny a person any other legal remedy to challenge the filing of a nominating... petition in circuit court. A challenge to a petition in circuit court may include items prohibited in this section.

Id. The statute allows a challenger to either initiate the challenge with the Secretary *or* with the Circuit Court. A challenge initially brought to the Secretary is limited by the requirements and excluded categories of challenges in SDCL § 12-1-13. A challenger who presents challenges to the Secretary, but who wishes to lodge a challenge based on one of the six exclusions in SDCL § 12-1-13, would have to initiate a separate action in Circuit Court apart from any appeal of the Secretary’s ruling, though, practically, it would make more sense for such a challenger to bring all challenges—those excluded by § 12-1-13 and those not excluded—before the Circuit Court in the first instance.

Stadnick adopts by reference the Secretary’s argument and analysis that a challenge brought to the Secretary cannot on appeal to the Circuit Court introduce new challenges as part of the appeal. SDCL § 15-26A-67; Secretary’s Br.

8-14. Under SDCL § 1-26-35, a circuit court's review of agency decisions "shall be conducted by the court without a jury and shall be confined to the record."

Because the record on appeal to the Circuit Court should have been closed, the Circuit Court erred when it considered new challenges from Kathol. Specifically, those new challenges, or new bases for old challenges, where the Circuit Court invalidated signatures should be reversed. Those are:

Celestine Stadnick (SR 297 ¶ 18; SR 37 ¶ 1; SR 163)
Tricia Bear Eagle (SR 298 ¶ 33; SR 42 ¶ 16; SR 166-67)
Miriam Jealous of Him (SR 297 ¶ 23; SR 39 ¶ 6; SR 167)
Earl DuBray (SR 298 ¶ 36; SR 44 ¶ 18; SR 168)

II. The circuit court correctly found that Stadnick has more than the requisite number of valid petition signatures

On this issue, Stadnick adopts by reference the Secretary's briefing, Secretary Br. 14-19; SDCL § 15-26A-67, except to correct references from "Ogalala" to Oglala.

III. Stadnick's declaration of candidacy is valid.

Seeking to eliminate every one of Stadnick's petitions in one fell swoop, Kathol argues that Stadnick's declaration of candidacy is invalid because the address identified on her declaration of candidacy as her "principal residence address" is different from her voter registration address. There is no legal support for Kathol's argument.

SDCL chapter 12-6 governing primary elections states three requirements regarding declarations of candidacy. First, "[a] candidate shall sign a formal declaration of candidacy before the petition may be circulated. The signed

declaration of candidacy must accompany the petition. An original signed declaration of candidacy must accompany the petition upon filing.” SDCL § 12-6-8. Second, candidates for legislature must be a resident of the district they seek to represent at the time they sign their declaration of candidacy. SDCL § 12-6-3.1. Third, “[n]o person may sign a declaration of candidacy or be nominated as a political candidate for a party unless that person is a registered voter with that party affiliation.” SDCL § 12-6-3.2.

Under SDCL chapter 12-6, a declaration of candidacy is different than a candidate’s petition, though practically the two are combined in one document so that petition signers can see the candidate’s declaration. *See* ARSD 05:02:08:01 “Form of nominating petition – Partisan election” (prescribing the form of nominating petition for partisan elections); SDCL § 12-6-8 (“The signed declaration of candidacy must *accompany* the petition.” (emphasis added)). The prescribed form includes a title – “NOMINATING PETITION FOR PARTISAN ELECTION _____ PARTY” – followed by “INSTRUCTIONS TO CANDIDATE,” which delineates the three parts of the document: the “heading,” the “declaration of candidacy,” and the “petition.” The heading, under “instructions to candidate” asks the candidate to identify their mailing address and principal resident address. *E.g.* SR 145. The Declaration of Candidacy section does not ask the candidate for their address. *Id.* It only requires the candidate to affirm the pre-printed statement with a signature and notary. *Id.*

Stadnick used the declaration and petition form found on the Secretary's website that appears to comply with the form as prescribed by ARSD 05:02:08:01. SR 131-50. Kathol does not challenge the form of Stadnick's petition and declaration.

