IN THE SUPREME COURT OF THE STATE OF NEVADA

ANDY MICHAEL THOMPSON,

Appellant,

vs.

NEVADA SECRETARY OF STATE,

Respondents.

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CASE NO. 90846

Dist. Court No.
A-24-906377-C

RESPONDENT NEVADA SECRETARY OF STATE'S ANSWERING BRIEF

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JURISDICTIONAL STATEMENT

The district court entered its order granting the Secretary of State's Motion to Dismiss on June 18, 2025. Mr. Thompson timely filed his Notice of Appeal on June 24, 2025. *See* NRAP 4(a)(1). This Court has jurisdiction over this appeal because this is an appeal from a final order of the Eighth Judicial District Court based upon a Motion to Dismiss. *See* NRS 2.090.

ROUTING STATEMENT

This appeal is presumptively retained by the Supreme Court pursuant to NRAP 17(a)(2) as an issue involving a ballot question.

STATEMENT OF THE ISSUES

Whether the district court correctly applied NRS 293.042 in its order to dismiss Thompson's Third Amended Complaint.

STATEMENT OF THE CASE

This appeal arises from Petitioner Andy Thompson's challenge to the results of the 2024 general election. Two weeks after the election, Thompson filed a "Statement of Contest," purportedly filed according to NRS 293.410 and NRS 293.413, alleging various irregularities with the election. 1 Respondent's Appendix ("SOS") 1–3. After Thompson filed his Statement of Contest, the Secretary of State and Thompson engaged in motions practice and the litigation continued for some time. *See* 2 SOS 242–47. (setting forth the procedural history of the case).

Thompson's theory-of-the-case was ever-evolving; he would essentially reinvent his complaint every time the Secretary pointed out fundamental flaws in his case. *See* 2 SOS 245–46. The delays in litigation culminated in Thompson threatening to sue the district court for civil rights violations, under § 1983. *See* 2 SOS 246. Nevertheless, the district court allowed Thompson to amend his complaint time and again.

Eventually, Thompson filed a "Third Amended Complaint." ("TAC"). The complaint focused on the outcome of the statewide vote on Ballot Question 6, and once again alleged various irregularities relating to that vote. 1 SOS 40–42. Thompson expressly pleaded a cause of action pursuant to NRS 293.410, and only NRS 293.410. 1 SOS 42–43. Thompson also alleged that the Secretary had violated 52 U.S.C. § 20701, and alleged general violations of due process and equal protection. 1 SOS 43–44. As relevant to this appeal, Thompson's complaint made no mention of NRS 293.042.

The Secretary of State filed a motion to dismiss Thompson's TAC. *See* 1 SOS 111–29. The Secretary argued that Thompson had failed to comply with the provisions for contesting an election, had failed to join necessary parties to the litigation, and lacked standing to maintain the action. *See id.* Thompson opposed the Secretary's motion, arguing that he was bringing a "non-candidate contest," 1 SOS 207, something that Thompson created and does not exist under Nevada law. Thompson also argued, among other things, that he had standing to maintain his

action. 1 SOS 209–13. Once again, Thompson failed to make any mention whatsoever of NRS 293.042, the statute upon which Thompson now bases his entire appeal.

As the motion to dismiss was being briefed, Thompson filed a "Motion to Preserve Evidence," requesting that the district court order the Secretary "to preserve all 2020-2024 Nevada Primary and General Election records, including [Case Vote Records], voting system data, server logs, chain-of-custody records, adjudication logs, and related communications," as well as prohibit "any actions that could alter, delete, or overwrite these records, including but not limited to, software updates or system maintenance whether via physical device, wired or wireless connection." 1 SOS 46–53. The Secretary opposed the motion, pointing out that Thompson was actually requesting injunctive relief and that Thompson had not met his burden that such an injunction was warranted because, among other things, Thompson had no right to access the records he sought to have preserved. 1 SOS 130–60.

After a hearing, the district court granted the Secretary's motion to dismiss. *Thompson v. Nev. Sec'y of State*, No. A-24-906377-C (Dist. Ct. Clark. Cnty., Dep't 29, June 18, 2025); 2 SOS 242–53. The district court correctly explained that NRS 293.403 was the only statute under which Thompson could have brought a challenge via demanding a recount to the outcome of the vote on Question 6, and that Thompson had not complied with that statute. 2 SOS 247–48. The district court then ruled that "election contests" cannot be used to challenge the outcome of a

ballot question vote, 2 SOS 248, and that, even if such an election contest could be had, Thompson had failed to join necessary parties to the litigation, as required by Nev. R. Civ. P. 19, by failing to join the proponents of the ballot question and the registrars of voters for Nevada's various counties. 2 SOS 248. As to Thompson's request to preserve evidence, the district court ruled that access to such data was simply not permissible under the law. 2 SOS 249. Thompson timely appealed the district court's order.

