

**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR LAKE COUNTY, FLORIDA**

CAREY BAKER,
Candidate for Lake County Property Appraiser,

Plaintiff,

CASE NO.: 42-2024-CA-001239

vs.

MARK V. JORDAN,
Candidate for Lake County Property Appraiser,

and

D. ALAN HAYS, in his official capacity
as Lake County Supervisor of Elections,

Defendants.

FINAL ORDER

THIS CAUSE came for hearing on September 13, 2024, on Plaintiff Carey Baker's Motion for Final Summary Judgment served September 3, 2024, the Defendant/Counter-Plaintiff Mark Jordan's Response to Carey Baker's Motion for Final Summary Judgment served September 7, 2024, and the Lake County Supervisor of Elections D. Alan Hays's Response in Opposition to Carey Baker's Motion for Final Summary Judgment served September 6, 2024.

On the same date, September 13, 2024, Final Hearing was held on Plaintiff Baker's First Amended Complaint for Declaratory Judgment and Request for Permanent Injunctive Relief filed July 17, 2024, Defendant/Counter-Plaintiff Mark Jordan's Answer and Affirmative Defenses to Plaintiff's Amended Complaint filed August 2, 2024, Defendant Hays's Answer to First Amended Complaint served August 2, 2024, and Defendant Jordan's Counter-Complaint against Baker and Cross-Complaint against Hays for Declaratory Judgment and Injunctive Relief filed July 4, 2024.

Based upon the Court's review of the file, all pertinent pleadings, the argument of counsel, the Joint Exhibits entered in evidence, the Amended Joint Statement of Stipulated Facts filed with the Court, including the testimony offered into evidence by stipulation of the parties by way of filed depositions and designations, and being otherwise fully advised in the premises, the Court finds as follows:

The Case

Before this Court are two men who seek the office of Property Appraiser in Lake County, Florida. Each man exercised a political strategy to achieve his goal of being elected. Neither is necessarily happy with the result. Baker made the calculated decision to file as a write-in candidate, thereby avoiding the requirement that he pay the qualifying fee of \$10,685.04. He waited to make this decision on the last day of qualifying, during the last hour, to make certain that no one else would file paperwork to run against him, thus eliminating the risk presented by not having his actual name on the ballot.

Jordan also made a calculated decision. Although he decided before June 14, 2024, to run for Lake County Property Appraiser, he also decided to file his qualifying documents to run as a candidate for that position on the last day, at the last hour. While in the Supervisor's office, Jordan learned that Baker qualified for the property appraiser position, but as only a write-in candidate. After learning the same, Jordan presented his qualifying paperwork, changing the office he sought from the District Hospital Board to Property Appraiser, and paid the qualifying fee from a campaign account he had previously opened at United Southern Bank. The result was that Jordan would appear as the only name on the ballot for Lake County Property Appraiser. Baker would remain a candidate for the office, but only as a potential write-in candidate, with his name absent from the ballot. For his decision, Jordan has received censure from the Lake County Republican Executive Committee and the scorn of others.

Baker now sues with the goal of having Jordan's name removed from the ballot for the following reasons: (1) Jordan failed to qualify for Property Appraiser because he failed to properly withdraw as a qualified candidate for the North Lake County Hospital District Board; (2) Jordan failed to submit his qualifying paperwork prior to the statutory deadline of 12:00 p.m. on June 1, 2024; and (3) Jordan failed to pay the qualifying fee with a check drawn upon a campaign account specifically designated for Lake County Property Appraiser.

Jordan counter-sues with the goal of having Baker removed from the ballot as a write-in candidate for the following reasons: (1) Baker failed to properly qualify for the 2024 election of Lake County Property Appraiser by initially filing his DS-DE 9 as a partisan candidate seeking office on January 26, 2024, but never filing the proper DS-DE 301A form titled, Candidate Oath-State and Local Partisan Office, and never paying the qualifying fee as a Republican Party candidate prior to the end of the qualifying period; (2) Baker failed to re-file his DS-DE 9 to declare his intent to be a write-in candidate for the 2024 election of Lake County Property Appraiser prior to the end of the qualifying period and was therefore improperly certified as a write-in candidate; and (3) Baker's DS-DE 301C, Candidate Oath- State and Local Partisan Office- Write-In Candidate, was filed after the end of the qualifying period, and Baker did not make a diligent and bona fide effort to present said document prior to 12 noon on June 14, 2024.

