

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION**

CHRISTOPHER GLEASON,

Plaintiff,

vs.

Case No.: 24-003995-CI

JULIE MARCUS, in her official capacity
as Pinellas County Supervisor of Elections;
et. al.,

Defendants.

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS WITH PREJUDICE

THIS MATTER is before the Court on Defendant, JULIE MARCUS's non-evidentiary Motion to Dismiss Plaintiff's [Un]verified Complaint ("Motion") dated September 18, 2024. Having considered the Motion, the case file, the applicable law, and being otherwise fully advised in the premises, the Court hereby **FINDS** as follows:

I. Procedural History

On September 6, 2024, Plaintiff initiated the instant lawsuit pursuant to section 102.168, Fla. Stat. seeking to contest the results of the August 20, 2024 Republican primary election for Pinellas County Supervisor of Elections. On September 18, 2024, Defendant, JULIE MARCUS ("Defendant") moved to dismiss the instant case arguing, *inter alia*, that Plaintiff's Complaint was untimely. On October 3, 2024, Defendant filed her Notice of Request for Court to Consider Motion Based on Written Submissions without Hearing ("Written Submissions Notice") pursuant to Administrative Order No. 2020-012 PA/PI-CIR. In accordance with Administrative Order No. 2020-012 PA/PI-CIR, the Deadline to file any opposition to Plaintiff's Motion or otherwise request a hearing was Friday, October 18, 2024. Plaintiff did not respond to Defendant's Written

Submissions Notice or otherwise seek a hearing on Defendant's Motion. As such, Defendant's Motion is ripe for resolution by the Court without a hearing.

II. Analysis

In *Kinzel v. City of North Miami*, the Third District stated the following:

The general proposition that when a statutory action is availed of the provisions for its exercise must be strictly followed is especially applicable here, as we are dealing in this instance with a statutory action for an election contest. As to this type [of] litigation there is a public interest in promptness and finality of decision. In apparent recognition thereof the legislature, in granting the privilege of contest by suit in equity, sought to secure promptness by requiring that such actions be filed within 10 days after canvass, and required the contest to be submitted by a sworn complaint, setting forth the grounds relied upon and addressed to designated defendants. *Jurisdiction of the trial court to entertain an election contest under that statute depends upon the filing of a complaint thereunder within the time and in the form and content as directed in the statute.*

Kinzel v. City of N. Miami, 212 So. 2d 327, 328 (Fla. 3d DCA 1968) (emphasis added).

Section 102.168(2), Fla. Stat. states the following: “[A] contestant [of an election] shall file a complaint, together with the fees prescribed in chapter 28, with the clerk of the circuit court *within 10 days* after midnight of the date the last board responsible for certifying the results officially certifies the results of the election being contested.” (Emphasis added). By Plaintiff's own admission, the contested election relevant to the instant case was officially certified on August 23, 2024. In this regard, Plaintiff's Complaint states the following:

7. The vote results aggregating votes made on the election day, early vote and vote-by-mail purportedly show Marcus defeating Gleason by 133,141 to 24,937 votes.

8. The Canvassing Board met *on August 23, 2024* and confirmed this final vote tally. On this basis, the Canvassing Board *certified* Marcus as the winner of the Seat, and upon information and belief, issued a certificate to Marcus under § 102.155, Fla. Stat, that certifies Marcus as the winner of the seat.

