#31510, #31547, #31548-a-SPM
2026 S.D. 55

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

ANTHONY KATHOL, Appellant,

v.

MONAE L. JOHNSON, in her official capacity as Secretary of State, Appellee,

and

CELESTINE STADNICK, Intervenor and Appellee.

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

THE HONORABLE MARGO D. NORTHRUP
Judge

ANTHONY KATHOL
Martin, South Dakota Pro se appellant.

MARTY J. JACKLEY
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GRANT M. FLYNN
Assistant Attorney General
Pierre, South Dakota Attorneys for appellee.

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Sioux Falls, South Dakota Attorneys for intervenor and appellee.

CONSIDERED ON BRIEFS
OCTOBER 6, 2026
OPINION FILED **11/10/26**

#31510, #31547, #31548

MYREN, Justice

[¶1.] Anthony Kathol and Celestine Stadnick are both candidates for State Senate in District 27. Kathol filed an affidavit with the Secretary of State (Secretary), alleging Stadnick's candidacy was invalid because numerous signatures on her nominating petitions were defective and the principal address listed on her declaration of candidacy did not match the address on her voter registration. The Secretary rejected this latter argument and, though she found some signatures invalid, concluded that enough valid signatures existed to certify Stadnick's candidacy. Kathol appealed the Secretary's decision to the circuit court, which concluded that the discrepancy regarding Stadnick's address did not invalidate her candidacy. The circuit court also found additional signatures invalid but ultimately concluded that enough valid signatures existed to certify Stadnick's candidacy. Kathol appealed. Stadnick and the Secretary filed notices of review. We affirm.

Factual and Procedural Background

[¶2.] Stadnick and Kathol are running for State Senate in District 27, which includes parts of the counties of Bennett, Jackson, Pennington, and Oglala Lakota. Stadnick submitted a timely petition for candidacy under SDCL 12-6-4. In the heading of her candidacy declaration, Stadnick listed an address different from the address on her voter registration. Stadnick's nominating petition included 155 signatures, which exceeded the 50 signatures required under SDCL 12-6-7 to certify a candidate for District 27.

[¶3.] Kathol filed an affidavit with the Secretary in which he challenged Stadnick's candidacy. He identified the discrepancy between the address Stadnick

listed on her declaration of candidacy and the address listed on her voter registration. He claimed that "[u]nder South Dakota Codified Law, a candidate may claim only one principal address." He also specifically challenged the validity of 100 signatures on her petition. Kathol's itemized challenge included a challenge to one signature that listed the signer's county of registration as "Oglala" instead of "Oglala Lakota." Kathol did not make this argument to challenge any other signatures.

[¶4.] The Secretary determined that Stadnick's candidacy was not invalidated by the address discrepancy. The Secretary provided Kathol with an itemized explanation for each challenged signature as part of its decision. The Secretary denied the challenge to the signature that had the county-name discrepancy, stating that "Oglala is a common enough abbreviation for Oglala-Lakota." After reviewing each signature Kathol challenged, the Secretary concluded that Stadnick had filed enough valid signatures for candidacy.

[¶5.] Kathol appealed the Secretary's decision to the circuit court, which allowed Stadnick to intervene. At the circuit court hearing, Kathol asserted that Stadnick's address on her candidacy declaration needed to match the address on her voter registration per SDCL 12-6-8.[1] Kathol also asked the circuit court to invalidate twenty signatures. He had challenged some of those signatures with the Secretary but raised different grounds before the circuit court. Kathol also raised entirely new challenges to other signatures. A focal point of those new challenges

1. This statute is concerned with the address of the circulator or the individual signing the petition, not the candidate whose name is on the petition.

was that six signatures listed the voter's county of registration as "Oglala" rather than "Oglala Lakota." Kathol asserted that these constituted material defects and that applying the doctrine of substantial compliance would be inappropriate because recent revisions to SDCL 12-6-8 imposed stricter requirements for petition signers.

[¶6.] The Secretary and Stadnick noted that no South Dakota law requires a candidate's declaration of candidacy to list their voter registration address. The Secretary and Stadnick both argued that the Secretary could consider substantial compliance in identifying the signer's county of registration. The Secretary and Stadnick also contended that the circuit court was limited to reviewing the Secretary's decisions on the specific challenges Kathol asserted in his affidavit before the Secretary. The circuit court overruled that objection and allowed Kathol to contest the additional signatures.

[¶7.] After reviewing the additional signature challenges raised by Kathol on appeal, the circuit court found some of them were invalid. However, the circuit court concluded that voters who identified their county of registration as "Oglala" instead of "Oglala Lakota" had substantially complied, and their signatures could be counted. The circuit court also concluded that there was "not a statutory requirement that a candidate's residence address be the same as the address affiliated to where the candidate is registered to vote and accordingly [it] cannot be considered an essential element." Ultimately, the circuit court determined that 53 signatures were valid and held that Stadnick was properly certified as a candidate for District 27. Kathol appeals. Stadnick and the Secretary filed notices of review.

