

FILED

October 15, 2024

**OFFICE OF
APPELLATE COURTS**

No. A__-_____

**STATE OF MINNESOTA
IN SUPREME COURT**

Minnesota Voters Alliance; Karen
Attia; Marlene Stoick; Richard
Sutter; Republican Party of
Minnesota,

Petitioners,

v.

Ginny Gelms, in her official capacity
as elections official for Hennepin
County, Minnesota; Daniel Rogan, in
his official capacity as County
Auditor for Hennepin County,
Minnesota; Hennepin County,

Respondents.

**PETITION FOR CORRECTION
OF ERRORS AND OMISSIONS**

MINN. STAT. § 204B.44

RETRIEVED FROM DEMOCRACYDOCKET.COM

TABLE OF CONTENTS

TABLE OF CONTENTS..... i
SUPPORTING DOCUMENTS..... ii
INTRODUCTION 1
JURISDICTION..... 4
PARTIES 5
FACTUAL BACKGROUND 8
 I. Minnesota Revamped Absentee Balloting in 2010 in Response to the Contentious 2008 Senate Election Between Norm Coleman and Al Franken. 8
 II. The Law Requires Respondents to Establish a Ballot Board and Staff It With Mandatory Election Judges and Permissive Deputy County Auditors..... 10
 III. The Law Assigns Different Duties to Election Judges and Deputy County Auditors on the Absentee Ballot Board..... 11
 IV. Election Judges on Absentee Ballot Boards Must Be Qualified in the Same Manner as Election Judges Serving on Election Day, and Counties May Not Substitute Their Own Process for Qualifying Election Judges for the Board..... 13
 V. Election Judges Must Be Appointed by Reference to the Party List to Ensure Party Balance for Board Election Judges..... 14
 VI. The Republican Party of Minnesota Wholly Complied with Minnesota Election Law and Provided a List of Candidate Election Judges to the Secretary of State. 16
 VII. Hennepin County Failed to Properly Appoint Election Judges from the Party List and Then Failed to Timely Produce the List of Its Absentee Ballot Board Members in Response to a Request for Public Data. 18
RESPONDENTS’ ERRORS..... 21
CLAIM FOR RELIEF 23

SUPPORTING DOCUMENTS

1. Affidavit of Donna Bergstrom
2. Affidavit of Karen Attia
3. Affidavit of Marlene Stoick
4. Affidavit of Richard “Randy” Sutter
5. Affidavit of Andrew Cilek
6. Affidavit of James Dickey with Exhibits A-C.

RETRIEVED FROM DEMOCRACYDOCKET.COM

TO: THE SUPREME COURT OF THE STATE OF MINNESOTA:

Pursuant to Minnesota Statutes section 204B.44, Petitioners Minnesota Voters Alliance, Karen Attia, Marlene Stoick, Randy Sutter, and the Republican Party of Minnesota petition the Supreme Court of the State of Minnesota for an Order requiring Respondents Ginny Gelms, Dan Rogan, and Hennepin County to include sufficient election judges from the Republican Party of Minnesota's list of candidate election judges on the Hennepin County Absentee Ballot Board for the 2024 general election such that there is an equal number of election judges from both major political parties on the Ballot Board. Petitioners state and allege as follows:

INTRODUCTION

1. Respondent Hennepin County and its officials have violated the Minnesota Election Law in staffing the Hennepin County Absentee Ballot Board ("ABB"). Hennepin County and its election officials failed to appoint *any* election judges from the Republican Party of Minnesota's dedicated list ("Party List") of candidate election judges as required by law. As a result, the current ABB has **zero** Republican-affiliated election judges from the Party List. This error must be corrected immediately, with Hennepin County selecting enough Republican-affiliated election judges from the Party List to ensure parity between Republican and Democratic affiliated election judges on the Hennepin County ABB.