The Stipulated Facts

The parties filed their Amended Joint Statement of Stipulated Facts on September 11, 2024, which are set forth below for ease of reference:

1. The qualifying period for the office of Lake County Property Appraiser for the 2024 election ran from 12:00 p.m. on Monday June 10, 2024, until 12:00 p.m. on Friday June 14, 2024.

2. On June 14, 2024, any individuals who arrived at the Supervisor of Elections' office to submit qualifying paperwork were escorted to a waiting area where a sign-in sheet was located.
3. Individuals who entered the Supervisor's office after 11:30 a.m. on June 14, 2024, to submit qualifying paperwork, were asked to complete a document called a "Candidate Qualifying Reservation" that was time-stamped by the Supervisor's staff.
4. On January 26, 2024, Baker filed with the Supervisor the following to become a candidate for Lake County Property Appraiser: (1) the "Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates" (DS-DE 9); and (2) the "Statement of Candidate" (DS-DE 84).
5. On Friday, June 14, 2024, Baker arrived at the Supervisor's office before 11:30 a.m.
6. Baker did not personally sign the sign-in sheet but knew that someone signed in for him.
7. On Friday June 14, 2024, Baker met and filed with Steve Hines, the Supervisor's designated filing officer, the verification and receipt of submission of his "2023 Full and Public Disclosure of Financial Interests" time-stamped at 11:22 a.m. After filing the financial disclosure, Baker remained at the Supervisor's office.
8. Baker had not decided whether he was going to file as a partisan Republican Party candidate or as a Write-in candidate for Lake County Property Appraiser prior to entering the Supervisor of Election's Office on June 14, 2024.
9. On Friday, June 14, 2024, Baker met and filed with Steve Hines the "Candidate Oath-State and Local Partisan Office- Write-in Candidate" (DS-DE 301C) to qualify as candidate for Lake County Property Appraiser, time-stamped at 12:01 p.m.

10. On Monday June 10, 2024, Jordan met and filed with Steve Hines the following paperwork to qualify as a candidate for the North Lake County Hospital District Board, Seat #5: (1) the “Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates” (DS-DE 9); (2) the “Statement of Candidate” (DS-DE 84); (3) the "Candidate Oath- State and Local Partisan Office- With Party Affiliation” (DS-DE 301A); and (4) the “2023 Form 1- Statement of Financial Interests.”
11. On Monday June 11, 2024, after qualifying for the Hospital Board, Jordan asked Hines a hypothetical question about filing qualifying paperwork to run for another public office other than Hospital Board. Hypothetically, Jordan asked Hines what the process would be to qualify to run for Lake County Commission, Seat #5.
12. On Tuesday, June 11, 2024, Jordan met and re-filed with Hines a DS-DE 9 for his campaign for North Lake County Hospital District Board, Seat #5, changing the designation of his campaign depository to United Southern Bank.
13. On Tuesday, June 11, 2024, Jordan opened a campaign account at United Southern Bank and provided the Bank a copy of his re-filed DS-DE 9 for his campaign for North Lake County Hospital District Board, Seat #5.
14. On Tuesday, June 11, 2024, Jordan made a \$1,000.00 contribution to his campaign account and reported it as a personal loan.
15. On Wednesday, June 12, 2024, Jordan made a \$10,500.00 contribution to his campaign account and reported it as a personal loan.
16. On Friday, June 14, 2024, Jordan arrived at the office of the Supervisor before 12:00 p.m.

