

THE SECOND CIRCUIT COURT, LEON COUNTY, FLORIDA

Smart & Safe Florida,
a Florida Political Committee, Petitioner

v.

Case: 2026CA0098

CORD BYRD, Secretary of State,
And MARIA MATTHEWS, Director,
Division of Elections, Defendants. /

Order on Emergency Petition for Writ of Mandamus

This matter is before the court on a motion for emergency mandamus relief filed by Petitioner Smart & Safe Florida (“Petitioner” or the “Political Committee”). The court issued an Order to Show Cause on January 20, 2026, and conducted an emergency case management conference later that same day. Counsel for all parties attended and agreed to expedited deadlines for filing. Respondent filed written waiver of service on January 21, 2026.

This matter commenced with the filing of the Petitioner’s “Emergency Petition for Writ of Mandamus – Expedited Proceedings Requested,” filed January 16, 2026. The Respondents filed a joint response to the Order to Show Cause on January 22, 2026. Petitioner filed a written reply on January 23, 2026. The court is as adequately advised as the compressed timeframe permits.

The Petitioner Political Committee is the sponsor of proposed constitutional amendment 25-01. The Petitioner hopes for proposed amendment 25-01 to appear on the 2026 general election ballot for consideration by the electorate. The Petitioner conducted a petition campaign to attempt to acquire the requisite number of valid signed petitions. The Petition alleges that the Petitioner relies on the total number of valid signatures and the distribution of such signatures to guide its efforts. The total number of valid signatures is posted by the Respondents on the Division of Elections’ website pursuant to section 100.371, Florida Statutes.

The Petition raises two issues, Petitioner’s Count I and Count II. The essence of the first dispute is whether the Secretary’s duty under section

100.371 is purely ministerial or includes the exercise of discretion. On this matter, there is no meaningful factual dispute and it is appropriate to enter final judgement as a matter of law.

In Count II, Petitioner alleges that it submitted two public records requests to the Secretary related to the valid signature totals. The public records dispute raises issues of fact. The court deems the Petitioner's public records request claims as non-emergency proceedings, entitled to the typical accelerated timeline due under section 119.11(1), Florida Statutes.

Secretary's Duties Under Section 100.371.

The Petition asserts that section 100.371 imposes a duty on Respondent to post weekly updates of the total signed verified petitions, and their distribution across Florida's districts. At the time the Petition was filed, January 22, 2026, the Secretary had not updated the totals on the Division of Elections' website since November 25, 2025.

Respondents argue that the duty imposed by section 100.371 on the Secretary directs the exercise of discretion in determining the number of valid petitions.

Section 100.371(15), Florida Statutes, states the following:

(15) The Secretary of State shall determine from the signatures verified by the supervisors of elections the total number of verified valid signatures, less any signatures that were invalidated pursuant to subsection (14), and the distribution of such signatures by congressional districts, and the division shall post such information on its website at the same intervals specified in paragraph **(14)(g)**. Upon a determination that the requisite number and distribution of valid signatures have been obtained, the secretary shall issue a certificate of ballot position for that proposed amendment and shall assign a designating number pursuant to s. 101.161. The secretary must rescind the certificate of ballot position if an advisory opinion issued by the Supreme Court pursuant to s. 16.061(1) deems the initiative petition invalid.

Paragraph (14)(g) states the following in pertinent part:

(g) On the last day of each month, or on the last day of each week from December 1 of an odd-numbered year through February 1 of the following year, each supervisor shall post on his or her website the total number of signatures submitted, the total number of invalid signatures, the total number of signatures processed, and the aggregate number of verified valid signatures and the distribution of such signatures by congressional district for each proposed amendment proposed by initiative, along with the following information specific to the reporting period: the total number of signed petition forms received, the total number of signatures verified, the distribution of verified valid signatures by congressional district, and the total number of verified petition forms forwarded to the Secretary of State.

Section 100.371 makes clear that the Secretary relies on the supervisors of elections to reverify petitions in need of correction, leaving the Secretary with the purely ministerial duty of calculating the total number of verified signatures.

Respondents also assert that they have now updated the Division of Elections website with calculated totals directly from the reports of supervisors of elections. On this basis, Respondents argue that Count I of the Petition is moot.

Because one more end-of-week deadline approaches pursuant to section 100.371(14)(g), and because such disputes demand emergency proceedings because of the impending constitutional and statutory timeframes, the court finds the current controversy to be capable of repetition yet evading review.

The traditional mandamus action requires the petitioner to establish a clear legal right to performance of the act requested, an indisputable legal duty by the public officer to perform the act, and no adequate remedy at law. See Hatten v. State, 561 So. 2d 562, 563 (Fla. 1990). Petitioner has demonstrated a clear legal right to have the Respondents perform their clear legal duty under section 100.371. Mandamus relief is proper. The court hereby **GRANTS** the Petition to the extent it seeks to compel the Secretary to comply with sections 100.371(14)(g) and (15), as set forth above.

Public Records Request

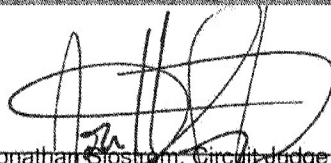
On January 6, Petitioner submitted two public records requests to the Secretary. The first sought records containing the unpublished signature totals which had not then been published. The second sought all memoranda, instructions, communications or other documents describing the Division's procedure and timing for posting such signature totals on the Division's website, including any reason or justification for failure to publish weekly updates. Plaintiff alleged that, at the time of filing, Respondents had not acknowledged either request.

Respondents assert that they have since responded to the requests, and that such does not constitute unreasonable delay under the circumstances. Their response to the first request was to publish the signature totals on the Division of Elections' website and direct Petitioner to them. Their response to the second request stated that a diligent search had been conducted and no responsive records were found.

Having disposed of Petitioner's Count I, the court finds that Petitioner's Count II does not call for expedited treatment beyond the typical accelerated schedule due under the Public Records Act. Section 119.11(1), Fla. Stat. The court further finds that Petitioner is entitled to an evidentiary hearing to determine whether a good-faith search was conducted in response to Petitioner's request. Stern v. City of Miami Beach, 359 So. 3d 1209 (Fla. 3d DCA 2023). The court will set this hearing by separate order.

DONE AND ORDERED on Thursday, January 29, 2026.

2026-CA-000098-1000M/01/29/2026 10:55:42



Jonathan G. Stinson, Circuit Judge
37-2026-CA-000098-1000M 01/29/2026 10:55:42 AM

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