SUMMARY OF THE ARGUMENT

The district court properly dismissed Appellant Andy Thompson's Third Amended Complaint because Nevada law does not permit ballot questions to be challenged through an election contest. Challenges to ballot questions are limited to recounts under NRS 293.403, which Thompson did not timely pursue. Instead, Thompson relied solely on NRS 293.407 and NRS 293.410, both statutes applying only to candidate-related election contests. His new reliance on appeal is based solely on the district court's alleged misinterpretation of NRS 293.042, which is waived as it was never raised below. Even if not waived, Thompson's allegations that NRS 293.042 expands election contests to include ballot questions is incorrect. Because Thompson failed to invoke his only available statutory remedy and otherwise asserted legally incognizable claims, this Court should affirm the district court's dismissal.

ARGUMENT

I. The Only Way to Challenge the Results of a Ballot Question is by Demanding a Recount Pursuant to NRS 293.403(2), Something Thompson Failed to do.

At issue on appeal is Thompson's challenge to the validity of Ballot Question 6. In his Opening Brief, Thompson argues that the definition of "contest" under NRS 293.042 applies broadly, under its second clause, to allow a voter to bring a challenge to any election-related issue, including those relating to ballot questions. AOB 10–11. By failing to raise this argument below, Thompson has waived it and this Court should not consider it. Regardless, should this Court wish to consider the merits of Thompson's argument, his interpretation is incorrect.

As an initial matter, Thompson has waived his NRS 293.042 argument on appeal. "A point not urged in the trial court . . . is deemed to have been waived and will not be considered on appeal." *Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) (internal citation omitted). Thompson failed to raise his arguments related to NRS 293.042 in the proceedings below. His complaint makes no mention of the statute; rather, Thompson specifically alleged a cause of action under NRS 293.410. 1 SOS 42–43. Thompson also never mentioned NRS 293.042 in his opposition to the Secretary's motion to dismiss. *See generally* 1 SOS 205–41.

* * *

Accordingly, Thompson has waived this argument on appeal, and this Court should decline to consider it.[1]

Even so, should this Court wish to consider Thompson's argument, the argument fails on the merits. NRS Chapter 293 governs elections and, like other statutory chapters, includes definitions that control how terms are used within the chapter. *See* NRS 293.010–.121 (containing definition terms-of-art applicable to NRS Chapter 293). Under Nevada law, "[a] statute's express definition of a term controls the construction of that term no matter where the term appears in the statute." *Williams v. Clark Cnty. Dist. Att'y*, 118 Nev. 473, 485, 50 P.3d 536, 544 (2002). Likewise, "[i]f the Legislature has independently defined any word or phrase contained within a statute, [that definition must be applied] wherever the Legislature intended it to apply." *Knickmeyer v. State ex. rel. Eighth Jud. Dist. Ct.*, 133 Nev. 675, 679, 408 P.3d 161, 166 (Ct. App. 2017). This Court has acknowledged that there are times statutory definitions can be more limiting than a

[1] Thompson also alleges the validity of Ballot Question 3. Because he did not challenge the validity of Ballot Question 3 in the proceeding before the district court, all arguments relating to Ballot Question 3 are waived. *See Old Aztec Mine, Inc.*, 97 Nev. at 52, 623 P.2d at 983 (concluding that "[a] point not urged in the trial court . . . is deemed to have been waived and will not be considered on appeal." (citation omitted)). To the extent this Court disagrees, all responses pertaining to Ballot Question 6 also apply to Ballot Question 3.

layperson's common understanding of the term. *See Clay v. Eight Jud. Dist. Ct.*, 129 Nev. 445, 456–57, 305 P.3d 898, 905–06 (2013) (determining that the definition of "physical injury" as set forth in NRS is technical and does not reflect a layperson's common understanding of the term 'physical injury.'). Notably, Nevada law provides that "omissions of subject matters from statutory provisions are presumed to have been intentional." *Dep't of Tax'n v. DaimlerChrysler Servs. N. Am., LLC*, 121 Nev. 541, 548, 119 P.3d 135, 139 (2005).

Here, the Legislature defined "contest" within NRS Chapter 293 as

> "an adversary proceeding between a candidate for a public office who has received the greatest number of votes and any other candidate for that office or, in certain cases, any registered voter of the appropriate political subdivision, for the purpose of determining the validity of an election."

NRS 293.042. This definition is more limited in its application than as used by Thompson in his Opening Brief. Thompson applies the word "contest" as a verb, thinking it to be used similarly to how it is interpreted and used from Webster's dictionary to mean "to make the subject of dispute, contention, or litigation." *Contest*, MERRIAM-WEBSTER.COM DICTIONARY, https://www.merriam-webster.com/dictionary/contest (last visited Dec. 30, 2025). But reading "contest" so broadly here would disregard the Legislature's express definition and undermine legislative intent.

