

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2
3
4 **ANDY MICHAEL THOMPSON**

5 Appellant

6
7 **v.**

8 **NEVADA SECRETARY OF STATE**

9 Respondent

Supreme Court No. **90846**

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15 **Appeal from the Eighth Judicial District Court**

16 **District Court Case No. A-24-906377-C**

17 **Department 29**

18 **Honorable Jacob A. Reynolds, District Judge**

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21 **APPELLANT'S OPENING BRIEF**

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25 **Filed by:**

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DISCLOSURE STATEMENT

Pursuant to NRAP 26.1, Appellant Andy Thompson, an individual,
declares that he has no parent corporations, subsidiaries, or affiliates.

ROUTING STATEMENT

1. Retention Under NRAP 17(a)(11): Election Question of Statewide Significance

This appeal is presumptively retained by the Supreme Court of Nevada because it “involves ballot or election questions” within the meaning of NRAP 17(a)(11). The case challenges the legality of Nevada’s election administration and the District Court’s interpretation of NRS 293.042, which defines an election contest.

2. Question of First Impression: The Misreading of NRS 293.042

The District Court adopted a construction of NRS 293.042 that excludes citizens from election contests unless they name a candidate-defendant. This interpretation conflicts with the statutory text, legislative purpose, and controlling constitutional guarantees.

1 No Nevada appellate decision has previously addressed whether
2 NRS 293.042 restricts contest standing so narrowly as to preclude
3 structural oversight of election integrity. This presents a pure
4 question of law and a matter of first impression, reserved to the
5 Supreme Court under NRAP 17(a)(12).

6 **3. Constitutional Dimension: Guarantee Clause and Republican** 7 **Form of Government**

8 Appellant asserts that the State's interpretation and administration
9 of its election system, opaque data handling, electronic tabulation
10 without auditability, and refusal to preserve forensic records,
11 undermine the republican form of government guaranteed by Article
12 IV, § 4 of the U.S. Constitution.

13
14 This case therefore transcends statutory construction and implicates
15 Nevada's constitutional duty to maintain transparent, accountable
16 elections under Article 1, §§ 8–9 of the Nevada Constitution.

17 **4. Uniform Statewide Application Required**

18 The issues presented affect all counties and future electoral cycles.
19 Only the Supreme Court of Nevada can issue a uniform,

authoritative interpretation of NRS 293.042 and clarify the State’s obligations to preserve and produce election records under NRS Chapters 239, 293, and 293B.

5. Retention Proper Under NRAP 17(a)(11) and (a)(12)

Because this appeal (1) involves an election question of statewide importance, (2) presents constitutional and statutory issues of first impression, and (3) requires uniform resolution by the State’s highest court, it is properly retained by the Supreme Court of Nevada pursuant to NRAP 17(a)(11) and (a)(12).

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1 States Constitution (Art. IV, § 4) and due-process protections. Because
2 the district court's ruling affects the administration and legal oversight
3 of statewide elections, review by this Court is proper and necessary.

4
5 This Court's review is required to correct errors of law and to vindicate
6 the electorate's statutory and constitutional rights.

7 8 **STATEMENT OF ISSUES**

9 **1.** Whether the district court committed legal error by adopting the
10 Respondent's misreading of NRS 293.042, thereby denying
11 Appellant, an elector expressly authorized by statute, the right to
12 contest the validity of Ballot Questions 3 and 6, in violation of the
13 Guarantee Clause and the Due Process Clause.

14 **2.** Whether the district court erred by importing NRCP 19 joinder
15 requirements to a statutory election contest under NRS 293.042,
16 contrary to the statute's independent grant of voter standing and
17 contrary to legislative intent.

18 **3.** Whether the district court's wholesale adoption of Respondent's
19 erroneous statutory construction and avoidance of the merits

1 constitutes an abuse of discretion, evidencing bias and prejudicing
2 Appellant's ability to amend and prove fraud.

3 4. Whether the district court misapplied *Beadles v. Rodriguez*, No.
4 87683, 2024 WL 2200590 (Nev. May 15, 2024), by extending its
5 reasoning beyond its facts to bar a voter challenge authorized by
6 NRS 293.042.

7 5. Whether the district court's interpretation produces an absurd
8 result, nullifying NRS 293.042, extinguishing all voter enforcement
9 of election integrity, and thereby repudiating the republican form of
10 government guaranteed by Article IV, Section 4 of the United States
11 Constitution.

12 6. Whether the district court's dismissal, issued despite notice of
13 imminent data overwriting, facilitated or acquiesced in the
14 destruction of election evidence in violation of 52 U.S.C. § 20701 and
15 Nevada's own record-retention statutes, thereby prejudicing the
16 record on appeal.

17 7. Whether the district court's declaration that ballot questions are
18 unchallengeable by the electorate operates as a de facto abrogation of

- 1 the Guarantee Clause and a judicial endorsement of non-republican
- 2 governance.

1 **STATEMENT OF THE CASE**

2 This appeal challenges the district court’s June 18, 2025, dismissal of
3 Appellant Andy Michael Thompson’s NRS 293.410 ballot question
4 contest, alleging fraud and maladministration in the 2024 Nevada
5 General Election, including Ballot Questions 3 and 6 amending the
6 Nevada Constitution (Dismissal Order, pp. 1–10; Case No. A-24-906377-
7 C).

8
9 As a registered voter (Voter Status Declaration), Appellant filed in
10 Clark County supported by evidence of a 26,902-ballot decrement, a
11 41,489-ballot increase with 96% undervotes and evidence of a corrupted
12 Cast Vote Record used in certifying the 2024 General Election (Exhibits
13 1–3). Service was resolved on May 1, 2025 (Transcript, 5/1/25).

