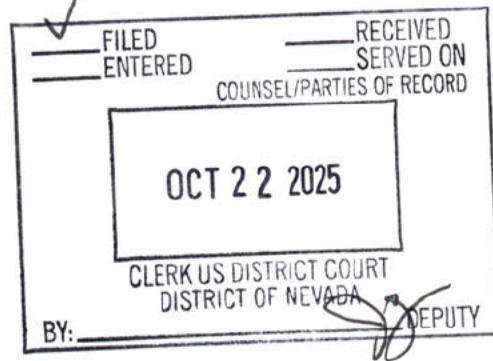


Andy Michael Thompson


Plaintiff, Pro Se



UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Andy Michael Thompson, Plaintiff Pro Se

v.

Nevada Secretary of State, Defendant.

Case No. 2:25-cv-01284-CDS-EJY

**PLAINTIFF'S RESPONSE TO ORDER TO SHOW CAUSE WHY ACTION
SHOULD NOT BE DISMISSED FOR LACK OF STANDING**

Plaintiff Andy Michael Thompson, pro se, submits this Response to the Court's Order to Show Cause dated October 6, 2025, pursuant to *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992), and *FEC v. Akins*, 524 U.S. 11 (1998). The record establishes Article III and statutory standing, federal jurisdiction, and a live controversy, compelling vacatur of the Order and adjudication on the merits.

I. Jurisdictional Foundation and Standing Framework

Defendant's destruction of 2024 election records during litigation violates 52 U.S.C. § 20701 and NRS 293.391(1), which mandate 22-month retention of federal and state election records. Because 52 U.S.C. § 20701 imposes a direct federal record-

preservation obligation, this claim arises under federal law independent of any state contest provisions.

This deprives Plaintiff, a duly registered Nevada voter, of his statutory right to access and verify records for the mixed 2024 election, constituting a concrete injury under *Akins* (524 U.S. at 21). Federal question (28 U.S.C. § 1331) and civil rights (28 U.S.C. § 1343) jurisdiction apply, as the claim arises under federal law and implicates voting rights. The controversy is justiciable, as it is capable of repetition yet evading review (*Southern Pac. Terminal Co. v. ICC*, 219 U.S. 498 (1911)). Plaintiff relies solely on the verified record and controlling law, not attorney status, to establish standing.

II. Facts Show Proper Defendant Causation

On July 10, 2025, Chief Deputy Attorney General Greg Ott emailed Plaintiff (Exhibit A), confirming the Secretary's authorization of Dominion Voting Systems' software update 5.20 from July 21 to September 30, 2025, which overwrote 2024 election records (tabulator logs, cast-vote records, audit trails). This occurred during active litigation, after Plaintiff's preservation motions filed March 25 and April 22, 2025. Under NRS 293B.1045(6), the Secretary alone approves such updates, making the destruction directly traceable to Defendant's actions (*Clapper v. Amnesty Int'l*, 568 U.S. 398 (2013)). The Ott email is an admission against interest, contradicting his own pleadings, (Fed. R. Evid. 801(d)(2)), and the timing establishes spoliation

during litigation (*Bass-Davis v. Davis*, 122 Nev. 442 (2006)), violating 52 U.S.C. § 20701 and its state analogue, NRS 293.391(1).

Defendant cannot plausibly claim that the counties acted independently. Under NRS 293B.1045(6), the Secretary of State retains exclusive authority to approve and initiate all mechanical voting-system updates. The Ott email confirms that the Secretary personally authorized the 5.20 updates across fifteen dependent counties during active litigation. This admission nullifies any claim of delegation and unambiguously confirms the Defendant's direct responsibility for record destruction.

III. Article III and Statutory Standing

A. Injury-in-Fact

Plaintiff, a Nevada voter, has a substantive right under 52 U.S.C. § 20701 and NRS 293.391(1) to access 2024 election records for 22 months to verify federal and state election integrity.

