

## IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<p><b>KIM SCHMETT and LEANNE PELLETT,</b> <b>Plaintiff,</b></p> <p>v.</p> <p><b>STATE OBJECTIONS PANEL,</b> <b>Defendant,</b></p> <p><b>ABBY FOR IOWA,</b> <b>Intervenor.</b></p>	<p><b>Case No. CVCV063390</b></p> <p><b>RULING ON PETITION FOR JUDICIAL REVIEW</b></p>
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Abby Finkenauer wants to be the Democratic candidate for the office of United States Senator. Under Iowa law, a person who wants to run for political office must meet certain requirements before their name is placed on the ballot. Specifically, in the case of a candidate for the United States Senate, the candidate must collect not less than 3,500 signatures of “electors”<sup>1 2</sup> on a nomination petition. Of these 3,500 signatures, the candidate must have at least 100 eligible electors from at least 19 counties in the district.<sup>3</sup>

Finkenauer collected signatures and filed her nomination petition with the Office of the Secretary of State. In response to her nomination petition, Kim Schmett and Leanne Pellett filed a number of objections claiming that some of the signature lines on the nomination petition were missing information, and as a result, Finkenauer did not have the mandatory 100 signatures from 19 counties. The State Objections Panel considered the objections and concluded that Finkenauer had “substantially complied” with state law and denied the objections. Schmett and Pellett now

<sup>1</sup>The Iowa Constitution defines “electors” as a person who is eligible to vote and has resided within the State of Iowa “for such period of time as shall be provided by law.” Iowa Const. art. II, § 1.

<sup>2</sup> Iowa Code §45.1(1) (2021).

<sup>3</sup> *Id.*

seek judicial review of the Panel's decision. For the reasons set forth below, the Court concludes that the Panel's decision should be reversed.

## I. PROCEDURAL AND FACTUAL BACKGROUND

Abby Finkenauer filed her nominating petition and an affidavit of candidacy in the Office of the Secretary of State on March 10, 2022. Finkenauer is seeking the Democratic Party nomination for the U.S. Senate. On March 25, 2022, Schmett and Pellett filed their objections to the Finkenauer petition. Their objections cited several deficiencies in the nomination petition sheets, including improperly dated signatures lines, a petition sheet with missing information in the header, signature lines with only a partial address, and specific duplicate signatures. Because of these deficiencies, Schmett and Pellett argued that Finkenauer did not have the mandatory 19 counties where she submitted at least 100 signatures.

At the same time as the objection to Finkenauer's petition, objections were filed to the nomination petition of Attorney General candidate Tom Miller. In Miller's case, the objectors argued that Miller's petition suffered from the same flaws as the Finkenauer petition and that the deficient signatures left him short of his required signatures.<sup>4</sup>

The State Objections Panel adjudicates objections to a candidate's nomination petition. The State Objections Panel convened on March 29, 2022, to consider the objections to Finkenauer and Miller's petitions, amongst other candidates. Typically, the panel members are the Secretary of State, the Auditor of State, and the Attorney General. However, because of the challenge to Attorney General Tom Miller's petition, the Panel followed the statutorily defined recusal process and substituted Miller with the Lieutenant Governor to consider the objections to the Miller petition.<sup>5</sup> During the hearing on the objections to Miller's petition, the Panel voted 2-1

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<sup>4</sup> Iowa Code § 45.1(2) (2021).

<sup>5</sup> Iowa Code § 45.24(3)(a) (2021).

(with the Secretary of State and Lieutenant Governor in the majority) not to count a signature where the signer had failed to provide a correct date of the signature. The Panel denied other signature objections not relevant to this proceeding. After hearing an argument on the objections to Attorney General Tom Miller's petition, the panel voted to deny the objections to the Miller petition, determining that Miller had met the 77-signature threshold in 18 counties.

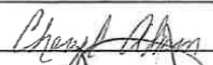

After a break, the Panel reconvened to consider the Finkenauer petition. Because Attorney General Miller's objections had been resolved, he assumed his position on the Panel along with the Secretary of State and State Auditor. The Panel then considered the issue of improperly dated signatures on Finkenauer's petition and voted 2-1 (with the Attorney General and Auditor of State in the majority) to deny objections to counting those signature lines. The Panel denied an objection to one signature from Allamakee County and two signatures from Cedar County. Finkenauer was left with 100 signatures in Allamakee County and 101 in Cedar County. If the Panel had voted to sustain the objections to the three signature lines where the date was in question, it would have left Finkenauer without enough counties that reached the 100 signature threshold to qualify for the ballot.

