

IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT

State of Missouri ex rel. PEOPLE
NOT POLITICIANS, *et al.*,

Relators,

Case No. WD88821

v.

HON. CHRISTOPHER K.
LIMBAUGH, Judge of the Circuit
Court of Cole County, Missouri,

Respondent.

**SUGGESTIONS IN OPPOSITION TO
PETITION FOR WRIT OF PROHIBITION**

INTRODUCTION

The day after Respondent conducted a trial on the legality of pre-approval as to form signatures, Relators submitted their referendum petition to the Secretary of State. Relators submitted more than 300,000 signatures and loudly and repeatedly claimed to have enough signatures for the referendum to qualify for the ballot.¹ Nonetheless, Relators now come here pursuing extraordinary relief for a remedy that they have publicly claimed not to need.

¹ See Press Release, *Missouri SOS Reports Referendum on HB1 Has Enough Signatures to Qualify for Ballot*, People Not Politicians (Mar. 23, 2026) <https://peoplenotpoliticiansmo.org/missouri-sos-reports-referendum-on-hb1-has-enough-signatures-to-qualify-for-ballot/> (“The Missouri Secretary of State’s Office signature verification report today confirms that a sufficient number of signatures were collected, in every required congressional district, to put a referendum on the

Wisely recognizing that this number of signatures—even without the contested signatures—“could be enough,” Respondent avoided a premature and unnecessary adjudication of this issue—holding the case in abeyance until final signature tallies confirm whether a decision is even needed. Avoiding unnecessary decisions is a prudent judicial practice, especially where (as here) a decision could create needless tension between branches of government and require ruling on a novel question of law. *See State ex rel. Union Elec. Co. v. Public Serv. Comm’n*, 687 S.W.2d 162, 165 (Mo. banc 1985); *see also Ashwander v. Tenn. Valley Auth.*, 297 U.S. 288, 345 (1936) (Brandeis, J., concurring) (“[T]he judge, conscious of the fallibility of the human judgment, will shrink from exercising in any case where he can conscientiously and with due regard to duty and official oath decline the responsibility.”). Yet, despite their repeated claims to having enough signatures for the referendum, *see supra* note 1, Relators are unsatisfied that Respondent has not issued a ruling on the contested signatures. Holding this case in abeyance was perfectly sensible—and obviously not an abuse of discretion—for three reasons.

November ballot”); Press Release, *Divided MO Supreme Court Ruling Will Not Derail Effort to Throw [sic] Out Gerrymandered Congressional Maps*, People Not Politicians (Mar. 24, 2026), <https://peoplenotpoliticiansmo.org/divided-mo-supreme-court-ruling-will-not-derail-effort-tothrow-out-gerrymandered-congressional-maps/> (same); Press Release, *In Dismissing Maggard v. State of Missouri, Judge Attempts to Close the Courthouse Doors to the People*, People Not Politicians (Mar. 27, 2026), <https://peoplenotpoliticiansmo.org/in-dismissing-maggard-v-state-of-missouri-judge-attempts-to-close-the-courthouse-doors-to-the-people/> (same). The Secretary, of course, does not concede the validity of these assertions as the released numbers are merely preliminary and the signature-review process remains ongoing. But Relators’ public confidence betrays their assertions of impending harm.

First, the General Assembly provided the appropriate statutory scheme for challenging the Secretary's certification decision. See Mo. Rev. Stat. § 116.200. Relators seek to disregard this carefully crafted process and create an extra-statutory review process—inviting needless tension in the law. Respondent's pausing this dispute to proceed according to the General Assembly's prescribed timeframe (after the Secretary has rendered a decision on the referendum petition's validity) is not an abuse of discretion.

Second, Relators have not challenged the constitutionality of this statutory scheme, so this statute is presumed constitutional. Relators never alleged—let alone developed a record—that compliance with the statute is impossible. But even if Relators had challenged this statutory-review process, their claims would still not be ripe until courts were unable to adjudicate the claims before the ballot-freezing deadline. See *Coleman v. Ashcroft*, 696 S.W.3d 347, 372 (Mo. banc 2024). We are still months away from these deadlines, so Respondent cannot have abused his discretion.