Before the Circuit Court, Kathol focused on the "principal residence address" found in the heading of the petition before the "Declaration of Candidacy." *See* SR 25. Each of the 10 petition forms Ms. Stadnick submitted to the Secretary identifies "42 Medicine Root Drive, Kyle, SD 57752" as her "principal residence address." SR 131, 133, 135, 137, 139, 142, 143, 145, 147, 149. "Principal residence" and "principal residence address" are not defined in the Administrative Rules governing elections, ARSD 5:02, or in SDCL Title 12 governing elections. *But see* SDCL § 32-12-1 (defining "principal residence," but applying that definition only to SDCL chapter 32-12). If the legislature had wanted to define "principal residence" applicable to Title 12, it could have done so. *See* SDCL § 12-1-3 (providing definitions applicable to Title 12).

There is no authority stating that a candidate's "principal residence address" and her voter registration document must match. And contrary to Kathol's initial challenge to the Secretary, there is no authority stating that "a candidate may claim only one principal residence." *See* SR 154. If the legislature had wanted to require a candidate to provide her voter registration address in the heading of the petition or the declaration of candidacy, it could have done so.

Kathol now abandons any reference to “principal residence address” and instead argues that the Circuit Court improperly “compartmentalized the Declaration of Candidacy and the nominating petition.” Kathol Br. at 20. The Circuit Court did no such thing. Rather, the Court recognized that there are different requirements for different parts of the document. SR 299 ¶¶ 15-18. While an “individual who signs [a] petition” must include their voter registration address, SDCL § 12-6-8, neither that statute nor any others impose the same requirement when it comes to the “candidate[’s]” “declaration of candidacy” or the heading of the document. The heading does not require the candidate’s signature and explicitly states she must provide her mailing address and principal resident address.

The heading of Ms. Stadnick’s petition properly states her principal residence address. Appellant has not identified any authority to show that her principal residence address must match her voter registration address. The Secretary’s ruling regarding the address in the heading of Ms. Stadnick’s petition should be affirmed. Stadnick adopts by reference the Secretary’s arguments and analysis on this issue. Secretary’s Br. at 19-21.

CONCLUSION

The Secretary and Circuit Court found that Stadnick has submitted more than enough signatures on valid petitions, accompanied by a proper declaration

of candidacy. She is properly certified as a candidate for the South Dakota Senate representing District 27. The Supreme Court should affirm.

Dated: August 7, 2026

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that the Intervenor's Brief is within the limitation provided for in SDCL 15-26A-66(b) using Book Antiqua typeface in 12-point type. Intervenor's Brief contains 1,819 words. I certify that the word processing software used to prepare this brief is Microsoft Word.

Dated this 7th of August, 2026.

/s/ Thad A. Titze

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 7, 2026, a true and correct copy of Intervenor's Brief in the matter of *Kathol v. Johnson*, was served electronically through Odyssey File. Additionally, undersigned counsel this same day emailed a copy to Appellant Anthony Kathol at Kathol4D27@goldenwest.net and has mailed an original copy to the Clerk of the South Dakota Supreme Court.

/s/ Thad A. Titze
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31510

AUG 10 2026

Shirley A. Johnson Legal
Clerk

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

ANTHONY KATHOL,	)	
Appellant,	)	
	)	
v.	)	
	)	
	)	
THE HONORABLE MONAE L.	)	
JOHNSON, in her official capacity	)	APPELLANT'S REPLY BRIEF
as SECRETARY OF STATE,	)	
Appellee and Cross-Appellant,	)	
	)	
	)	Supreme Court Case No. 31510
nd	)	
	)	
	)	
ELESTINE STADNICK,	)	
Intervenor and Cross-Appellant,	)	

APPEAL FROM THE CIRCUIT COURT
SIXTH JUDICIAL CIRCUIT
HUGHES COUNTY, SOUTH DAKOTA

THE HONORABLE MARGO D. NORTHRUP
CIRCUIT COURT JUDGE

Notice of Appeal filed May 29, 2026.

The following are the identities of parties and counsel to the referenced case:

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PRELIMINARY STATEMENT

Appellant submits this Reply to address the arguments advanced by Appellee and Intervenor in their respective briefs filed July 22, 2026, and August 7, 2026, respectively, that require further response. Appellant relies upon and incorporates by reference the jurisdictional statement, statement of the case, statement of facts, statement of issues, and arguments presented in Appellant's Opening Brief filed with the Court on June 23, 2026. Appellant does not intend to waive any argument presented in his Opening Brief merely because it is not repeated or further addressed in this Reply.

