

**IN THE SECOND JUDICIAL CIRCUIT COURT
IN AND FOR LEON COUNTY, FLORIDA**

JANET LAIMONT and
CHRISTINA FORREST,

Petitioners,

v.

Case No. _____

RON DESANTIS, as Governor of Florida,

Respondent.

_____ /

PETITION FOR WRIT OF MANDAMUS

1. This is an action seeking a writ of mandamus to remedy Governor DeSantis's violation of Fla. Stat. § 100.111(2).

2. The Governor has refused to perform his statutory duty to call special elections to fill vacancies in Florida Senate District 19 ("SD 19") and House District 3 ("HD 3"), as the law requires. The vacancies arose over forty days ago, when the vacating legislators resigned to run in special elections for Congress. The Governor's failure—inaction longer than any of his predecessors in known history—leaves the constituents of SD 19 and HD 3 without representation and threatens to deprive them of a voice in the halls of the Capitol during the 2025 session set to begin in March.

I. JURISDICTION, VENUE, AND PARTIES

3. This Court has jurisdiction, including jurisdiction to issue a writ of mandamus, under Fla. Const. Art. V, § 5(b), Fla. Stat. § 26.012(2)(c), and Fla. R. Civ. P. 1.630.

4. Venue is proper pursuant to Fla. Stat. § 47.011.

5. Petitioner Janet Laimont is a Florida citizen and an elector in SD 19.

6. Petitioner Christina Forrest is a Florida citizen and an elector in HD 3.

7. Respondent is the governor of Florida. Under Florida law, the governor must fix the date of elections when there is a vacancy in legislative office. Fla. Stat. §§ 100.101(2), .111(2).

II. FACTUAL ALLEGATIONS

A. Florida's Historical Practice of Prompt Special Elections

8. Since January 1, 1999, there have been 75 vacancies in congressional and legislative offices in Florida filled by special election.

9. For the 65 vacancies arising between 1999 and 2020, it took, on average, 7.6 days for the governor to call a special election after the vacancy arose.

10. In over 25 instances, the governor took fewer than five days to call the election.

11. For example, Rep. Danny Burgess resigned on January 24, 2019, after being appointed executive director of the Department of Veterans Affairs. Governor DeSantis issued an executive order calling a special election to fill Rep. Burgess's seat *the very same day*.¹

12. Even more recently, Governor DeSantis has called special elections relatively promptly—if it suits him. When Congressman Matt Gaetz resigned on November 13, 2024, Governor DeSantis took nine days to call a special election (prompting the incumbent representative for HD 3 to resign to run for that election).²

13. Similarly, when Congressman Michael Waltz resigned on November 24, 2024, Governor DeSantis called a special election *the next day* (prompting the incumbent senator for SD

¹ Exec. Order 19-20 (Jan. 24, 2019), https://www.flgov.com/wp-content/uploads/orders/2019/EO_19-20.pdf; News Service of Florida, *This Tampa Bay State Representative Now Leads Florida's Veterans Affairs*, TAMPA BAY TIMES (Jan. 24, 2019), <https://www.tampabay.com/florida-politics/buzz/2019/01/24/this-tampa-bay-state-representative-now-leads-floridas-veterans-affairs/>.

² Exec. Order 24-262 (Nov. 22, 2024), <https://www.flgov.com/eog/sites/default/files/executive-orders/2024/EO%2024-262.pdf>; Marianna Sotomayor, *et al.*, *Matt Gaetz Resigned Days Before Ethics Investigation Report Was Expected*, WASH. POST (Nov. 13, 2024), <https://www.washingtonpost.com/politics/2024/11/13/matt-gaetz-ethics-investigation-resign/>.

19 to resign to run for that election). He did so despite Congressman Waltz’s resignation not being effective until January 20, 2025.³

14. When a legislator resigns to run in a special election for a higher office, the routine practice of past governors was to quickly call a special election for the resigning legislator’s seat and hold it concurrently with the special election for the higher office.