Schmett and Pellett now appeal the ruling of the State Objections Panel, seeking judicial review from this Court of the denial of the objections to the three signatures.

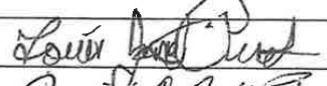
## **II. FINDINGS OF FACT**

The facts, in this case, are undisputed. Abby Finkenauer filed her nominating petition and an affidavit of candidacy in the Office of the Secretary of State on March 10, 2022. On March 25, 2022, Schmett and Pellett filed their objections to the Finkenauer petition. When filing their objections Schmett and Pellett were both registered Republicans.

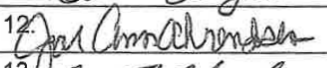
There are three signatures to which Schmett and Pellett object. Those signatures are the subject of this appeal, one from Allamakee County and two from Cedar County. The first was the signature line from page 10, line 2 of Finkenauer's Allamakee County petition.<sup>6</sup>

Sign your name	Address where you live in Iowa:		Today's Date
	House number and street	City	
1. 	1028 W Main St	Waukon	2-10-22
2. 	240 16th Ave	Waukon	5-2-22

Schmett and Pellett also challenged two signatures from Cedar County. The first was from page 6, line 1 with what appears to be an incorrect date.<sup>7</sup>

Sign your name	Address where you live in Iowa:		Today's Date
	House number and street	City	
1. 	126 W Delaware	WB	6-6-22

And the second was from page 10, line 12, which had nothing filled in for the date.<sup>8</sup>

12. 	1310 N. Ave	Lipton	
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Finkenauer needed 100 valid signatures in both of the counties. She had 100 in Allamakee County and 101 in Cedar County, counting these signatures.

### III. APPLICABLE LAW

Three sections of the Iowa Code control both the nomination petition and objections to the petition. They include Iowa Code §§ 43.14, 43.15, and 43.24. The pertinent parts are set forth below. Emphasis has been added to important sections.

#### 43.14 Form of nomination papers.

1. Nomination papers shall include a petition and an affidavit of candidacy. All nomination petitions shall be eight and one-half by eleven inches in size and in

<sup>6</sup> Administrative Record, p. 42.

<sup>7</sup> Id. at p. 49.

<sup>8</sup> Id. at p. 53.

substantially the form prescribed by the state commissioner of elections. They shall include or provide spaces for the following information:

- a. A statement identifying the signers of the petition as eligible electors of the appropriate county or legislative district and of the state.
  - b. The name of the candidate nominated by the petition.
  - c. For nomination petitions for candidates for the general assembly, a statement that the residence of the candidate is within the appropriate legislative district, or if that is not true, that the candidate will reside there within sixty days before the election. For other offices, a statement of the name of the county where the candidate resides.
  - d. The political party with which the candidate is a registered voter.
  - e. The office sought by the candidate, including the district number, if any.
  - f. The date of the primary election for which the candidate is nominated.
- 2.
- a. Signatures on a petition page shall be counted only if the information required in subsection 1 is written or printed at the top of the page.
  - b. Nomination papers on behalf of candidates for seats in the general assembly need only designate the number of the senatorial or representative district, as appropriate, and not the county or counties, in which the candidate and the petitioners reside.
  - c. *A signature line shall not be counted if the line lacks the signature of the eligible elector and the signer's residential address, with street and number, if any, and city. A signature line shall not be counted if an eligible elector supplies only a partial address or a post office box address, or if the signer's address is obviously outside the boundaries of the district.*
  - d. A signature line shall not be counted if any of the required information is crossed out or redacted at the time the nomination papers are filed with the state commissioner or commissioner.<sup>9</sup>

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<sup>9</sup> Iowa Code § 43.14 (2021).

