

1 Case No. CV-1603028

2 Dept. No. 2

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WHITE PINE COUNTY CLERK
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5 **IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,**
6 **IN AND FOR THE COUNTY OF WHITE PINE**

7 * * * * *

8 MICHAEL KNEESE
9 JEAN KNEESE
10 JEB PEELER,

Petitioners,

ORDER DISMISSING PETITION UNDER
NRS 293.391

11 vs.

12 WHITE PINE COUNTY CLERK.

Respondent.

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14
15 **PROCEDURAL HISTORY**

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17 On June 10, 2014, Mike Monroe won the White Pine republican primary election.

18 Petitioners filed a petition under NRS 293.391 ("petition") on March 16, 2016, requesting that they
19 be allowed to inspect the ballots under the supervision of and in cooperation with the White Pine
20 County Clerk to determine if there was a possible malfunction of any voting or counting device.

21 Respondent filed a non-opposition on April 11, 2016.

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23 **DISCUSSION**

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25 Petitioners filed a petition under NRS 293.391, which states, "The voted ballots deposited
26 with the county clerk are not subject to the inspection of anyone, except in cases of a contested

SEVENTH JUDICIAL DISTRICT COURT
GARY D. FAIRMAN
DISTRICT JUDGE
DEPARTMENT 2
WHITE PINE, LINCOLN AND EUREKA COUNTIES
STATE OF NEVADA





1 election..."¹ However, petitioners cite no legal authority supporting their petition to inspect the
2 ballots. The petition states, "they have no interest in contesting the primary or general election
3 winner. Nor do they seek any information pertaining to the identity of any voter and their ballot.
4 Petitioners' purpose is limited to identifying any system malfunction or illegal tampering."² The
5 plain language of the statute does not provide relief for petitioners because petitioners' reason for
6 inspection is limited to only identifying any system malfunction or illegal tampering, and they are
7 not contesting the election.
8

9 If petitioners were contesting the election, NRS 293.410(2)(f) allows a contest upon
10 grounds of possible malfunction of any voting or counting device. Even so, petitioners did not file
11 their petition within the statutorily allowed time. "A statement of contest shall be filed with the
12 clerk of the district court no later than 5 days after a recount is completed, and no later than 14
13 days after the election if no recount is demanded."³ Petitioners had until June 20, 2014, to file
14 their statement of contest.
15

16 Respondent does not oppose petitioners' request, and in fact encourages it.⁴ "The
17 Respondent's position is that only good will come from this court's order granting access to these
18 records."⁵ The court disagrees. In spite of the apparent good faith purpose for the ballot
19 inspection request, petitioners' failure to follow the strict statutory scheme fixing the time within
20 which their petition can be filed bars the court granting relief. Allowing petitioners to file this
21 challenge under NRS 293.410(2)(f) without statutory compliance will open the floodgates for
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24 _____
25 ¹ NRS 293.391(5).
26 ² Petition at 1.
³ NRS 293.413(1).
⁴ Non-opposition at 2-4.
⁵ Non-opposition at 2.



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every disenchanting voter to make a similar untimely request. Petitioners' petition must be dismissed.

Good cause appearing,

IT IS HEREBY ORDERED that petitioners' petition under NRS 293.391 is **DISMISSED**.

DATED this 12th day of May, 2016.



DISTRICT JUDGE