15. Between January 1, 1999 and when Governor DeSantis took office, there were 15 legislative vacancies caused by a legislator resigning to run for another office. *In all 15 cases*, the governor set the special election to fill the resigning legislator’s seat for the same date as the election for which the legislator resigned to run, or an even earlier date.⁴

16. For example, after a vacancy arose in Senate District 40, Governor Scott set a special election for September 26, 2017. Then, Rep. Jose Felix Diaz of House District 116 submitted his resignation on May 17, 2017, with an effective date of September 26, 2017, to run

³ Exec. Order 24-263 (Nov. 25, 2024), <https://www.flgov.com/eog/sites/default/files/executive-orders/2024/EO%2024-263.pdf>; Cami Mondeaux, *Trump Nominee Mike Waltz to Resign from House on Inauguration Day*, WASH. EXAMINER (Nov. 25, 2024), <https://www.washingtonexaminer.com/news/house/3241486/trump-mike-waltz-resign-house-inauguration-day/>.

⁴ House District 17 election held Mar. 9, 1999, concurrent with Senate District 8 election that Rep. Jim King resigned to run in; House Districts 111 and 115 elections held Jan. 25, 2000, concurrent with Senate District 34 election that Reps. Carlos Valdes and Alex Diaz de la Portilla resigned to run in; House District 1 election held Oct. 16, 2001, concurrent with Congressional District 1 election that Rep. Jeff Miller resigned to run in; House District 30 election held Mar. 25, 2003, concurrent with Senate District 26 election that Rep. Mike Haridopolos resigned to run in; House District 13 election held May 13, 2003, concurrent with Duval County property appraiser election that Rep. Mike Hogan resigned to run in; House District 49 election held Apr. 24, 2007, concurrent with Osceola County Commission election that Rep. John Quiñones resigned to run in; House Districts 24 and 43 elections held June 26, 2007, concurrent with Senate District 3 election that Reps. Dennis Baxley and Charlie Dean resigned to run in; House District 103 election held Mar. 1, 2011, concurrent with Senate District 33 election that Rep. Oscar Braynon resigned to run in; House District 110 election held June 28, 2011, four months before Hialeah mayoral election that Rep. Steve Bovo resigned to run in; House Districts 17 and 24 elections held Apr. 7, 2015, concurrent with Senate District 6 election that Reps. Ronald “Doc” Renuart and Travis Hutson resigned to run in; Senate District 23 election held Nov. 6, 2018, concurrent with Congressional District 17 election that Sen. Greg Steube resigned to run in.

in the Senate special election. Three business days later, Governor Scott called a special election for House District 116—setting it for the same day as the Senate special election. This meant the people of House District 116 enjoyed uninterrupted representation in the Legislature.⁵

B. The Governor’s Recent Failures to Timely Call Special Elections

17. But lately, Governor DeSantis has more often chosen to deviate from Florida’s longstanding practice of timely special elections, in violation of his mandatory statutory duty.

18. After Congressman Alcee Hastings died in April 2021, Governor DeSantis failed to call a special election for 30 days—longer than any Florida governor had ever taken to call a special election in at least the prior 22 years, and possibly ever in the history of the state.

19. Twenty-three days after Congressman Hastings died, a would-be candidate filed suit, seeking to compel the Governor to call an election and fulfill his duty under Article I, Section 2 of the U.S. Constitution and Fla. Stat. § 100.111(2). *Dowling v. DeSantis*, No. 9:21-cv-80796 (S.D. Fla. Apr. 29, 2021).

20. A week later, the Governor called a special election, but set it for January 11, 2022—more than nine months after Congressman Hastings’ death.⁶

21. In July 2021, three legislators submitted resignations to run in the congressional special election.

22. Governor DeSantis broke the 30-day personal—and perhaps all-time—record he had just set, waiting *over ninety days* to call special election to fill these vacant legislative seats.

23. The Governor did not call special elections until he was forced to—after residents

⁵ Jenna Buzzacco-Foerster, *Rick Scott Sets Special Election Dates to Fill Seat Being Vacated by Jose Felix Diaz*, FLA. POLITICS (May 22, 2017), <https://floridapolitics.com/archives/238554-rick-scott-sets-special-election-dates-fill-house-seat-vacated-jose-felix-diaz/>.

⁶ Exec. Order 21-103 (May 6, 2021), <https://files.floridados.gov/media/704305/executive-order-21-103.pdf>.

of the districts petitioned this Court for mandamus relief. Compl., *Staples v. DeSantis*, No. 2021 CA 1781 (Fla. 2nd Jud. Cir. Oct. 15, 2021). Following months of inaction, the Governor called elections within *days* of this Court ordering him to show cause why the writ should not issue. Not. of Vol’y Dismissal, *Staples* (Oct. 28, 2021).