**43.15 Requirements in signing.**

The following *requirements shall be observed in the signing* and preparation of nomination blanks:

1. A signer may sign nomination papers for more than one candidate for the same office, and the signature is not invalid solely because the signer signed nomination papers for one or more other candidates for the office.
2. *Each signer shall add the signer's residential address, with street and number, if any, and the date of signing.*
3. All signers, for all nominations, of each separate part of a nomination paper, shall reside in the same county, representative or senatorial district for members of the general assembly. In counties where the supervisors are elected from districts, signers of nomination petitions for supervisor candidates shall reside in the supervisor district the candidate seeks to represent.
4. When more than one sheet is used, the sheets shall be neatly arranged and securely fastened together before filing, and shall be considered one nomination petition.
5. Only one candidate shall be petitioned for or nominated in the same nomination paper.<sup>10</sup>

**43.24 Objections to nomination petitions or certificates of nomination.**

1. Written objections required. Nomination petitions or certificates of nomination filed under this chapter which are apparently in conformity with the law are valid unless objection is made in writing.
  - a. Objections to the legal sufficiency of a nomination petition or certificate of nomination filed or issued under this chapter or to the eligibility of a candidate may be filed in writing by any person who would have the right to vote for the candidate for the office in question. *Objections relating to incorrect or incomplete information for information that is required under section 43.14 or 43.18 shall be sustained.*<sup>11</sup>

**IV. CONCLUSIONS OF LAW**

This action raises several questions that the Court must resolve in coming to a final conclusion. Those questions are 1) What is the standard of review by which this Court is to review the Panel's action? 2) Are Schmett and Pellett entitled to bring this action? 3) Did

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<sup>10</sup> Iowa Code § 43.15 (2021).

<sup>11</sup> Iowa Code § 43.24 (2021).

Attorney General Miller and Auditor Sand properly serve on the Panel? 4) Did the Panel act within its authority in interpreting the statute to include a “substantial compliance” standard?

The Court will address each one of these questions separately.

**1. Standard of Review: What is the standard of review by which this Court is to review the Panel’s action?**

This matter came to the Court as an appeal under Iowa Code section 17A.19. The Iowa Administrative Procedure Act, Chapter 17A of the Iowa Code, authorizes judicial review of administrative agency decisions.<sup>12</sup> Under the act, the Court must grant relief from agency action that is “[b]ased upon an irrational, illogical, or wholly unjustifiable interpretation of a provision of law,” based upon a misapplication of law to the facts, or “[o]therwise unreasonable, arbitrary, capricious, or an abuse of discretion.”<sup>13</sup> Additionally, the Court must grant appropriate relief from agency action if such action was “[b]ased upon an erroneous interpretation of a provision of law whose interpretation has not clearly been vested by a provision of law in the discretion of the agency.”<sup>14</sup> Concerning such provisions of law, the Court is not required to defer to the agency’s interpretation because the legislature has not granted it such authority.<sup>15</sup> <sup>16</sup> The Court concludes that this is the appropriate avenue for appeal in this case.<sup>17</sup>

While the Court proceeds under chapter 17A, the Court notes that the State initially argued that this matter should be filed as a Writ of Certiorari. Regardless of whether reviewed

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<sup>12</sup> Iowa Code § 17A.19(1) (2021).

<sup>13</sup> *Id.* §§ 17A.19(10)(l)–(n) (2021).

<sup>14</sup> *Id.* § 17A.19(10)(c) (2021).

<sup>15</sup> *Id.* § 17A.19(11)(b) (2021).

<sup>16</sup> To say that an agency has been granted such interpretive authority “means that the reviewing court, using its own independent judgment and without any required deference to the agency’s view, must have a firm conviction from reviewing the precise language of the statute, and the practical considerations involved, that the legislature actually intended (or would have intended had it thought about the question) to delegate to the agency interpretive power with the binding force of law over the elaboration of the provision in question.” *Renda v. Iowa Civil Rights Com’n*, 784 N.W.2d 8, 11 (Iowa 2010) (citing Arthur E. Bonfield, *Amendments to Iowa Administrative Procedure Act, Report on Selected Provisions to Iowa State Bar Association and Iowa State Government* 62 (1998)).