14
15 The district court dismissed for lack of standing, misreading NRS
16 293.042 to require compliance with NRS 293.407 and NRCP 19
17 (DDismissal Order, pp. 7–9). The court further required joinder of
18 proponents and county clerks (pp. 7–8), denied leave to amend (pp. 4–5),
19 and avoided the merits while referencing service as a ground of

1 prejudice (pp. 1–2). The dismissal facilitated data destruction by
2 foreclosing judicial supervision of election records despite repeated
3 preservation motions (Order to Vacate).

4
5 Notwithstanding multiple preservation requests and expert
6 declarations forecasting spoliation through updates without efforts to
7 preserve (Parikh; Gould, Motion to Preserve, January 30, 2025), the
8 State maintained the equivocation of retention and preservation,
9 signaling deliberate obfuscation and threatening record integrity,
10 (Opposition to Order to Preserve, April 8, 2025, p. 2).

11
12 The district court’s ruling that ballot questions are unchallengeable
13 permits electoral manipulation to escape judicial review, violating the
14 Guarantee Clause (U.S. Const. art. IV, § 4) and the Due Process Clause
15 (U.S. Const. amend. XIV, § 1). By nullifying NRS 293.042’s voter
16 enforcement authority, the decision effectively excludes the electorate
17 from republican participation and undermines the constitutional
18 structure it was bound to protect.

Appellant seeks reversal, remand, and a declarative directive ensuring forensic data preservation and censure of spoliation consistent with 52 U.S.C. § 20701 and Nevada’s public records obligations.

STATEMENT OF FACTS

1. Appellant Andy Michael Thompson, a registered Nevada voter (Voter Status Declaration), filed a timely NRS 293.410 contest in Clark County challenging the validity of the 2024 General Election, including Ballot Questions 3 and 6 amending the Nevada Constitution (Case No. A-24-906377-C).

2. Evidence submitted with the Complaint and subsequent motions identified three outcome-determinative anomalies in the Secretary of State’s published election data (Exhibits 1–3):

- a. A loss of 26,902 ballots two days after the election;
- b. A single batch of 41,489 ballots including 39,935 undervotes for presidential candidates Harris and Trump; and
- c. Algorithmic manipulation of hundreds of thousands of ballots within the Cast Vote Record confirmed by independent experts.

1 **3.** Service issues were resolved on May 1, 2025 (Transcript, 5/1/25),
2 establishing full jurisdiction and notice to all parties.

3 **4.** On June 18, 2025, the district court entered its Dismissal Order
4 holding that Appellant lacked standing by interpreting NRS 293.042 as
5 dependent upon NRS 293.407 and NRCP 19 joinder. The court denied
6 amendment (Order, pp. 4–5) and vacated scheduled hearings,
7 foreclosing evidentiary presentation.

8 **5.** Appellant’s Motion to Preserve Forensic Election Records was
9 denied without factual findings, despite record evidence of ongoing risk
10 of data destruction.

11 **6.** Defense filings confirmed only general “retention” of records under
12 public-records obligations rather than forensic preservation, omitting
13 any explicit denial of spoliation. This semantic shift from “preserve” to
14 “retain” supports a reasonable inference of destruction or imminent
15 overwriting.

16 **7.** The cumulative record shows that the district court’s
17 misinterpretation of NRS 293.042 and denial of preservation
18 collectively enabled the disappearance or corruption of election data
19 necessary to adjudicate fraud claims. These actions converted a

1 statutory election contest into a denial of access to evidence, nullifying
2 the republican function of electoral oversight secured by Article IV,
3 Section 4 of the United States Constitution.

4 **8.** Prior dismissal, Appellant warned throughout the case that denial of
5 preservation would permit irreversible overwriting of 2024 election data,
6 extinguishing the evidentiary truth necessary to adjudicate the contest.
7 Those forecasts were repeatedly supported by expert declarations and
8 accompanying exhibits, and they placed the court and Defendant on clear
9 notice that refusal to preserve records would operate as suppression of
10 material evidence, implicating the constitutional concerns later addressed
11 in this Brief.

12 13 **SUMMARY OF ARGUMENT**

14 The **misreading of NRS 293.042** by the district court **nullified voter**
15 **standing** and **left unremedied violations** that strike at the
16 foundation of republican governance. By collapsing a clear statutory
17 right into a candidate-only framework, the court foreclosed review of
18 fraudulent constitutional amendments and extinguished the electorate's
19 capacity to enforce legality within the ballot process. These errors are
20 not technical, they are **structural violations** that **inflict personal**

1 **injury** by distorting the lawful framework of government. **When a**
2 **state** judiciary **withholds evidence** essential to adjudication, the
3 resulting **suppression severs the republican form of**
4 **government** that the Constitution guarantees. This case therefore
5 presents more than an election dispute; it presents the
6 question **whether a state court may**, consistent with the Guarantee
7 clause, **abolish its own constitution** by denying citizens the means to
8 defend it.

9
10 The district court's dismissal rests on a fundamental misreading of NRS
11 293.042 that nullifies the statute's plain grant of standing to any
12 registered voter. By collapsing NRS 293.042 into NRS 293.407 and
13 NRCP 19, the court eliminated the only statutory pathway permitting
14 the electorate to contest fraud in ballot questions, directly violating the
15 Guarantee Clause and the Due Process Clause.