24. In 2023, Governor DeSantis waited 38 days to call a special election for a State House seat. Yet again, the Governor did not call the election until he was forced to—after this Court ordered the Governor to show cause why mandamus should not issue in a lawsuit brought by a district resident. Order to Show Cause, *Zamora v. DeSantis*, No. 2023 CA 1857 (Fla. 2nd Jud. Cir. Ct. July 17, 2023).

25. And in stark contrast with the practice of past governors, *see supra* ¶ 15 & n.4, in all five cases when a legislator resigned to run in a special election for another office under his tenure, Governor DeSantis has *failed* to set an election for those legislative seats in time to hold it concurrently with the already-scheduled special election.⁷

C. The Instant Vacancies and the Governor’s Failure to Call an Election

26. On November 25, 2024, Rep. Joel Rudman resigned effective January 1, 2025, to run for the upcoming special election in Congressional District 1.⁸

27. On November 26, 2024, Sen. Randy Fine resigned effective March 31, 2025, to run for the upcoming special election in Congressional District 6.⁹

⁷ These are the three vacancies at issue in *Staples* and the two instant vacancies.

⁸ Joel Rudman (@doc_rudman), X (Nov. 25, 2024, 4:46 PM), https://x.com/doc_rudman/status/1861164692736987180/; Jim Little, *Joel Rudman Resigns from Legislature to Run for Matt Gaetz’s Congressional Seat*, PENSACOLA NEWS JOURNAL (Nov. 25, 2024), <https://www.pnj.com/story/news/politics/elections/2024/11/25/76575236007/>.

⁹ Dave Berman, *Fine to Run for Congress in Daytona Beach Area; Mayfield Seeks Return to Florida Senate*, FLA. TODAY (Nov. 26, 2024), <https://www.floridatoday.com/story/news/politics/elections/2024/11/26/76586098007/>.

28. The Governor has failed to call an election to fill the vacancies.

29. Interim committee weeks for the 2025 legislative session begin on January 13, 2025.¹⁰ The 60-day session runs from March 4 to May 2, 2025.

30. Unless the Governor sets a special election very soon, Petitioner Forrest and other HD 3 residents will go without representation for the entirety of the 2025 session; Petitioner Laimont and other SD 19 residents will go without representation for half of the session.

CLAIM FOR RELIEF

31. Petitioners have a clear legal right to have the Governor fix the date of a special election for each vacancy.

32. Petitioners have a right to be represented by a senator and representative, elected by them. *See* FLA. CONST. art. III, § 1.

33. The Governor has a clear legal duty to fix the dates of the special elections.

34. The Governor's clear legal duty is ministerial and nondiscretionary in nature.

35. By failing to fix the date of the elections for over forty days, the Governor has failed to perform his mandatory duty under Fla. Stat. § 100.111(2).

36. Petitioners have no adequate remedy at law.

REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Issue an alternative writ of mandamus pursuant to Fla. R. Civ. P. 1.630(d)(2) ordering the Governor to show cause (within 20 days of service of the order, *id.* 1.630(e), 1.140(a)(1)) why mandamus should not issue in this matter;

¹⁰ Florida House, *Important Legislative Dates for the 2025 Regular Session*, <https://flhouse.gov/FileStores/Web/HouseContent/Approved/ClerksOffice/ImportantLegislativeDates.pdf>.

- B. Issue a writ of mandamus directing the Governor to perform his clear ministerial duty to fix the date of a special primary election and a special election for SD 19 and HD 3 within a reasonable time, not to exceed 5 days;
- C. Award Petitioners their costs of suit; and
- D. Issue any such other relief the Court deems appropriate.

ARGUMENT

Article III, Section 1 of the Florida Constitution mandates that “[t]he legislative power of the state shall be vested in a legislature of the State of Florida, consisting of a senate composed of one senator elected from each senatorial district and a house of representatives composed of one member elected from each representative district.” Each resident of the state has the right to be represented by one senator and one representative. These legislators are their voice in the halls of the Capitol.

When a vacancy arises in legislative office, the people have the right to fill that vacancy in a special election. *See* Fla. Stat. § 100.101(2). The reason is obvious: no Floridian should be deprived of representation because of the death, resignation, or removal of their representatives.

But left to his own devices, the Governor would deprive the residents of SD 19 and HD 3 of their constitutionally protected voice in the Capitol. The Governor has failed to perform his statutorily proscribed ministerial duty to fix the date of special elections for the districts, where Petitioners reside. The vacancies in these districts arose over forty days ago. No other governor in living memory has waited this long to schedule a special election.