INTRODUCTION

Appellee's and Intervenor's briefs do not resolve the principal statutory questions presented by this appeal. Instead, both rely substantially on pre-amendment substantial-compliance principles and procedural limitations while failing to address the significance of the Legislature's 2025 amendments enacted through House Bill 1256.

First, the central statutory question is not whether the county in which a petition signer is registered to vote can ultimately be identified from other information appearing on the petition. The question is whether, after HB 1256 expressly required petition signers to provide the county in which they are registered to vote, a court may supply or reconstruct that omitted statutory information from other information appearing on the petition. The Legislature—not the courts—determines the information required on a nominating petition. Appellee and Intervenor do not adequately address the effect of those amended statutory requirements.

Second, Intervenor characterizes the six additional signatures identified during the circuit court proceedings as new challenges or new bases for challenges that were never presented to the Secretary. The record demonstrates otherwise. The Secretary expressly considered and decided the underlying statutory issue when, in Exhibit E, she concluded that “Oglala is a common enough abbreviation for Oglala-Lakota.” The additional signatures presented the same preserved statutory issue and therefore constituted additional applications of the legal interpretation already made by the Secretary, rather than new legal theories. The circuit court itself recognized that distinction when it concluded that Appellant was not precluded from identifying additional signature concerns at the circuit court level. (CL ¶ 6.)

Third, Appellee and Intervenor characterize Appellant’s challenge to Candidate Stadnick’s principal residence information as though Appellant were asserting that SDCL 12-6-8, standing alone, requires the principal residence address appearing in the petition heading to match the candidate’s voter-registration address. That is not Appellant’s argument. Appellant’s position is that the Declaration of Candidacy, nominating petition, and voter-registration records must be considered within the integrated statutory framework established by the Legislature governing candidate nominations and ballot eligibility. That position does not ask this Court to reconstruct or supply omitted information. Rather, it asks the Court to construe the applicable nomination statutes together and determine the legal effect of the information Candidate Stadnick actually submitted.

For these reasons, and for the reasons set forth in Appellant’s Opening Brief, Appellant respectfully submits that the circuit court’s judgment should be reversed.

ARGUMENT

I. SDCL 1-26-35 Does Not Bar Consideration of Additional Signatures Presenting the Same Legal Issue Already Decided by the Secretary.

Appellee and Intervenor argue that SDCL 1-26-35 required the circuit court to confine its review strictly to the administrative record and therefore prohibited Appellant from identifying additional petition signatures that presented the same county-of-registration issue previously decided by the Secretary of State. That argument misconstrues both the nature of Appellant's appeal and the distinction between introducing a new legal issue and identifying additional applications of a legal issue already presented to and decided by the Secretary.

SDCL 1-26-35 requires that judicial review be "confined to the record." Appellant has never argued otherwise. The legal question presented to both the Secretary and the circuit court remained unchanged throughout these proceedings: whether petition signatures identifying the county of voter registration only as "Oglala" satisfy the requirements of SDCL 12-6-8 after the Legislature enacted HB 1256. That precise question was presented to the Secretary during the administrative challenge through Ryan Running Shield's petition entry contained in Exhibit E.

Exhibit E therefore establishes that the legal issue was preserved administratively before judicial review commenced. The Secretary expressly decided that issue when she concluded that "Oglala is a common enough abbreviation for Oglala-Lakota." The circuit court therefore reviewed the same legal determination that the Secretary had previously made. The additional signatures identified during judicial review did not introduce a new statutory interpretation, a

different category of deficiency, or a new legal theory. They presented additional applications for the same statutory issue that had already been presented to and decided by the Secretary.

Intervenor characterizes these additional signatures as “new challenges, or new bases for old challenges.” That characterization conflates a signature-specific factual challenge with the legal issue underlying the challenge. The fact that different signatures are involved does not necessarily mean that a different legal issue is presented. The relevant question is whether the additional signatures present a different statutory deficiency requiring a different legal analysis, or instead present the same statutory question already decided by the Secretary. Here, the additional signatures did not present a new statutory question; they presented additional applications of the same legal issue that had already been preserved and decided.