NRS 293.042 limits not only the meaning of "contest," but also the parties to such a proceeding. One party must be a candidate who received the greatest number of votes. In other words, the declared winner of an election for office. The opposing party, or parties, may be either another candidate for that office "or, in certain cases, a registered voter of the appropriate political subdivision." NRS 293.042. The phrase "or, in certain cases, any registered voter" modifies who may oppose the winning candidate in an election contest but, importantly, does not expand the subject matter of contests beyond candidate elections.

Thompson contends that the Legislature's use of the word "or" between clauses in NRS 293.042 distinguishes between contests of candidates and contests of elections generally. AOB 10. Such reading is inconsistent with the statute's plain text. Rather than creating multiple categories of contests, NRS 293.042 is intended to narrowly specify the parties who can bring an election contest to challenge the election of a certain candidate.

Had the Legislature intended to include ballot questions in its definition of contests within NRS Chapter 293, it would have done so expressly. Indeed, the Legislature has referred to ballot questions elsewhere within NRS Chapter 293, including in other definitions. For example, NRS 293.119 defines "undervote" to mean "a ballot that has been cast by a voter but shows no legally valid selection for any candidate for a particular office or for a ballot question." This distinction

demonstrates that the Legislature intentionally differentiates between candidates and ballot questions when regulating elections. *Cf. Pub. Emps.' Ret. Sys. v. L. V. Police Managers & Supervisors Ass'n*, 141 Nev. Adv. Op. 55, 579 P.3d 551, 555 (2025) ("[W]hen the legislature includes particular language in one section of a statute but omits it in another, courts should presume the legislature intended a difference in meaning . . . This court gives meaning to distinctions in terms within a statute.") (internal quotation marks and citations omitted).

Read as a whole, NRS Chapter 293 reflects a legislative intent to limit "contests" to proceedings involving candidate elections. Challenges pertaining to ballot questions do not fall within the statutory definition of a "contest."

In the full context of NRS Chapter 293, such a distinction between a candidate and a ballot question makes sense, especially as the question of challenges comes into play. Specifically, NRS 293.403(2), as mentioned in the district court's order, provides a vehicle for challenges to ballot questions by indicating, in pertinent part, that:

> "[a]ny voter at an election may demand and receive a recount of the vote for a ballot question if, within 3 working days after the canvass of the vote and the certification of the county clerk or city clerk of the abstract of votes, the voter:
> (a) Files in writing a demand with:
> (1) The Secretary of State, if the demand is for a recount of a ballot question affecting more than one county; or
> (2) The county or city clerk who will conduct the recount, if the demand is for a recount of a ballot question affecting only one county or city; and
> (b) Deposits in advance the estimated costs of the recount with the person to whom the demand was made."

As explicitly designated by NRS 293.403(2), a challenge to a ballot question is limited to a recount which must be demanded within 3 working days after the canvass of the vote. To demand a recount is not the same as "contesting" the election of a candidate per NRS 293.042. Notably, NRS 293.403(1) also indicates that candidates may demand and receive a recount of the vote. This indicates, yet again, that the Legislature intended to differentiate candidates and ballot questions.

Likewise, the Legislature has designated an appropriate vehicle for contesting a candidate election under NRS 293.407 and NRS 293.410. In pertinent part, NRS 293.407(1) provides that "[a] candidate at any election, or any registered voter of the appropriate political subdivision, may contest the election of any candidate." NRS 293.410(2) provides the grounds for which an election may be contested, including the statute which allows for arguments indicating possible errors in the votes cast or counted. *See* NRS 293.410(2)(c)(1)–(3). To emphasize, NRS 293.407 and NRS 293.410 are applicable only to contests, and contests themselves, as per the definition of the Legislature's limited definition, are applicable only to candidates.

Despite this statutory structure, Thompson alleges here that he timely and properly brought his contention challenging the validity of Ballot Question 6 pursuant to NRS 293.410. AOB 3. But this argument lacks merit on its face because to challenge the validity of ballot questions as ballot questions themselves cannot be a "contest" within the structure of NRS Chapter 293. As the appeal here is limited

to Thompson's challenges to Ballot Question 6, the only appropriate vehicle per the structure of NRS Chapter 293 would be for Thompson to have timely demanded a recount pursuant to NRS 293.403. A contest under NRS 293.410 cannot apply to ballot questions, and there is no vehicle for relief which can be properly granted to Thompson through this appeal.

The district court correctly recognized this distinction, noting that relief related to ballot questions exists only under NRS 293.403. 2 SOS 248. The district court further explained that "[r]aces between candidates (contestable under NRS 293.407–.410) are entirely different issues than a ballot question." 2 SOS 248. The Secretary of State agrees, and, because Thompson did not timely demand a recount pursuant to statute, respectfully requests this Court to affirm the district court's decision to dismiss Thompson's Third Amended Complaint.