2. Minnesota has a history of contentious elections, from the 1962 Governor’s races that was decided by 91 votes—with a recount changing the outcome—to the more recent Coleman-Franken 2008 contest for United States Senate that was decided by 312 votes, with the outcome also changing after a recount and litigation caused hundreds of absentee ballots that were rejected by election judges to be counted.

3. After Coleman-Franken, the Minnesota Legislature took care to pass bipartisan legislation to rebuild trust in the administration of elections. This bill required, *inter alia*, a standardized process for accepting or rejecting absentee ballots. *See* Minn. Stat. § 203B.121 (2010). An essential part of promoting accurate and secure elections was to ensure that each ABB across the state would have a sufficient number of election judges, and that those election judges would be balanced by party affiliation. *See id.* (citing Minn. Stat. §§ 204B.19–22); *accord* Minn. Stat. § 203B.121, subd. 1 (2023) (citing same statute).

4. The legislature prescribed the requirements for counties to establish an ABB to ensure standardization across Minnesota. The process is simple, and the statutory text is plain and unambiguous. Each ABB “must consist of a sufficient number of election judges appointed as provided in sections 204B.19 to 204B.22.” Each ABB also “may include deputy county auditors.”

5. Within sections 204B.19 to 204B.22 is Minn. Stat. §204B.21. Under that statute, each major party provides a party list of election judges to the secretary of state, who then provides it to the counties and cities which have an ABB. A county must then appoint election judges to the ABB from the major party lists. A county cannot seek additional election judges for the ABB outside of the list until the list is exhausted.

6. The Republican Party of Minnesota provided its Party List, which included more than 1,500 election judges in Hennepin County, to the Secretary of State, on or before May 1, 2024.

7. Hennepin County and their officials have not followed the statutory mandate. They appointed **zero** election judges to the Hennepin County ABB from the Republican Party of Minnesota's Party List. The County claims to have appointed election judges, but none of the election judges it has disclosed are listed on the Party List. The County failed to exhaust the Party List and apparently did not even consult it. Numerous candidate election judges on the Party List, including the individual Petitioners here, attest that they were never contacted by the County and that even today they stand ready and willing to serve as election judges on the ABB. *See* Affidavits of Richard "Randy" Sutter, Marlene Stoick, and Karen Attia.

8. The County's disregard for bipartisan election law is the type of government action that erodes trust by the public in elections. This Court

should immediately grant the relief sought and correct these errors so that Minnesotans can have confidence that their elections are conducted in a non-partisan, accurate, and secure manner.

JURISDICTION

9. This Court has jurisdiction over this matter pursuant to Minn. Stat. § 204B.44, which allows “[a]ny individual” to file a petition directly with this Court asking it to correct an “error” that has occurred or about to occur “of any election judge, municipal clerk, county auditor, canvassing board or any of its members . . . or any other individual charged with any duty concerning an election.”

10. The petition “shall be filed with any judge of the supreme court in the case of an election for state or federal office.” Minn. Stat. § 204B.44(b).

11. As detailed below, on October 7, 2024, Petitioners were informed, via Hennepin County’s response to a public data request, of the names of the election judges appointed to the Hennepin County Absentee Ballot Board. Soon after being so informed, the Republican Party of Minnesota confirmed that none of the election judges on the board were from Republican Party of Minnesota’s Party List of over 1,500 candidates for election judge.

12. This action, brought under Minn. Stat. § 204B.44, is necessary to prevent the error of Hennepin County’s staffing of its ABB for the 2024 general election in a manner that excludes election judges from the Party List and does

not exhaust that list prior to appointing election judges by another process. It further is necessary to prevent the error of Hennepin County failing to ensure the requisite party balance on its ABB for the 2024 general election.