Standard of Review

[¶8.] This Court "examine[s] agency findings in the same manner as the circuit court to decide whether they were clearly erroneous in light of all the evidence." *Pirmantgen v. Roberts Cnty.*, 2021 S.D. 5, ¶ 20, 954 N.W.2d 718, 724 (citation omitted). *See also* SDCL 1-26-36 ("The court shall give great weight to the findings made and inferences drawn by an agency on questions of fact."). "However, '[w]hen the issue is a question of law, the decisions of the administrative agency and the circuit court are fully reviewable' under the de novo standard of review." *Reidburn v. South Dakota Dep't of Labor & Regulation, Reemployment Assistance Div.*, 2024 S.D. 19, ¶ 21, 5 N.W.3d 834, 840 (quoting *Pirmantgen*, 2021 S.D. 5, ¶ 20, 954 N.W.2d at 724).

Decision

Whether the circuit court exceeded the scope of its appellate review by considering challenges to signatures that were not raised before the Secretary.

[¶9.] To properly analyze this argument raised in the notices of review, it is helpful to identify the nature of the proceeding Kathol initiated before the circuit court. Kathol contested Stadnick's candidacy by filing an affidavit with the Secretary of State under SDCL 12-1-13.[2] SDCL 12-1-13 requires the challenger's

2. SDCL 12-1-13 reads:

> Within five business days after a nominating, initiative, or referendum petition, excluding petitions for statewide initiative, referendum, or constitutional initiative petitions, is validated and filed with the person in charge of the election, any interested person who has researched the signatures contained on the petition or, for a nominating petition, has researched the
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> information contained in the declaration of candidacy, 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.
>
> Any challenge to the following items is prohibited under this challenge process:
>
> > (1) Signer does not live at address listed on the petition;
> > (2) Circulator does not live at address listed on the petition;
> > (3) Circulator listed a residence address in South Dakota but is not a South Dakota resident;
> > (4) Circulator did not witness the signers;
> > (5) Signatures or petition sheets not included in the random sample. This subdivision applies only to petitions for statewide candidates, new party formation petitions, or to local jurisdictions that conduct random sampling; and
> > (6) Petition that was originally rejected.
>
> All challenges by the same person or party in interest shall be included in one affidavit.
>
> The original signed affidavit shall be received by the person in charge of that election by 5:00 p.m. local time on the deadline date. If the affidavit challenges any item that is prohibited by this section, only that line item shall be summarily rejected.
>
> The decision of the secretary of state or the person in charge of the election regarding a challenge under this section may not be challenged a second time with the secretary of state or the person in charge of the election, but may be appealed to the circuit court. Any challenge with the secretary of state may be appealed in Hughes County. An appeal challenging a nominating petition for a primary election, takes precedence over other cases in circuit court. Any party appealing the circuit court order to the Supreme Court shall file a notice of appeal within ten days of the date of the notice of the entry of the circuit court order.

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affidavit to "include an itemized listing of the specific deficiencies in question." However, SDCL 12-1-13 identifies six types of challenges that cannot be raised in the affidavit to the Secretary. These six types of challenges involve grounds that would likely require an evidentiary hearing because they involve consideration of information from outside the Secretary's business records.

[¶10.] SDCL 12-1-13 authorizes an appeal to the circuit court from a Secretary's decision. Kathol chose this procedural path. Notably, SDCL 12-1-13 specifies that this right to appeal the Secretary's decision does not "deny a person any other legal remedy to challenge the filing of a nominating, initiative, or referendum petition in circuit court." It further notes that a "challenge to a petition in circuit court may include items prohibited in this section." *Id.* Additionally, SDCL 12-1-16 states that, if a person "fails to challenge a petition pursuant to § 12-1-13," they are not precluded from pursuing another legal remedy. However, SDCL 12-1-16 does not create a cause of action. Instead, our decisional law reveals that such direct-to-circuit-court challenges have traditionally been pursued through writs of mandamus or quo warranto. *See, e.g.*, *Larson v. Hazeltine*, 1996 S.D. 100, ¶ 11, 552 N.W.2d 830, 833 (writ of mandamus); *Bridgman v. Koch*, 2013 S.D. 83, ¶ 7, 840 N.W.2d 676, 678 (quo warranto).

(. . . continued)

> 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. A challenge to a petition in circuit court may include items prohibited in this section.

[¶11.] Kathol did not pursue either of those special writs; instead, he elected an appeal of the Secretary's administrative decision. *See* SDCL 1-26-1(1) (defining "Agency" as "each 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"). When reviewing an administrative decision on appeal, the circuit court's review is "confined to the record." SDCL 1-26-35. The circuit court exceeded its appellate authority by considering challenges to signatures that were not raised in Kathol's affidavit and that the Secretary did not consider during its review. Consequently, we confine our review to those challenges raised before the Secretary.

Whether the circuit court erred in affirming the Secretary's determination regarding a signer's use of "Oglala" rather than "Oglala Lakota."