Third, Relators must demonstrate that they have a “clear and unequivocal right” to a writ in these circumstances. *Estate of Hutchison v. Massood*, 494 S.W.3d 595, 608 (Mo. App. W.D. 2016) (quotation and citation omitted). Relators fail to meet their burden. They cite no precedent establishing that holding a case in abeyance for a span of a few months pending assured and potentially dispositive government action qualifies an abuse of discretion.

For all of these reasons, this Court should deny the Petition.

BACKGROUND

Relators filed a Petition in circuit court challenging the Secretary's rejection as to form of their referendum petitions submitted prior to H.B. 1's enactment and the Secretary's decision not to count signatures collected prior to the referendum petition's approval as to form. *See generally* Ex. 2 at 11–22.² Respondent held trial on December 8, 2025.

The day after trial, Relators submitted their final referendum petition to the Secretary of State's Office. Relators submitted over 300,000 signatures. *See* Pls. Ex. 26 at 737–45. Respondent ordered this case held in abeyance pending verification and counting of signatures. Ex. 24 at 732.

The Secretary of State and local election officials around Missouri are currently conducting the signature verification as directed by statute. *See* Mo. Rev. Stat. § 116.130. The Secretary chose not to count signatures collected prior to his approval as to form of the referendum petition. Ex. 28 at 754–58; *see* Mo. Rev. Stat. § 116.332.1.

The Secretary's signature verification remains ongoing with local election authorities counting signatures. Validating and counting signatures is a labor-intensive process. Respondent held hearings on January 13, 2026, February 17, 2026, and March 17, 2026. At each hearing, over Relators' objection, Respondent decided to continue holding this case in abeyance. Relators filed this Petition pending Respondent's refusal to act on Relators' most recent request to lift the abeyance.

² All numeric exhibit references are to Relators' exhibits filed with their Petition, with the bates-stamped page number cited.

ARGUMENT

The writ of prohibition is an “extraordinary remedy.” *State ex rel. Richardson v. Green*, 465 S.W.3d 60, 62 (Mo. banc 2015) (quotation omitted). This Court may only issue a writ in three circumstances: “(1) to prevent the usurpation of judicial power when the trial court lacks authority or jurisdiction; (2) to remedy an excess of authority, jurisdiction or abuse of discretion where the lower court lacks the power to act as intended; or (3) where a party may suffer irreparable harm if relief is not granted.” *Id.* at 62–63 (citation omitted).³ Relators only argue that Respondent is abusing his discretion by holding this case in abeyance. Their arguments go nowhere under the writ’s demanding standard.

First, under Respondent’s order, this case will proceed according to the statutory scheme established by the General Assembly to review referendum petitions. Second, Relators never challenged the constitutionality of this statutory scheme, and even if they had, their claim would not be ripe. Third, Relators plainly fail to meet their burden—they cite no authority for the

³ To the extent that Relators suggest that mandamus “would also be warranted here,” Relators’ Prohib. Pet. at 10 n.8, it is “unnecessary” for this Court “to decide whether mandamus or prohibition is the appropriate remedy in the circumstances of this case,” *State ex rel. Alst v. Harrell*, 528 S.W.3d 442, 445 n.2 (Mo. App. W.D. 2017); *see also State ex rel. Hewitt v. Kerr*, 461 S.W.3d 798, 806–07 (Mo. banc 2015) (noting that “[t]he distinction between prohibition and mandamus is often elusive” and that “in modern practice, [t]he distinction between mandamus and prohibition is at best blurred, at worst nonexistent” (second alteration in original) (quoting *State ex rel. Unnerstall v. Berkemeyer*, 298 S.W.3d 613, 515–16 (Mo. banc 2009))). For all the same reasons explained below, mandamus relief is not justified. *See State ex rel. Bailey v. Sengheiser*, 692 S.W.3d 20, 22 (Mo. banc 2024) (“[A] writ of mandamus should issue only when a petitioner alleges and proves that he has a clear, unequivocal, specific right to a thing claimed.” (quotation omitted)).

proposition that they have an unequivocal right to demand a circuit court lift an abeyance order pending a potentially dispositive factual development.

I. The circuit court's holding this case in abeyance to allow dispositive factual development is not an abuse of discretion.

