

IN THE SUPREME COURT OF IOWA
24-1426

NICHOLAS GLUBA, Libertarian Candidate for Congress, District 1, CHARLES
ALDRICH, Libertarian Candidate for Congress, District 4 and
MARCO BATTAGLIA, Libertarian Candidate for Congress, District 3,

Appellants,

vs.

STATE OBJECTIONS PANEL,
Appellee.

Appeal from the Iowa District Court for Polk County Michael D. Huppert, District
Judge, Case Nos. CVCV067799, CVCV067800, CVCV067804

**AMICUS BRIEF OF THE IOWA DEMOCRATIC PARTY AND
DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE**

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INTEREST OF AMICI CURIAE

Amicus Iowa Democratic Party (“IDP”) is a political party as defined by Iowa Code § 43.2. Its mission is to (1) develop and advance policies favorable to its platform, IDP members, and the public generally, (2) identify and support candidates who will advocate for and defend those policies and positions, and (3) persuade voters to cast their votes for and to elect those candidates. IDP has members and operates in every county in Iowa. IDP is interested in this case because its candidates are subject to the statutes governing the nomination of political candidates and the objection process. It will be harmed by an unlawful expansion of the Objections Panel’s authority. IDP also supports candidates running in all three affected congressional districts, and thus has a strong interest in determining which candidates may lawfully appear on the ballot in those districts.

Amicus the Democratic Congressional Campaign Committee (“DCCC”) is the Democratic Party’s national congressional committee as defined by 52 U.S.C. § 30101(14). Its mission is to elect Democratic congressional candidates from across the country, including in Iowa. In recent congressional election years, DCCC has made significant expenditures to persuade and mobilize Iowa voters to support Democratic congressional candidates, and DCCC will do the same this year and in future elections. DCCC is interested in this case for the same reasons as IDP.

INTRODUCTION

This case presents an important but simple question: On what basis may the State Objections Panel—a three-member body comprised of the Secretary of State, Attorney General, and State Auditor—reject a political candidate’s certificate of nomination to appear on the ballot? This Court answered this question just two years ago. *See Schmett v. State Objections Panel*, 973 N.W.2d 300, 304 (Iowa 2022). When an outside party objects to a candidate’s nomination, the Objections Panel may sustain the objection *only* if the candidate has provided “incorrect or incomplete information for information that is required under section 43.14 or 43.18.” *Id.* at 305 (quoting IOWA CODE § 43.24(1)(a)). Those two legislatively prescribed bases for rejecting a candidate concern the sufficiency of nomination papers (IOWA CODE § 43.14) and candidate affidavits (IOWA CODE § 43.18), respectively. Neither concerns whether the candidate’s party has complied with the multitude of other, separate requirements governing political parties in Iowa, or any other provision of Iowa law. *See Schmett*, 973 N.W.2d at 305 (holding that statute not enumerated within § 43.24(1)(a) was not a proper basis for upholding objection).

The district court misapplied this binding precedent in holding the Objections Panel had the authority to reject the candidacy of Libertarian Party candidates for Congress based on their purported failure to comply with several *other* provisions of state law: Iowa Code §§ 43.4, 43.94–.95, and 43.107–.108. That conclusion was

legal error. Section 43.24 *nowhere* permits the Objections Panel to reject otherwise valid certificates of nomination on the basis that a political party allegedly failed to comply with those provisions. And this Court rejected that precise theory in *Schmett*, emphasizing that the “legislature’s decision” to limit grounds for objection under § 43.24(1)(a) “must be given effect.” *Schmett*, 973 N.W.2d at 304. The district court ignored that clear command and, in doing so, expanded the authority of an ad hoc panel of partisan elected officials, empowering the panel to scrutinize the internal workings of rival political parties. Section 43.24(1)(a) does not call for—or even allow—such an inquisitorial approach to reviewing nomination papers or candidate affidavits.

At bottom, “the legislature made it clear as to when an objection by a private party is required to be sustained.” *Schmett*, 973 N.W.2d at 304. The district court erred by expanding the scope of such objections. Its order should be reversed with instructions to grant the relief sought by the Libertarian Party plaintiffs.