16
17 The court compounded this error by imposing NRCP 19 joinder
18 obligations upon a voter who, under NRS 293.042, proceeds
19 independently of candidate alignment. This procedural distortion

1 contravenes the text and purpose of Nevada’s election-contest
2 framework and extinguishes statutory voter oversight.

3
4 The court’s denial of amendment and avoidance of the merits
5 demonstrate bias and abuse of discretion, denying Appellant the
6 procedural fairness essential to adjudicating election fraud. Its reliance
7 on *Beadles v. Rodriguez*, No. 87683 (Nev. May 15, 2024), was misplaced,
8 as *Beadles* affirms, rather than denies, the right of a qualified voter to
9 challenge the validity of an election outcome.

10
11 These compounded errors produced an absurd result: NRS 293.042,
12 designed to enable voter challenges, was judicially rewritten to prohibit
13 them. The consequence is the complete collapse of electoral
14 accountability within the state, in violation of Nevada’s statutory design
15 and the United States Constitution.

16
17 Post-dismissal, the Secretary of State authorized Dominion Voting
18 Systems updates that overwrote 2024 election data. The district court’s
19 refusal to preserve forensic records, coupled with these updates,

1 violated 52 U.S.C. § 20701 and obstructed the evidentiary basis for
2 Appellant's claims. The district court's facilitation of spoliation
3 transformed a statutory violation into a structural constitutional injury
4 under *Bond v. United States* and the evidentiary deprivation
5 condemned in *Brady v. Maryland*.

6
7 Finally, by declaring ballot questions unchallengeable, the court
8 sanctioned an electoral regime in which constitutional amendments
9 may be fraudulently certified without remedy. This result is an affront
10 to the republican form of government guaranteed by Article IV, Section
11 4, and constitutes a structural Due Process violation. The dismissal
12 effectively secedes Nevada from the union of republican states. A
13 government whose elections are neither free nor fair cannot, by
14 definition, be republican.

15
16 Reversal is demanded. The judgment cannot stand under the
17 Constitution, Nevada law, or the doctrines that preserve the integrity of
18 the republic.

STANDARDS OF REVIEW

Arguments I, II, IV, V, and VII present pure questions of law concerning statutory interpretation, standing, and constitutional compliance. These are reviewed de novo, without deference to the district court's conclusions. *Young v. Nev. Gaming Control Bd.*, 136 Nev. 584, 587, 473 P.3d 1034 (2020).

Argument III concerns the denial of leave to amend and allegations of judicial bias. These issues are reviewed for abuse of discretion. *Holcomb v. Ga. Pac., LLC*, 128 Nev. 34, 289 P.3d 188 (2012).

Argument VI addresses spoliation and the preservation of election records, reviewed for abuse of discretion under *Bass v. Davis*, 137 Nev. 708, 499 P.3d 1211 (2021).

Because the district court's errors rest on misinterpretations of controlling statutes and constitutional provisions, this appeal proceeds under de novo review, requiring independent determination by this Court.

ARGUMENT

I. NRS 293.042 — Misreading the Law Denies Standing

The district court’s dismissal rests on a misreading of NRS 293.042 that strips registered voters of the statute’s plainly granted authority to challenge ballot questions. That legal error is dispositive and reversible on de novo review.

1. Textual baseline.

NRS 293.042 defines a “contest” in two distinct alternatives: (1) a candidate-versus-candidate adversary proceeding; or (2) “in certain cases, any registered voter of the appropriate political subdivision, for the purpose of determining the validity of an election.” The statute’s disjunctive structure, the explicit “or” separating the two clauses, demonstrates the Legislature’s intent to unambiguously distinguish between contests of candidate elections and contests of questions. A strict, ordinary-text reading thus confers standing on a registered voter to challenge an election question when the statutory conditions for a question-contest are met.

1 **2. The district court’s error.**

2 Rather than apply the statute as written, the district court folded
3 the second clause into the candidate-contest framework and
4 required compliance with NRS 293.407’s candidate-focused
5 elements and NRCP 19 joinder mechanics. That construction
6 effectively collapses the voter-contest pathway into the candidate
7 pathway and imposes prerequisites the statute does not demand.
8 The result is not a permissible narrowing by construction; it is
9 judicial nullification of statutory text.

10 **3. Why the plain reading controls.**

11 When statutory language is clear and unambiguous, the text is
12 controlling. See *Stumpf v. Lau*, 108 Nev. 215 (1992) (courts must
13 give effect to plain statutory language). The phrase “in certain
14 cases” signals limited but real instances where a voter, not a
15 candidate, may pursue a contest; the district court’s approach
16 excludes that clause from the statute. Under basic rules of
17 statutory construction, that is improper.

18 **4. Article-by-article application to this case.**

- 19 • Plaintiff is a registered voter who timely asserted a contest

1 under the statutory structure applicable to ballot questions (NRS
2 293.410). The complaint and record invoked the statutory right to
3 challenge a question's validity; the pleadings repeatedly cited NRS
4 293.410 and related provisions.

5 • The operative statutory test for a voter-contest does not require
6 naming a candidate or treating a proponent as if the proponent
7 were a candidate. The district court's insistence otherwise
8 substitutes judicially invented requirements for the Legislature's
9 text.

10 • The court's adoption of the Attorney General's partial reading
11 introduced the precise error the statute forbids: grafting
12 candidate-only requisites onto the voter remedy.