The Governor’s failure to call this election violates Fla. Stat. § 100.111(2). Mandamus is the appropriate remedy to address this violation. *Young v. Lamar*, 115 So. 3d 1132, 1133–34 (Fla.

1st DCA 2013) (finding mandamus “an appropriate remedy to correct” a violation of the law); *Valdes v. Galco Constr.*, 883 So. 2d 359, 361 (Fla. 1st DCA 2004) (granting mandamus to compel officer to issue an order “within a reasonable time, not to exceed 30 days”); *Fla. Caucus of Black State Legislators, Inc. v. Crosby*, 877 So. 2d 861, 864 (Fla. 1st DCA 2004) (finding mandamus appropriate to compel state department head to comply with statute providing that department “shall assist” certain persons and “shall ensure” documents are forwarded); *Kramp v. Fagan*, 568 So. 2d 479, 480 (Fla. 1st DCA 1990) (granting mandamus and directing lower court judge to dispose of a neglected motion within fifteen days); *AHF MCO of Fla., Inc., v. Exec. Office of the Governor*, No. 2018 CA 1648 (Fla. 2nd Jud. Cir. Sep. 5, 2018) (finding governor had a statutory duty to produce certain records and issuing writ of mandamus commanding him to produce the records within ten days).

To show entitlement to a writ of mandamus,

a petitioner must show that he has a clear legal right to the performance of a clear legal duty by a public officer and that he has no other legal remedies available to him. When a petitioner files a petition for mandamus, the court has the initial task of assessing the legal sufficiency of the allegations [I]f the petition is facially sufficient, the court must issue an alternative writ, i.e., an order directed to the respondent to show cause why the requested relief should not be granted.

S.J. v. Thomas, 233 So. 3d 490, 495 (Fla. 1st DCA 2017) (cleaned up); *see also Moore v. Ake*, 693 So. 2d 697, 698 (Fla. 2d DCA 1997) (trial court must issue an alternative writ of mandamus if petition is facially adequate, even if petitioner has not served respondent with the complaint).

As demonstrated below, Petitioners have established all the above requirements, and an alternative writ of mandamus should issue directing the Governor to show cause why this Court should not grant the requested relief.

A. The Governor has an indisputable, ministerial duty to fix special elections when there is a vacancy in legislative office.

The statutory commands are clear: “A special election or special primary election shall be held . . . [i]f a vacancy occurs¹¹ in the office of state senator or member of the state house of representatives.” Fla. Stat. § 100.101. “Whenever there is a vacancy for which a special election is required pursuant to s. 100.101, the Governor, after consultation with the Secretary of State, shall fix the dates of a special primary election and a special election.” *Id.* § 100.111(2).

The Governor’s duty to fix a special election after a vacancy arises is ministerial and nondiscretionary. *See Town of Manalapan v. Rechler*, 674 So. 2d 789, 790 (Fla. 4th DCA 1996) (“A duty or act is defined as ministerial when there is no room for the exercise of discretion, and the performance being required is directed by law.”). A plain reading of the language of section 100.111(2) demonstrates the ministerial nature of this duty. The statute provides, “the Governor . . . shall fix the dates of a special primary election and a special election” (emphasis added). “Shall” is not discretionary. Rather, its plain meaning indicates the Legislature has bestowed upon the Governor a ministerial obligation.

Florida Caucus of Black State Legislators, Inc. v. Crosby, 877 So. 2d 861 (Fla. 1st DCA 2004), is particularly instructive here. In that case, petitioners sought a writ of mandamus

¹¹ Under Article X, Section 3 of the Florida Constitution, a vacancy “occurs” on the date a resignation is submitted, even if the resignation takes effect on a future date. *Spector v. Glisson*, 305 So.2d 777, 779 (Fla. 1974) (concluding that, under Article X, Section 3, when an officer submits a resignation to take effect in future, “a vacancy has been created, albeit to take effect *in futuro*”). Sections 100.101 and .111(2), therefore, command the Governor to call a special election once a resignation is submitted, even if it takes effect in future.