PARTIES

13. Petitioner Minnesota Voters Alliance is a grassroots, non-partisan organization which focuses on election integrity, research, voter education, and advocacy. MVA and its volunteers and supporters have a strong interest in equal representation by both major parties in all facets of the conduct of Minnesota elections. The individual petitioners, Karen Attia, Marlene Stoick, and Randy Sutter, are all supporters of and volunteers for MVA. Affidavit of Andrew Cilek

14. Petitioner Karen Attia is a Republican election judge who lives in Hennepin County. Prior to May 1, 2024, she signed up to be on the Party List to serve as an election judge on election day and/or on the Hennepin County ABB. Hennepin County did not contact her to ask whether she would be willing to serve as an election judge on the ABB for the November 5, 2024 election. Had Hennepin County contacted her, she would have been willing to serve in that capacity. Attia is trained as an election judge for the 2024 election and intends to serve as a Republican election judge at her local precinct. If called upon, she is willing and able to immediately serve as an election judge for the

Hennepin County ABB for the November 5, 2024 election. Affidavit of Karen Attia.

15. Petitioner Marlene Stoick is a Republican election judge who lives in Hennepin County. Prior to May 1, 2024, she signed up to be on the Party List to serve as an election judge on election day and/or on the Hennepin County ABB. Hennepin County did not contact her to ask whether she would be willing to serve as an election judge on the ABB for the November 5, 2024 election. Had Hennepin County contacted her, she would have been willing to serve in that capacity. Stoick is trained as an election judge for the 2024 election and intends to serve as a Republican election judge at her local precinct. If called upon, she is willing and able to immediately serve as an election judge for the Hennepin County ABB for the November 5, 2024 election.

Affidavit of Marlene Stoick

16. Petitioner Richard “Randy” Sutter is a Republican election judge who lives in Hennepin County. Prior to May 1, 2024, he signed up to be on the Party List to serve as an election judge on election day and/or on the Hennepin County ABB. Hennepin County did not contact him to ask whether he would be willing to serve as an election judge on the ABB for the November 5, 2024 election. Had Hennepin County contacted him, he would have been willing to serve in that capacity. Sutter is trained as an election judge for the 2024 election and intends to serve as a Republican election judge at his local

precinct. If called upon, he is willing and able to immediately serve as an election judge for the Hennepin County ABB for the November 5, 2024 election.

Affidavit of Richard Sutter.

17. The Republican Party of Minnesota is a major political party. On or about May 1, 2024, the Republican Party presented to the Secretary of State a list of Republican Party members who desire to be election judges. That list includes the individual Petitioners to this lawsuit. The Republican Party expended significant resources and time to compile the Party List, and it expects counties and cities, including Hennepin County, to appoint election judges to their ABBs using the Party List. By failing to use the Party List, Hennepin County has injured the Republican Party of Minnesota because (1) the party does not have adequate representation on the ABB and (2) the party's efforts to compile the Party List are for naught unless it is used. Affidavit of Donna Bergstrom.

18. Respondent Ginny Gelms is the chief election official of Hennepin County. She is sued in her official capacity as such. Upon information and belief, Respondent Gelms is authorized and charged by Hennepin County and/or the County Auditor with appointing election judges and deputy county auditors to the Hennepin County ABB. Upon information and belief, Respondent Gelms is responsible for the errors and omissions alleged herein.

19. Respondent Daniel Rogan is the Hennepin County Auditor. He is sued in his official capacity as such. The Hennepin County Auditor receives the Party List from the Secretary of State by May 15 of each partisan election year. The County Auditor is also authorized and charged by Hennepin County with appointing election judges and deputy county auditors to the Hennepin County ABB. Upon information and belief, Respondent Rogan is responsible for the errors and omissions alleged herein.

20. Respondent Hennepin County, which acts through its board, is a public corporation which governs elections within Hennepin County and is required to establish an absentee ballot board through its governing body. *E.g.*, Minn. Stat. § 373.01; Minn. Stat. § 203B.121, subd. 1. Upon information and belief, Respondent Hennepin County is responsible for the errors and omissions alleged herein.

FACTUAL BACKGROUND

I. Minnesota Revamped Absentee Balloting in 2010 in Response to the Contentious 2008 Senate Election Between Norm Coleman and Al Franken.