13 **5. Article III-type standing analogues are met under**
14 **controlling precedent.**

15 Even viewed through the federal standing lens articulated
16 in *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992), Appellant
17 satisfies the three-prong test: (1) a concrete, particularized
18 informational and procedural **injury** (reasonable doubt as to
19 outcome and denial of access to the records needed to resolve that

1 doubt, cf. NRS 293.410(f)); (2) **traceability** to state actors (the
2 Secretary is the chief election officer whose conduct and
3 certification are central to the injury, see NRS 293.124; NRS
4 293B.1045(6)); and (3) **redressability** through statutory and
5 equitable relief (the district court may order access/preservation
6 and other remedies in the contest context, see NRS 293.391(5)).
7 The district court's procedural bar did not negate those elements,
8 it misapplied statutory prerequisites instead.

9 **6. Precedent and doctrine support reversal.**

10 Nevada law disfavors procedural construction that extinguishes
11 statutory rights, and courts resolve pro se filings liberally where
12 the statutory right is apparent. *Haines v. Kerner*, *Rodriguez v.*
13 *Fiesta Palms*, and related authorities counsel that pro se
14 pleadings asserting a clear statutory remedy should be given their
15 statutory force rather than precluded by hypertechnical readings
16 of rules. The district court's contrary approach here, adopting an
17 incomplete interpretive premise supplied by the opposing party,
18 enabled a pleading defect to become a merits denial.

1 When a court's ruling rests entirely upon an erroneous legal
2 premise supplied by one party, the judgment falls with that
3 premise. The district court's adoption of the Attorney General's
4 incomplete reading of NRS 293.042 is such a premise.

5 **7. Relief required.**

6 Because the district court's dismissal turns on a legal
7 misinterpretation of NRS 293.042, this Court should reverse, hold
8 that Appellant had standing to pursue a contest of the ballot
9 questions, and remand for adjudication on the merits (or, at
10 minimum, for limited proceedings to permit the contest
11 framework to operate under the statute as written).

12
13 This error, reviewed de novo, demands reversal.

14
15 **II. NRCP 19 — Joinder Error Denies Standing (De Novo)**

16 The district court's imposition of NRCP 19 joinder requirements, a
17 consequence of misreading, is a flagrant violation of NRS 293.042,
18 erecting an unlawful barrier to voter standing (Dismissal Order). NRCP
19 19 mandates joinder of indispensable parties, but NRS 293.042 allows

1 voters to contest elections independently because statute confers
2 standing without undue restrictions (Nev. Const. art II, § 1A(11); *Young*
3 *v. Nev. Gaming Control Bd.*, 136 Nev. 584, 587 (2020)).

4
5 Appellant's standing under *Lujan v. Defenders of Wildlife*, 504 U.S. 555,
6 560–61 (1992), is established by his voter status and injury from fraud
7 in Ballot Questions 3 and 6. Naming the Nevada Secretary of State,
8 responsible for elections (NRS 293.124; NRS 293B.1045(6)), suffices, as
9 the maladministration and fraud (the SOS-reported 26,902-ballot
10 decrement, 39,935 potentially fraudulent ballots, and Secretary-utilized
11 manipulated Cast Vote Record) directly implicates state oversight and
12 demonstrates state accountability.

13
14 The court's joinder requirement imposes an unconstitutional burden,
15 nullifying NRS 293.042 and undermining the Guarantee Clause's
16 promise of a republican government (U.S. Const. art. IV, § 4). The Due
17 Process Clause (U.S. Const. amend. XIV, § 1) protects voters' right to
18 challenge elections without procedural obstacles.

1 This error, reviewed de novo, demands reversal.

2

3 **Argument III: Merits Avoidance, Judicial Bias, and Pro Se**
4 **Curative Failure**

5 The district court’s refusal to reach the merits, after declaring it “wanted to pursue
6 the case on the merits” (Dismissal Order p. 5), reveals bias through a pattern of
7 prejudicial acts and inconsistent reasoning:

- 8 • Mischaracterizing Plaintiff’s Emergency Motion for Reconsideration as a “threat”
9 (id. p. 5);
- 10 • Adopting Defendant’s arguments without independent statutory analysis;
- 11 • Sensationalizing a minor typographical error;
- 12 • Imposing responsibility for a court-portal malfunction on Plaintiff; and
- 13 • Delaying proceedings while diminishing Plaintiff’s First Amendment rights.

14

15 Plaintiff objected to the “threat” narrative as a gross distortion of his lawful intent
16 to preserve § 1983 claims for judicial violations (Transcript 5/1/25 pp. 13–14: “so
17 how did I grossly mischaracterize that? It is not a threat”). That statement was
18 constitutionally protected petitioning (U.S. Const. amend. I; Nev. Const. art. I, §
19 10). Recasting it as a threat betrayed predisposition inconsistent with neutrality.

1 The court adopted Defendant’s early argument that Plaintiff must name a
2 candidate. In good faith, Plaintiff attempted to comply later resulting in an
3 inadvertently cited NRS 293.407 instead of 293.410, a harmless typographical slip
4 immediately corrected. Yet the court amplified this slip as substantive (Dismissal
5 Order pp. 3–4), contrary to the leniency owed pro se litigants (*Rodriguez v. Fiesta*
6 *Palms*, 134 Nev. 654, 659, 428 P.3d 255 (2018); *Haines v. Kerner*, 404 U.S. 519
7 (1972)).

8
9 The supposed “service issue” arose not from neglect but from a malfunction in the
10 court’s electronic filing portal, which on the deadline day accepted the Second
11 Amended Complaint as “filed” but prevented Plaintiff to process the “serve”
12 function or generate a certificate of service. At the March 25 hearing, Plaintiff
13 explained the malfunction, but the court—rather than instructing its clerk to cure
14 the defect under **NRS 1.210(4)**—ordered Plaintiff to correct it personally and
15 treated the case as stalled until he did so. Plaintiff immediately filed a Motion for
16 Reconsideration, which the court itself set for the May 1 hearing. There, Plaintiff
17 acknowledged the court’s authority to address service matters and sought to
18 proceed. That good-faith acknowledgment was later exaggerated in the Dismissal
19 Order as full concession of fault.