Defendant's destruction of these records, confirmed by the Ott email, constitutes a concrete, particularized informational injury (*Akins*, 524 U.S. at 21; *Public Citizen v. DOJ*, 491 U.S. 440 (1989)). The spoliation during litigation, after Plaintiff's preservation motions, is a discrete harm (*Bass-Davis*), distinguishing it from generalized grievances (*Lujan*, 504 U.S. at 573–74).

B. Causation

The injury is traceable to the Secretary's exclusive authority under NRS 293B.1045(6) to approve software updates. The Ott email confirms this authorization, and the absence of a stay does not negate the duty to preserve evidence during litigation (*Silvestri v. Gen. Motors Corp.*, 271 F.3d 583, 590 (4th Cir. 2001)).

C. Redressability

This Court can redress the injury by:

- a.** declaring the violation of 52 U.S.C. § 20701 and NRS 293.391(1) unlawful;
- b.** ordering forensic imaging of residual data; and
- c.** enjoining future overwrites without preservation and requiring forensic backups of election data. Declaratory relief vindicates Plaintiff's rights (*Akins*, 524 U.S. at 25), and injunctive relief prevents recurrence (*Utah v. Evans*, 536 U.S. 452 (2002)).

The Court's equitable powers under 28 U.S.C. § 2201 support these remedies without intruding on state election administration.

To confirm that effective judicial relief remains attainable within the federal record-retention period, Plaintiff respectfully urges that, consistent with the time-sensitive retention window under 52 U.S.C. § 20701, declaratory judgment

issue within approximately sixty (60) days or as soon as practicable. This schedule underscores ongoing redressability and reflects Plaintiff's diligence in seeking timely adjudication within the statutory retention period, preserving the record for effective appellate review.

D. Statutory Standing

As a voter, Plaintiff falls within the zone of interests of 52 U.S.C. § 20701 and NRS 293.391(1), which protect election transparency. *Akins* confirms standing for informational injuries, even absent a private right of action (524 U.S. at 20–21). The dual statutory violation in the mixed 2024 election context strengthens this.

As a 2024 registered Nevada voter who participated in a mixed federal-state election, Plaintiff's injury is not abstract. It is particularized to the unlawful handling of records tied to his own ballot environment, distinguishing this case from generalized grievances under *Spokeo v. Robins*, 578 U.S. 330 (2016).

IV. Justiciability and Public Importance

The Secretary's actions are capable of repetition yet evading review, as the 22-month retention period under 52 U.S.C. § 20701 and NRS 293.391(1) is short, and Defendant controls future elections. The public interest in transparent federal and state elections (*Bush v. Gore*, 531 U.S. 98 (2000)) demands merits adjudication (*We the People Nevada v. Miller*, 124 Nev. 874 (2008)).

The destruction of election records undermines national confidence in electoral integrity, implicating federal oversight responsibilities recognized in *Bush v. Gore*, 531 U.S. 98 (2000). The issue therefore transcends state administration and warrants federal judicial review to safeguard the integrity of congressional elections conducted within Nevada. Judicial abstention would risk undermining voter confidence and statutory enforcement.

V. Requested Relief and Conclusion

Defendant raised standing; Plaintiff has demonstrated it de novo on the record. Defendant opposed Plaintiff's motions to preserve election records, and the Court later denied preservation motions as moot in its June 18, 2025 dismissal order. Because the underlying record-destruction dispute remained active, that mootness determination effectively precluded review of a live controversy.

The pattern of statutory constriction evident in related state proceedings, particularly the partial reading of NRS 293.042 and associated contest provisions, illustrates a broader interpretive trend relevant to statutory context. However, this action challenges only the independent federal duties and executive conduct of the Secretary of State, not any state-court judgment or decision, preserving this Court's jurisdiction under *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280 (2005).