21. “To promote accurate and secure elections, Minnesota law sets uniform requirements for processing and counting absentee ballots [T]he issue of how ballot boards should operate belongs to the Legislature as the elected representatives of the people.” *Minn. Voters All. v. County of Ramsey (Alliance I)*, 971 N.W.2d 269, 272, 280 (Minn. 2022).

22. Essential to the process of ensuring voting by absentee ballot is accurate and secure is that each jurisdiction conducting an election, including Hennepin County, is required to establish an absentee ballot board. Minn. Stat. § 203B.121, subd. 1 (2024).

23. This process was adopted in response to the contentious election contest between Norm Coleman and Al Franken for United States Senate in 2008, an election that was decided by 312 votes out of 2,885,555 votes cast.

24. One of the issues in the Coleman-Franken election dispute was the variations in absentee ballot review procedures across local election sites, resulting in a lack of uniformity in whether an absentee ballot should be accepted.

25. Because of this historically close and contentious election, the Minnesota Legislature passed a law to standardize the conduct of processing and counting absentee ballots. Act of Mar. 24, 2010, ch. 194, § 9 (codified as amended at Minn. Stat. § 203B.121).

26. The purpose of the new law was accuracy, related both to preventing “wrongly rejected” and “wrongly accepted” ballots, and that the law addressed “both.” *Hearing on H.F. 3111 Before H. State & Local Gov’t Operations Reform Tech. & Elections Comm.*, 2010 Minn. Leg. 86th Sess., Mar. 2, 2010, at 39:28 (statement of Rep. Kiffmeyer) (the purpose of the new law was accuracy, related both to preventing “wrongly rejected” and “wrongly

accepted” ballots, and that the law addressed “both”), *available at* <https://www.house.leg.state.mn.us/hjvid/86/502>. The law has been amended several times since its original enactment but is substantially the same for purposes of this petition. Minn. Stat. § 203B.121 (2024).

II. The Law Requires Respondents to Establish a Ballot Board and Staff It With Mandatory Election Judges and Permissive Deputy County Auditors.

27. The law requires jurisdictions conducting an election, such as Hennepin County, to establish absentee ballot boards by ordinance or resolution. Minn. Stat. § 203B.121, subd. 1(a) (“The governing body of each county, municipality, and school district with responsibility to accept and reject absentee ballots or to administer early voting must, by ordinance or resolution, establish a ballot board.”).

28. The law requires local jurisdictions with ABBs to appoint “a sufficient number of election judges” and, beyond that, allows the “inclu[sion] [of] deputy county auditors . . . who have received training in the processing and counting of absentee ballots.” Minn. Stat. § 203B.121, subd. 1(a).

29. Each jurisdiction must “pay a reasonable compensation to each member of that jurisdiction’s ballot board for services rendered during an election.” Minn. Stat. § 203B.121, subd. 1(b). This makes ABB members “employee[s] of” or “perform[ing] services for” their jurisdiction and subject to

the personnel data classifications of Minn. Stat. § 13.43, subd. 2(a). Thus, the names of the ABB members are public data.

III. The Law Assigns Different Duties to Election Judges and Deputy County Auditors on the Absentee Ballot Board.

30. Under Minn. Stat. § 203B.121, subd. 2, both deputy county auditors and election judges on the ABB may perform several duties when deciding whether to accept or reject a ballot. *Id.* (“[T]wo or more members of the ballot board shall examine each signature envelope and shall mark it accepted or rejected in the manner provided in this subdivision[.]”). These include being satisfied that:

- a. (1) the voter's name and address on the signature envelope are the same as the information provided on the absentee ballot application or voter record;
- b. (2) the voter signed the certification on the envelope;
- c. (3) the voter's Minnesota driver's license, state identification number, or the last four digits of the voter's Social Security number are the same as a number on the voter's absentee ballot application or voter record. If the number does not match, the election judges must compare the signature provided by the applicant to determine whether the ballots were returned by the same person to whom they were transmitted;
- d. (4) the voter is registered and eligible to vote in the precinct or has included a properly completed voter registration application in the signature envelope;
- e. (5) the certificate has been completed as prescribed in the directions for casting an absentee ballot; and

- f. (6) the voter has not already voted at that election, either in person or, if it is after the close of business on the 19th day before the election, as provided by section 203B.081.