17. Jordan completed a Candidate Qualifying registration form indicating he was present to qualify as a candidate for the office of “multiple & for other candidates,” time-stamped at 11:48 a.m.
18. On Friday, June 14, 2024, Jordan met and filed the following paperwork with Hines, to qualify as a candidate for Lake County Property Appraiser: (1) a re-filed DS-DE 9, “Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates,” (DS-DE 9) designating a change in office sought to Lake County Property Appraiser, time-stamped at 12:26 p.m.; (2) the “Statement of Candidate” (DS-DE 84), time-stamped at 12:26 p.m.; (3) the “Candidate Oath- State and Local Partisan Office-With Party Affiliation” (DS-DE 301A), time-stamped at 12:27 p.m.; (4) the “2023 Form 6- Full and Public Disclosure of Financial Interests,” that was completed on June 12, 2024, time-stamped at 12:27 p.m.; and (5) a qualifying check for \$10,685.04 from the “Mark V. Jordan Campaign Account,” time-stamped at 12:46 p.m.
19. On Friday June 14, 2024, when Jordan entered the office of Hines and was submitting his qualifying documents, he asked Hines how Baker had qualified for Lake County Property Appraiser.
20. Jordan signed his Candidate Oath for Property Appraiser on June 13, 2024. Michael Holland, Jordan’s campaign treasurer, notarized the Candidate Oath on the same date.
21. The check Jordan used to pay the qualifying fee to qualify as a candidate for Lake County Property Appraiser was from the campaign account he opened on June 11, 2024.
22. On Tuesday, June 18, 2024, Jordan filed a second DS-DE 9 for his campaign for Lake County Property Appraiser, appointing himself as campaign treasurer.

23. Jordan provided United Southern Bank a DS-DE 9 for his campaign for Lake County Property Appraiser after qualifying ended on June 14, 2024.

Relevant Statutory Provisions, Rules, and Guidance

Section 99.061, Florida Statutes, establishes five criteria applicable to qualification for the position of Lake County Property Appraiser. Section 99.061(7) provides in pertinent part:

- (a) In order for a candidate to be qualified, the following items must be received by the filing officer by the end of the qualifying period:
 1. A properly executed check drawn upon the candidate's campaign account payable to the person or entity as prescribed by the filing officer in an amount not less than the fee required by s. 99.092, unless the candidate obtained the required number of signatures on petitions pursuant to s. 99.095... Failure to pay the fee as provided in this subparagraph shall disqualify the candidate.
 2. The candidate's oath required by s. 99.021, which must contain the name of the candidate as it appears on the ballot; the office sought, including the district or group number if applicable; and the signature of the candidate, which must be verified under oath or affirmation pursuant to s. 99.525(1)(a). (Fla. Admin. Code R. 1S-2.0001(3) provides three possible forms: DS-DE 301A, candidate oath with party affiliation; DS-DE 301B candidate oath without party affiliation; and DS-DE 301C, candidate oath write-in candidate.)
 3. If the office sought is partisan, the written statement of political party affiliation required by s. 99.021(1)(b); or if the candidate is running without party affiliation for a partisan office, the written statement required by s. 99.021(1)(c).
 4. The completed form DS-DE 9 for the appointment of campaign treasurer and designation of campaign depository, as required by s. 106.021.
 5. The full and public disclosure or statement of financial interests required by subsection (5). A public officer who has filed the full and public disclosure or statement of financial interests with the Commission on Ethics before qualifying for office may file a copy of that disclosure or a verification or receipt of electronic filing as provided in subsection (5) at the time of qualifying.

Pursuant to sections 99.061(2) and 99.061(4)(a), Fla. Stats., any person seeking to qualify for nomination or election to a county office must file each of these five qualification papers with the county supervisor of elections during the statutory qualifying period. The time for qualifying for a county office is “any time after noon of the 1st day of qualifying, which shall be the 71st day prior to the primary election, but not later than noon of the 67th day prior to the date of the primary election.” For 2024, the qualifying period ran from noon on Monday June 10th until noon on Friday June 14th.