Appellant does not contend that the Secretary previously reviewed all six signatures individually. The Secretary reviewed and decided the challenge to Ryan Running Shield’s signature during the administrative proceedings; the other five signatures were identified later during the circuit court proceedings. The preserved legal issue, however, was whether a petition signature identifying the signer’s county of voter registration as “Oglala” satisfies SDCL 12-6-8. Once the Secretary adopted the legal interpretation reflected in Exhibit E, the additional signatures presented the same statutory question for purposes of judicial review. Applying that interpretation to additional signatures presenting the same statutory issue did not create a new legal theory or require a different statutory analysis.

The distinction is important. A new legal theory would present a question that the Secretary had never considered. A new factual basis would assert a different deficiency requiring a different legal analysis. Here, however, the additional signatures presented the same statutory

question: whether the omission of part of the official county designation may be excused under SDCL 12-6-8. The legal issue had already been presented to and decided by the Secretary. Appellant merely identified additional signatures affected by that same interpretation.

The circuit court's conclusion is consistent with this distinction when it stated that Appellant was "not precluded from identifying additional signature concerns at the circuit court level." (CL ¶ 6.) That conclusion is significant because it recognizes that the identification of additional signature concerns during judicial review was not, by itself, procedurally barred. The fact that the additional signatures had not been specifically identified during the administrative proceedings did not necessarily transform the underlying statutory issue into a new legal issue. Here, the additional signatures presented the same county-of-registration question that the Secretary had already considered and decided in Exhibit E.

Intervenor's reliance on the one-affidavit requirement in SDCL 12-1-13 does not alter that distinction. Intervenor argues that the requirement that a challenger submit one affidavit containing an "itemized listing of the specific deficiencies in question" prevents a challenger from raising additional signatures on appeal. But that requirement does not resolve the separate question presented here: whether additional signatures presenting the same legal issue already preserved and decided by the Secretary constitute new legal claims. The statute requires an itemized listing of the deficiencies challenged before the Secretary; it does not state that the legal interpretation adopted by the Secretary becomes applicable only to the individual signature through which that interpretation was presented.

Nor does SDCL 12-1-13 state that a reviewing court may not apply an administrative agency's legal determination to additional instances of the same statutory issue appearing in the

record. To the contrary, SDCL 12-1-13 expressly preserves "any other legal remedy" to challenge a nominating petition in circuit court. Appellant pursued judicial review of the Secretary's administrative determination, and the additional signatures identified during that review presented the same statutory question already decided by the Secretary.

Appellee's position is also difficult to reconcile with its argument before the circuit court that the Legislature intentionally placed responsibility upon interested citizens—not the Secretary—to investigate petition signatures. Transcript of Oral Argument, pg. 50:8-9. Yet Appellee now argues that judicial review is confined only to the individual signatures specifically identified during the abbreviated administrative challenge, even where the same legal issue was preserved and decided by the Secretary. If citizens bear responsibility for identifying petition deficiencies, the Legislature did not necessarily require that identification of one representative application of a recurring statutory defect be treated as a separate legal issue for every other signature presenting the identical defect.

Appellee cannot simultaneously characterize the statutory scheme as placing responsibility upon interested citizens to investigate petition signatures while treating the Secretary's legal interpretation of the statutory requirement as applicable only to the single signature through which that interpretation was presented. Nothing in SDCL 12-1-13 or SDCL 1-26-35 requires that result.

Nor does SDCL 1-26-35 prohibit the circuit court from applying the Secretary's legal interpretation consistently to the petition signatures contained in the administrative record. The relevant distinction is not between one signature and six signatures; it is between a new legal issue and additional applications of a legal issue already preserved. Here, the preserved issue was

whether omission of part of the official county designation satisfies SDCL 12-6-8. The additional signatures presented that same statutory question and required no different statutory interpretation.

The record also demonstrates why treating the additional signatures as wholly new legal challenges would elevate the form of the administrative challenge over the substance of the legal issue actually decided. Had Appellant identified all six signatures during the administrative challenge rather than one representative example, the Secretary would have been required to apply the same statutory interpretation reflected in Exhibit E to each signature. The legal question would have remained identical. The number of signatures identified would not have changed the statutory question presented.

Most importantly, Appellant is not asking this Court to consider a new statutory theory. Appellant asks the Court to determine the legal effect of the Secretary's interpretation of SDCL 12-6-8 and whether that interpretation applies to additional petition signatures presenting the same statutory issue. Because that legal issue was preserved and decided during the administrative proceedings, applying the same interpretation to those additional signatures does not expand the legal issue under review.