1 Yet Nevada’s procedural framework already provided the cure the court refused to
2 use. **EDCR 8.03** mandates that “any nonconforming document filed by a self-
3 represented litigant shall be cured by the clerk.” Similarly, **NEFCR 9(b)(2)(a)**
4 directs that, “clerical deficiencies in an e-filed document by a pro se litigant be
5 corrected by the clerk to perfect filing and service.” The district court’s refusal to
6 invoke these mandatory curative provisions, despite knowing of the portal
7 malfunction, violated its duty to facilitate fair access and constitutes affirmative
8 prejudice. The **Third Amended Complaint**, timely filed by May 9, became
9 operative and remedied all earlier defects; nevertheless, the court continued to
10 attribute delay and fault to Plaintiff, reflecting resentment rather than neutrality.

11
12 At the same May 1 hearing, the court heard unrebutted expert declarations warning
13 that a forthcoming Dominion “trusted-build” update could erase election records.
14 Defense counsel confirmed advising the Secretary “not to push updates.”
15 Nevertheless, the court refused to enter a preservation order without a **\$10,000**
16 **bond**, shifting the burden and cost of preventing spoliation from the State to the
17 pro se party. That act magnified prejudice and distorted the structure of fairness the
18 judiciary is sworn to uphold.

1 This distortion is not a mere procedural lapse; it is the abuse of discretion itself. As
2 the Supreme Court recognized in *Bond v. United States*, 564 U.S. 211, 223 (2011),
3 structural violations inflict personal injury by corrupting the lawful order of
4 government. When a court withholds its remedial power from a self-represented
5 party in the face of known technical error and foreseeable evidence destruction, it
6 ceases to function as a neutral arbiter and becomes an instrument of exclusion.

7 The record further disproves the Dismissal Order’s claim that Plaintiff “did not file
8 by April 22” (p. 5); the May 1 hearing was expressly scheduled to reconsider the
9 oral order, not to enforce a deadline. Vacating the June 24 merits hearing after
10 promising to “reach the merits” compounded the appearance of partiality. See Nev.
11 Code Jud. Conduct R. 2.2; *Halverson v. Hardcastle*, 123 Nev. 245, 260 (2007).

12
13 Collectively, (mischaracterization, misallocation of fault, procedural obstruction,
14 and merit avoidance), these acts constitute abuse of discretion (*State v. Eighth Jud.*
15 *Dist. Ct.*, 116 Nev. 374, 380 (2000)). Nevada law favors resolution on the merits
16 (*Buzz Stew LLC v. City of N. Las Vegas*, 124 Nev. 224 (2008); *Holcomb v. Ga.*
17 *Pac.*, 128 Nev. 34 (2012)). Due process demands neutral adjudication and
18 meaningful opportunity to be heard (Nev. Const. art. I, § 8). Both were denied
19 here. Reversal and remand are required so the case may proceed to its merits, as
20 law and Constitution command.

**IV. Beadles Misapplication — Misidentifying Precedent to
Evade Jurisdiction**

The district court erred in relying on *Beadles v. Rodriguez*, No. 87683, 2024 WL 2200590, as a basis to constrict NRS 293.410 contests (Dismissal Order, p. 9). The court quoted *Beadles* for the proposition that Nevada Constitution article 2, § 1A(11) does not by itself create a free-standing right to contest elections. That principle, correctly stated, does not and cannot defeat a separately enacted statutory right. *Beadles* explicitly recognizes that constitutional language is actionable “as provided by law,” and thus points to the statutory mechanism (NRS Chapter 293) that governs election contests. Read together, *Beadles* and NRS 293.042 confirm that where the Legislature has provided a cause of action, including, in certain cases, for registered voters to contest questions, a voter may proceed under the statute.

The district court’s use of *Beadles* to collapse NRS 293.042 into the candidate-contest framework of NRS 293.407 is therefore a misapplication of precedent. NRS 293.042 contains two distinct branches: contests between candidates and contests concerning

1 questions, the latter affirmatively extending standing to “any registered
2 voter of the appropriate political subdivision, for the purpose of
3 determining the validity of an election.” The statutory disjunction is
4 plain on its face, the “or” separates candidate contests from question
5 contests, and *Beadles* does not negate that statutory text. To the
6 contrary, *Beadles* reinforces the constitutional/ statutory ordering:
7 Article 2, § 1A(11) supplies the constitutional backdrop, while NRS
8 293.042 supplies the statutory vehicle. The district court’s decision to
9 align with Defense misreading and graft candidate-contest
10 requirements (including NRCP 19 joinder implications) onto a voter’s
11 question contest thus rewrote the statute under the guise of *Beadles*.

12
13 Under controlling standing doctrine (*Lujan v. Defenders of Wildlife*, 504
14 U.S. 555 (1992)), Appellant satisfies the Article III / statutory standing
15 requirements: a concrete, particularized injury traceable to the
16 Secretary’s conduct and redressable by the court. *Beadles* does not alter
17 that analysis; it only explains that the constitutional clause alone is not
18 the exclusive source of a remedy. Where the Legislature has provided
19 one, *Beadles* points back to the statute, not away from it.