The Department of State in Florida has adopted Rule 1S-2.0001 of the Fla. Admin. Code, that governs both “Requirements for Candidate Qualifying Papers” and “Withdrawal of Candidacy.” Fla. Stat. s. 99. 061(10). Rule 1S-2.0001(3), F.A.C., adopts by rule the items and forms required for properly qualifying under the Florida Election Code. Rule 1S-2.0001(2)(a), F.A.C., provides in pertinent part as follows:

(2) Filing Timeline

(a) Timely filing is of the essence in qualifying as a candidate. In order to be deemed timely filed with the qualifying office, qualifying items must actually be present at the qualifying office’s official physical location by the close of the qualifying period.

Concerning a candidate’s withdrawal, Rule 1S-2.0001(4) F.A.C., provides:

A candidate may withdraw his or her candidacy by submitting a document specifying the candidate’s withdrawal from the particular public office he or she seeks to the qualifying office before which he or she qualifies (or has qualified) by mail, facsimile, email, photocopy, scanned copy or other type of electronic transmission that contains the signature of the candidate. The withdrawal is not effective until it is received by the qualifying office.

The mandatory filing requirements of Section 99.061(7), Fla. Stat., do not include or reference a separate withdrawal document.

Fla. Stat. §99.061(7)(c) defines the role of the Supervisor of Elections designated filing officer as follows:

(c)The filing officer performs a ministerial function in reviewing qualifying papers. In determining whether a candidate is qualified, the filing officer shall review the qualifying papers to determine whether all items required by paragraph (a) have been properly filed and whether each item is complete on its face, including whether items that must be verified have been properly verified pursuant to s. 92.525(1)(a). The filing officer may not determine whether the contents of the qualifying papers are accurate.

Fla. Stat. §99.061(7)(b) further provides that the filing officers “shall make a reasonable effort to notify the candidate of the missing or incomplete items” if the qualifying papers are received “prior to the last day of qualifying.” Jordan’s papers were received on the last day of qualifying.

Analysis

A. Jordan Properly Withdrew as a Candidate for the Hospital Board by Filing a New DS-DE 9 Form

After following the direction of staff at the Supervisor of Election’s office on June 14, 2024, shortly after 12 noon, Jordan initiated his qualification for Property Appraiser by first filing with the Supervisor’s designated filing officer, Steve Hines, a new DS-DE 9 with the boxes “Re-Filing” and “Office” both checked by him. Evidence establishes that this was the standard procedure used in the Supervisor’s office for a candidate who had previously submitted qualifying papers for an office to qualify for a new office. Jordan did not file a separate withdrawal with Hines and did not believe one was required.

The Court finds that neither the Florida Election Code (Chapters 97-106, Florida Statutes) nor the Florida Constitution required Jordan to file a separate withdrawal letter in order to withdraw as a candidate for the Hospital Board. The new DS-DE 9 he filed on June 14, 2024, was

sufficient to qualify him to be a candidate for Property Appraiser. (Issues regarding timeliness of the filing and the method of payment will be discussed below).

“Legislative intent is the polestar that guides [a court’s] analysis regarding statutory interpretation.” *Sand Lakes Hills Homeowners Assn., Inc. v. Busch*, 210 So.3d 706, 709 (Fla. 5th DCA 2017). “The plain meaning of a statute is always the starting point in statutory interpretation.” *GTC, Inc. v. Edgar*, 967 So. 2d 781, 785 (Fla. 2007). The “plainness or ambiguity of statutory language is determined by reference to the language itself, the specific context in which the language is used, and the broader context of the statute as a whole.” *Conage v. United States*, 346 So.3d 594, 598 (Fla. 2022), citing *Robinson v. Shell Oil Co.*, 519 U.S. 337, 341 (1997).

Here, s. 99.061(7)(a), Fla. Stat., sets forth the five items that every candidate must submit to qualify for office. Nothing there requires that a candidate who previously qualified for an office file a separate withdrawal letter to change his or her candidacy to a new office. Likewise, nothing in the Florida Election Code or the Florida Constitution specifically imposes such a requirement.