Accordingly, SDCL 1-26-35 does not require reversal on this ground. The circuit court properly recognized that Appellant was not procedurally barred from identifying additional signature concerns presenting the same county-of-registration issue previously presented to and decided by the Secretary.

II. Appellee and Intervenor Confirm That the County-of-Registration Issue Was Presented to and Decided by the Secretary During the Administrative Proceedings.

Appellee's and Intervenor's briefs confirm that the legal issue presented in this appeal is the same statutory question preserved during the administrative proceedings. Neither brief contends that "Oglala" is the official statutory designation of the county. Instead, both argue that the omission may be excused because the intended county can be determined from other information or otherwise reconstructed. That is precisely the statutory interpretation issue preserved before the Secretary, addressed in Exhibit E, and decided by the circuit court.

Appellee and Intervenor repeatedly rely upon *Larson v. Hazeltine*, *Nist v. Herseth*, and *Bjornson v. City of Aberdeen* as though the governing statutory language has remained unchanged. It has not.

As demonstrated in Appellant's Opening Brief, HB 1256 materially amended SDCL 12-6-8 and SDCL 2-1-15 by requiring additional identifying information and by strengthening the statutory requirements governing the correspondence between petition information and voter-registration records.

Significantly, neither Appellee nor Intervenor addresses Appellant's central statutory argument. HB 1256 simultaneously amended SDCL 12-6-8 and SDCL 2-1-15 as part of the same legislation concerning information required on petitions. Appellee and Intervenor offer no explanation why the Legislature enacted these related amendments if courts may later supply omitted statutory information through judicial reconstruction. That omission leaves unanswered the principal statutory question presented in this appeal.

Nor does either Appellee or Intervenor address the Legislature's title of HB 1256: "An Act to require the inclusion of certain information on a candidate's nominating petition or on a ballot question petition." That legislative title reinforces that the amendments were directed toward requiring petition information, rather than merely restating existing requirements.

Instead, Appellee and Intervenor apply pre-2025 substantial-compliance cases without first addressing whether the Legislature altered the statutory framework to which those cases must now be applied. That omission is significant because the Legislature—not the courts—defines the information petition signers are required to provide.

Appellee and Intervenor also argue that Appellant improperly expanded the record by identifying additional signatures presenting the same county-of-registration issue before the circuit court. That characterization overlooks the legal issue actually presented to the Secretary.

During the administrative proceedings, Appellant challenged Ryan Running Shield's petition entry on the ground that the county designation "Oglala" failed to satisfy SDCL 12-6-8.

The Secretary expressly rejected that challenge, stating:

"Oglala is a common enough abbreviation for Oglala-Lakota."

Exhibit E therefore establishes that the statutory issue was preserved administratively before judicial review commenced.

The Secretary thus resolved the statutory question presented through that challenge and now before this Court: whether SDCL 12-6-8 permits a petition signer to provide "Oglala" in place of the official county designation required by the statute.

Because the Secretary already decided that legal question, the additional signatures identified during judicial review did not introduce a new statutory interpretation or a different legal theory. They presented additional applications of the same legal interpretation adopted by the Secretary and challenged throughout these proceedings.

The circuit court correctly recognized this distinction when it concluded that Appellant was not procedurally barred from identifying additional signature concerns at the circuit court level. (CL ¶ 6.)

III. Appellee's and Intervenor's Reliance on Substantial Compliance Does Not Resolve the Effect of HB 1256.

Appellee and Intervenor repeatedly rely upon the doctrine of substantial compliance and pre-2025 cases such as *Larson v. Hazeltine*, *Nist v. Herseth*, and *Bjornson v. City of Aberdeen*. That reliance assumes the very issue presented on appeal: whether the substantial-compliance principles applied in those cases continue to permit a court to excuse omission of identifying information that the Legislature subsequently required petition signers to provide.

As demonstrated in Appellant's Opening Brief, *Larson* does not authorize a court to disregard statutory requirements whenever omitted information may later be inferred from surrounding circumstances. Rather, the Court must first determine what the Legislature required, and the legal effect of the statutory language enacted by the Legislature.