The Governor may argue that language added to section 99.012 in 2021 preempts this constitutional interpretation in cases where the vacancy arises because the legislator resigned to run for another office. *See* Fla. Stat. § 99.012(3)(f) (“The office is deemed vacant upon the effective date of the resignation submitted by the official in his or her letter of resignation.”); Laws of Fla. ch. 2021-11, § 11, at 11 (SB 90). But, when an office is “deemed vacant” does not speak to when the vacancy “occurs” pursuant to section 100.101 or Article X, Section 3. And even if it did, the statute would be in conflict with the Constitution, and therefore void.

compelling the secretary of the Department of Corrections to comply with a statute mandating the agency do the following when a felony offender was about to be discharged from state supervision:

[A]n authorized agent of the department *shall* obtain from the Governor the necessary application and other forms required for the restoration of civil rights. The authorized agent *shall* assist the offender in completing these forms and *shall* ensure that the application and all necessary material are forwarded to the Governor before the offender is discharged from supervision.

877 So. 2d at 862 (quoting § 944.293, Fla. Stat. (2002)) (emphasis added). Writing for a unanimous panel, then-Judge Polston reasoned that, “[b]ecause the legislature chose to use the word ‘shall’ throughout section 944.293, the Department’s obligations are not discretionary.” *Id.* at 863. The court ruled that the writ should issue, requiring the Department of Corrections to comply with their mandatory, ministerial duties under the statute. *Id.* at 863. The same reasoning applies to the Governor’s duty to fix a special election under section 100.111(2).¹²

It is well established that “[i]f the language of the statute is clear and unambiguous and conveys a clear and definite meaning, the statute should be given its plain meaning.” *Fla. Hosp. v. Agency for Health Care Admin.*, 823 So. 2d 844, 848 (Fla. 1st DCA 2002). Because the language in section 100.111(2) is nondiscretionary, the Governor is bound to follow its command. Accordingly, the Governor has an indisputable duty to fix special election dates for the legislative vacancies. And given the constitutional imperative that no Floridian lack representation longer than necessary, the Governor has a duty to fix the elections for the earliest date possible.

¹² Significantly, the *Crosby* court stressed that the existence of a disagreement over the existence or scope of the statutory duty—or even ambiguity in the statute—does not foreclose mandamus relief. 877 So. 2d at 863. (“While we agree with the trial court that the Department’s statutory obligations are ambiguous, . . . it is appropriate for us to interpret an ambiguous statute and then determine it to be sufficiently ‘clear’ for the purpose of mandamus.”).

B. Petitioners have a clear legal right to compel the Governor to perform his statutory duty.

Petitioners are residents and voters of the districts for which the Governor has failed to call special elections. In the absence of a special election called very soon, Petitioners will go without the representation to which they are entitled in the 2025 legislative session and for weeks, potentially months, afterward—during which legislators provide constituent services, perform official duties, and may be called back into special session. Petitioners’ voices, and the voice of their neighbors, will go unheard in the Capitol. Their vote will be denied, twice over. In the first instance, the Governor’s failure to call a special election deprives Petitioners the right to vote on their legislators. In the second instance, the Governor’s inexplicable inaction denies Petitioners a vote on the floor of the Florida House and Senate.

Given the Governor’s clear legal duty, “Petitioner, as a citizen and taxpayer, has a clear legal right to request that the Governor carry out that duty.” *Pleus v. Crist*, 14 So. 3d 941, 945 (Fla. 2009); *see also Chiles v. Phelps*, 714 So. 2d 453, 456 (Fla. 1998) (finding that “citizens and taxpayers” have standing “to challenge alleged unconstitutional acts of the executive branch”).

C. Petitioners have no adequate remedy at law.

Petitioners have no other adequate remedy at law. Florida courts have recognized mandamus as an appropriate remedy to resolve violations of the law and matters where the executive branch has failed to perform a ministerial duty imposed by law. *Young*, 115 So. 3d at 1133–34 (“[T]he Commission . . . was required, at a very minimum, to process the petitioner’s complaint in accordance with the dictates of Florida Administrative Code Rule 34-5.002. Mandamus is an appropriate remedy to correct this error.”); *Bd. of Trs. of the City Supplemental Pension Fund for Firemen & Policemen in the City of Miami Beach v. Mendelson*, 601 So. 2d 594, 595 (Fla. 3d DCA 1992). As such, mandamus is the appropriate remedy to address the Governor’s

failure to fix special elections to fill these vacancies.

D. Conclusion

For the foregoing reasons, the Court should issue a writ of mandamus compelling the Governor to fix special elections for these months-old vacancies, with a special general election as soon as possible.

Respectfully submitted January 9, 2025,

/s/ Nicholas L.V. Warren

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