In *Jones v. Schiller*, 345 So.3d 406, 411-12 (Fla. 1st DCA 2022), a recent case addressing candidate qualification, the Court stated:

The candidate qualification process in section 99.061 makes clear the Department’s “ministerial function in reviewing qualifying papers” to determine whether a person has qualified for the ballot.” s. 99.061(7)(c), Fla. Stat. Embedded in this ministerial duty is the expectation that if a candidate’s paperwork is in order- facially complete and properly verified- the candidate will be qualified to appear on the ballot. The Legislature designed the process to facilitate ballot access. Once a candidate has obtained access to the ballot through qualification, the only way to remove that candidate is to identify some constitutional or statutory basis for disqualification.

The Court further explained that “[t]he right to be a candidate for public office is a valuable right, and no one should be denied the right unless the Constitution or applicable valid law expressly declares him ineligible.” *Id.*, quoting *Viera v. Slaughter*, 318 So. 2d 490, 491 (Fla. 1st DCA).

Baker cites no statutory or constitutional provision that would require Jordan to file a separate withdrawal letter, in addition to the new DS-DE 9 he filed on June 14, 2024, because none exists. His reliance on Fla. Stat. s. 99.012(2) is misplaced. That provision simply forbids a person to qualify as a candidate for more than one public office if the terms run concurrently with each other. First, Jordan was not seeking to qualify as a candidate for more than one office. As indicated by his new DS-DE 9, he was amending his candidacy to run for Property Appraiser and not for the Hospital Board. And second, this statute makes no reference to a separate withdrawal letter, and it would be improper to add words to the statute. *See Overstreet v. State*, 629 So.2d 125, 126 (Fla. 1993) (a court may not add words to a statute when the language is clear).

Baker also relies upon Rule 1S-2.0001(4), F.A.C., and guidance in the *Candidate and Campaign Treasurer Handbook* but neither are part of the Florida Election Code nor the Florida Constitution. As the Court in *Jones, supra*, made clear, because Jordan has obtained access to the ballot, the only way to remove him is to identify a constitutional or statutory basis, which has not been done in this case. This Court also notes that Rule 1S-2.0001(4), F.A.C., states that a candidate “may withdraw his or her candidacy by submitting a document” to the qualifying office, specifying the candidate’s withdrawal from the particular public office he or she seeks. By its own language, this Rule is not a mandatory requirement, and even if it were, Jordan complied by submitting his revised DS-DE 9 form to the Supervisor’s office designating his desire to withdraw as candidate for Hospital Board and seek the office of Property Appraiser.

Jordan’s adherence to the Supervisor of Election’s established process of allowing candidates to change the office for which they previously submitted qualifying paperwork by filing a new DS-DE 9 form, signed by the candidate, with the correct boxes marked, is consistent with the Florida Election Code.

2. Jordan's Qualifying Papers were Timely filed with the Supervisor of Elections Filing Officer

Baker makes two arguments concerning the timeliness of Jordan's filing of his qualifying papers: (1) Baker argues that because the new DS-DE 9 was filed after 12 noon on June 14, 2024, Jordan failed to timely withdraw as a candidate for the Hospital Board; and (2) Baker argues that Jordan failed to qualify as Property Appraiser because his qualifying papers were all filed after the 12 noon deadline on June 14, 2024. These arguments are without merit because they ignore the fact that Jordan complied with the qualifying procedure implemented by the Lake County Supervisor of Elections for qualifying on June 14, 2024.

The undisputed evidence in the record demonstrates the following:

1. Jordan arrived at the Supervisor's office to file his qualification documents before 11:48 a.m.
2. At the time Jordan arrived, his qualifying documents were complete and ready for filing.
3. Jordan completed a Candidate Qualifying Reservation form that was time-stamped at 11:48 a.m.
4. The staff at the Supervisor of Elections' office escorted Jordan to a waiting room to wait for the next available filing officer.
5. The Supervisor implemented the waiting process instead of having candidates stand in line in the Supervisor's small lobby.
6. Jordan signed a sign-in sheet in the waiting room at 11:55 a.m.
7. Per the Supervisor's staff's specific instructions, Jordan waited his turn to meet with a filing officer to file his qualifying documents.
8. At approximately 12:15 p.m., Hines, the Supervisor's designated filing officer, went to the waiting room and escorted Jordan to his office.

