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STATE OF MINNESOTA  
IN SUPREME COURT  
A26-0976

David J. Carlson,

Petitioner,

vs.

Steve Simon, in his Official Capacity as  
Minnesota Secretary of State,

Respondent.

O R D E R

On June 8, 2026, petitioner David J. Carlson filed a petition under Minn. Stat. § 204B.44. Carlson alleges that on the last day of the 2026 candidate filing period, he sent the Secretary of State’s Office, by electronic transmission, an affidavit of candidacy seeking the nomination of the Democratic-Farmer-Labor Party (DFL) for the office of United States Senator, along with a letter explaining why he was filing his affidavit of candidacy electronically, and that the Secretary of State’s Office rejected his filing. Carlson alleges that the Secretary of State erred or committed wrongful acts by rejecting his affidavit of candidacy. Carlson asks us to order the Secretary of State to accept his affidavit of candidacy and to place his name on the DFL 2026 primary ballot for United States Senator.

The petition identifies four ways in which the Secretary of State allegedly erred or committed a wrongful act when he rejected Carlson’s affidavit of candidacy. First, Carlson contends that the Secretary of State erred by rejecting his affidavit of candidacy because he satisfied all the requirements in Minn. Stat. § 204B.09, subd. 1a(b), to submit an affidavit of candidacy electronically. Second, Carlson asserts that the Secretary of State’s rejection of his affidavit of candidacy was arbitrary and capricious. Third, Carlson contends that the Secretary of State is estopped from rejecting his affidavit of candidacy. Fourth, Carlson argues that the Secretary of State violated his federal constitutional right to equal protection of the law when the Secretary of State rejected his affidavit of candidacy.

We ordered the Secretary of State to file a response to the petition. In his response, the Secretary of State argues the petition should be denied.

In a motion for expedited consideration of the petition, Carlson represented that his claims could be resolved based on the petition and any response.<sup>1</sup> The parties have not identified any issue of disputed fact.<sup>2</sup> Carlson has the burden to prove that the Secretary of State committed an error or a wrongful act. *Weiler v. Ritchie*, 788 N.W.2d 879, 882–83 (Minn. 2010).

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<sup>1</sup> Given Carlson’s representation and our June 9, 2026 order, which did not allow for a reply brief, we deny Carlson’s motion to file a reply brief.

<sup>2</sup> Carlson’s motion for expedited consideration of the petition asks, in part, that we set a hearing for this matter within seven days of his filing of the petition. Although we have not set a hearing for this matter and we denied a separate motion Carlson made for oral argument, we have expedited consideration of the petition.

Before considering Carlson’s claims, we briefly discuss the relevant facts, which are taken from the petition or the exhibits to the petition. Carlson was in Thailand at various times during the period of December 2025 through the beginning of June 2026. Starting on May 29, 2026, Carlson had phone and email communications with employees at the Secretary of State’s Office, including the Deputy Director of Elections, about how Carlson could file an affidavit of candidacy from outside the United States. In them, the Deputy Director “share[d] ... statutes” that address the time and place for filing an affidavit of candidacy and “confirmed the requirements for filing from abroad.”

According to the petition, “[a]t 3:37 PM Central Time on June 2, 2026, [Carlson] transmitted his properly executed and notarized Affidavit of Candidacy by electronic transmission to the Office of the Minnesota Secretary of State.” Along with the affidavit of candidacy, Carlson sent a letter to the Secretary of State.

Carlson’s letter stated that it was written to “provide context for [his] filing from Bangkok, Thailand, today June 2, 2026.” Carlson wrote in his letter that he was “involved in a traffic accident in Bangkok, Thailand” on December 4, 2025, in which “a motorcycle rider struck the Grab bike taxi [he] was traveling on.” Afterwards, criminal proceedings were brought against the motorcycle driver. During these proceedings, Carlson “appeared before Thai court officials and judges on nearly a dozen occasions, between December 2025 and the end of April 2026.” The criminal case “concluded late in April 2026.”