1 Because the district court misapplied *Beadles* to constrict the plain
2 terms of NRS 293.042, it committed legal error subject to de novo
3 review. Reversal is required so that the Court of Appeal (and ultimately
4 this Court) can apply *Beadles* and the statute together, rather than
5 allow it to be used as a sword to nullify express legislative authorization
6 for voter contests.

7 8 **V. Absurd Result and Remand Under Legislative Intent**

9 The district court's construction of NRS 293.042 yields an absurd result,
10 stripping Nevada voters of the very statutory standing the Legislature
11 granted to contest fraud in ballot questions. By collapsing NRS 293.042
12 into NRS 293.407 and imposing NRCP 19 joinder, the ruling nullifies
13 the statute's "in certain cases" clause and eradicates the sole
14 mechanism by which the electorate may safeguard the integrity of
15 constitutional amendments. Such judicial rewriting of the statute
16 exceeds the bounds of interpretation and enters the domain of
17 legislation, violating separation of powers and the Guarantee Clause of
18 the United States Constitution (U.S. Const. art. IV, § 4).

1 Law abhors absurdity. Courts are bound to construe statutes to avoid
2 interpretations that produce irrational or self-defeating results
3 (*Gallagher v. City of Las Vegas*, 114 Nev. 595, 599, 959 P.2d 519 (1998)).
4 Here, the district court’s interpretation disables statutory oversight of
5 the most powerful component of the ballot, the constitutional
6 amendment, effectively authorizing fraud without remedy and
7 collapsing the republican structure the statute was designed to protect.
8
9 Other state courts have refused such self-defeating constructions.
10 In *Unger v. Rosenblum*, 365 Or. 165, 442 P.3d 120, 125 (2019), the
11 Oregon Supreme Court held that “voters have standing to challenge
12 ballot measure certification when procedural irregularities harm their
13 electoral rights,” rejecting joinder barriers akin to NRCP 19.
14 Similarly, *Arizona Free Enterprise Club’s Freedom Club PAC v. Bennett*,
15 233 Ariz. 344, 312 P.3d 498, 502 (Ariz. App. 2013), affirmed that “voters
16 may contest ballot measures for fraud without naming non-voter
17 parties,” paralleling the independence granted under NRS 293.042.
18 These cases demonstrate a consistent constitutional principle: voter
19 standing is essential to preserve electoral legitimacy.

1 Unlike these jurisdictions, the Nevada district court’s decision renders
2 NRS 293.042’s “in certain cases” clause meaningless.

3
4 By equating ballot question proponents with candidates under NRS
5 293.407, it imposes obligations the statute does not contemplate and
6 extinguishes the very oversight the Legislature conferred. This
7 misinterpretation produces the ultimate absurdity, denying judicial
8 remedy for fraud in constitutional amendment elections, an outcome
9 irreconcilable with republican governance. *A government whose*
10 *elections are neither free nor fair cannot, by definition, be republican.*

11
12 Such error cannot stand. The district court’s construction violates both
13 statutory purpose and constitutional guarantee, warranting reversal
14 and correction at the appellate level.

15
16 Accordingly, the case must be remanded with instructions that the
17 district court (1) reinstate the election contest pursuant to NRS
18 293.410; (2) issue an order preserving all 2024 election data consistent
19 with 52 U.S.C. § 20701 and NRS 293.440; and (3) proceed on the merits

1 before an impartial tribunal. In the alternative, this Court
2 should declare that NRS 293.042 confers standing upon any registered
3 voter to contest ballot questions, and that any interpretation to the
4 contrary is reversible legal error.

5 6 **VI. Data Destruction, Spoliation, and Constitutional Injury**

7 Following dismissal, the Secretary of State authorized Dominion Voting
8 Systems to conduct software updates that overwrote 2024 election data,
9 including Cast Vote Records, configuration files, and adjudication logs
10 essential to verifying the integrity of Ballot Questions 3 and 6. Despite
11 Appellant's preservation requests and pending motions, the district
12 court failed to issue a preservation order or require forensic
13 preservation of electronic data. This omission violated both federal and
14 state law. This same pattern of discretionary refusal extended to
15 Appellant's repeated preservation motions. At the May 1 hearing, the
16 Court acknowledged Defense counsel's representation that she had
17 instructed the Secretary not to perform software updates on Dominion
18 systems but conditioned any formal preservation on a \$10,000 bond.
19 That decision disregarded Appellant's expert-supported evidence that

1 the “trusted build” update process destroys electronic election records,
2 confirming the Court’s awareness of foreseeable spoliation and its
3 unwillingness to prevent it.

4
5 Under 52 U.S.C. § 20701, election officers are required to “retain and
6 preserve for twenty-two months” all records related to federal elections,
7 including “papers, records, and materials” generated by voting systems.
8 The Secretary’s post-dismissal authorization of data overwrites directly
9 contravened this statutory mandate. The district court’s failure to act,
10 despite clear notice of potential destruction, constitutes spoliation
11 under *Bass-Davis v. Davis*, 137 Nev. 708, 499 P.3d 1211 (2021), which
12 holds that a party’s duty to preserve evidence arises when litigation is
13 reasonably foreseeable: in this case, litigation was known to be ongoing.

14
15 By allowing destruction of electronic evidence central to Appellant’s
16 fraud claims, the court effectively prevented adjudication on the merits
17 and shielded election misconduct from review. Such abdication
18 undermines due process and erodes public trust in the judiciary’s role
19 as guarantor of fair elections. See *Silvestri v. General Motors Corp.*, 271

1 F.3d 583, 590 (4th Cir. 2001) (“When critical evidence is lost, the
2 fairness of the adjudicative process is compromised.”).