9. Jordan filed his first qualifying document, a new DS-DE 9 form, at 12:26 p.m.
10. The new DS-DE 9 form indicated that Jordan was refileing the form to change the office for which he was qualifying from Hospital Board to Property Appraiser.
11. The last of Jordan's qualifying papers were filed with Hines at 12:46 p.m.

The deadline for qualifying for Property Appraiser was noon on June 14, 2024, per Fla. Stat. s. 99.061(2). To be timely filed with the qualifying office, "qualifying items must actually be present at the qualifying office's physical location by the close of the qualifying period." R. 1S-2.0001(2)(a), F.A.C. Consistent with that Rule is the Supervisor's Handbook's instruction to accept qualifying paperwork of a candidate if the candidate is in line prior to the end of qualifying.

The procedure implemented by the Lake County Supervisor of Elections on June 14, 2024, complied with the requirements of Rule 1S-2.0001(2)(a), F.A.C., and with the Division of Elections' guidance in the Supervisor's Handbook. Jordan was physically present in the Supervisor's office before noon on June 14, 2024, with a completed set of qualifying papers. When he arrived, Jordan followed staff instructions and waited in the waiting room until a filing officer became available to accept and process his documents. The first document he filed was the new DS-DE 9 form that served to change the office he was seeking from Hospital Board to Property Appraiser. Logic dictates that had the filing officer immediately accepted and processed Jordan's qualifying papers when he arrived before 11:48 a.m., timeliness of his filing would not be an issue in this case.

The Supervisor implemented this particular qualifying procedure on the last day of candidate qualifying to allow candidates to qualify without interrupting other critical election related functions being conducted such as voter registration and processing vote-by-mail requests. The qualifying process implemented by the Supervisor of Elections was reasonable and consistent with Florida law. *See Boardman v. Esteva*, 323 So.2d 259, 268-69, n. 5 (Fla. 1975), *cert. denied*,

125 U.S. 967 (1976) (the judgment of officials charged with carrying out the election process should be presumed correct of reasonable and not in derogation of the law).

The case of *Hoover v. Mobley*, 253 So.3d 89 (Fla. 1st DCA 2018), is distinguishable from the case at bar. In *Hoover*, the Court found that it was undisputed that the candidate attempting to qualify had not completed all her qualifying papers prior to the noon qualifying deadline. *Id.* at 91. There was video evidence revealing the candidate filling out a required qualification form and having it notarized well after the noon deadline. *Id.* Here, the unrebutted evidence establishes that Jordan completed all his qualifying papers before he entered the Supervisor's office, well before the noon qualifying deadline. Thus, Jordan was "ready, willing, and able" to submit his qualifying papers prior to the noon deadline.

Second, in *Hoover* the Court specifically determined that when the candidate arrived at the Supervisor's office, she did not have to wait to engage with the filing officer. *Id.* at 92. Here, Jordan followed staff instructions and waited approximately 20 minutes before he could engage with the filing officer.

Third, in *Hoover*, the Court found that there were no circumstances beyond the candidate's control that caused her to miss the qualifying deadline. In the case at bar, the procedure implemented by the Supervisor on June 14, 2024, constituted extenuating circumstances beyond Jordan's control. To meet with the filing officer before 12 noon on June 14, 2024, would have required Jordan to disregard procedure established by the Supervisor and ignore the instructions he received from their staff.

The facts in *Bayne v. Glisson*, 300 So.2d 79, 82 (Fla. 1st DCA 1974) are much closer to the facts in this case. In *Bayne*, the Court held that the "physical presence in the office of the [filing officer] by a candidate...armed with the necessary qualification fees, making a diligent bona fide effort to present the same to the appropriate official meets the requirements of the [qualifying]

statute.” Jordan checks all of the boxes in *Bayne*: He was physically present at the Supervisor of Elections’ office at 11:48 a.m.; he was armed with a complete set of filing papers and fees; and he made a diligent bona fide effort to present the qualifying papers to the Supervisor’s filing officer by following the instructions he was given by the Supervisor’s staff.