Carlson then wrote:

I had first arrived back in the Asia-Pacific region in mid-February 2026. At that time, the conflict with Iran had not yet begun. The subsequent and continual disruptions to international aviation significantly elevated airfare

costs, reduced available routing options, and therefore made returning home to Minnesota between May 19 and June 2, 2026 not financially feasible.

Accordingly, on June 1, 2026, I submitted an ‘Emergency Notary Appointment Request’ to the American Citizens Services (ACS) division of the U.S. Embassy in Bangkok. On June 2, 2026, I obtained the necessary notarization. I hereby submit this sworn and signed affidavit by email from Bangkok, Thailand.

The Secretary of State’s Office rejected Carlson’s affidavit of candidacy. It sent Carlson two written communications about the rejection of Carlson’s affidavit of candidacy—an email from the elections division and a June 4, 2026 email from the General Counsel for the Office of the Secretary of State. The email from the General Counsel said that because Carlson’s June 2 letter “did not certify the existence of emergency or unforeseen circumstances as required by law, your filing was incomplete and staff did not accept it.”

Having explained the relevant facts, we turn first to the primary claim in Carlson’s petition. Carlson contends that the Secretary of State erred by rejecting his affidavit of candidacy because he complied with all statutory requirements to submit an affidavit of candidacy electronically. We require “strict compliance” with the statutory requirements for candidate filings. *In re Pfliger*, 819 N.W.2d 620, 621–22 (Minn. 2012) (“[F]or individuals attempting to file for elective office, we require strict compliance with the statutory requirements.”); *Anderson v. Ritchie*, 819 N.W.2d 445, 446 (Minn. 2012) (stating that “candidates for public office must strictly comply with the statutory requirements for filing for office”). Carlson has the burden to prove that the Secretary of State erred by rejecting his affidavit of candidacy. *See Weiler*, 788 N.W.2d at 882–83.

Subdivision 1a(b) of Minnesota Statutes section 204B.09 addresses electronic filing by candidates. It allows candidates “who will be absent from the state during the entire filing period” to “submit a properly executed affidavit of candidacy by facsimile device or by transmitting electronically a scanned image of the affidavit ... to the secretary of state during the filing period.” Minn. Stat. § 204B.09, subd. 1a(b). In order to do so, one of the requirements is that “[t]he candidate shall state in writing the specific reason for being unable to submit the affidavit by mail ... during the filing period.” *Id.* The filing period here was May 19, 2026, through June 2, 2026. *See* Minn. Stat. §§ 204B.09, subd. 1, 204D.03, subd. 1.

Carlson’s letter does not state the “specific reason” why he was unable to submit his affidavit of candidacy by mail during the filing period as Minn. Stat. § 204B.09, subd. 1a(b) requires. It never identifies *any* reason he was unable to mail his affidavit of candidacy so it could have been received during the filing period. *See* Minn. Stat. § 204B.09, subd. 1(e) (stating that affidavits of candidacy submitted by mail “must be received by 5:00 p.m. on the last day for filing”). Although Carlson said in his letter that he could not afford to fly back to Minnesota during the filing period, this statement cannot be construed as the specific reason why he was unable to submit an affidavit of candidacy by mail during the filing period, when mailing the affidavit would not have required Carlson’s presence in Minnesota. The letter also states that Carlson’s affidavit of candidacy was notarized on June 2, 2026. But the letter does not state that Carlson could not have filed by mail during the filing period because he was unable to obtain a notarized affidavit of candidacy before June 2. *See* Minn. Stat. § 204B.09, subd. 1(b)

(stating that “the affidavit of candidacy must be signed in the presence of a notarial officer or an individual authorized to administer oaths under section 358.10”). Because Carlson did not comply with one of the requirements in Minn. Stat. § 204B.09, subd. 1a(b), to file an affidavit of candidacy electronically, he has not demonstrated that the Secretary of State erred by rejecting his affidavit of candidacy.<sup>3</sup>