“An abuse of discretion occurs when the trial court's decision is so against the logic of the circumstances then before it, or so unreasonable and arbitrary, that it shocks one's sense of justice and indicates a lack of careful consideration.” *State v. Pendergraft*, 688 S.W.3d 762, 765 n.4 (Mo. App. W.D. 2024) (quoting *State v. Whittier*, 591 S.W.3d 19, 25 (Mo. App. E.D. 2019)). Nothing Relators say comes within a league of meeting that standard.

A. Deciding this matter per statutorily prescribed parameters is not an abuse of discretion.

The Missouri General Assembly has directed when and how Relators may challenge the acceptance or rejection of signatures: “After the secretary of state certifies a petition as sufficient or insufficient, any citizen may apply to the circuit court of Cole County to compel him to reverse his decision.” Mo. Rev. Stat. § 116.200.1. By statute, the Secretary has until August 4, 2026 (or August 11, 2026 depending on when local election authorities finish their review) to fulfill all statutory requirements and decide whether to certify the referendum petition. *Id.* § 116.150.3. This certification decision includes both a determination that the referendum petition complies with the Constitution of Missouri and has sufficient signatures. *Id.* § 116.120. These statutes “reflect a calculated intent by the general assembly to balance procedural oversight of the referendum process with the people's ability to meaningfully exercise the power of referendum.” *ACLU of*

Mo. v. Ashcroft, 577 S.W.3d 881, 893 (Mo. App. W.D. 2019). Importantly, this statute provides the appropriate legal “remedy” to “compel the secretary of state to reverse a petition certification decision.” *Id.* at 897 (quotation omitted).

Finding themselves unsatisfied with this “calculated” and “balance[d]” statutory review process, Relators now say that Respondent’s holding this case in abeyance to decide this case per statute’s parameters (i.e., after the Secretary has rendered a final decision on the referendum petition’s validity) is an abuse of discretion. Hardly. A trial court abuses its discretion when it “*fails to follow the applicable statutes.*” *State ex rel. Zimmerman v. Blanc*, 548 S.W.3d 396, 400 (Mo. App. W.D. 2018) (emphasis added) (quotation omitted).

Realizing that their argument lacks statutory merit, Relators speculate that there may not be enough time for judicial proceedings to conclude and contested signatures to be counted before the ballot-freezing deadline. *See* Relators’ Sugg. in Support of Pet. at 5–6. This fear is nothing more than implausible speculation.

There are at least twenty-eight days between the Secretary’s certification-decision deadline and the ballot deadline. Mo. Rev. Stat. §§ 115.125.3, 116.150.3; *see also Coleman v. Ashcroft*, 696 S.W.3d 347, 371 (Mo. banc 2024). Relators conveniently ignore all the statutory measures for expedited judicial review. *See* Mo. Rev. Stat. § 116.200 (all certification challenges “shall be advanced on the court docket and heard and decided by the court as quickly as possible” with a direct appeal “to the supreme court”). Even under this “very tight timetable,” it has been “sufficient to fully resolve the merits of prior claims in prior election

cycles.” *Coleman*, 696 S.W.3d at 371. Indeed, Relators’ *Coleman* discussion discredits their own fears that courts cannot act fast enough. See Relators’ Prohib. Pet. at 12 n.11 (describing how *Coleman* was resolved in mere days). Relators nowhere explain why this timeframe has somehow become untenable, much less why the circuit court abused its discretion in choosing to follow the statute.

Relators suggest the problem is that a final judicial decision cannot be reached and the disputed ballots cannot be counted in time for the ballot deadline. See Relators’ Sugg. in Support of Pet. at 5–6. But blame here lies solely with Relators, not Respondent. Relators failed to develop any claims or record regarding whether the Secretary could still count and validate the disputed signatures before the statutory ballot deadline. So their fears here are rooted in pure speculation rather than reality—especially because the disputed signatures may not even be necessary for Relators to reach the required signature threshold. All told, with nothing but conjecture in front of him, Respondent has not abused his discretion in continuing to hold this case in abeyance. *Cf. Coleman*, 696 S.W.3d at 371 (disclaiming any need to decide whether the timeframe might “some day” burden a petition’s approval based only on parties’ fears rather than a developed controversy).