3. Jordan’s Payment of the Qualifying Fee with a check from the “Mark V. Jordan Campaign Account” was Appropriate

Plaintiff Baker claims that Defendant Jordan failed to properly qualify as a candidate because Jordan did not pay the qualifying fee with a check drawn upon a campaign account created specifically for the office of Lake County Property Appraiser. It is Defendant Jordan’s position that the qualifying check complied with the requirements set forth in s. 99.061(7)(a)1., Florida Statutes, and that Plaintiff’s interpretation imposes a burden outside of the statutory language. Defendant Hays, as Lake County Supervisor of Elections, takes no position on this issue. Relying on the plain language of section 99.061(7)(a)1., the Court finds that as a matter of law Defendant Jordan properly paid his qualifying fee with a check drawn upon his campaign account.

Defendant Jordan originally qualified as a candidate for the North Lake County Hospital District Board. Following his qualification for the Hospital Board, Defendant Jordan opened the “Mark V. Jordan Campaign Account” with United Southern Bank. Thereafter, Defendant Jordan re-filed a form DS-DE 9, “Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates” designating a change in Office to Lake County Property Appraiser. In order to qualify as a candidate for the office of Lake County Property Appraiser, Defendant Jordan executed a check drawn upon the “Mark V. Jordan Campaign Account.”

The issue before the Court is one of statutory interpretation. All parties agree that section 99.0617(a)1., Florida Statutes, governs the form of payment of the qualifying fee. Section 99.061(7)(a)1. requires candidates to pay the qualifying fee with a “properly executed check drawn

upon the candidate's campaign account." s. 99.061(7)(a)1., Fla. Stat. This language imposes a bright line rule and "serves the legitimate government purpose of ensuring that candidates for office lawfully pay the required qualifying fee with campaign funds." *Spiritis v. Botel*, 384 So. 3d 260, 263 (Fla. 4th DCA 2024), *review denied*, No. SC2024-0347, 2024 WL 1128441 (Fla. Mar. 15, 2024). "[W]hen the language of the statute is clear and unambiguous and conveys a clear and definite meaning, there is no occasion for resorting to the rules of statutory interpretation and construction; the statute must be given its plain and obvious meaning." *Wright v. City of Miami Gardens*, 200 So. 3d 765, 770 (Fla. 2016)(quoting *A.R. Douglass, Inc. v. McRainey*, 102 Fla. 1141, 137 So. 157, 159 (1931)). Further, "[i]t has also been accurately stated that courts of this state are 'without power to construe an unambiguous statute in a way which would extend, modify, or limit, its express terms or its reasonable and obvious implications. To do so would be an abrogation of legislative power.'" *Wright v. City of Miami Gardens*, 200 So. 3d at 770 (quoting *American Bankers Life Assurance Company of Florida v. Williams*, 212 So. 2d 777, 778 (Fla. 1st DCA 1968)).

The Court finds the language of section 99.061(7), Florida Statutes, clear and unambiguous. The intent of the statute is to ensure that candidates pay the qualifying fee with campaign funds. That is what happened in the instant case. It is undisputed that Defendant Jordan executed a check drawn upon the "Mark V. Jordan Campaign Account." To adopt Plaintiff's argument that the check had to be drawn upon a campaign account specifically designated for the office of Lake County Property Appraiser would improperly extend the statute beyond its express terms.

Based upon the foregoing, it is hereby

ORDERED AND ADJUDGED that Plaintiff's Motion for Summary Judgment is **DENIED**. Likewise, Plaintiff's Amended Complaint seeking the Court to declare under s. 86.011,

Fla. Stat., that Mark V. Jordan failed to properly qualify as a candidate for office of Lake County Property Appraiser is **DENIED in all its parts**, and the Plaintiff's request for the Court to issue a permanent injunction pursuant to s. 26.012(3), Fla. Stat., requiring the Lake County Supervisor of Elections to decertify Mark V. Jordan as a qualified candidate for property appraiser, refrain from including him as a candidate for Lake County Property Appraiser on any ballots printed for the 2024 General Election, and refrain from tabulating, reporting, or certifying any votes cast for Mark V. Jordan for Lake County Property Appraiser is **DENIED**. The Plaintiff Baker shall take nothing by this action and the Defendants Jordan and Hays shall go hence without day.

