

SUPREME COURT OF ARIZONA

SUE HECK,) Arizona Supreme Court
) No. CV-26-0122-AP/EL
 Appellant,)
) Pima County
 v.) Superior Court
) No. CV20262700
 HERB KAI, et al.,)
) **FILED 05/04/2026**
 Appellees.)
 _____)

DECISION ORDER

A panel consisting of Chief Justice Timmer, Justice Montgomery, Justice King, and Justice Cruz has considered this matter.

Plaintiff Sue Heck seeks to enjoin Defendant Herb Kai's candidacy for Marana Town Council. She claims that he failed to properly fill in a blank in the caption of his nomination petitions and, therefore, should not be on the 2026 primary election ballot. The trial court found the sheets substantially complied with Arizona law. For the following reasons, we affirm the trial court's decision.

We review a challenge to the content of a nomination petition to determine whether it substantially complies with the statutory requirements. *Lohr v. Bolick*, 249 Ariz. 428, 431 ¶ 7 (2020). This entails discerning whether the petitions "could confuse or mislead" electors. *Moreno v. Jones*, 213 Ariz. 94, 102 ¶ 42 (2006). The Court will "not remove candidates from the ballot for mere technical departures from the form." *Bee v. Day*, 218 Ariz. 505, 506 ¶ 10

(2008). The Court uses this standard unless presented with a "clear statement that the legislature intended a particular form requirement" to be critical. *Id.*

A.R.S. § 16-314(C) provides the nomination petition caption for nonpartisan elections:

I, the undersigned, a qualified elector of the county of _____, state of Arizona, and of (here name political division or district from which the nomination is sought) hereby nominate _____ who resides at _____ in the county of _____ for the office of _____ to be voted at the _____ election to be held _____, and hereby declare that I am qualified to vote for this office

The parties agree that Defendant filled in the caption as follows:

I, the undersigned, a qualified elector of the county of Pima, state of Arizona, and of Town of Marana hereby nominate Herb Kai who resides at 11100 N Casa Grande Hwy, Marana AZ 85658 in the county of Pima for the office of Marana Town Council to be voted at the **2026** election to be held July 21, 2026, and hereby declare that I am qualified to vote for this office

(Emphasis added).

Plaintiff argues that by writing "2026" Defendant failed to specify that the signatures are for the primary election, thereby confusing electors. That particular blank, she claims, must be filled with either "primary" or "general." For support, she points to § 16-314(C)'s caption for partisan nominations, which has no blank and simply says "primary."

Although Plaintiff has offered the inference that "2026" should actually say "primary" or "general," she has not identified any clear

statement from the Legislature mandating those terms. See *Bee*, 218 Ariz. at 506 ¶ 10. The Court notes that after “2026” the petitions accurately identify the primary election date. Plaintiff fails to show that electors who read the whole caption would be confused as to whether Defendant is seeking signatures for the primary election.

Accordingly,

IT IS ORDERED affirming the trial court’s ruling.

IT IS FURTHER ORDERED directing the Clerk to issue the mandate forthwith.

DATED this 4th day of May, 2026.

/s/
ANN A. SCOTT TIMMER
Chief Justice

TO:

James E Barton II

Jacqueline Mendez Soto

Charles Lucking

Joshua A Barro

Timothy A LaSota

Daniel S Jurkowitz

Hon Scott McDonald

James W Giacomino

David Udall