31. One particular duty among these, however, is assigned *only* to the election judges on the ABB. That is, when inspecting the absentee ballot signature envelopes, if “the voter’s Minnesota driver’s license, state identification number, or the last four digits of the voter’s Social Security number” do not match the number on record for that voter, election judges, and only election judges, “must compare the signature provided by the applicant to determine whether the ballots were returned by the same person to whom they were transmitted.” Minn. Stat. § 203B.121, subd. 2(b)(3); *see Alliance I*, 971 N.W.2d at 280 (“This task is committed to election judges alone.”).

32. Likewise, during the absentee voting period, among ABB members, *only election judges* of different major political parties may duplicate spoiled ballots. Minn. Stat. § 203B.121, subd. 4; Minn. Stat. § 206.86, subd. 5.

33. The election judges appointed to the absentee ballot board must be of “sufficient number” to perform the required duties. *Id.*, subd. 1(a); *see Alliance I*, 971 N.W.2d at 278.

34. The phrase “sufficient number of election judges” in Minnesota Statutes 203B.121, subdivision 1 refers to the minimum number of election judges needed to carry out the mandated duties under 203B.121, subdivision 2. The absolute minimum number is found under Minnesota Statutes 204B.21,

subdivision 2: “At least two election judges must be affiliated with different major political parties.” Further, to carry out the signature-matching duties and spoiled-ballot duties described herein, at least two election judges of different parties must be present for each such incident.

35. And where the county is dealing with a large inflow of absentee ballots, while a county has “discretion to decide what constitutes a ‘sufficient number’ of election judges,” additional election judges may be needed to ensure that “sufficient” number of judges and to avoid an abuse of that discretion. *See Alliance I*, 971 N.W.2d at 279. For example, it would be an abuse of discretion if a county tasked one Republican and one Democrat election judge with matching signatures on a million ballots and thus delayed the reporting of election results.

IV. Election Judges on Absentee Ballot Boards Must Be Qualified in the Same Manner as Election Judges Serving on Election Day, and Counties May Not Substitute Their Own Process for Qualifying Election Judges for the Board.

36. Section 203B.121 imports into the absentee-ballot-board context the appointment process for elections judges found in Minn. Stat. §§ 204B.19 to 204B.22.

37. Under Minn. Stat. § 204B.19, the county establishing the board “may examine any individual who seeks appointment as an election judge to determine whether the individual meets any qualification.” Minn. Stat. §

204B.19, subd. 4. The county “may establish additional qualifications which are not inconsistent with the provisions of this section and which relate to the ability of an individual to perform the duties of an election judge.” *Id.*

38. Election judges must meet certain qualifications such as being eligible to vote and not being a candidate in that election. Minn. Stat. § 204B.19.

39. Each of the individual Petitioners is qualified and trained to be an election judge and is willing to serve in that capacity—immediately—on the Hennepin County ABB.

40. Hennepin County may not substitute an idiosyncratic “application” process or any other recruitment process inconsistent with the statutory appointment procedure set forth in Minn. Stat. § 203B.121 and §§ 204B.19–22.

41. Neither may Hennepin County outsource the appointment of its election judges to Minneapolis or any other jurisdiction, and Hennepin County is responsible for ensuring that the election judges serving on *its* ABB are appointed pursuant to law.

V. Election Judges Must Be Appointed by Reference to the Party List to Ensure Party Balance for Board Election Judges.

42. The appointment of election judges for a particular absentee ballot board must be from a list of candidates supplied by major political parties.

