

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street, Room 256 Denver, CO 80202 (303) 606-2300	DATE FILED September 4, 2026 10:06 AM
Petitioner: SEAN VADNEY , a candidate for Secretary of State v. Respondent: JENA M. GRISWOLD , in her official capacity as the Colorado Secretary of State	▲ COURT USE ONLY ▲ Case Number: 2026CV33176 Div.: 203
ORDER GRANTING PETITION	

This matter is before the Court on Petitioner’s Verified Petition to Place Sean Vadney on the General Election Ballot for Secretary of State to Fill the Vacancy Caused by the Withdrawal of Alex Astley (C.R.S. § 1-1-113) filed September 1, 2026. Respondent filed an Unopposed Motion for Forthwith Hearing on September 2, 2026. A hearing was held on September 3, 2026 where Petitioner was represented by Nicholas Sarwark, Esq. and Respondent was represented by Peter Baumann, Esq.

This case concerns whether Petitioner can be placed on the general election ballot after candidate Alex Astley withdrew sixty-nine days prior to the general election and where Respondent’s office denied Petitioner’s form to be on the ballot as untimely pursuant to C.R.S. § 1-4-1007. The question this Court has to determine is not one of fact, which are largely undisputed, but one of law. Specifically, whether C.R.S. § 1-4-1007 should be construed under the substantial compliance provisions in C.R.S. § 1-1-103(3). The Court finds and concludes in the affirmative.

BACKGROUND

As a preliminary matter, the parties do not dispute the facts of this case. The Court therefore adopts the facts as set forth in the Verified Petition, as follows:

On April 18, 2026 at the Libertarian Party of Colorado convention, Sean Vadney and Alex Astley both sought the nomination for Secretary of State, but neither candidate received a majority. Respondent administered a Libertarian primary election on June 30, 2026 where Alex Astley

received the most votes and was certified as the Libertarian Party nominee for Secretary of State in the general election.

On August 26, 2026, Alex Astley sent a notarized statement of his withdrawal to the Chair and Vice Chair of the Libertarian Party of Colorado and later sent the same communication to the Respondent. The Libertarian Party of Colorado vacancy committee met on August 29, 2026 and selected Sean Vadney to fill the vacancy created by the withdrawal and to provide voters with a Libertarian candidate to vote for in the Secretary of State race in November.

On August 31, 2026, representatives of the Libertarian Party of Colorado submitted forms to the Secretary of State designating Sean Vadney to fill the vacancy, but those forms were denied due to the date of Alex Astley's withdrawal being one day outside the period for withdrawal described in C.R.S. § 1-4-1007.

LAW

C.R.S. § 1-1-113(1) authorizes a candidate to seek relief in the district court when a controversy arises between the candidate and an official charged with a duty under the Uniform Election Code of 1992 (the "Code"). Specifically, it provides:

(1) When any controversy arises between any official charged with any duty or function under this code and any candidate, or any officers or representatives of a political party, or any persons who have made nominations or when any eligible elector files a verified petition in a district court of competent jurisdiction alleging that a person charged with a duty under this code has committed or is about to commit a breach or neglect of duty or other wrongful act, after notice to the official which includes an opportunity to be heard, upon a finding of good cause, the district court shall issue an order requiring substantial compliance with the provisions of this code. The order shall require the person charged to forthwith perform the duty or to desist from the wrongful act or to forthwith show cause why the order should not be obeyed. The burden of proof is on the petitioner.

The Code applies to all general, primary, and other authorized elections. C.R.S. § 1-1-102(1). It shall be liberally construed so that all eligible electors may be permitted to vote and those who are not eligible electors may be kept from voting. C.R.S. § 1-1-103(1). Further, the Code explicitly states, "Substantial compliance with the provisions or intent of this code shall be all that is required for the proper conduct of an election to which this code applies." C.R.S. § 1-1-103(3).

C.R.S. § 1-4-1007 sets forth the process when there is a vacancy involving minor party nomination. It states:

Any vacancy in a nomination for a minor political party candidate occurring after the filing of the certificate of designation pursuant to section 1-4-1304(3) and no later than seventy days before the general or congressional vacancy election, which

is caused by the declination, death, disqualification, or withdrawal of any person nominated by the minor political party, may be filled by the person or persons designated in the constitution or bylaws of the minor political party to fill vacancies. The designation and acceptance of the person selected to fill the vacancy must be submitted to the designated election official no later than the sixty-fourth day before the date of the general election.

ANALYSIS

Petitioner argues that C.R.S. § 1-4-1007 is more akin to a scheduling mandate rather than a minimum qualification mandate and therefore should be subject to the substantial compliance provisions in C.R.S. § 1-1-103(3) and as set forth in *Loonan v. Woodley*, 882 P.2d 1380 (Colo. 1994), where the Court found substantial compliance, as opposed to strict compliance, to be the appropriate standard for determining whether petitions conformed with statutory requirements for initiatives and referendum. Further, Petitioner argues that this case is distinguishable from *Griswold v. Ferrigno Warren*, 462 P.3d 1081 (Colo. 2020), where the Court held that the Code's minimum signature provision required strict compliance.

Respondent argues that the Colorado Supreme Court's most recent decision with respect to the Code, *Griswold v. Ferrigno Warren*, set forth a strict compliance standard for determining whether a candidate qualified for the ballot based on the minimum signature provision in the Code, and absent a court order, Respondent's office applies a strict compliance standard with respect to specific numerical or timing requirements under the Code.