We next consider Carlson’s claim that the Secretary of State committed a wrongful act because he acted arbitrarily and capriciously when he rejected Carlson’s affidavit of candidacy. Assuming without deciding that the arbitrary and capricious standard applies to the Secretary of State’s actions, Carlson has not shown that the Secretary of State acted arbitrarily and capriciously. This claim is based on the factual premise that the Secretary of State failed to consider certain things that Carlson said in his June 2 letter when rejecting his affidavit of candidacy. Carlson contends that his June 2 letter “described a serious traffic accident, emergency hospitalization, and nearly a dozen mandatory Thai court appearances.” But Carlson’s June 2 letter did not say that Carlson’s traffic accident in Thailand was “serious,” describe any of his injuries, or state he was hospitalized because of it. In addition, the June 2 letter did not say that any of Carlson’s Thai court appearances were mandatory. As a result, there is no factual support

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<sup>3</sup> The Secretary of State argued that Carlson failed to comply with a second statutory requirement for filing electronically—the requirement for the candidate to “certify[y] to the secretary of state that the circumstances” related to their absence from the state “constitute an emergency and were unforeseen.” Minn. Stat. § 204B.09, subd. 1a(b). We need not decide if this certification requirement applies to Carlson, and if it does, whether he failed to comply with it, because we have determined that Carlson failed to comply with a different statutory requirement for filing electronically.

in the record for Carlson’s claim that the Secretary of State acted arbitrarily and capriciously when rejecting his affidavit of candidacy.

We next consider Carlson’s claim that the Secretary of State is estopped from rejecting his affidavit of candidacy. To make out a claim of estoppel against a governmental entity, Carlson must show, among other things, “wrongful conduct on the part of an authorized government agent.” *City of N. Oaks v. Sarpal*, 797 N.W.2d 18, 25 (Minn. 2011) (citation omitted) (internal quotation marks omitted). Carlson’s estoppel claim is based on the guidance and written representations he received from the Secretary of State’s Office about filing his affidavit of candidacy electronically. The petition, however, does not allege that any of the guidance the Secretary of State’s Office provided to Carlson was incorrect or deficient. The petition does reference one email from the Deputy Director of Elections to Carlson that was sent before Carlson’s filing, but in it, the Deputy Director did not state that Carlson met the statutory requirements to submit his affidavit of candidacy electronically or that any affidavit of candidacy he submitted electronically would be accepted.<sup>4</sup> Based on this record, we cannot conclude that anything the Secretary of State or his office did was wrongful.

Finally, Carlson raises a claim under the federal Equal Protection Clause.

Carlson’s equal protection claim is based on his argument that “the principle of *Bullock v.*

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<sup>4</sup> In this email, the Deputy Director wrote, “As I mentioned over the phone just now, our legal team suggested I share the statutes with you ahead of your completing the affidavit and other steps, so you’re able to see whether the details apply and if notary services have questions.” She also quoted portions of Minn. Stat. § 204B.09 and a statute about who may administer oaths. These are neutral statements about relevant statutes. There is nothing wrongful in them.

*Carter*, 405 U.S. 134 (1972), that wealth-based barriers to ballot access are constitutionally suspect, applies here.” We conclude that *Bullock v. Carter* is distinguishable and does not establish any equal protection violation here.<sup>5</sup> In *Bullock*, the Supreme Court held that a Texas filing-fee scheme requiring certain candidates for office to pay as much as \$8,900 to have their name placed on the primary ballot resulted in denial of equal protection of the law. *Id.* at 145, 149. The Court expressly said that “nothing herein is intended to cast doubt on the validity of reasonable candidate filing fees.” *Id.* at 149. Carlson has not challenged the \$400 filing fee he was required to pay, and the provisions in Minn. Stat. § 204B.09, subd. 1a(b), at issue in this case are not wealth-based barriers to ballot access. For these reasons, Carlson has not proven that his right to equal protection of the law was violated.

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. The motion of David J. Carlson to file a reply brief is denied.
2. The petition of David J. Carlson pursuant to Minn. Stat. § 204B.44 is denied.

Dated: June 23, 2026

BY THE COURT:



Natalie E. Hudson  
Chief Justice

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<sup>5</sup> Pending before us is Carlson’s motion to be relieved of the requirement to serve the petition and other documents on all candidates for United States Senator. Because we are denying the petition, there is no need for us to rule on this motion.