STATEMENT OF THE FACTS

I. SECTION 43.24’S OBJECTION PROCESS AND THIS COURT’S DECISION IN *SCHMETT*

In Iowa, a candidate may appear on the general election ballot either by obtaining the nomination of a political party or non-party political organization, or by circulating a nomination petition with enough signatures. IOWA CODE §§ 43.66; 43.67; 43.78; 44.1; 44.4; 44.17; 45.1; 45.5; Iowa Sec’y of State, Candidate’s Guide

to the General Election at 1 (Nov. 5, 2024).¹

Iowa law provides narrow grounds to object to “the legal sufficiency of a nomination petition or certificate of nomination.” IOWA CODE § 43.24(1)(a). Specifically, “[o]bjections relating to incorrect or incomplete information for information that is required under section 43.14 or 43.18 shall be sustained.” *Id.* Objections on these grounds must “be filed in writing by [a] person who would have the right to vote for the candidate for the office in question.” *Id.* Such objections may then be considered by a panel comprised of “the secretary of state, auditor of state, and attorney general.” *Id.* § 43.24(3)(a). This panel is known colloquially as the “Objections Panel” or sometimes the “Section 43.24 Panel.”²

Critically, the Objections Panel’s authority is extremely limited—it exists *solely* to consider objections raised under § 43.24(1)(a), *see* IOWA CODE § 43.24(3)(a), and it may consider *only* those objections made as to a candidate’s compliance with §§ 43.14 and 43.18, *see id.* § 43.24(1)(a). The Objections Panel does *not* serve as a roving commission tasked with ensuring that every candidate and party complies with the full sweep of Iowa’s comprehensive election code. *See*

¹ Available at <https://sos.iowa.gov/elections/pdf/candidates/gencandguide.pdf>.

² *Chiodo v. Section 43.24 Panel*, 846 N.W.2d 845, 847 (Iowa 2014); *Schmett*, 973 N.W.2d at 303.

generally Iowa Statutes & Court Rules, Title II. Elections and Official Duties (Chs. 39–79) (setting forth state election code).

This Court made this all quite clear just two years ago. *See Schmett*, 973 N.W.2d at 303–05. In *Schmet*, several electors sought to remove Abby Finkenauer—a Democratic Party candidate for U.S. Senate—from the ballot because her nomination papers allegedly failed to comply with Iowa Code § 43.15(2), which specifies requirements for signing nomination papers. Applying similar logic as the district court below here, the district court initially ordered that Finkenauer be removed from the ballot because several of her nominating papers did not satisfy § 43.15(2), bringing her short of the necessary signature threshold. *See Schmett*, 973 N.W.2d at 302.

This Court reversed on a unanimous basis. In construing the scope of § 43.24, it first observed that the legislature had recently added the second sentence of § 43.24(1)(a), which reads: “Objections relating to incorrect or incomplete information for information that is required under section 43.14 or 43.18 shall be sustained.” The Supreme Court held that this language is “determinative of the legislature’s views as to when an objection to a signature based on incorrect or incomplete information should be sustained.” *Schmet*, 973 N.W.2d at 304. Reading the statute to include potential objections under other statutory provisions—as urged by those challenging Finkenauer’s nomination papers—would render such language

surplusage. *Id.* As the Court further explained, § 43.24(1)(a) “identifies both who may object and when their objections shall be sustained.” *Id.* at 305. “It creates, in other words, a specific private remedy under specific circumstances.” *Id.*

It thus did not matter that § 43.15 imposed “*a legal requirement* when an eligible elector signs a nomination petition.” *Id.* at 301 (emphasis added). Section 43.24 simply “says nothing about objections based on section 43.15.” *Id.* at 303. Because § 43.15 is not one of the “specific circumstances” permitting objection under the § 43.24 process, this Court ordered that Finkenauer’s name be placed on the ballot. *Id.* at 305.