<sup>17</sup> The Court, considers this case as an Administrative Appeal in part because the only previous case addressing the application of Iowa Code 43.14 was considered as an Administrative Appeal. See *Chiodo v. Section 43.24 Panel*, 846 N.W.2d 845, 848 (Iowa 2014).

under 17A or a Writ of Certiorari, the Court would employ the same review standard on the claims brought by Schmett and Pellett.<sup>18</sup> Specifically, a party may commence a certiorari action when authorized by statute or when the party claims an inferior tribunal, board, or officer, exercising judicial functions, or a judicial magistrate exceeded proper jurisdiction or otherwise acted illegally.<sup>19</sup> The review of an original certiorari action to correct errors at law. “An inferior tribunal commits an illegality if the decision violates a statute, is not supported by substantial evidence or is unreasonable, arbitrary, or capricious.”<sup>20</sup> “Illegality exists when the court’s findings lack substantial evidentiary support, or when the court has not properly applied the law.”<sup>21</sup>

## **2. Standing: Are Schmett and Pellett entitled to bring this action?**

As an initial question, the Court must resolve whether Schmett and Pellett are properly before this Court. The Intervenor, Abby for Iowa, argues that Schmett and Pellett should not have been allowed to challenge Finkenauer’s petition because, at the time of the objection, they were registered Republicans who could not vote in the Democratic Primary. Likewise, Abby for Iowa argues that Schmett and Pellett lack legal standing to bring this judicial review of the Panel’s decision. Schmett and Pellett argue in response that they challenged the Finkenauer nomination petition under Iowa Code § 43.24(1)(a), which gives the right to challenge to “any person who would have the right to vote for the candidate for the office in question.” Furthermore, they argue that they have standing because they asked the State Objections Panel as a quasi-judicial body to adjudicate their claims that the law gave them the right to assert.

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<sup>18</sup> *Ames 2304, LLC v. City of Ames, Zoning Bd. of Adjustment*, 924 N.W.2d 863, 867 (Iowa 2019)(The)

<sup>19</sup> Iowa R. Civ. P. 1.1401 (2021).

<sup>20</sup> *Bowman v. City of Des Moines Mun. Hous. Agency*, 805 N.W.2d 790, 796 (Iowa 2011).

<sup>21</sup> *Id.*; *State v. Iowa Dist. Ct. for Warren Cty.*, 828 N.W.2d 607, 611 (Iowa 2013) citing Iowa Ct. R. 1.1401, *Fisher v. Chickasaw Cnty.*, 553 N.W.2d 331, 333 (Iowa 1996).



The Court finds Schmett and Pellett's argument more persuasive on this issue. Iowa Code § 43.24(a) states that a challenge may be brought "by any person who would have the right to vote for the candidate for the office in question." The statute says nothing about party affiliation. The statute focuses on the general election, not the primary, describing an objector as having the right to "vote for the candidate for the *office* in question." As pointed out by Schmett and Pellett, the winner of a primary election is entitled to a place on the general election ballot, not a certificate of election and the right to hold office. Because it is uncontroverted that Schmett and Pellett have the right to vote at the general election for the office of U.S. Senator, the statute authorizes them to object to a nomination form. Furthermore, this interpretation is consistent with the statute's requirement as to whom may sign the nomination petition in general. Candidates may obtain signatures from any "eligible elector"<sup>22</sup> as long as they meet the residency requirements needed for the election.<sup>23</sup>

Schmett and Pellett additionally argue that even if the language could be limited to a right to the primary election only, they have every right to vote in the Democratic primary because Iowa is a same-day registration state.<sup>24</sup> They contend though they are registered Republicans now, they can be registered Democrats on or before the June 7, 2022, primary election. In response to this argument, Abby for Iowa asserts that if this is the case, Schmett and Pellett's claim is then not ripe for adjudication because they have not yet changed their party affiliation. Because the Court finds that 43.24(a) allows a challenge by any eligible resident of the state, Schmett and Pellett's challenge and judicial review is ripe and does not fail because they are not

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<sup>22</sup> Again, Iowa Const. art. II, § 1 defines "electors" as old enough to vote and residing in the State.

<sup>23</sup> See Iowa Code 43.14(1)(a) (2021).

<sup>24</sup> Iowa Code § 43.41 (2021) (primary voter may declare party affiliation through the close of voter registration for the primary election) and Iowa Code § 48A.7A (2021) (permitting registration on the day of the election).

the same party as Finkenauer. Schmett and Pellett had the right to object to Finkenauer's petition and standing to bring this judicial review.