3
4 The district court’s omission is not harmless. Exhibits 1–3
5 demonstrated measurable irregularities, including a 26,902-ballot
6 decrement and anomalous Cast Vote Record patterns consistent with
7 unauthorized alteration. Destruction of those digital logs underlying the
8 Exhibits eliminates the only objective record capable of confirming or
9 refuting these findings. The resulting prejudice is irreparable.

10
11 The combined effect of post-dismissal overwrites and the court’s refusal
12 to preserve evidence operates as constructive suppression of the
13 electorate’s means to test election integrity, functionally analogous to
14 the withholding of exculpatory evidence condemned in *Brady v.*
15 *Maryland*, 373 U.S. 83 (1963). Under *Bond v. United States*, 564 U.S.
16 211 (2011), structural violations of the constitutional order can inflict
17 personal injury by corrupting the mechanisms that make government
18 lawful and accountable. Here, the extinguishment of verification is both

1 a statutory spoliation and a structural constitutional injury that merits
2 judicial relief.

3
4 This error, reviewed under the abuse-of-discretion standard articulated
5 in *Bass-Davis*, requires reversal. The proper remedy is remand with
6 direction that all remaining election data and Dominion system records
7 be preserved under court supervision and that the matter proceed
8 before an impartial tribunal capable of evaluating forensic evidence in
9 compliance with federal retention law.

10
11 The spoliation of election evidence not only obstructed adjudication but
12 extinguished the record itself, the condition precedent of judicial review.
13 When the evidentiary record is destroyed, due process becomes illusory
14 and the constitutional order destabilizes. Such record deprivation is not
15 merely procedural error but structural injury, dissolving the means by
16 which a republican form of government sustains verification and
17 consent.

1 When the State resists access to and then destroys election records, it
2 assumes the posture of withholding exculpatory evidence, conduct long
3 recognized as incompatible with due process and with the State's role as
4 guardian of public trust. Such resistance and destruction invert the
5 presumption of transparency upon which electoral legitimacy depends.

6
7 As the Supreme Court recognized in *Bond*, structural constitutional
8 violations inflict personal injury by distorting the lawful order of
9 government itself. That principle applies here: the combined actions of
10 the State and the district court, permitting the destruction of election
11 records while foreclosing statutory review, eradicated the evidentiary
12 foundation of electoral accountability. Such deprivation is not merely
13 procedural error; it is the denial of both individual and structural due
14 process. The constitutional consequence of that deprivation is addressed
15 in Argument VII.

16 17 **VII. Guarantee Clause Violation and Structural Due Process** 18 **Collapse**

19 The district court's ruling that ballot questions cannot be challenged is

1 an extreme absurdity that sanctions the rigging of constitutional
2 amendments and effectuates Nevada’s de facto secession from the
3 Union of republican states by extinguishing the free and fair principles
4 of elections. This outcome directly violates the Guarantee Clause, which
5 commands that every state “shall have a Republican Form of
6 Government” (U.S. Const. art. IV, § 4; Dismissal Order, pp. 7–9).

7
8 A government whose elections are neither free nor fair cannot, by
9 definition, be republican. The essence of a republican form of
10 government is the accountability of public power to the electorate
11 through lawful, transparent, and contestable elections. When courts
12 foreclose those contests, the structure of republican governance
13 collapses into hands of unaccountable administration.

14
15 The May 1 colloquy confirms the State’s contemporaneous awareness of
16 update activity and the court’s decision posture. Defense counsel
17 represented that she had instructed the Secretary not to push updates,
18 thereby admitting that updates were contemplated and that the State
19 knew of the spoliation risk. The State’s refusal to provide the update

1 schedule, combined with the court's insistence on a bond before entering
2 preservation relief, demonstrates actual knowledge and a deliberate
3 choice to proceed without judicially supervised preservation. That
4 choice converts a statutory preservation duty into an optional
5 administrative act, and it deepens the structural injury addressed by
6 the Guarantee Clause argument.

7
8 When the State resists access to and then destroys election records, it
9 engages in conduct functionally equivalent to withholding exculpatory
10 evidence. The resulting distortion is not confined to the parties but
11 radiates through the constitutional order itself. As the Supreme Court
12 affirmed in *Bond v. United States*, 564 U.S. 211 (2011), structural
13 constitutional violations inflict personal injury by corrupting the lawful
14 framework of government. That principle squarely governs here: by
15 foreclosing judicial review of fraudulent amendments while permitting
16 destruction of the very records that could prove them, the State and
17 Judiciary together have displaced the rule of law with administrative
18 self-preservation. Such conduct constitutes structural injury to both the
19 citizen and the republic.

1 By declaring Ballot Questions 3 and 6 unchallengeable, the court has
2 insulated fraud from scrutiny. The record demonstrates a 26,902-ballot
3 decrement and a 41,489-ballot increase, with 96% undervotes, and
4 statistical improbabilities supported by expert statistical analysis done
5 for Exhibit 3. The Guarantee Clause and Due Process Clause require
6 accountable elections in which qualified voters, possessing standing
7 under *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992), can
8 challenge such irregularities (*Reynolds v. Sims*, 377 U.S. 533, 554–55
9 (1964); *Luther v. Borden*, 48 U.S. 1, 42 (1849)).

10
11 This ruling invites manipulation of Nevada’s Constitution itself, defying
12 the core republican principles reaffirmed in *Bush v. Gore*, 531 U.S. 98,
13 104–05 (2000), by abandoning free and fair principles. The district
14 court’s refusal to recognize voter standing for ballot questions destroys
15 electoral accountability, nullifying Nevada’s statutory structure (Order,
16 pp. 7–9) and placing its constitution beyond lawful challenge.