The circuit court recognized the amended statutory language. In Conclusion of Law ¶ 21, the court expressly recognized that SDCL 12-6-8 requires a petition signer to provide “the county in which the individual is registered to vote.” The court also took judicial notice that “Oglala

Lakota County f/k/a Shannon County, was the official name of the County effective May 1, 2015.” (CL ¶ 9.) The issue, therefore, is not whether the circuit court understood the amended statute or could identify the county intended by the term “Oglala.” It did, and it could. The issue is what legal effect the court gave the mandatory statutory requirement to provide the county in which the signer is registered to vote.

The circuit court then proceeded to conclude that the omitted portion of the official county designation could nevertheless be supplied through surrounding information, including the ZIP code and other identifying information. (CL ¶ 22.) In doing so, the court effectively treated the mandatory county-identification requirement as subject to judicial reconstruction without first determining whether HB 1256 altered the application of the pre-amendment substantial-compliance doctrine to that requirement.

The question before this Court is therefore not whether the intended county can be identified. It can. The question is whether a court may excuse omission of statutory identifying information that the Legislature expressly required petition signers to provide by supplying or reconstructing that information from other information appearing on the petition.

That distinction is critical. Appellee's and Intervenor's reliance upon *Larson* assumes that the amended statutory requirement remains subject to the same substantial-compliance analysis applied under the former statutory framework. But neither brief addresses whether HB 1256 changed the legal significance of the county-identification requirement. Before applying pre-amendment substantial-compliance principles, the Court must first determine the effect of the Legislature's subsequent amendment.

Accordingly, the circuit court's analysis was incomplete. Although the court correctly recognized that HB 1256 made the county-identification requirement mandatory, it did not determine whether the amended statutory requirement could nevertheless be satisfied through judicial reconstruction under the pre-amendment substantial-compliance cases upon which Appellee and Intervenor rely. By moving directly from recognition of the mandatory statutory language to reconstruction of the omitted information, the circuit court effectively applied the pre-amendment substantial-compliance framework without first addressing the legal effect of HB 1256.

IV. HB 1256 Must Be Given Meaningful Effect

Appellee and Intervenor repeatedly argue that “Oglala” substantially complies with SDCL 12-6-8 because the intended county can be determined from surrounding information. That argument assumes the very conclusion they seek to establish.

Appellant has never argued that the intended county cannot be identified. Rather, Appellant argues that courts may not replace statutory identifying information with judicial reconstruction after the petition has been submitted.

Appellee argues that omission of part of the county designation may be excused because:

- the county may be inferred from context;
- the ZIP code identifies the county; and
- the signer's identity is otherwise apparent.

Intervenor likewise adopts the Secretary's analysis on the validity of the petition signatures. See Intervenor's Brief, Argument II. To the extent Intervenor relies upon the same reasoning concerning the sufficiency of "Oglala," that reasoning likewise depends upon supplying information that the signer did not provide.

Appellee further argues that any omission is harmless because the signer's ZIP code identifies the proper county. That reasoning confirms that Appellee's position depends upon information outside the statutory requirement itself. SDCL 12-6-8 does not require petition signers to provide a ZIP code. Instead, the Legislature specifically required petition signers to provide "the county in which the individual is registered as a voter." Had the Legislature intended a ZIP code or other surrounding information to substitute for the county information required by the statute, it could have said so. It did not.

Accordingly, the Court should not replace the Legislature's chosen statutory requirement with an alternative method of identification never adopted by the Legislature.

None of those substitute methods of identification appears anywhere within SDCL 12-6-8. Instead, the Legislature required petition signers themselves to provide "the county in which the individual is registered as a voter."

HB 1256 also amended SDCL 2-1-15 to address the accuracy and completeness of information provided on petitions and to require correspondence between petition information and voter-registration records. Although SDCL 2-1-15 governs a different category of petitions, its simultaneous amendment through the same legislation is relevant to the Legislature's treatment of identifying information on petitions. Appellee never explains why the Legislature

simultaneously strengthened these related statutory provisions if courts remain free to supply omitted identifying information through judicial reconstruction. Intervenor, having adopted the Secretary's analysis of the signature issue, likewise does not address why the Legislature simultaneously amended these related statutory provisions. The Legislature—not the courts—defines what information petition signers must provide. Courts must therefore give effect to those statutory requirements rather than replace them with judicial reconstruction after the fact.