### **3. Recusal: Did Attorney General Miller and Auditor Sand properly serve on the Panel?**

Schmett and Pellett first challenge the Panel's decision, asserting that Attorney General Miller and State Auditor Sand should have recused themselves from hearing this case. They allege that Auditor Sand should have been disqualified under § 17A.11 because Schmett and Pellett's counsel is involved in a separate lawsuit against the Auditor's office, and a member of Auditor Sand's staff referred to Petitioners' counsel as a "political hack" in a press response to that lawsuit. Likewise, Schmett and Pellett assert that Attorney General Miller should have recused himself from Finkenauer's petition because he came before the Panel that morning regarding his nominating petition, and similar objections were made in both instances. Schmett and Pellett assert that both a common-law rule of recusal and the Iowa Administrative Procedures Act necessitated Miller and Sand's recusal.<sup>25</sup> In response, the Panel argues that Iowa Code § 43.24 is the only governing statute controlling the situation. Recusal is only necessary when one of the Panel members' nomination petition is the subject of the objection.

After considering the arguments of the parties, the Court concludes that Miller and Sand's recusal was not warranted. The Iowa Supreme Court has recognized that to disqualify a judicial officer, it must be shown that one "is not capable of judging a particular controversy fairly on the basis of its own circumstances."<sup>26</sup> Additionally, as pointed out by the State, mere speculation is insufficient to necessitate recusal: "[t]here is as much obligation for a judge not to

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<sup>25</sup>See Iowa Code § 17A.11(2) (2021) (members are "subject to disqualification for bias, prejudice, interest, or any other cause provided in this chapter or for which a judge is or may be disqualified.")

<sup>26</sup> *Id.* quoting *Anstey v. Iowa State Commerce Comm'n*, 292 N.W.2d 380, 390 (Iowa 1980).

recuse when there is no occasion for [them] to do so as there is for [them] to do so when there is.”<sup>27</sup>

Here, the allegation is that a staff member with Auditor Sand’s office called counsel for the Petitioners a “political hack,” but there was no other evidence of bias or prejudice on Sand’s part. It should also be noted that Sand even ruled in favor of some of Schmett and Pellett’s objections during the hearing. Under the standard argued by Schmett and Pellett, Sand should not have been required to recuse himself because no personal bias was evident.

Furthermore, Miller’s recusal was not required. While Miller did recuse himself while his own nominating petition was the subject of several objections, hearing similar objections during Finkenauer’s petition does not necessitate recusal. Under the statute, a panel member is only required to recuse themselves when objections to their own nominating petition are before the panel.<sup>28</sup> Miller had no direct interest in the outcome of Finkenauer’s nominating petition. Objections to Miller’s nominating petition did not affect the outcome of objections to Finkenauer’s petition and vice versa. Each nominating petition sits before its stand-alone panel that is reconstituted for each nominating petition. Finally, it is important to note that Miller ruled on Finkenauer’s petition consistent with his previous rulings.<sup>29</sup> This alone is evidence of a lack of bias.

The Court concludes that Schmett and Pellett failed to assert sufficient grounds to disqualify Attorney General Miller and Auditor Sand from serving on the Panel. The Court concludes that Schmett and Pellett were not prejudiced by the inclusion of Miller and Sand on the Panel and that no violation of Iowa Code section 17A.19(10)(e) occurred.

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<sup>27</sup> *State v. Mann*, 512 N.W.2d 528, 532 (Iowa 1994) citing *Hinman v. Rogers*, 831 F.2d 937, 939 (10th Cir.1987).

<sup>28</sup> Iowa Code § 43.24 (2021).

<sup>29</sup> *In the Matter of the Nominating Petition of Jon Dvorak*, Findings of Fact, Conclusions of Law, Decision and Order, at 5 (1988).

#### **4. Statutory Interpretation: Did the Panel act within its authority in interpreting the statute to include a “substantial compliance” standard?**

The last question the Court must address is the most important and the one with the most significant impact. The question is whether the Panel erroneously interpreted the law.

Specifically, did the Panel misinterpret Iowa Code §§43.14, 43.15, and 43.24 as only requiring “substantial compliance” in the information provided by signatories to the nomination petition?

The Panel cites as the primary support for its ruling its history of using “substantial compliance” in reviewing nomination petitions. It points to previous cases where objections regarding incomplete or missing dates were raised. As early as 1988, an objector challenged nomination petition signatures with missing or incomplete dates. In that case, the Panel determined, “in most cases the date can be determined from the dates affixed by preceding and subsequent signers.”<sup>30</sup> The Panel asserts that the decision, in Finkenauer’s case, was in line with longstanding practice to construe the election statutes liberally.