II. The Remainder of Thompson's Claims Fail on the Merits.

If the Court agrees with this statutory analysis, Thompson's appeal fails on that basis alone. Should the Court disagree, however, the Secretary of State addresses Thompson's remaining arguments below.

A. The district court did not commit legal error by misreading NRS 293.042.

Thompson first contends that the district court's dismissal was based on the court's misreading of NRS 293.042, asserting that the court's conclusion "strips

registered voters of the statute's plainly granted authority to challenge ballot questions." AOB 10. Such an argument rests on a fundamental misunderstanding of voter standing within the statutory authority of NRS Chapter 293. Again, NRS 293.042 identifies the parties of a contest. It does not expand subject matter of contests beyond what has been expressly authorized per statute by the Legislature.

Contrary to Thompson's characterization, the district court's ruling was not based on a misreading of the statute. Rather, the district court appropriately clarified the statutory distinction as created by NRS 293.042 in how it applies to provisions involving contests. Thompson asserts that NRS 293.042 broadly grants authority to voters to bring contests regarding any piece of an election to which they may disagree. But statutory interpretation does not turn on dictionary definitions when the Legislature has supplied its own.

Though Thompson claims to have standing to bring such a contest under NRS 293.410, the district court did not err by interpreting the statutes per the definitions as established and set forth by the legislature. Thompson's disagreement with the district court's conclusions does not in itself create or establish legal error where there is none.

The district court's dismissal reflects a correct application of the statutes governing contests under NRS Chapter 293 by not broadening the scope beyond statutory bounds, and this Court should affirm.

B. The district court did not err by imposing Nev. R. Civ. P. 19 joinder requirements to Thompson's contention of Ballot Question 6.

Thompson next contends that the district court's "imposition of Nev. R. Civ. P. 19 joinder requirements . . . is a flagrant violation of NRS 293.042." AOB 14. Specifically, Thompson alleges that the district court's interpretation "erect[s] an unlawful barrier to voter standing." AOB 14. This issue as presented by Thompson again mischaracterizes the district court's ruling.

In its order dismissing Thompson's Third Amended Complaint, the district court made clear that "[r]aces between candidates (contestable under NRS 293.407–.420) are entirely different issues than a ballot question." 2 SOS 248. The district court agrees with the Secretary of State's statutory interpretation in determining that ballot questions are not "contests" per the definition of the phrase as applied and defined by the Legislature in NRS Chapter 293. That said, the district court determined that the only appropriate mechanism for challenging ballot questions exists within the structure of NRS 293.403 as a recount, not a contest. *See* 2 SOS 248.

Instead, in what can be interpreted as an attempt to give leniency to Thompson's claims, the district court examined Thompson's challenge to Ballot Question 6 under a similar structure as NRS 293.407 and NRS 293.410–statutes which only apply to candidate-specific election contests. This is the only time in its order the district court emphasizes the necessity of Nev. R. Civ. P. 19 joinder

requirements. Specifically, the district court determined that, if it were to construe Thompson's challenges under the structure of an election contest, then a "defendant" must be named. NRS 293.407(2)(b); *and see* NRS 293.410(2)(e). Per this comparison, the district court determined that the proponent of Ballot Question 6 would have been the most "appropriate 'Defendant' under NRS 293.407–.410." 2 SOS 248–49.

The district court's application of its comparison is important to this appeal as it most directly demonstrates the court's attempt to both provide leniency to Thompson as a pro se litigant while also maintaining statutory integrity. Rather than simply dismiss Thompson's claims on having been improperly raised based on NRS 293.403 interpretation alone, the district court instead provided a clear explanation to Thompson as to why his claims continue to fail even if a "contest" were to be construed broadly enough to include ballot questions. As a result, the district court mentions Nev. R. Civ. P. 19 joinder requirements solely to demonstrate that, even if Thompson's challenges were to be analyzed under an election contest structure, they would still fail because he did not name a proper "defendant," the proponent of Ballot Question 6.

In short, though Thompson contends the district court created an unconstitutional burden by analyzing Thompson's claims with a Nev. R. Civ. P. 19 joinder lens, such contention is incorrect. First and foremost, the district court is correct in determining that Thompson's challenges fail under NRS 293.403. But

second, even in trying to provide Thompson leniency by analyzing his challenges as election "contests," the district court did not err by requiring indispensable parties to be joined pursuant to Nev. R. Civ. P. 19.

C. The district court did not evidence bias and prejudice against Thompson in its Order Granting the Secretary of State's Motion to Dismiss.

