

**STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS**

**Amanda Davis,
Petitioner below, Petitioner**

v.) No. 24-223 (Fayette County CC-10-2024-C-39)

**Richard Lee Pannell, Jr., and
Fayette County Board of Ballot Commissioners,
Respondents below, Respondents**

**FILED
May 3, 2024**
C. CASEY FORBES, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

MEMORANDUM DECISION

Amanda Davis appeals the April 15, 2024, order of the Circuit Court of Fayette County that granted a writ of mandamus as moulded in an election case.¹ She contends that the circuit court erred by failing to remove a candidate from the May 14, 2024, election ballot.

Because the election is less than two weeks away, we grant a motion filed by Ms. Davis to expedite our consideration of her appeal. Furthermore, after reviewing Ms. Davis’s brief and appendix record, we conclude that this matter should be summarily affirmed. Accordingly, we suspend the requirements of our Rules of Appellate Procedure and proceed without requiring the respondents to file briefs. *See* W. Va. R. App. P. 2 (allowing the Court, on its own motion, to suspend the requirements of any Rule of Appellate Procedure “[i]n the interest of expediting a ruling”); W. Va. R. App. P. 21(c) (permitting the Court to issue a memorandum decision when “just cause exists for summary affirmance”).²

When reviewing a circuit court’s decision to either grant or deny a writ of mandamus, we apply a de novo standard of review. Syl. Pt. 1, *Harrison Cnty. Comm’n v. Harrison Cnty. Assessor*, 222 W. Va. 25, 658 S.E.2d 555 (2008). A writ of mandamus requires proof of three coexisting elements, one of which is “a clear legal right in the petitioner to the relief sought.” Syl. Pt. 2, in part, *State ex rel. Kucera v. City of Wheeling*, 153 W. Va. 538, 170 S.E.2d 367 (1969). Ms. Davis seeks a very specific form of relief: the removal of Richard Lee Pannell, Jr., from the ballot for the

¹ Petitioner Amanda Davis is represented on appeal by Anthony M. Salvatore, Esq. Respondent Richard Lee Pannell, Jr., is represented by Elizabeth K. Campbell, Esq. Respondent Fayette County Board of Ballot Commissioners is represented by Fayette County Prosecuting Attorney Anthony N. Ciliberti, Jr.

² We note that in response to Petitioner Davis’s motion to expedite, Respondent Richard Pannell, Jr., indicated that the circuit court’s mandamus ruling is “clear, fair and just and he is not requesting relief from this Court.”

May 14, 2024, election, in the race for Fayette County Magistrate, Division 2. However, Ms. Davis did not point the circuit court nor this Court to the source of her putative, clear legal right to have Mr. Pannell, Jr., removed from the ballot. Indeed, this Court has held that removing a candidate from the ballot should be sparingly used and only when less restrictive alternatives are unavailable. Syl. Pt. 7, *State ex rel. Sowards v. Cnty. Comm'n of Lincoln Cnty.*, 196 W. Va. 739, 474 S.E.2d 919 (1996) (“To achieve the goal of enfranchisement wherever possible, judicial authority to take a candidate off the ballot . . . should be sparingly used”); Syl. Pt. 8, in part, *id.* (“Political candidacy is a fundamental interest which can be trod upon only if less restrictive alternatives are not available.”). As such, we determine that Ms. Davis has not asserted reversible error.

Affirmed.

ISSUED: May 3, 2024

CONCURRED IN BY:

Chief Justice Tim Armstead
Justice Elizabeth D. Walker
Justice John A. Hutchison
Justice William R. Wooton
Justice C. Haley Bunn