The Panel further argues that the petitions are only required to be in “substantially the form” prescribed by the Secretary of State.<sup>31</sup> And as such, if the petition page is in “substantial compliance” with the requirements, the signatures should be counted.<sup>32</sup> The Panel justifies this “substantial compliance” standard by stating that what is required is “compliance in respect to essential matters necessary to assure the reasonable objectives of the statute.”<sup>33</sup>

Other than the Panel’s own limited precedent, the Panel cannot point to any clear statutory language or judicial precedent supporting this contention. The Panel does attempt to gain some authority by pointing out that the definition of “substantial compliance” comes from

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<sup>30</sup> *In the Matter of the Nominating Petition of Jon Dvorak*, Findings of Fact, Conclusions of Law, Decision and Order, at 5 (1988).

<sup>31</sup> See Iowa Code § 43.14(1) (2021).

<sup>32</sup> *In the Matter of Objection to the Nomination Petition of Paul Johnson*, Findings of Fact, Conclusions of Law, Decision and Order at 11 (2004).

<sup>33</sup> *Id.*

the case of *Gorman v. City Development Bd.*<sup>34</sup> In *Gorman*, the Iowa Supreme Court addressed a voluntary annexation application that contained an incorrect legal description of the subject property but accompanied a map that correctly showed the property's boundaries.<sup>35</sup> After the city council approved the annexation, a neighboring landowner challenged it, claiming the incorrect legal description made it invalid.<sup>36</sup> The city claimed the annexation was valid because there had been substantial compliance with the procedures of the annexation law.<sup>37</sup> In ultimately resolving the issue, the court "defined substantial compliance as 'compliance in respect to essential matters necessary to assure the reasonable objectives of the statute.'"<sup>38</sup>

Like the court in *Gorman*, the Panel argues that it should be allowed to apply "substantial compliance" to effectuate the statute's purpose. The Panel contends applying "substantial compliance" weighs "giving voters the opportunity to choose which candidates will be listed on the ballot in a Primary election, against the obligation of the candidates to meet the requirements of the nomination process, including providing eligible electors with enough information to make an informed decision whether to sign a nominating petition."<sup>39</sup>

In response, Schmett and Pellett argue that the requirement that the individual signer provide the date of signing comes directly from Iowa Code § 43.15(2): "The following requirements shall be observed in the signing and preparation of nomination blanks: ... (2) Each *signer shall add* the signer's residential address, with street and number, if any, *and the date of signing.*"<sup>40</sup> Schmett and Pellett further point out that no substantial compliance standard can be gleaned from this language which state these are "requirements" that "shall be observed."

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<sup>34</sup> *Gorman v. City Development Bd.*, 565 N.W.2d 607 (Iowa 1997).

<sup>35</sup> *Id.* at 607-08.

<sup>36</sup> *Id.* at 608.

<sup>37</sup> *Id.* at 610.

<sup>38</sup> *Id.*

<sup>39</sup> Record 119-20 citing *In the Matter of the Nominating Petition of Joseph Seng, D.V.M.*, Findings of Fact, Conclusions of Law, Decision and Order, p. 5-6 (2012).

<sup>40</sup> Iowa Code § 43.15(2) (2021) (emphasis added).

Furthermore, the date of the signature is not something that should simply be assumed from other information on the sheet. The statute states “*each signer shall add the signer’s...date of signing.*”<sup>41</sup> In other words, they assert that the date of signing cannot come from another voter’s date of signing, nor can it come from the person who circulated the petition. Schmett and Pellett likewise argue that if substantial compliance requires the reasonable objective of the statute to be observed, it cannot save these undated signatures considering the statute’s direction that the date of signature is a “requirement” that “shall be observed” and that “each signer shall add the signer’s...date of signing.”<sup>42</sup>

The Court finds Schmett and Pellett’s argument more compelling for several reasons. *First*, as a preliminary point, this Court is not bound by the Panel’s statutory interpretation, which gives rise to the idea of “substantial compliance.” Under Iowa Code section 17A.19, this Court is free to substitute its own interpretation of statutes “whose interpretation[s] ha[ve] not clearly been vested” in the agency.<sup>43 44</sup> An agency’s interpretation of the law does not bind the Court.<sup>45</sup> The Court owes no deference to the Panel’s legal interpretations because the legislature has not granted it such authority.

*Second*, Schmett and Pellett correctly point out that no substantial compliance standard can be gleaned from the statute itself. The Panel argues the statute requires that the petition be in

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<sup>41</sup> *Id.* (emphasis added).