17
18 The Secretary’s failure to preserve 2024 election data, despite
19 Appellant’s multiple preservation requests and expert declarations

1 forecasting spoliation through updates without efforts to preserve
2 (Parikh; Gould), violated 52 U.S.C. § 20701 and its analogue (NRS
3 293.391(1)), which mandates retention of election records for 22 months.
4 The State’s equivocation of retention and preservation threatens record
5 integrity, reinforcing standing under *Lujan* and constituting an ongoing
6 Due Process violation (U.S. Const. amend. XIV, § 1).

7
8 During the May 1, 2025 hearing, the Court directly inquired whether
9 updates to the election systems were imminent after Appellant stated
10 that he had filed a public-records request to learn the planned update
11 schedule, one to which he never received a response. In that colloquy,
12 the State’s counsel, Ms. St. Jules, admitted that she had “asked her
13 client not to push out the updates” because of this case, thereby
14 confirming that such updates were, in fact, pending and known to pose
15 spoliation risk. This admission proves the State’s actual knowledge of
16 imminent data alteration and its voluntary decision to proceed without
17 judicial preservation orders. The State’s refusal to produce the
18 requested schedule compounded this concealment, eliminating

1 Appellant's ability to verify when overwriting occurred, until after
2 dismissal, and perfecting the spoliation Appellant had warned of.

3
4 As the Supreme Court held in *Bond v. United States*, 564 U.S. 211
5 (2011), individuals may invoke structural constitutional protections
6 when government action distorts the constitutional order itself; such
7 injury is personal, not abstract. The judicial refusal to enforce the
8 Guarantee Clause thus compounds a structural breach that
9 extinguishes the citizen's republican right to lawful elections.

10
11 This structural breach, reviewed de novo, demands reversal and
12 remand with direction to restore the operation of NRS 293.042, enforce
13 evidence preservation, and permit full merits adjudication consistent
14 with Nevada's republican obligations and federal constitutional
15 guarantees.

CONCLUSION

The district court's **misreading of NRS 293.042 nullified** the Legislature's express grant of **voter standing**, foreclosed review of constitutionally defective ballot measures, **and left unremedied** ongoing **violations** of 52 U.S.C. § 20701's record-preservation mandate.

As the Supreme Court recognized in *Bond v. United States*, 564 U.S. 211 (2011), structural **violations inflict personal injury** by distorting the lawful order of government. **When the State resists** access to and then destroys election records, and the judiciary forecloses review, the effect mirrors the **withholding** of exculpatory **evidence** condemned in *Brady v. Maryland*, 373 U.S. 83, 87 (1963). Such **suppression** denies the citizen access to the truth essential for justice and **severs** the evidentiary foundation by which **a republican form of government** verifies its legitimacy.

May a state court consistent with the Guarantee Clause, U.S. Const. art. IV, § 4, judicially **abolish** the electorate's statutory right to contest **its own constitution** and thereby produce a system neither free nor

1 fair? The Constitution forbids it. This Court must answer. Reversal and
2 remand are required to restore NRS 293.042, preserve the 2024 election
3 record, and affirm that Nevada remains a republic governed by law not
4 judicial convenience.

5
6 **Misreading of NRS 293.042 nullified voter standing and left**
7 **unremedied violations. Violations inflict personal injury when**
8 **the State resists, withholding evidence. Suppression severs a**
9 **republican form of government. May a state court abolish its**
10 **own constitution?**

11
12 **CERTIFICATE OF COMPLIANCE**

13 Pursuant to **NRAP 32(a)(4)–(7)**

14 I hereby certify that this brief complies with the formatting and length
15 requirements of the Nevada Rules of Appellate Procedure.

16 **1. Form and Typeface.**

17 This brief has been prepared in compliance with NRAP 32(a)(4)–
18 (6). It is produced in a proportionally spaced typeface using 14-

1 point Century Schoolbook font, with double-spaced text and one-
2 inch margins on all sides.

3 **2. Word Count.**

4 I certify that this brief contains approximately 6,200 words,
5 excluding the cover page, table of contents, table of authorities,
6 and certificate of service, consistent with the limitations of NRAP
7 32(a)(7)(A)(ii).

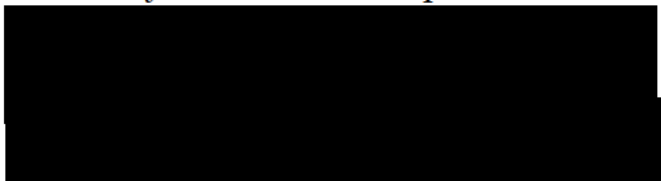
8 **3. Compliance Statement.**

9 I further certify that this brief has been prepared in good faith, in
10 conformity with applicable Nevada appellate rules and
11 the doctrinal principles of precision, record integrity, and
12 appellate vision governing its presentation.

Dated: **November 1, 2025**

Respectfully submitted,

/s/ Andy Michael Thompson

A large black rectangular redaction box covering the signature and name of the appellant.

Appellant, Pro Se

CERTIFICATE OF SERVICE

I, Andy Michael Thompson, certify that on November 6, 2025, I electronically filed the foregoing Appellant's Opening Brief with the Clerk of the Supreme Court of Nevada using the Court's eFlex electronic filing system. Pursuant to NRAP 25(b)(5)(A), the system automatically served all registered parties, including Gregory D. Ott, Chief Deputy Attorney General, Office of the Attorney General, 100 N. Carson Street, Carson City, NV 89701, on behalf of Respondent Nevada Secretary of State.

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Dated: November 1, 2025

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