Minn. Stat. § 204B.21, subd. 2. *see Alliance I*, 971 N.W.2d at 276 (“The governing body of each county or municipality appoints election judges from this list.”).

43. For the 2024 election, there are two major political parties in Minnesota: Democratic-Farmer-Labor and Republican. *See* <https://www.sos.state.mn.us/elections-voting/how-elections-work/political-parties/>.

44. Each year in which there is an election for partisan political office, each major political party prepares a list of eligible voters to act as election judges and provides that list, including their names and addresses, to the secretary of state. Minn. Stat. § 204B.21, subd. 1. If there is a deficiency in the addresses of these candidates for election judge, the secretary of state shall notify the parties of issues with the addresses. *Id.*

45. The secretary of state is then required to furnish that list to each jurisdiction required to appoint election judges. *Id.*

46. For counties, “[e]lection judges performing election-related duties assigned by the county auditor shall be appointed by the county board.” *Id.* And likewise, each county must staff an absentee ballot board with election judges using the procedures in section 204B.21. Minn. Stat. § 203B.121, subd. 1.

47. Under section 204B.21, then, election judges for an absentee ballot board must be appointed from the party-provided list of affiliated candidates for election judge. *Id.*, subd. 2.

48. The list provided by each major party consists of individuals seeking appointment to be an election judge that are affiliated with that party. *Id.*

49. Only after the list of candidate election judges is exhausted may the jurisdiction turn to other sources to appoint additional election judges. *Id.*; *Alliance I*, 971 N.W.2d at 276 (“The governing body may appoint election judges not appearing on the major party lists only after it has exhausted the candidates on the list.”).

50. For counties, “the county board” (which acts on behalf of the county) is responsible for these appointments, and because an absentee ballot board spans an entire county or municipality, election judges appointed to a county ballot board can come from any precinct within a county, and for a municipality they may come from any precinct within the municipality. *See* Minn. Stat. § 204B.21, subd. 2.

VI. The Republican Party of Minnesota Wholly Complied with Minnesota Election Law and Provided a List of Candidate Election Judges to the Secretary of State.

51. The Republican Party of Minnesota is a major political party as defined by statute.

52. The Republican Party of Minnesota took significant time and effort to prepare the Party List of eligible voters affiliated with the Republican Party of Minnesota that are willing to serve as election judges. Bergstrom Aff.

53. The MNGOP relies on counties and cities to source from the Party List, in good faith, to ensure Republican representation at both election-day precincts and on ABBs. The MNGOP expects that county auditors will adhere to Minnesota statutes when establishing absentee ballot boards. Bergstrom Aff.

54. The Party List is robust. It includes the names of each Republican election judge across Minnesota, as well as at least three items of contact information (physical address, and, if known, phone number and email) to ensure that localities can contact Republican election judges for inclusion at precincts on election day and on ABBs. Bergstrom Aff.

55. Among these judges are the individual Petitioners in this action. Each individual petitioner is a Republican-affiliated election judge who is on the Party List. Each individual Petitioner's physical address, phone number, and email are on the Party List. Bergstrom Aff.; Attia Aff.; Stoick Aff.; Sutter Aff.

56. The Republican Party of Minnesota complied with all statutory requirements and transmitted this Party List to the Secretary of State on May 1, 2024. Bergstrom Aff.

57. At no point did the Republican Party of Minnesota receive any notice from the Secretary of State or Hennepin County that the Party List of candidates for election judge was deficient in any way.

58. Petitioners were on the Republican Party of Minnesota's Party List, they live in Hennepin County, and at all times, including at present time, they have been and are willing to serve as election judges on the Hennepin County Absentee Ballot Board. Bergstrom Aff.; Attia Aff.; Stoick Aff.; Sutter Aff.

VII. Hennepin County Failed to Properly Appoint Election Judges from the Party List and Then Failed to Timely Produce the List of Its Absentee Ballot Board Members in Response to a Request for Public Data.