Tellingly, Relators continue to talk out of both sides of their mouth. They are coming to this Court in a panicked frenzy over why they *might* need a decision as to the disputed signatures. But at the same time, they have also told the circuit court that their signature data obtained from the Secretary shows that the

“referendum will qualify for the ballot” *regardless* of the signatures at issue in this case. Ex. 29 at 766. To the press, they have been more boisterous. *See generally supra* note 1.

Under such circumstances, Relators are estopped from arguing Respondent abused his discretion. *See Vacca v. Mo. Dep’t of Labor & Indus. Rels.*, 575 S.W.3d 223, 225 (Mo. banc 2019) (“Judicial estoppel is invoked to protect the dignity of the judicial proceedings and to prevent parties from playing fast and loose with the judicial process by taking inconsistent positions . . . Other than finding a party took inconsistent positions, no consideration is a fixed prerequisite to application of the doctrine.”). Relators told Respondent and the public that the disputed signatures in this case will not make a difference as to whether the referendum has sufficient signatures. Under such circumstances, it would be patently inequitable to allow Relators to obtain an order addressing signatures that they publicly claim do not matter. *See State ex rel. KelCor, Inc. v. Noone Realty Trust, Inc.*, 966 S.W.2d 399, 404 (Mo. App. E.D. 1998) (denying writ when plaintiff “altered its position outside the courtroom” in statements not made under oath).

B. Relators have not challenged the constitutionality of the statutory-review scheme.

Relators also assert that the circuit court’s decision to hold this case in abeyance “runs counter to decades of Missouri jurisprudence requiring election cases to be resolved without delay.” Relators’ Sugg. in Support of Pet. at 3. These expedited rulings are based on “[t]he time limitations in th[ose] case[s].” *See*

State ex rel. Teichman v. Carnahan, 357 S.W.3d 601, 604 (Mo. banc 2012). But Relators fail to identify a time limitation in *this* case warranting an expedited ruling. At best, Relators suggest that Respondent's holding this case in abeyance "will steer this case directly into the statutory deadlines," Relators' Sugg. in Support of Pet. at 4 (citing Mo. Rev. Stat. § 115.125.3 (deadline to change ballot)), but even then, that is not an abuse of discretion.

Contrary to Relators' assertions, *Coleman* does not stand for the proposition that because Relators brought "their form-related claims at the very 'beginning of the process,'" that Respondent's holding this case in abeyance qualifies as an abuse of discretion. Relators' Sugg. in Support of Pet. at 4. The Missouri Supreme Court suggested no such thing. Rather, the court explained that a constitutional challenge to Sections 115.125.3 and 116.200.1 would "at least be ripe" if "the courts [were] unable to complete their review of that opponent's claim under section 116.200.1 before [Section 115.125.3's deadline for ballot modification]" and the opponent "attempt[ed] to seek early review of the Secretary's decision that a petition's form was proper." *Coleman*, 696 S.W.3d at 372. Sure, Relators sought early review of the Secretary's decision as to form of their referendum petition. *See generally* Ex. 2 at 11–22. But their reliance on *Coleman* to demand unripe adjudication is misplaced for three reasons.

First, Relators never challenged the constitutionality Section 116.200.1, *see* Ex. 2 at 11–22 (challenging Secretary's rejection of submitted referendum petitions as to form), so *Coleman* has no bearing here. *See Charron v. Holden*,

111 S.W.3d 553, 555 (Mo. App. W.D. 2003) (“Under Missouri pleading rules, to state a claim, a petition must invoke substantive principles of law entitling the plaintiff to relief and allege ultimate facts informing the defendant of what the plaintiff will attempt to establish at trial.”).