Thompson next argues that the district court's order to dismiss revealed "bias through a pattern of prejudicial acts and inconsistent reasoning," including the district court: (1) mischaracterizing Thompson's Emergency Motion for Reconsideration as a threat; (2) adopting the Secretary's arguments without independent statutory analysis; (3) "sensationalizing a minor typographical error"; (4) imposing responsibility for an alleged "court-portal malfunction" on Thompson; and (5) delaying proceedings while diminishing Thompson's constitutional rights. AOB 16. These five acts, however, do not demonstrate prejudice against Thompson; rather, these acts demonstrate substantial effort from the district court to not only provide leniency to Thompson, but also to resolve Thompson's challenges.

First, Thompson's allegation that the district court mischaracterized Thompson's Emergency Motion for Reconsideration as a "threat" distorts both the district court's order and the minutes from the hearing on the Motion. During the hearing, Judge Reynolds and Thompson make the following exchange:

> **J. Reynolds**: "And your motion threatens me. It says: 'This motion serves not only as a request of reconsideration but also to put the Court on notice that further delays or disregard for clearly established legal duties may form the basis of a civil rights claim under 42 U.S.C., section 1983. Judges do not enjoy immunity when acting in clear absence of jurisdiction or where they knowingly deprive constitutional rights. Did you draft that?"
> **Thompson**: "Yes, Your Honor."
> **J. Reynolds**: "So do you think I have been the cause for delays in your case?"
> **Thompson**: "Yes. I believe that, in the last hearing, the sua sponte response was not appropriate given the fact, and perhaps the judge was not fully aware which I apprised him of in the hearing last time, that there was a written agreement for service between Defense Counsel and myself such that the requirements of Nev.R. Civ. P. 12 and specifically section H, they are waived.
> **J. Reynolds**: "So the issue is there is no certificate of service. So this is what's going to happen, Mr. Thompson: If – regardless of which side wins this case, it's going to be appealed."
> **Thompson**: "Correct."
> **J. Reynolds**: "Okay. There is nothing on the record. You have not put anything on the record showing that that prior motion to preserve records was served. And that's what I warned you about in January, and I told you to file a certificate of service, and it still wasn't done. So there – if this goes up on appeal, there is still nothing on the record showing that that was ever served. And you lose automatically, as a matter of law, if you don't have anything on the record showing it's served."

1 SOS 9–11. After several attempts from the district court to grant Thompson leniency in allowing him to amend his complaints, Thompson did accuse the district court of having been the cause for the delay in his proceeding and then threatened to file a civil rights complaint as a result. *See* 1 SOS 9–11. For the district court to have included this in its final order does not indicate bias; in fact, it indicates nearly

the opposite. The district court provided an avenue for Thompson to have his challenges heard, even going so far as to explain to Thompson why he required certain filings in an attempt to help him in his appeal. *See* 1 SOS 10–11. If the district court was evidencing bias, it would not have made the several attempts to assist Thompson as demonstrated below.

On appeal, Thompson also accuses the district court of having only adopted the Secretary's arguments without having conducted its own statutory analysis. *See* 2 SOS 247–50. To make such a claim disregards the entirety of the statutory analysis as conducted by the district court in its order. The district court merely reaching a conclusion in agreement with the Secretary's arguments does not in itself create a cause of action or indicate bias. *See Whitehead v. Nev. Comm'n on Jud. Discipline*, 110 Nev. 380, 427, 873 P.2d 946, 975 (1994) ("[J]udicial rulings alone *almost never* constitute a valid basis for a bias or partiality motion." (citation omitted)).

As to Thompson's argument that the district court sensationalized a "minor typographical error," such language, again, is an overstatement of the district court's order. Regardless of pro se litigants being owed leniency in their filings, Thompson's "harmless typographical slip" where he claims to have "inadvertently cited NRS 293.407 instead of NRS 293.410" does not change the district court's final ruling. AOB 17. In fact, whether Thompson had cited to either NRS 293.407 or NRS 293.410, his challenges still cannot be categorized as a "contest" pursuant

to NRS 293.042. As a result of not meeting the statutory definition, neither NRS 293.407 nor NRS 293.410 provide a proper vehicle for Thompson to receive relief related to his challenge to Ballot Question 6. While Thompson claims this was a harmless typing error, in effect, his error as amended would not change the result from the district court. The district court did not sensationalize an error, but rather provided significant leniency to Thompson by continuing to analyze a non-contest challenge from Thompson under a limited, election-contest specific statute despite a limited statutory definition.

In short, Thompson's claims on appeal that the district court exhibited judicial bias is unfounded, and this Court should affirm the district court's dismissal.