<sup>42</sup> *Id.*

<sup>43</sup> *Roberts Dairy v. Billick*, 861 N.W.2d 814, 817 (Iowa 2015) (quoting Iowa Code § 17A.19(10)(c)).

<sup>44</sup> To say that an agency has been granted such interpretive authority “means that the reviewing court, using its own independent judgment and without any required deference to the agency’s view, must have a firm conviction from reviewing the precise language of the statute, and the practical considerations involved, that the legislature actually intended (or would have intended had it thought about the question) to delegate to the agency interpretive power with the binding force of law over the elaboration of the provision in question.” *Renda v. Iowa Civil Rights Com’n*, 784 N.W.2d 8, 11 (Iowa 2010) (citing Arthur E. Bonfield, Amendments to Iowa Administrative Procedure Act, Report on Selected Provisions to Iowa State Bar Association and Iowa State Government 62 (1998))

<sup>45</sup> *Baker v. Bridgestone/Firestone*, 872 N.W.2d 672, 675 (Iowa 2015).

“substantially the form” prescribed by the Secretary of State.<sup>46</sup> The Panel claims this wording means that if the petition page is in “substantial compliance” with the requirements, the signatures should be counted.<sup>47</sup> The problem with this argument is that the wording “substantially in the form” clearly refers to the *forms* provided by the State Commissioner of Elections and not the information given by the individuals signing. A fair reading of 43.14(1) is that a form used by each candidate does not have to be the exact form provided by the State Commissioner of Elections; however, it has to contain all the same information. To use that phrase as justification for not requiring the information outlined in Iowa Code chapter 43.15 is a stretch of logic and would cut directly against the specific wording of 43.15, which states, “each signer shall add...*the date of signing.*”

*Third*, no appellate court in Iowa has adopted “substantial compliance” in *voting matters* which could support the Panel’s interpretation. Only one trial court has addressed this issue. As pointed out by the Panel, Chief Judge Huppert of the Fifth Judicial District addressed the issue in the case of *Jonathan Narcisse v. Iowa Secretary of State*.<sup>48</sup> In that case, Judge Huppert adopted the standard of “substantial compliance,” which had been argued by Narcisse, but ultimately found that Narcisse had not met the standard. Furthermore, because Narcisse had not met the standard he had advanced, Judge Huppert did not need to analyze the correctness of that standard. While this opinion is instructive, it is not binding on this Court.

*Fourth*, as Judge Huppert noted in the *Narcisse* case, a claim of substantial compliance is inconsistent with a *complete* lack of compliance.<sup>49</sup> In this case, the signature lines in question

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<sup>46</sup> See Iowa Code § 43.14(1) (2021).

<sup>47</sup> *In the Matter of Objection to the Nomination Petition of Paul Johnson*, Findings of Fact, Conclusions of Law, Decision and Order at 11 (2004).

<sup>48</sup> Polk County Case. CVCV047338.

<sup>49</sup> *State ex rel. Allen v. Board of Elections of Lake County*, 170 Ohio St.19, 20, 161 N.E.2d 896, 897 (1959) (“Substantial compliance does not contemplate complete omission”); see also *Burnham v. City of West Des Moines*, 568 N.W.2d 808, 811 (Iowa 1997) (complete failure does not constitute substantial compliance).

failed to comply, even in part, with the requirements of 43.15(2). One signature put the zip code instead of the date, one inserted what appears to be a birth date, and one was blank. The statute requires “the date of signing.” None of these signatories included even part of the date of the signature. If the individual had put “2/1” but omitted the year, the Court could agree that there was “substantial compliance” with the date. However, none of the signatories did that here. They either put nothing in the blank for the date or put information that was not the date of the signature. The individuals failed to even “substantially comply” with the date requirement.

*Fifth*, and most important to the Court’s analysis, interpreting the statute as including only “substantial compliance” renders Iowa Code §43.15 meaningless.<sup>50</sup> It is a principle of statutory interpretation that Iowa courts will “presume statutes or rules do not contain superfluous words.”<sup>51</sup> The Panel and the Intervenor argue that the only time a signature should not be counted is if the line “lacks the signature of the eligible elect her and the signer’s residential address, with street and number, if any, and city” as stated in Iowa Code § 43.14(2)(c). They also point out that section 43.24(1)(a) supports this limited reading when it states, “objections relating to incorrect or incomplete information for information and that is required under section 43.14 or 43.18 shall be sustained.” This is a valid argument; however, the problem with this limited reading of when a signature line should not be counted is that Iowa Code 43.15(2) then is ineffective and in direct contradiction to Iowa Code § 4.4, which states that in “enacting a statute, it is presumed that...the entire statute is intended to be effective.”