Plaintiff respectfully requests that the Court:

- a.** Vacate the October 6, 2025 Order to Show Cause.
- b.** Affirm jurisdiction under 28 U.S.C. §§ 1331 and 1343, 52 U.S.C. § 20701, and NRS 293.391(1).
- c.** Declare that Defendant's authorization of the 5.20 software updates, which destroyed 2024 election records, violated 52 U.S.C. § 20701 and NRS 293.391(1).
- d.** Order forensic imaging of any residual election data and enjoin future overwrites without preservation, requiring forensic backups before any further system updates.
- e.** Issue declaratory judgment within approximately sixty (60) days or as soon as practicable, to ensure effective relief within the statutory 22-month retention period.
- f.** Alternatively, certify the standing question for interlocutory appeal under 28 U.S.C. § 1292(b).
- g.** Grant such further equitable relief as the Court deems just and proper.

The destruction of 2024 election records during active litigation is a live controversy of national significance. The Court's intervention is necessary not only to protect Plaintiff's individual rights as a Nevada voter but also to uphold the federal guarantee of electoral integrity upon which public confidence depends.

Respectfully submitted,

/s/ Andy Michael Thompson

A large black rectangular redaction box covering the signature of Andy Michael Thompson.

Plaintiff, Pro Se

Dated: October 22, 2025

VERIFICATION

I, Andy Michael Thompson, verify under penalty of perjury that the factual statements in this Response are true and correct to the best of my knowledge.

/s/ Andy Michael Thompson
Plaintiff, Pro Se

CERTIFICATE OF SERVICE

I certify that on October 22, 2025, I served a true and correct copy of this Response upon:

Gregory D. Ott, Chief Deputy Attorney General
Office of the Nevada Attorney General
100 N. Carson Street, Carson City, NV 89701
(gott@ag.nv.gov)

by electronic mail and U.S. Mail, postage prepaid. Plaintiff will preserve metadata and timestamps to ensure docket integrity.

/s/ Andy Michael Thompson
Plaintiff, Pro Se

Andy Michael Thompson

[REDACTED]
Plaintiff, Pro Se

FILED	RECEIVED
ENTERED	SERVED ON
COUNSEL/PARTIES OF RECORD	
OCT 22 2025	
CLERK US DISTRICT COURT	
DISTRICT OF NEVADA	
BY: _____	DEPUTY

[Signature]

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Andy Michael Thompson, Plaintiff Pro Se

v.

Nevada Secretary of State, Defendant.

Case No. 2:25-cv-01284-CDS-EJY

**[PROPOSED] ORDER VACATING ORDER TO SHOW CAUSE AND
CONFIRMING JURISDICTION**

Upon careful consideration of Plaintiff's Response to the Court's Order to Show Cause Why Action Should Not Be Dismissed for Lack of Standing, the accompanying exhibits, and the entire record, the Court finds and concludes:

1. Plaintiff has established Article III and statutory standing by demonstrating:
 - (a) a concrete and particularized injury from Defendant's admitted destruction of 2024 election records, violating 52 U.S.C. § 20701 and NRS 293.391(1); (b) direct traceability to the Secretary of State's authorization under NRS 293B.1045(6); and (c) redressability through declaratory and injunctive relief.

2. This action presents a live controversy of exceptional public importance, capable of repetition yet evading review, given the 22-month retention period and Defendant's ongoing control over federal and state election administration functions.

Accordingly,

IT IS HEREBY ORDERED that the Court's *Order to Show Cause Why Action Should Not Be Dismissed for Lack of Standing*, dated October 6, 2025, is **VACATED**.

IT IS FURTHER ORDERED that this Court retains jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343, 52 U.S.C. § 20701, and NRS 293.391(1).

IT IS FURTHER ORDERED that this case shall proceed to adjudication on the merits of Plaintiff's claims.

DATED this ____ day of _____, 2025.

BY THE COURT:

Hon. Cristina D. Silva

United States District Judge