

STATE OF SOUTH DAKOTA     )  
  : SS  
COUNTY OF HUGHES         )

IN CIRCUIT COURT  
  
SIXTH JUDICIAL CIRCUIT

JONI JOHNSON and SOUTH DAKOTANS  
AGAINST THE DECEPTIVE RX BALLOT  
ISSUE,  
Applicants,

vs.

SHANTEL KREBS, in her capacity as  
South Dakota Secretary of State,  
Respondent.

32CIV18-103

ORDER  
(Peremptory Writ of Mandamus and  
Prohibition)

Upon the pleadings and evidence of record and having heard oral argument of the parties, it is hereby,

ORDERED, ADJUDGED, AND DECREED:

1. WHEREAS based upon the Stipulation and Motion for Court Order filed by the parties on June 8, 2018 and upon the Court's Order dated June 11, 2018:

- a. For purposes of determining whether there is a sufficient number of valid signatures for this measure (designated in the Secretary of State's office as IM 26, an initiated measure establishing a cap on the price a State Agency may pay for a prescription drug) to appear on the 2018 General Election Ballot, this Court's review is limited to the 710 signatures reviewed by the Secretary of State during her original random sample and the petitions on which the 710 signatures are contained, and

- b. Any signatures found to be invalid within the 710 sample signatures are to be added to the signatures previously found invalid during the initial review process by the Secretary of State;
2. WHEREAS based upon the First Stipulation Regarding Invalid Signatures filed on July 6, 2018:
  - a. **265** of the 710 sample signatures must be found invalid to demonstrate that the Sponsor of Initiated Measure 26 failed to submit the requisite number of signatures to place Initiated Measure 26 on the 2018 General Election Ballot,
  - b. **200** sample signatures are invalid pursuant to the Secretary of State's initial review process,
  - c. 8 sample signatures obtained by Sean Morck are invalid due to Mr. Morck's failure to personally witness the signing, bringing the invalid signature total to **208**,
  - d. 2 sample signatures obtained by June Balleard are invalid due to Ms. Balleard's failure to personally witness the signing, bringing the invalid signature total to **210**, and
  - e. 4 sample signatures are invalid due to being duplicative, bringing the invalid signature total to **214**;
3. WHEREAS based upon this Court's oral ruling at the hearing held on July 11, 2018, relative to Applicants' Motion for Summary Judgment, and the Second Stipulation Regarding Invalid Signatures subsequently filed in accordance therewith:
  - a. 38 sample signatures obtained by Ann Westberry are invalid due to the omission of a circulator verification, bringing the invalid signature total to **252**,

- b. 31 sample signatures obtained by LeeAnn Fjellanger are invalid due to the omission of a circulator verification, bringing the invalid signature total to **283**, and
  - c. 33 sample signatures obtained by Vaughn Blaschke are invalid due to the omission of his residence address, bringing the invalid signature total to **316**;
- 4. Following the procedures set forth in the Parties' Stipulation dated June 7, 2018, and the Court's Order dated June 11, 2018, the total number of invalid signatures (316) is deducted from the total number of random sample signatures (710) which equals 394 valid signatures. This results in a new validity rate of 55.49% ( $394 \div 710$ ). When this validity rate is applied to the petition as a whole, it results in a finding of 12,253 valid signatures (22,081 total signatures presented x 55.49%).
- 5. NOW, THEREFORE, based upon the forgoing, the Sponsor of Initiated Measure 26 failed to submit the requisite number of valid signatures (13,871) to place Initiated Measure 26 on the 2018 General Election Ballot;
- 6. A Peremptory Writ of Mandamus is hereby GRANTED directing the Secretary of State to certify that the Initiated Measure 26 petitions have not been signed by the required number of qualified electors to place the measure on the 2018 General Election Ballot; and
- 7. A Peremptory Writ of Prohibition is hereby GRANTED absolutely restraining the Secretary of State from placing Initiated Measure 26 on the 2018 General Election Ballot.

Dated this 16<sup>th</sup> day of July, 2018.

By the Court:

Patricia DeVaney  
Honorable Patricia J. DeVaney  
Circuit Court Judge

Attest:  
Deuter-Cross, TaraJo  
Clerk/Deputy



STATE OF SOUTH DAKOTA  
Sixth Judicial Circuit Court  
I hereby certify that the foregoing instrument  
is a true and correct copy of the original as the  
same appears on file in my office on this date:

JUL 16 2018

Kelli Sitzman  
Hughes County Clerk of Courts

By Kelli Sitzman