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<sup>50</sup> See *Myers v. Iowa Bd. of Regents*, No. 319CV00081SMRSBJ, 2022 WL 909846, at \*9 (S.D. Iowa Mar. 29, 2022) interpretation makes this language in the statute meaningless, which is prohibited. Iowa Code § 4.4(2) (“in enacting a statute, it is presumed that the entire statute is intended to be effective.”); *Star Equip., Ltd. v. State, Iowa Dept. of Transp.*, 843 N.W.2d 446, 455 (Iowa 2014).

<sup>51</sup> *Iowa Ins. Institute v. Core Group of Iowa Ass’n for Justice*, 867 N.W.2d 58, 75 (Iowa 2015); see also Iowa Code § 4.4(2) (presumption that “[t]he entire statute is intended to be effective”).



When interpreting a statute, a court’s ultimate goal is to ascertain and give effect to the legislature’s intention.<sup>52</sup> The court should begin with the words used in the statute and should read the statute as a whole, giving it its plain and obvious meaning.<sup>53 54</sup> A court should seek to make “a sensible and logical construction, which does not create an impractical or absurd result.”<sup>55</sup>

Here Iowa Code § 43.15 is clear. “The following requirements shall be observed in the signing and preparation of nomination blanks...[e]ach signer shall add the signer’s residential address, with street and number, if any, and the date of signing.”<sup>56</sup> The only logical interpretation of the statute, which gives it meaning, is that each signer must indicate the date they signed. It does not say that the date may be inferred or extrapolated from the context. The plain and obvious meaning is that the signature should be accompanied by a date indicating when it was signed. Failure to include the date means the signature is not valid.

The Panel did not correctly interpret or apply the law in this case.<sup>57</sup> The Panel’s decision was “[b]ased upon an irrational, illogical, or wholly unjustifiable interpretation of a provision of law,” and as such, this Court must reverse the Panel decision.<sup>58</sup>

## V. CONCLUSION

The Court takes no joy in this conclusion. This Court should not be in the position to make a difference in an election, and Ms. Finkenauer and her supporters should have a chance to advance her candidacy. However, this Court’s job is to sit as a referee and apply the law without

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<sup>52</sup> *John Deere Dubuque Works v. Weyant*, 442 N.W.2d 101, 104 (Iowa 1989).

<sup>53</sup> *State v. Nicoletto*, 862 N.W.2d 621, 624 (Iowa 2015).

<sup>54</sup> *In re Detention of Geltz*, 840 N.W.2d 273, 275 (Iowa 2013).

<sup>55</sup> *In re Detention of Swanson*, 668 N.W.2d 570, 574 (Iowa 2003) (cleaned up); *Myers v. Iowa Bd. of Regents*, No. 319CV00081SMRSBJ, 2022 WL 909846, at \*9 (S.D. Iowa Mar. 29, 2022).

<sup>56</sup> Iowa Code § 43.15(2) (2021).

<sup>57</sup> The standard if this were a writ.

<sup>58</sup> *Id.* §§ 17A.19(10)(l)–(n) (2021).

passion or prejudice. It is required to rule without consideration of the politics of the day. Here the Court has attempted to fulfill that role.

**IT IS THEREFORE ORDERED** that the State Objections Panel decision of April 6, 2022, is reversed. The objections to the Finkenauer petition signatures from Allamakee and Cedar County are sustained. The Finkenauer campaign has failed to submit at least 100 signatures from at least 19 counties as required by Iowa Code § 45. Ms. Finkenauer's name shall not be included on the primary ballot for the Democratic Primary for U.S. Senate.

**IT IS SO ORDERED.**



State of Iowa Courts

**Case Number**  
CVCV063390  
**Type:**

**Case Title**  
KIM SCHMETT ET AL VS STATE OBJECTIONS PANEL  
OTHER ORDER

So Ordered

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Scott J. Beattie, District Court Judge,  
Fifth Judicial District of Iowa

Electronically signed on 2022-04-10 22:49:53