[¶12.] "'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." *Larson*, 1996 S.D. 100, ¶ 19, 552 N.W.2d at 835 (quoting *Rans v. State*, 390 N.W.2d 64, 66 (S.D. 1986)).

[¶13.] The Secretary and the circuit court essentially determined that the petition signer from Oglala Lakota County had complied with the statute by identifying their county of registration as "Oglala." Kathol argues that recent legislative changes "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 prior version of SDCL 12-6-8 required the signer to add his "place of residence and the date of signing." SDCL 12-6-8 (2023). As revised by a recent amendment, SDCL 12-6-8 now requires the signer to list "the address at which the individual is currently registered to vote, the county in which the individual is registered as a voter, and the date of signing." SDCL 12-6-8. Kathol contends this statutory revision precludes anything less than perfect compliance. As amended, SDCL 12-6-8 clearly requires the signer to provide additional information. However, nothing in the revised statute suggests that the doctrine of substantial compliance cannot be used to assess whether a signer has provided the necessary information to carry out the statutory intent.

[¶14.] Kathol further claims that the circuit court misapplied substantial compliance because he asserts that *Larson* "determine[d] that the county-of-registration requirement is a mandatory and essential statutory element under SDCL 12-6-8." *Larson* involved a petition circulator who listed their address but did not include their city when providing their "complete address" as the statute required. 1996 S.D. 100, ¶ 4, 552 N.W.2d at 832. We stated that "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." *Id.* ¶ 22 (citation omitted). Significantly, we noted that we were "not presented with omission of an item expressly required by statute or rule; the circulator's city is not specifically required as part of the oath by the terms of the rule." *Id.*

[¶15.] In this case, both the Secretary and the circuit court acknowledged that the current version of SDCL 12-6-8 requires the signer to declare their *county of voter registration*. As in *Larson*, the signer did not omit his county of registration. He provided an abbreviated, but clearly recognizable version. The Secretary correctly ruled that listing "Oglala" as the county of registration was sufficient to "carry out the intent" of the revised version of SDCL 12-6-8. The circuit court correctly affirmed the Secretary's ruling in that respect.

Whether the circuit court erred when it affirmed the Secretary's decision that South Dakota law does not require Stadnick's address on her declaration of candidacy to match her voter registration address.

[¶16.] Kathol asserts that the circuit court erred because it "viewed the declaration [of candidacy] 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 law." He provides no authority for this proposition. Instead, he suggests an inference based on the "Legislature's increasing emphasis upon correspondence between information supplied during the nomination process and the statewide voter-registration records." Essentially, he contends that because the South Dakota Legislature added additional requirements for *signers* of nominating petitions under SDCL 12-6-8, this Court should infer that it also intended to require the Secretary to compare a *candidate's* declaration information against the *candidate's* voter registration information.

[¶17.] Kathol has not identified any South Dakota statute that requires that a candidate's address identified in their declaration of candidacy must be the same as in their voter registration. SDCL 12-1-14 outlines what the person in charge of

the election must do to verify a declaration of candidacy. Along with authenticating the information supplied by the signers, the election official must also verify, "for a nominating petition, that the candidate was a resident of the district at the time the declaration of candidacy was signed, in accordance with § 12-6-3.1, and is a registered voter with a party affiliation in accordance with § 12-6-3.2." SDCL 12-1-14.

[¶18.] When this Court reviews statutes, "we interpret [them] 'to discover the true intent of the [L]egislature in enacting laws, which is ascertained primarily from the language employed in the statute.'" *Lewis & Clark Rural Water Sys., Inc. v. Seeba*, 2006 S.D. 7, ¶ 12, 709 N.W.2d 824, 830 (quoting *Sanford v. Sanford*, 2005 S.D. 34, ¶ 13, 694 N.W.2d 283, 287). We give "words their plain meaning and effect, and read[] statutes as a whole, as well as enactments relating to the same subject." *Id.* (citation omitted).

[¶19.] Under the plain language of SDCL 12-1-14, the Secretary must confirm that the candidate is a resident of the district when they declare their candidacy. SDCL 12-1-14 does not require the candidate to be registered to vote in that district when they declare their candidacy. Equally important, the statute does not require *the Secretary to determine* that the candidate is registered to vote in that district. Instead, the statute requires only that the Secretary determine the candidate is a "registered voter" with the appropriate party affiliation. The statute also does not require that the candidate's residency address matches his voter registration address. *See Perdue, Inc. v. Rounds*, 2010 S.D. 38, ¶ 9, 782 N.W.2d 375, 378 (citation omitted) ("Our rules of statutory construction require us to discern

legislative intent based primarily on the language of the statute."). The circuit court did not err when determining that Stadnick complied with the nominating petition requirements.

[¶20.] Although the circuit court erred by considering claims that Kathol did not raise in his challenge to the Secretary, we affirm the court's determination that Stadnick was properly certified as a candidate for District 27.

[¶21.] JENSEN, Chief Justice, and SALTER, DEVANEY, and GUSINSKY, Justices, concur.