D. The district court did not misapply this Court's conclusions in Beadles v. Rodriguez.

Thompson next alleges that the district court's reliance on this Court's decision in *Beadles v. Rodriguez*, No. 87683, 2024 WL 2200590 (Nev. May 13, 2024) was incorrect insofar as the district court concluded that Nevada Constitution Article 2, § 1A(11) does not itself create a free-standing right to contest elections. AOB 20. Thompson contends that the district court used this Court's conclusion in *Beadles* to "collapse NRS 293.042 into the candidate-contest framework of NRS 293.407" which, according to Thompson is a "misapplication of precedent." AOB 20. Again, Thompson refers to the statutory definition of contest under NRS

293.042 as having created "two distinct branches: contests between candidates and contests concerning [ballot] questions." AOB 20–21.

Thompson's argument mischaracterizes the district court's ruling. The district court cited to *Beadles* only to confirm that this Court has previously "rejected the argument that Article 2, § 1A(11) [of the Nevada Constitution] creates a free-standing right to contest elections or compel official responses outside the procedures set forth in statute." 2 SOS 250. Notably, the district court referred to this statute merely to address the limitations of the reach of an election contest. Specifically, the district court clarified that, even if Thompson's challenges to the ballot questions were valid under NRS 293.410 as a "contest," this would still not permit him to have "wholesale access to the voting data that [Thompson] is seeking here." 2 SOS 250.

In *Beadles*, this Court concluded that Article 2, § 1A(11) of the Nevada Constitution permits a voter "to have complaints about elections resolved as provided by law." 2024 WL 2200590, at *2. The district court did not err in its application, and instead applied the conclusion of the Court correctly by indicating contests to elections are confined to the procedures set forth in statute. Ironically, Thompson's application of *Beadles* is functionally the same. In his opening brief, Thompson articulates that this Court in *Beadles* "explicitly recognizes that constitutional language is actionable 'as provided by law,'" then continues by

pointing to NRS Chapter 293 as the statutory mechanism to proscribe the law by which the language is actionable.

Where Thompson's interpretation falls short, however, is in his continued misinterpretation of NRS 293.042. As discussed above, NRS 293.042 does not create two distinct categories of contests, but rather delineates with specificity which parties are able to bring contests regarding candidate elections. As provided by law, per this Court's precedent in *Beadles* and the Nevada Constitution, the district court did not misidentify precedent and properly confined election contests to the procedures provided by law. As a result, this Court should affirm the district court's order dismissing Thompson's claims.

E. The district court's interpretation of NRS Chapter 293 does not produce an absurd result or extinguish all voter enforcement of election integrity.

Next, Thompson contends that the district court's interpretation of NRS 293.042 yields an absurd result. Specifically, Thompson contends that the district court's conclusion to "collaps[e] NRS 293.042 into NRS 293.407 and imposing Nev. R. Civ. P. 19 joinder . . . nullifies [NRS 293.042]'s 'in certain cases' clause and eradicates the sole mechanism by which the electorate may safeguard the integrity of constitutional amendments." AOB 22. This argument is both inadequately developed and substantively incorrect.

Of note, the issue as presented by Thompson is not cogently argued. Accordingly, this Court should not consider his claims. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330, 130 P.3d 1280, 1288 (2006) (concluding that Appellant's failure to cogently argue a claim on appeal, the claim needs not be considered by the Court). Rather, Thompson incorrectly engages with the text of NRS 293.042 by again representing that the district court incorrectly construed the statutory definition of "contest" into NRS 293.407. But Thompson fails to offer anything to support such a claim based on anything other than his own interpretation. There is no plain reading of NRS 293.042 that would indicate the district court should not have applied it to the text of NRS 293.407. To the contrary, the plain reading of both statutes indicates that the district court correctly applied the statutory definition of an election "contest" and properly identified the parameters governing election contests as provided by Nevada law.

Even if Thompson's claims had been cogently argued, they still fail on the merits. The district court did not "collapse" NRS 293.042 into NRS 293.407, nor did it nullify NRS 293.042's "in certain cases" language. Instead, the district court correctly recognized that NRS 293.042 does not independently create a right of action to be read in isolation with the rest of NRS Chapter 293.

As previously stated, the plain reading of NRS 293.042 limits the parties of an elections contest; it does not create an unlimited cause of action untethered from

Nevada's election contest framework within the rest of NRS Chapter 293. Additionally, NRS 293.042 does not prevent the application of Nevada Rules of Civil Procedure, specifically Nev. R. Civ. P. 19 joinder of indispensable parties. The district court applying Nev. R. Civ. P. 19 in its order by requiring the proponent of Ballot Question 6 to be joined as a party did not "eradicate" the provisions of NRS 293.042. Instead, the district court ensured that election contests brought under that statute proceedings in a manner consistent with fundamental process principles.

Thompson also asserts that NRS 293.042 is the "sole mechanism" by which the electorate may safeguard the integrity of elections. Such an assertion is demonstrably false. Nevada law provides multiple safeguards within NRS Chapter 293, as discussed above. The district court's order preserves those safeguards while respecting the Legislature's deliberate limitations on post-election litigation.