Appellee's reliance on liberal construction further highlights the inconsistency in the circuit court's analysis. During the circuit court proceedings, the court invalidated numerous petition signatures because mandatory statutory identifying information did not correspond with voter-registration records. Yet the circuit court simultaneously excused omission of part of the county designation by supplying the missing information through judicial reconstruction. Neither Appellee nor Intervenor identifies a statutory basis for treating these mandatory identifying requirements differently.

The issue before this Court is not whether election statutes should be liberally construed. Rather, the issue is whether courts may selectively disregard one express statutory requirement while strictly enforcing others without identifying any statutory basis for doing so. Appellee and Intervenor do not explain why the Legislature's requirement that petition signers provide the county in which they are registered to vote permits a court to supply omitted information after the petition has been filed.

Appellee's repeated use of "Ogalala"—a misspelling of the county designation throughout his brief (Appellee's Brief, pp. 5-21)—is not itself dispositive.¹ It nevertheless illustrates the distinction presented by this appeal: the information appearing on a petition is not necessarily the same as information that a reviewing court may later infer or reconstruct. The Legislature required petition signers to provide the county in which they are registered to vote rather than permitting later approximations to be supplied through judicial reconstruction. Once courts permit omission of part of the required county information to be cured through judicial reconstruction, the statutory requirement becomes dependent upon information supplied after the petition was completed rather than upon the information the petition signer actually provided.

V. The Legislature Established an Integrated Statutory Framework Governing Candidate Nominations.

Appellant's Opening Brief explained that South Dakota's candidate-nomination statutes operate as an integrated statutory framework in which the Declaration of Candidacy, nominating petition, and voter-registration records collectively establish whether a candidate satisfies the statutory qualifications to appear on the ballot.

Appellee does not respond to that statutory analysis. Instead, Appellee reframes the issue by asking whether any individual statute expressly requires the principal residence listed on a Declaration of Candidacy to match the candidate's voter-registration address.

Appellant has consistently challenged the legal effect of Candidate Stadnick listing different principal residence addresses throughout the administrative proceedings, the circuit court

¹ The official county name is Oglala Lakota County. 'Ogalala' is not the official county designation used in South Dakota.

proceedings, and now before this Court. Appellee responds only that no individual statute expressly requires those addresses to match. That response does not address Appellant's argument. The issue presented is whether South Dakota's candidate-nomination statutes, when construed together, require the Declaration of Candidacy, nominating petition, and voter-registration records to be considered as components of the statutory framework governing ballot access.

Intervenor likewise reframes the issue by treating the Declaration of Candidacy and the nominating petition as legally separate components of the nomination process and emphasizing that the Declaration of Candidacy itself does not request an address. Intervenor's Brief at 14-17. Appellant does not dispute that the current statutes impose different requirements upon different parts of the prescribed nomination form. Rather, Appellant argues that those provisions must be construed together to determine the legal effect of the information the candidate actually submitted.

Instead, Appellee and Intervenor analyze the individual statutes and the administrative form in isolation without addressing whether the Legislature intended those provisions to function together as an integrated statutory framework governing candidate nominations, particularly after the amendments enacted through HB 1256. By focusing exclusively on whether a single statute independently requires the addresses to match, their arguments do not address the statutory framework presented in Appellant's Opening Brief.

Appellant's Opening Brief further demonstrated that, before the enactment of HB 1256, SDCL 12-6-8 expressly provided that the signed Declaration of Candidacy "shall accompany and be a part of the petition." Although the Legislature rewrote SDCL 12-6-8 through 2025 S.L. ch.

14 (HB 1256), nothing within those amendments indicates an intent to sever the longstanding relationship between the Declaration of Candidacy and the nominating petition or to transform the declaration into a wholly independent document. To the contrary, the historical statutory language confirms that the Legislature treated the declaration and petition as interconnected components of the nomination process. Neither Appellee nor Intervenor addresses that historical statutory development or explains why the 2025 amendments should be construed as eliminating that relationship.

The current administrative rule likewise prescribes the heading of the partisan nominating petition and the section labeled "Declaration of Candidate" as parts of the same prescribed nomination form. ARSD 5:02:08:01. The rule directs that "[t]he heading of this petition and the declaration of candidacy must be fully completed before the petition is circulated for signatures." The prescribed heading identifies the candidate's mailing address and principal residence address, while the Declaration of Candidate requires the candidate to affirm under oath that the candidate is eligible to seek the office and, for a legislative candidate, resides in the district from which the candidate seeks election. *Id.* The rule therefore does not establish that the candidate's address must independently match the voter-registration address; rather, it demonstrates that the statutory nomination requirements and the prescribed administrative form operate together as components of the nomination process.