**Defendant Mark v. Jordan's Counter-Complaint Against Carey Baker and
Crossclaim Against D. Alan Hays, in his Official Capacity
as Lake County Supervisor of Elections**

By his Counter-Complaint and Crossclaim, Jordan seeks a declaratory judgment from this Court that Baker is not a duly qualified write-in candidate for the 2024 election of Lake County Property Appraiser, and a permanent injunction ordering the Supervisor of Elections to de-certify Baker as a qualified write-in candidate for the 2024 election of Lake County Property Appraiser, and name Jordan as the unopposed, duly qualified Republican Candidate for the 2024 election of Lake County Property Appraiser.

Jordan's primary argument is that when Baker filed his DS-DE 9 on January 26, 2024, he indicated that he intended to run as a Republican candidate and did not check a box to indicate that he would be seeking the office for Property Appraiser as a write-in candidate. Jordan's argument that Baker was required to re-file a DS-DE 9 form to indicate he would be running as a write-in candidate, and therefore failed to qualify by not paying a filing fee, is not supported by the plain language of Fla. Stat. s. 99.061. The candidate seeking qualification must file a DS-DE 9 but only to designate his or her appointment of a campaign treasurer and designation of a campaign depository, which Baker did.

The provision of Fla. Stat. s. 99.061(7)(a) which is applicable here is subsection (2) requiring the candidate to file the Candidate's Oath by the end of the qualifying period, which must contain the name of the candidate as it appears on the ballot, the office sought, and the signature of the candidate. There are three possible forms for a qualifying candidate to use when filing his or her Candidate Oath as required by Fla. Stat. s. 99.061(7)(a)(2): DS-DE 301A for those seeking office with a party affiliation; DS-DE 301B for those seeking office without a party affiliation; and DS-DE 301C for those seeking office as a write-in candidate. Baker chose, during the last hour of the last qualifying day, to file form DS-DE 301C indicating his decision to be a write-in candidate. In such a case, there is no filing fee required. And there is no statute or rule requiring him to amend his previously filed DS-DE 9 to reflect that he will be running as a write-in candidate, nor will the Court read that into the statute as a requirement.


Jordan's argument that Baker untimely filed his qualification documents, because they were not filed before noon on June 14, 2024, is also rejected by this Court. The Court's analysis of this issue is set forth above in rejecting Baker's claim that Jordan's documents were untimely filed. The reasoning applies equally here. Although he arrived in the Supervisor's office before the noon deadline with all his qualifying papers in hand, he had no control over at what time the Supervisor time-stamped his documents as officially filed. Just because he was able to speak to Hines before 12 noon does not mean he was able to get all his paper worked time-stamped before noon. That was solely in the control of the Supervisor.

For these reasons, Jordan's Counter-Complaint seeking a declaratory judgement that Baker is not a duly qualified write-in candidate for the 2024 Lake County Property Appraiser is **DENIED**. Likewise, Jordan's request that this Court issue a permanent injunction ordering the Supervisor of Elections to de-certify Baker as a qualified write-in candidate for the 2024 election

of Lake County Property Appraiser and name Jordan the unopposed, duly qualified Republican Party candidate for the 2024 election of Lake County Property Appraiser is also **DENIED**.

Counter-Plaintiff Jordan shall take nothing by this action and Counter-Defendant Baker and Cross-Defendant Hays shall go hence without day.

DONE AND ORDERED on this 19th day of September 2024, in Ocala, Marion County, Florida.


GARY L. SANDERS
Circuit Court Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via the Court's e-portal system, which will send an email copy to all counsel of record on this 19th day of September 2024.

_____/rg/_____
Judicial Assistant