Second, even if Relators’ claims could somehow be construed as challenging the timelines for the Secretary’s review of the disputed signatures (they cannot), Relators have “not [been] injured by the defects they perceive” so “they cannot be heard to complain about them.” *Coleman*, 696 S.W.3d at 371. As this Court has explained, “under the constitution and statutes relating to the [referendum] process, any controversy as to whether the prerequisites of article III, section [52(a)] have been met is ripe for judicial determination when the Secretary of State makes a decision to submit or refuse to submit a[] [referendum] to the voters.” *Calzone v. Ashcroft*, 559 S.W.3d 32, 36 (Mo. App. W.D. 2018) (citing *Missourians to Protect the Initiative Process v. Blunt*, 799 S.W.2d 824, 828 (Mo. banc 1990)). The Secretary has not made a certification decision, see Mo. Rev. Stat. § 116.150, so any challenge to that decision—signatures or constitutionality—is not ripe.⁴

Finally, to the extent that factual concerns remain about signature tallies, certification, or follow-on effects, Relators are estopped from premising further

⁴ Relators also suggest that they are being injured by uncertainty over which map will be used for the upcoming election. Relators’ Prohib. Pet. at 15–16. But whether the General Assembly’s newly adopted map is currently in effect has no bearing on this case—the only dispute here is over signatures. Relators’ dissatisfaction with how other cases have gone provides no grounds for demanding that Respondent decide this case prematurely.

litigation here on speculation contradicting their own public statements. They have now repeatedly asserted that they have sufficient signatures to qualify for certification. *See supra* note 1. Relators have therefore estopped themselves from premising a speculative injury on supposed future circumstances running counter to their own claims. *See State ex rel. KelCor, Inc.*, 966 S.W.2d at 404. At the very least, Respondent cannot be faulted for taking Relators at their word and refraining from issuing an unnecessary decision.

By contrast, it is not speculative that the Secretary will make a final certification decision and that the decision could negate any need for a decision in this case. Nothing in *Coleman* intones that courts must blind themselves to on-the-ground realities whenever a litigant brings an election-law challenge and issue needless advisory opinions—least of all on an ancillary matter that a plaintiff has failed to plead and develop. Respondent’s decision to hold the case in abeyance cannot be an abuse of discretion.

C. Relators offer no support for their claim that a circuit court holding a case in abeyance in an abuse of discretion.

“A party seeking a writ has ‘the burden of showing that it had a clear and unequivocal right to the . . . relief requested.’” *Estate of Hutchison v. Massood*, 494 S.W.3d 595, 608 (Mo. App. W.D. 2016) (alteration in original) (citation omitted). Relators say that “[t]here is no Supreme Court Rule authorizing Respondent to hold the case in abeyance post-trial. Nor is there any case law approving this practice.” Relators’ Sugg. in Support of Pet. at 6. But it is *Relators’* burden to show that the circuit court abused its discretion; pointing to an absence

of authority regarding how a circuit court manages its docket comes nowhere close to demonstrating an unequivocal right to relief.

Moreover, to the State's awareness, holding a case in abeyance has only been ruled an error when "the judgment . . . ha[s] become final." *Lacher v. Lacher*, 785 S.W.2d 78, 80 (Mo. banc 1990) (quotations and citation omitted). That is not the case here. Relators have failed to meet their burden of showing a "clear and unequivocal right" to a writ. *Massood*, 494 S.W.3d at 608. And for all the reasons stated, it would be fanciful to conclude that Respondent's decision to hold this case in abeyance "shocks one's sense of justice and indicates a lack of careful consideration." *Pendergraft*, 688 S.W.3d at 765 n.4.

II. Relators have slept on their right to seek expedited relief.

Finally, the Secretary notes that Relators have unreasonably delayed any request for expedited relief. Relators have known for three months that the Secretary did not send out pre-approval signatures for verification to the local election authorities. *See* Ex. 28 at 755. Relators have twice requested entry of final judgment in the circuit court, most recently one month ago. *See* Ex. 29 at 759–80; Ex A. Yet, despite having moved in the circuit court, Relators delayed in filing a writ in this Court. Relators offer no reason for this delay.

Moreover, Relators took fifteen days since the last case review on March 17, 2026 to file this writ action. Relators had the wherewithal to file a notice of deposition *the same day* as the most recent case review. *See* Ex. 36 at 972–74. Yet, Relators inexplicably took over two weeks to bring this petition—and they

then demanded a response that the undersigned had to draft over religious holidays. All told, the record betrays any principled sense of urgency by Relators.

CONCLUSION

For the foregoing reasons, the Court should deny Relators' Petition.

Dated: April 6, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on April 6, 2026, the foregoing was filed on the Missouri CaseNet e-filing system, which will send notice to all counsel of record.

/s/ William J. Seidleck
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