Thompson has neither shown that the district court's interpretation produces an absurd result nor identified any statutory conflict outside of his own interpretation. His argument rests on a mischaracterization of the district court's ruling and a misunderstanding of the election challenge framework under NRS Chapter 293, neither of which provide a basis for this Court to reverse the district court's order. Accordingly, this Court should affirm.

F. The district court's dismissal did not facilitate or acquiesce in the destruction of election evidence.

Thompson additionally argues that the district court, by dismissing Thompson's claims, "facilitated" or "acquiesced" in the destruction of election evidence in violation of 52 U.S.C. § 20701. AOB 25–26. From this premise, Thompson contends that, accordingly, the district court thereby abdicated the judiciary's role as a guarantor of fair elections. AOB 26. This argument misconstrues the district court's ruling based on a fundamental misunderstanding of the governing law.

Below, the district court correctly concluded that it "is cordoned off by law on what it is allowed to provide access to in any type of challenge." 2 SOS 250. Specifically, the district court reemphasizes in its order that, even if it were to review Thompson's contentions as an elections contest under NRS 293.410, Thompson's access to records would still be limited as provided by law. 2 SOS 250. Thus, the dismissal of Thompson's complaint neither authorized nor facilitated the destruction of election records.

To start, Thompson's reliance on 52 U.S.C. § 20701 is misplaced as the provisions of that statute do not reach his direct challenge to Ballot Question 6. Under the provisions of 52 U.S.C. § 20701, "[e]very officer of election shall retain and preserve, for a period of twenty-two months from the date of any general,

special, or primary election of which candidates for [federal elections] are voted for." Despite Thompson's contentions both below to the district court and on appeal here, 52 U.S.C. § 20701 simply does not apply because his challenge is not towards federal elections.

Regardless of Thompson's misapplication of 52 U.S.C. § 20701, the plain language of NRS 293.391, 293B.155, and 293B.170 confirms that a contestant's access to records is narrowly limited. *See Sierra Nev. Adm'rs v. Negriev*, 128 Nev. 478, 481, 285 P.3d 1056, 1058 (2012) ("We construe a plain and unambiguous statute according to its ordinary meaning.").

NRS 293.391 requires county clerks to seal and place specified records in a vault after the canvass of the votes by the boards of county commissioners. The records must be "preserved for at least 22 months," and "destroyed immediately after the preservation period." NRS 293.391(1). This is consistent with Nevada's record retention policy. *See* Nev. State Library, Archives & Public Records, Local Records Retention Schedule by Functional Section, Elections – R2020, at 129–36, *available at* https://nsla.nv.gov/local_government_records_services/local-government-records-retention-schedules-by-function.

The records that must be sealed and placed in a vault pursuant to NRS 293.391 include (1) voted ballots; (2) rejected ballots; (3) spoiled ballots; (4) challenge lists; (5) records printed on paper of voted ballots pursuant to NRS 293B.400; (6) reports

prepared pursuant to NRS 293.269937; (7) stubs of ballots used; (8) records of voted ballots that are maintained in electronic form; and (9) unused ballots. Each of these records are only available for inspection in election contests. *See* NRS 293.391(4)–(5). By specifying that these sealed records placed in vaults are available in election contests, the Legislature has foreclosed any argument that Thompson was permitted access to them in this challenge against a ballot question. *See, e.g.*, *Harvey v. State*, 136 Nev. 539, 543, 473 P.3d 1015, 1019 (2020) ("We follow 'the maxim "*expression unius est exclusion alterius*," the expression of one thing is the exclusion of another.'").

An additional limitation applies to "[t]he voted ballots and records printed on paper of voted ballots collected pursuant to NRS 293B.400": they can be inspected in an election contest "only by the judge, body or board before whom the election is being contested, or by the parties to the contest, jointly, pursuant to an order of such judge, body or board." NRS 293.391(5). In fact, the only records identified in NRS 293.391 that are deposited with a county clerk and are generally available for inspection outside of a contest are the unsealed "rosters containing the signatures of those persons who voted in the election," and the unsealed "tally lists." NRS 293.391(1), (3).

NRS 293B.155 and 293B.170 also strictly limit the inspection of programs on voting machines. After logic and accuracy testing is conducted on voting machines, a clerk must seal the voting machine programs "in an appropriate container." NRS 293B.155(3). The contents of that container "are not subject to the inspection of

anyone except in the case of a contested election." NRS 293B.155(4). Following the election, the programs used must "be sealed, retained and disposed of in the manner provided in NRS 293.391 . . . for other ballots." As described above, materials sealed under NRS 293.391, including ballots, are not available for inspection except in an election contest.