II. A DIVIDED OBJECTIONS PANEL VOTES TO DISQUALIFY LIBERTARIAN PARTY CANDIDATES.

The Libertarian Party held its convention on June 8, 2024. On July 29, 2024, the party’s three congressional candidates—Nicholas Gluba in the First Congressional District, Marco Battaglia in the Third Congressional District, and Charles Aldrich in the Fourth Congressional District—submitted their certificates of nomination to the Secretary of State.³ Shortly thereafter, six registered Republicans filed objections against each of the Libertarian candidates, alleging that their certificates of nomination were invalid because the Libertarian Party did not “have the capacity to nominate a candidate” given its failure to comply with the prescribed

³ No party disputes that these certificates comply with the requirements set forth in Iowa Code § 43.88, which governs the contents of such forms.

process for its precinct caucuses and party convention set forth in Iowa Code §§ 43.4, 43.94–.95 and 43.107–.108. Attachment to D0010 (CVCV067799), Obj. to Gluba at 6 (9/3/2024); Attachment to D0047 (CVCV067799), Obj. to Battaglia at 6 (9/5/2024); Attachment to D0010 (CVCV067799), Obj. to Aldrich at 6 (9/3/2024).

On August 28, 2024, the Objections Panel voted 2-1 to sustain these objections and remove the Libertarian Party candidates from the general election ballot based on the party’s purported failure to comply with Iowa Code §§ 43.4, 43.94–.95, and 43.107–.108. *See* D0019 (CVCV067799), Objections Panel Decision (9/3/2024). Nowhere did the majority explain what authority it possessed to sustain objections made under those statutory provisions, nor did it point to any violation of §§ 43.14 or 43.18—“the specific circumstances when objections to petitions shall be sustained.” *Schmett*, 973 N.W.2d at 301. Indeed, the majority’s opinion did not address *Schmett* at all.

Auditor Sand dissented. In his written dissent, Sand noted that the Objections Panel is only empowered to hear objections to the legal sufficiency of the certificate of nomination, and that both law and precedent precluded the panel from otherwise interrogating into the internal minutiae of the Libertarian Party’s candidate selection process. *See* Attachment to D0034 (CVCV067799), Auditor Sand Dissent at 1, 2 (9/4/2024). Auditor Sand further concluded that the objectors—all registered

Republicans—lacked standing to complain about the Libertarian Party’s internal nominating procedures.

III. THE DISTRICT COURT’S ORDER

The district court below only briefly considered whether the Objections Panel had authority to consider objections made under Iowa Code §§ 43.4, 43.94–.95, and 43.107–.108. *See* D0058 (CVCV067799), Order at 6–7 (9/7/2024). It concluded that *Schmett* is “not necessarily determinative of the issue” here. *Id.* at 7. Specifically, the district court focused on the first sentence of § 43.24(1)(a), which speaks to “[o]bjections to the *legal sufficiency* of a nomination petition or certificate of nomination.” IOWA CODE § 43.24(1)(a) (emphasis added). The court reasoned that this “legal sufficiency” language permits the Objections Panel to consider “whether the proper procedures required under the law were followed in generating that document.” D0058 (CVCV067799), Order at 7 (9/7/2024).

In rejecting the argument that the Objections Panel was limited to hearing objections under § 43.14 and § 43.18, the court concluded that “[t]his argument, taken along with the language in the second sentence of § 43.24(1)(a), as interpreted in *Schmett*, would render the ‘legal sufficiency’ language in the first sentence superfluous.” *Id.* The district court never explained, however, how it squared this Court’s holding in *Schmett*—that the Objections Panel *could not* sustain objections

beyond § 43.14 and § 43.18—with its own conclusion that the Objections Panel *could* sustain objections beyond those two provisions enumerated in the statute.