Appellant has never argued that SDCL 12-6-8, standing alone, independently requires the candidate's principal residence address to match the candidate's voter-registration address. Rather, Appellant's position is that South Dakota's candidate-nomination statutes must be construed together so that each statutory provision is given effect consistent with the

Legislature's intent. The Declaration of Candidacy, nominating petition, and voter-registration records collectively provide the information necessary to determine whether a candidate has satisfied the statutory requirements for ballot access.

Unlike the county-identification issue discussed above, Appellant does not ask this Court to reconstruct or supply omitted information contained within the Declaration of Candidacy. The distinction is important. In the county-identification issue, the Court is asked to determine whether it may supply information the signer failed to provide. Here, Appellant asks the Court to construe the governing statutes together and determine the legal effect of information the candidate actually submitted and the voter-registration information contained in the record. That is statutory interpretation, not judicial reconstruction.

The circuit court instead analyzed the nomination documents independently rather than considering the Declaration of Candidacy, nominating petition, and voter-registration records within the statutory framework governing candidate qualification. Intervenor's argument that the Declaration of Candidacy itself does not request an address does not resolve the question presented. Appellant does not contend that the declaration itself contains a separate statutory requirement to list a voter-registration address. The question is whether the information actually provided in the nomination documents, considered together with the applicable statutes and voter-registration records, satisfies the Legislature's requirements for ballot access.

Appellee likewise relies upon Article VII, § 2 of the South Dakota Constitution and *Matter of Election Contest as to Reorganization of New Effington Independent School District No. 54-3*, 462 N.W.2d 185 (S.D. 1990). Those authorities concern voter eligibility and voting residence.

They do not resolve the statutory question presented here concerning the legal effect of differing principal residence addresses within the statutory candidate-nomination framework.

Moreover, the two addresses contained in the record correspond to different voting precincts within Oglala Lakota County. Transcript of Oral Argument, pg. 21:14-15. They therefore are not merely alternative descriptions of the same voting location.

Because Appellee and Intervenor do not address Appellant's integrated statutory analysis, Appellant respectfully relies upon the statutory analysis presented in the Opening Brief.

CONCLUSION

Appellee and Intervenor have not identified a basis for disregarding the Legislature's 2025 amendments enacted through HB 1256. The county-of-registration issue was presented to and decided by the Secretary during the administrative proceedings, and the additional signatures identified during judicial review presented the same preserved statutory issue rather than a new legal theory.

The Secretary's interpretation of SDCL 12-6-8 permitted the use of "Oglala" in place of the full county designation required by the statute. The circuit court then relied upon contextual inference and judicial reconstruction to supply the omitted statutory information. That approach fails to give meaningful effect to the additional identifying information required by HB 1256 or to the Legislature's strengthened requirement that petition information corresponds to voter-registration records.

The same statutory framework governs the candidate-nomination issue. Appellant does not ask this Court to reconstruct omitted information from the Declaration of Candidacy. Rather, Appellant asks the Court to construe the nomination statutes together and determine the legal effect of the information the candidate actually submitted in light of the applicable voter-registration records.

For the reasons stated in Appellant's Opening Brief and this Reply Brief, Appellant respectfully requests that this Court reverse the circuit court's judgment, hold that the challenged signatures do not comply with SDCL 12-6-8, direct that those signatures be excluded from Candidate Stadnick's nominating petition, and remand with instructions to decertify Candidate Stadnick because the petition would then contain fewer than the fifty valid signatures required by law.

CERTIFICATE OF COMPLIANCE

I, Anthony Kathol, certify that this brief complies with the type-volume limitation of SDCL 15-26A-66(b). Using a Microsoft word-processing system employed to prepare the brief, the brief contains 4,716 words, excluding the portions exempted by SDCL 15-26A-66(b)(3), and is within the applicable type-volume limitation.

Dated this 10th day of August 2026, in Martin, South Dakota.

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CERTIFICATE OF SERVICE

I, Anthony Kathol, hereby certify that on the 10th day of August 2026, a true and correct copy of the foregoing **APPELLANT'S REPLY BRIEF** was served upon the following counsel by electronic mail:

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