59. Hennepin County established the required ballot board by passing a resolution in 2022, which applies to the 2024 election, as there is no superseding resolution. Resolution No. 22-0333 (Sept. 27, 2022). *See* Affidavit of James Dickey, Ex. B.

60. The resolution delegated to Respondent Dan Rogan (County Auditor) or his designee, which upon information and belief is Respondent Ginny Gelms (the head elections official for Hennepin County, as identified by the Secretary of State, see <https://www.sos.state.mn.us/elections-voting/find-county-election-office/>), the authority and responsibility "to appoint to the

Hennepin County Absentee Ballot Board election judges and deputy county auditors in a manner consistent with Minnesota law.” *See* Dickey Aff. Ex. B.

61. Resolution No. 22-0333 established the absentee ballot board, but did not establish any other qualifications for appointing election judges. *See id.*

62. Hennepin County did not publish a list of the names of absentee ballot board members to allow for the major parties or the public to know whether the ABB was properly formed.

63. On August 26, 2024, an attorney for Petitioners MVA, Attia, Stoick, and Sutter submitted a public records request to Hennepin County pursuant to the Minnesota Government Data Practices Act. Hennepin County acknowledged receipt the same day. This request was for the “names of all of the individuals appointed to the Hennepin County absentee ballot board for the 2024 election.” Dickey Aff. Ex. A.

64. Sixteen days later, on September 10, 2024, Hennepin County responded that “[Hennepin] County does not maintain a list of the [election judges] performing [absentee ballot board] work, and therefore has no responsive data.” Dickey Aff. Ex. A.

65. One day later, on September 11, 2024, the attorney responded to the lack of data and improper response by Hennepin County, stating that “the County’s response is improper and must be corrected to avoid legal action and penalties for violating the Minnesota Government Data Practices Act

(MGDPA)” because the attorney had evidence that Hennepin County does possess such data. *See Dickey Aff. Ex. A.*

66. After another substantial delay of 24 days, on October 4, 2024, Hennepin County begrudgingly responded (“Data Response”) with the list of election judges appointed to the ABB. *Dickey Aff. Ex. A* (“Although we disagree with your reading of both the relevant election statutes and the Data Practices Act, we have decided to create your requested data for purposes of transparency and consistency.”).

67. On Monday, October 7, 2024, the attorney passed the information along to MVA.

68. The same day, on October 7, 2024, after diligent review, the Republican Party of Minnesota confirmed that none of the more-than 1,500 names it transmitted to Hennepin County, which it transmitted through the Secretary of State, were on the Hennepin County Absentee Ballot Board. *Bergstrom Aff.*

69. By October 11, 2024, Andrew Cilek of Petitioner Minnesota Voters Alliance and a colleague had called 25 names from Hennepin County on the Party List at random. Of those 25 people, none was contacted by Hennepin County and 7 would have been willing to serve on the Hennepin County ABB. *Cilek Aff.*

70. The County's delay in producing public data pursuant to a proper request within a reasonable time (for a list of names public under Minn. Stat. § 13.43, no more than 7 days), violated the MGDPA and caused Petitioners not to be aware of Respondents' violations of Minnesota Election Law until October 7, 2024.

71. Because of Respondents' actions, Petitioners have filed this Petition, after necessary due diligence to confirm the violations of Minnesota Election Law, on October 15, 2024.

RESPONDENTS' ERRORS

72. In addition to the allegations of error above, Respondents appointed five election judges to the Hennepin County Absentee Ballot Board. None of the appointed election judges are from the Republican Party of Minnesota's Party List of candidates for election judge. Bergstrom Aff. This violates Minnesota Election Law, which requires Hennepin County to first appoint from the Party List. Minn. Stat. § 204B.21, subd. 2; *see Alliance I*, 971 N.W.2d at 276 ("The governing body of each county or municipality appoints election judges from this list.").