ARGUMENT

I. THE DISTRICT COURT IMPROPERLY EXPANDED THE AUTHORITY OF THE OBJECTIONS PANEL BEYOND SECTION 43.24 AND *SCHMETT*.

Schmett makes clear the Objections Panel majority exceeded its authority here and that the district court erred in holding otherwise. No objector suggested the Libertarian Party or its candidates violated the requirements of § 43.14 or § 43.18. Accordingly, the Objections Panel had no basis to reject certificates of nomination provided by the Libertarian Party’s candidates. Nonetheless, two members of the panel sustained objections that the Libertarian Party did not comply with its duty to hold political precinct caucuses under Iowa Code § 43.4 or properly hold its party convention under §§ 43.94–.95, 43.107–.108. *See* D0019 (CVCV067799), Objections Panel Decision at 3–4 (9/3/2024).⁴ But “section 43.24(1) says nothing about objections based on section[s] [43.4, 43.94–.95, or 43.107–.108].” *Schmett*, 973 N.W.2d at 303. Simply put, whether a recognized political party conforms to the requirements of these provisions is not one of the “specific circumstances” in which

⁴ The full Objections Panel hearing is available online. *See* Objection Panel Underway for Libertarians on November Ballot, KCRG-TV9 (Aug. 28, 2024), <https://www.youtube.com/watch?v=qmV268UgCU0>. At no point did the panel sustain objections made under §§ 43.14 or 43.18. *Id.* at 25:23 (majority’s discussion of its decision).

an objector may invoke the “specific private remedy” supplied by § 43.24. *Id.* at 305.⁵ And the legislature’s choice to limit “the remedial provision in chapter 43 must be given effect.” *Id.* at 304 (citing *State v. Hall*, 969 N.W.2d 299, 309 (Iowa 2022)).

The Objections Panel majority reached its conclusion without so much as mentioning *Schmett*’s contrary holding; and while the district court recognized *Schmett*, it failed to distinguish it. The district court reasoned that the “legal sufficiency” language in the first sentence of § 43.24(1)(a) meant that the Objections Panel could consider “whether the proper procedures required under the law were followed in generating” the certificates of nomination for the Libertarian Party candidates here, D0058 (CVCV067799), Order at 7 (9/7/2024), essentially permitting the Objections Panel to look behind a party’s certificates of nomination to see if they complied with the full suite of the election code. **But this Court in *Schmett* rejected that exact argument root and branch.** The issue in *Schmett* was whether objections could be sustained under § 43.15, which imposes “a legal requirement when an eligible elector signs a nomination petition.” *Schmett*, 973 N.W.2d at 301. Nomination petitions *are* subject to challenge under § 43.24(1)(a), if they do not comply with § 43.14 (“Form of nomination papers”). But that did not

⁵ Indeed, *Schmett* presented a far closer call on this point because the provision under which an objection was made there—§ 43.15—was related to one of the provisions expressly enumerated in § 43.24. *See* 973 N.W.2d at 303–04. That is not the case here.

matter in *Schmett*, even though the objection was made under a statutory provision imposing a “legal requirement” on such nomination papers. As this Court explained, § 43.24(1)(a) does not permit the Objections Panel to look behind a political party’s nomination papers or certificates of nomination—the provision creates only “a specific private remedy under specific circumstance.” *Id.* at 305. And failure to comply with § 43.15—even though it set forth a “legal requirement” as to “nomination petition[s]”—was not such a specific circumstance. *Id.* The district court here failed to explain why the Objections Panel could look behind certificates of nomination—reaching a host of provisions mentioned nowhere in § 43.24(1)(a)—when this Court held in *Schmett* that the Objections Panel could not sustain a related “legal requirement” concerning nomination papers. The two holdings are simply incompatible, but “the district court is bound by the decision of the Iowa Supreme Court.” *Doe v. Cedar Rapids Cmty. Sch. Dist.*, No. LACV 33411, 2004 WL 3361982, at *2 (Iowa Dist. Feb. 23, 2004).