At bottom, these statutes serve "a protective purpose" and "should be liberally construed in order to effectuate the benefits intended to be obtained." *Cote H. v. Eighth Jud. Dist. Ct.*, 124 Nev. 36, 40, 175 P.3d 906, 908 (2008). The statutes protect against undue and belated challenges to the results of elections. The Legislature established specific election contest procedures, and winning candidates should not be subjected to challenges to their elections in perpetuity. Any conclusion that Thompson can access sealed records below would necessarily and improperly nullify the protective purposes of the election records statutes.

To that extent, any argument raised by Thompson on appeal as to the district court incorrectly allowing voter records to be deleted as a result of dismissing his Third Amended Complaint is incorrect because, regardless of any preservation of records, Thompson raises challenges, not contests, of ballot questions. Given the Legislature's strict boundaries on access to voter records within election contests, Thompson was never entitled to access the sealed records at issue below, regardless

of whether his claims were dismissed by the district court. Accordingly, this Court should affirm the District Court's dismissal.

G. The district court's declaration that ballot questions are unchallengeable by the electorate does not operate as a de facto abrogation of the Guarantee Clause or a judicial endorsement of non-republican governance.

Thompson lastly contends that the district court's dismissal resulted in a "[direct violation of] the Guarantee Clause [of the United States Constitution], which commands that every state "shall have a Republican Form of Government." AOB 30.

First and foremost, Thompson's arguments in this issue are not cogently argued and should not be considered by this Court. *See Emperor's Garden Rest.*, 122 Nev. at 330, 130 P.3d at 1288. Though Thompson broadly references and cites to several cases, none of them are applicable to the issues on appeal. Conclusory assertions unsupported by relevant authority are insufficient to establish reversible error.

Second, the Supreme Court has consistently determined that the Guarantee Clause does not provide the basis for a justiciable claim. *See Rucho v. Common Cause*, 588 U.S. 684, 687 (2019) ("This Court has several times concluded, however, that the Guarantee Clause does not provide the basis for a justiciable claim."); *Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 576 U.S. 787, 795 n.3 (2015) ("The people's sovereign right to incorporate themselves into a State's lawmaking

apparatus . . . is one this Court has ranked a nonjusticiable political matter." (citing *Pac. States Tel. & Tel. Co. v. Oregon*, 223 U.S. 118 (1912)).

To the extent Thompson argues that the district court's ruling deprived him of his rights per the Guarantee Clause, such claims cannot be heard by this Court and should not be considered. *See Howarth v. El Sobrante Min. Corp.*, 87 Nev. 492, 493, 489 P.2d 89, 89 (1971) ("Assignments of error as grounds for reversal will not be considered absent supporting authority unless error is so unmistakable that it reveals itself upon a review of the record." (citation omitted))

CONCLUSION

The district court correctly dismissed Thompson's challenge to Ballot Question 6 as it was not properly raised pursuant to NRS 293.403. Additionally, Thompson bases the entirety of his appeal on the district court's alleged misinterpretation of NRS 293.042 which had never been raised below. Despite Thompson's contentions that the district court misapplied NRS 293.042 in reaching its conclusion, such contentions are unfounded as the district court correctly and appropriately applied the definition of "contest" within the applicable bounds of NRS Chapter 293.

* * *

Thompson's assertion that the district court demonstrated bias in favor of the Secretary likewise fails. He offers no evidence of bias beyond the fact that the district court ruled against his claims, which is insufficient as a matter of law. Thompson additionally claims that the district court's ruling resulted in a violation of his constitutional rights under the Guarantee Clause of the United States Constitution—an issue which has repeatedly been deemed to be nonjusticiable.

As a result of all the foregoing reasons, this Court should affirm the district court's dismissal of Thompson's Third Amended Complaint.

RESPECTFULLY SUBMITTED this 31st day of December 2025.

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CERTIFICATE OF COMPLIANCE

Pursuant to NRAP 32(a)(7)(C), I certify that:

This brief complies with the type-volume limitation of NRAP 21(d) because the brief contains 6,900 words, excluding the parts of the brief exempted under NRAP 32(a)(7)(B)(iii). This brief complies with the typeface requirements of NRAP 32(a)(5) and the type-style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionately spaced typeface with Microsoft Word using Times New Roman 14-point font.

Finally, I hereby certify that I have read this brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose.

* * *

I further certify that this brief complies with applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in a brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

RESPECTFULLY SUBMITTED this 31st day of December 2025,

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Nevada Attorney General's Office, and pursuant to NRAP 25(b) and NEFCR 9 I electronically filed the foregoing **RESPONDENT NEVADA SECRETARY OF STATE'S ANSWERING BRIEF** with the Clerk of the Court for the Nevada Supreme Court by using the Nevada Supreme Court's E-Filing System (Eflex) on this 31st day of December, 2025. Participants in the case who are registered with Eflex as users will be served by the Eflex system.

I further certify that based on written consent a copy of the same was served by electronic mail at the following address:

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