73. Upon information and belief, Respondents did not exhaust the Party List prior to additional election judges being appointed to the Hennepin County ABB. This is known because a comparison of the Party List to the Data Response shows no overlapping names, and this is further known because

Minnesota Voters Alliance contacted 25 candidate election judges on the Party List who stated they had not been contacted by the County, seven (7) of which would have been willing to serve on the ABB. Cilek Aff. In addition, the election-judge Petitioners were each on the Party List and attest that they were not contacted by Hennepin County and remain willing and qualified to serve. Bergstrom Aff.; Attia Aff.; Stoick Aff.; Sutter Aff. This violates Minnesota Election Law, which requires election judges on the ABB to be appointed from the Party List of affiliated election judges. Minn. Stat. § 204B.21, subd. 1; *see Alliance I*, 971 N.W.2d at 275 (“The governing body may appoint election judges not appearing on the major party lists *only after it has exhausted the candidates on the list.*”) (emphasis added).

74. Absentee ballot boards must contain election judges, and at least one member of the ABB must be affiliated with the Republican Party of Minnesota. *Minn. Voters All. v. Office of the Minn. Secy. of State* 990 N.W.2d 710, 713 (Minn. 2023) (“[T]here are members of ballot boards who are election judges and there might be other members who are not election judges”); Minn. Stat. § 203B.121 (“Election judges performing the duties in this section must be of different major political parties”); *Alliance I*, 971 N.W.2d at 273, 280 (“Election judges must be appointed from a list of candidates supplied by major political parties and must disclose their personal political affiliation.”). If more than two election judges are needed on an ABB, then sufficient Republicans

and Democrats must be appointed in a party-balanced fashion. The only mechanism for selecting a party-affiliated election judge is from the list of party-affiliated election judge candidates provided by statute. Respondents violated Minnesota Election Law by appointing zero election judges affiliated with the Republican Party of Minnesota.

75. The composition of the Hennepin County Absentee Ballot Board therefore does not comply with Minnesota Election Law. Respondents' unlawful actions undermine the people's desire for "accurate and secure elections." The Court should grant the requested relief and correct the error immediately.

CLAIM FOR RELIEF

WHEREFORE, Petitioners respectfully pray for an Order of the Court as follows:

76. Immediately setting a briefing schedule and time for hearing, pursuant to Minn. Stat. § 204B.44, subd. 2, such that Petitioners' brief is due Friday, October 18, 2024 at 12:00PM, Respondents' brief is due Monday, October 21, 2024 at 12:00PM, and a hearing takes place no later than October 24, 2024, or at such sooner or other times as the Court may direct;

77. Ordering Respondents to correct the errors described herein or show cause for not doing so at the aforementioned hearing;

78. Specifically, ordering Respondents to appoint to the Hennepin County Absentee Ballot Board enough Republican-affiliated election judges from the Party List to ensure (a) a sufficient number of election judges on the ABB to perform its tasks, and such that (b) there is party-balance between Republican and Democratic affiliated election judges on the Hennepin County ABB.

79. Granting Petitioners such other and further relief as the Court deems just and appropriate.

RETRIEVED FROM DEMOCRACYDOCKET.COM

[SIGNATURE PAGE TO FOLLOW]

For Petitioners Minnesota Voters Alliance, Karen Attia, Marlene Stoick, and Randy Sutter:

Dated: October 15, 2024

UPPER MIDWEST LAW CENTER

/s/ James V. F. Dickey
Douglas P. Seaton (#127759)
James V. F. Dickey (#393613)
12600 Whitewater Dr., Suite 140
Minnetonka, Minnesota 55343
doug.seaton@umlc.org
james.dickey@umlc.org
(612) 428-7000

For Petitioner Republican Party of Minnesota:

Dated: October 15, 2024

CROSS CASTLE PLLC

/s/ Ryan D. Wilson
Ryan D. Wilson (#400797)
Harry N. Niska (#391325)
14525 Highway 7 Suite 345
Minnetonka, MN 55345
ryan.wilson@crosscastle.com
harry.niska@crosscastle.com
(612) 429-8100