The district court’s order also rested on other flawed considerations. For example, it expressed concern that the “legal sufficiency” language in the *first* sentence of § 43.24(1)(a) would be superfluous if the Objections Panel’s scope of review was limited. But in doing so, the district court rendered the *entire* second sentence of § 43.24(1)(a) surplusage. The district court failed to explain—if the Objections Panel may consider *any* objection to the “legal sufficiency of a

nomination petition or certificate of nomination”—what purpose is served by the next sentence stating: “Objections relating to incorrect or incomplete information for information that is required under section 43.14 or 43.18 shall be sustained.” IOWA CODE § 43.24(1)(a). This was the *precise* concern in *Schmett*, which rejected the idea that objectors could more broadly challenge nomination papers because “the second sentence of Iowa Code section 43.24(1)(a) was added” later in time by the legislature, and thus should be read “as determinative of the legislature’s views as to when an objection . . . should be sustained.” 973 N.W.2d at 304; *see also In re C.Z.*, 956 N.W.2d 113, 122 (Iowa 2021) (explaining that later-in-time enactments must prevail where statutes are in conflict). The district court’s holding runs headlong into this conclusion, ignoring this Court’s admonition that “there would have been no reason” for the legislature “to include” this second sentence in more recent legislation if it did not constrain the Objections Panel. *Schmett*, 973 N.W.2d at 304. And its ruling does great damage to the legislature’s handiwork by effectively erasing this more recent enactment. *See Iowa Ins. Inst. v. Core Grp. of Iowa Ass’n for Justice*, 867 N.W.2d 58, 75 (Iowa 2015) (explaining Iowa courts “presume statutes or rules do not contain superfluous words.”).⁶

⁶ There is also a very simple answer to the district court’s concern about ensuring that the term “legal sufficiency” in the first sentence has meaning—it refers to the “legal sufficiency” of nomination papers and certificates *under the permitted*

The district court also expressed concern that, absent review by the Objections Panel, “there would be no check against the use of nominating papers that are facially correct, but improperly offered in response to a party’s legitimate nominating process.” D0058 (CVCV067799), Order at 7 (9/7/2024). But that argument failed to carry the day in *Schmett*—and is otherwise inconsistent with the purpose of the statutory scheme—for several reasons. First, § 43.24 only “deals with *outside party* objections.” *Schmett*, 973 N.W.2d at 304 (emphasis added). The objectors are, by definition, strangers to the Libertarian Party, and the bases on which they can seek to remove its candidates from the ballot through the objection process are expressly—and appropriately—circumscribed.

Second, the district court’s opinion wrongly assumes the Objections Panel process is the exclusive avenue for challenging a violation of chapter 43. That is incorrect; the district court cites no reason why a Libertarian Party member or candidate aggrieved by improper adherence to caucus and nominating rules under chapter 43 could not seek declaratory and injunctive relief for such a violation. It is well established in Iowa that provisions of the election code may, in proper circumstances and with proper parties, be enforced or litigated through suits for declaratory judgments or injunctive relief, *see, e.g., Luse v. Wray*, 254 N.W.2d 324,

objections in the second sentence. That reading is consistent with *Schmett* and affords meaning to every term in § 43.24(1)(a).

329 (Iowa 1977); *Save Our Stadiums v. Des Moines Indep. Cmty. Sch. Dist.*, 982 N.W.2d 139, 141 (Iowa 2022), through writs of mandamus, e.g., *Davies v. Wilson*, 294 N.W. 288, 289 (Iowa 1940), or under the U.S. or Iowa constitutions, e.g., *Porter v. Pate*, No. 4:19-CV-00241-HCA, 2022 WL 19655786, at *1 (S.D. Iowa Apr. 8, 2022).

Finally, the legislature is well within its rights to determine what statutory remedy applies to which statutory provisions. It could have included §§ 43.4, 43.94–.95, or 43.107–.108 as a basis for objection under § 43.24—but it chose not to do so. Likewise, it could have drafted § 43.24 to state that an objector may raise *any* violation of chapter 43 as a basis to disqualify a candidate—but it again did not do so. Instead, it drafted § 43.24 to provide a “specific private remedy under specific circumstances.” *Schmett*, 973 N.W.2d at 305. That choice “must be given effect.” *Id.* at 304; cf. *Taylor v. Dep’t of Transp.*, 260 N.W.2d 521, 522–23 (Iowa 1977) (discussing the distinction between mandatory and directory statutes). It is thus no answer to say that the Objections Panel must be able to enforce the full sweep of the election code where the legislature chose to grant the Objections Panel a far narrower role.⁷

