



## Case Summaries August 26, 2022

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### OPINIONS

#### ELECTIONS

##### Ballots

***In re Self*, — S.W.3d —, — WL — (Tex. August 26, 2022) (per curiam) [\[22-0658\]](#)**

In this mandamus action, Republican Party candidates in the November 2022 general election sought to remove their Libertarian Party opponents from the ballot because of the Libertarians' failure to pay a statutory filing fee. The Republicans contended that the Texas Election Code required exclusion of the Libertarian candidates from the ballot. The Libertarians responded with their understanding of the Election Code under which, even if the fee had not been paid, removing these candidates from the ballot was not the appropriate remedy.

Without resolving the merits of the dispute, the Court denied the petition because it did not comply with the requirement that invoking judicial authority in the election context requires unusual dispatch. Relators filed their mandamus petition on August 8, 2022. They sought relief by August 26, allegedly the deadline under the Election Code for the relief they sought. The Libertarian Party nominated the disputed candidates in April 2022. Under relators' view of the law, those candidates' ineligibility attached in April 2022, when they were nominated despite not paying the fee. Nearly four months passed between the facts giving rise to the relators' claims and the filing of the mandamus action.

The Court stated that relators had not provided a compelling explanation for why the claims could not have been investigated and brought to the courts with the "unusual dispatch" required of those who seek to use the court system to alter the conduct of elections. In *re Khanoyan*, 637 S.W.3d 762, 764 (Tex. 2022). Mandamus aids the diligent and not those who slumber on their rights. Never is adherence to this general rule more important than when candidates seek to constrain the choices available to voters in an election. Access to the ballot lies at the heart of a constitutional republic. For that reason, the Court strictly construes statutory provisions against a finding of a candidate's ineligibility.

In this case, the timeline for the Court's consideration of the parties' arguments is not the result of emergency circumstances beyond the relators' control. In other cases, when circumstances beyond a petitioner's control create time-sensitive controversies requiring speedy judicial resolution, the Court has demonstrated its own willingness to

act with the unusual dispatch it asks of parties and counsel. But when the emergency timeframe is the product of avoidable delay in bringing the matter to the courts, the Court's precedent is clear that judicial relief altering the conduct of an election is disfavored. The Court accordingly denied mandamus relief.