⁷ Attorney General Bird fundamentally misunderstood her role as a member of the Objections Panel in this respect. She later commented in an interview that “it’s not up to me to pick and choose which parts of the Code we’re going to apply.” Iowa Press, *Iowa Attorney General Brenna Bird* at 2:38, Iowa PBS (Aug. 30, 2024)

II. CONSTITUTIONAL CONCERNS FURTHER SUPPORT THIS COURT'S NARROW CONSTRUCTION OF THE OBJECTIONS PANEL'S AUTHORITY.

The fact that the Objections Panel plainly exceeded its statutory authority suffices to resolve this case and requires reinstating the Libertarian Party's candidates on the general election ballot. *See Schmett*, 973 N.W.2d at 305. But strong additional grounds exist for that result as well. For one, the legislature acted sensibly by limiting the scope of the Objections Panel's review. Political parties enjoy broad rights of association under the First Amendment. *See Eu v. S.F. Cnty. Democratic Cent. Comm.*, 489 U.S. 214, 224 (1989). To grant the Objections Panel—an ad hoc body comprised of partisan elected officials from rival parties, with few formal rules or procedures—sweeping authority to probe into a rival political party's internal nomination processes risks impinging on these rights. This Court should not grant future Objections Panels such authority, particularly where the legislature declined to do so.

<https://www.iowapbs.org/shows/iowapress/iowa-press/episode/11446/iowa-attorney-general-brenna-bird>. But that is true only insofar as the legislature already made that choice for her. *See Schmett*, 973 N.W.2d at 305. Her inquiry “must be guided by the legislature’s last word on the subject,” *id.* at 304, namely its amendment to restrict objections under § 43.24 to those concerning §§ 43.14 and 43.18. Attorney General Bird, in her capacity as an Objections Panel member, simply is not empowered to enforce the full sweep of the election code or to create novel remedies—such as disqualification—for any alleged violation of the Code. *See Schmett*, 973 N.W.2d at 304–05 (rejecting argument that Objections Panel could sustain objections made under § 43.15).

Relatedly, Iowa law imposes a host of duties and rules on recognized political parties. *E.g.*, IOWA CODE §§ 43.4, 43.90, 43.91, 43.94–95, 43.97, 43.99, 43.107, 43.111, 43.116, 43.123. Granting the Objections Panel the right to disqualify candidates for failure to comply with *any* of these provisions creates perverse incentives, guaranteeing an endless stream of partisan objections in future elections. Suppose, for example, that a party does not “adopt a state platform,” as it “shall” do under § 43.111, or that it does so in a way dissatisfactory to a third-party objector who belongs to a rival party. Under the panel majority’s view, the Objections Panel is authorized to scrutinize the form and sufficiency of such a platform and, potentially, disqualify a rival party’s candidates if the panel decides that platform is somehow deficient. But as *Schmett* made clear, the legislature declined to grant the Objections Panel such broad inquisitional authority. *See Schmett*, 973 N.W.2d at 301 (explaining “the legislature passed legislation . . . to identify the *specific circumstances* when objections to petitions shall be sustained” (emphasis added)). This Court should not lightly open such a Pandora’s box of future challenges, particularly where the legislature and binding precedent have sealed it shut.

CONCLUSION

The Court should reverse the district court’s order and grant the equitable and declaratory relief requested by the Libertarian Party candidates.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation of Iowa Rule of Appellate Procedure 6.903(1)(g)(1) because it contains 3,818 words, excluding parts of the brief exempted by that rule.

This brief complies with the typeface requirements of Iowa Rule of Appellate Procedure 6.903(1)(e) and the typestyle requirements of Iowa Rule of Appellate Procedure 6.903(1)(f) because it has been prepared in a proportionally spaced typeface using Microsoft Word in Times New Roman, 14-point type.

No party's counsel authored this brief in whole or in part, nor did any party or its counsel contribute money to fund the preparation or submission of this brief.

/s/ Shayla McCormally
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CERTIFICATE OF SERVICE

I hereby certify that on September 9, 2024, I electronically filed the foregoing document using the Iowa Electronic Document Management System, that will send notification to the parties of record.

/s/ Shayla McCormally
Shayla McCormally