In this case, the facts are not disputed. On August 26, 2026, Alex Astley sent a notarized statement of his withdrawal to the Chair and Vice Chair of the Libertarian Party of Colorado and later sent the same communication to the Respondent. The parties agree that Astley's notice to Respondent was provided 69 days before the general election, one day later than the 70-day requirement set forth in C.R.S. § 1-4-1007. If the substantial compliance standard is applied by the Court in this case, Respondent concedes Petitioner's efforts meet the substantial compliance test set forth in *Loonan* and distinguished by *Griswold*. Nothing in the record suggests that the one-day delay will prevent the Secretary of State from performing any statutory duty related to ballot preparation.

Neither party has provided the Court with caselaw directly considering whether a substantial compliance standard should be applied to actions taken with respect to C.R.S. § 1-4-1007, and in the limited timeframe within which this case was brought and decided, the Court has not found any caselaw on point either. However, the legislature has made two points clear:

- The Code should be liberally construed to ensure all eligible electors are permitted to vote and ineligible electors are prevented from doing so. C.R.S. § 1-1-103(1).

- Substantial compliance with the provisions or intent of this code shall be all that is required for the proper conduct of an election. C.R.S. § 1-1-103(3).

And liberally construing the Code and applying a substantial compliance standard is supported by the *Loonan* case where the court found substantial compliance, not strict compliance, to be the appropriate standard for determining statutory requirements for initiatives and referendum. Nevertheless, the court in *Griswold* adopted a strict compliance standard with respect to the Code's minimum signature provision. But *Griswold* is distinguishable from this case.

In *Griswold*, the petitioner sought relief from the Code's minimum signature provision in C.R.S. § 1-4-801(2)(c)(II), which required a candidate to collect 1,500 signatures from each of the state's seven congressional districts to petition onto the ballot. The petitioner in that case collected 1,500 signatures in only one of the seven congressional districts. In applying the strict compliance standard, the court found, similar to the residency requirement in *Kuhn v. Williams*, 418 P.3d 478 (Colo. 2018), that the minimum signature requirement in the Code was more than a "technical requirement" and was instead a minimum threshold for a candidate to petition onto the ballot. *Griswold*, 462 P.3d at 1085. The purpose of the minimum signature threshold in C.R.S. § 1-4-801(2)(c)(II) is to determine whether a candidate has sufficient support across the seven congressional districts to qualify to be placed on the ballot. *See id.* Put more simply, it establishes a minimum qualification to be on the ballot.

Here, the purpose of C.R.S. § 1-4-1007 is to set forth a timing or scheduling outline for minor political party candidates to be nominated to fill a vacancy where a prior candidate is no longer able to remain on the ballot or withdraws. Presumably, the timing requirements of C.R.S. § 1-4-1007 are to give the Secretary of State sufficient time to make any necessary determinations regarding the new candidate and sufficient time to place that person on the ballot. Nothing in C.R.S. § 1-4-1007 sets a minimum qualification threshold similar to the signature requirements in C.R.S. § 1-4-801(2)(c)(II). This is an important distinction when liberally construing the Code and considering the substantial compliance standard set forth in C.R.S. § 1-1-103. The provisions of C.R.S. § 1-4-1007 are more of a "technical requirement" instead of a qualification requirement. The undisputed facts in this case are that Astley's notice of withdrawal was one day past the seventy-day deadline in C.R.S. § 1-4-1007, and that Petitioner was in substantial compliance with the Code. And, at the hearing, Respondent conceded that the Secretary's Office could still perform their statutory duties with respect to the ballot despite the timing of Astley's withdrawal, if a timely order was issued in this case.

The Court has also considered the potential harm in applying a strict compliance standard to the facts of this case. Instead of enforcing a minimum threshold of support qualification like in *Griswold*, it would be strictly enforcing a deadline that was missed by Astley, not Petitioner, and through no lack of diligence by Petitioner. Applying a strict compliance standard in this case would prevent a minor party candidate for Secretary of State from being placed on the general election ballot, effectively alienating the members of the minor party and preventing them from voting for

the candidate they nominated as quickly as possible after learning of Astley's withdrawal. This result would frustrate the intent of the Code to ensure eligible electors have ballot access.

Importantly, the remedy set forth in C.R.S. § 1-1-113(1), the statutory provision under which Petitioner has brought this action, specifies "upon a finding of good cause, the district court shall issue an order requiring *substantial compliance* with the provisions of this code." (emphasis added). The plain language of C.R.S. § 1-1-113(1) supports the use and application of a substantial compliance standard to disputes under C.R.S. § 1-4-1007.

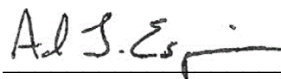
Considering the text of C.R.S. § 1-1-113(1) and C.R.S. § 1-1-103(3), the intent of the Code, the purpose of C.R.S. § 1-4-1007, and the potential harms in applying a strict compliance standard, the Court is convinced that the substantial compliance provision in C.R.S. § 1-1-103(3) and as set forth in *Loonan v. Woodley*, 882 P.2d 1380 (Colo. 1994) is the appropriate standard to apply to C.R.S. § 1-4-1007. Because there is no dispute that Petitioner is otherwise in substantial compliance with the Code, the Court orders Respondent to place Petitioner on the general election ballot forthwith pursuant to C.R.S. § 1-1-113(1).

CONCLUSION

For the foregoing reasons, the Court GRANTS Petitioner's Verified Petition to Place Sean Vadney on the General Election Ballot for Secretary of State to Fill the Vacancy Caused by the Withdrawal of Alex Astley (C.R.S. § 1-1-113) and ORDERS Sean Vadney be placed on the general election ballot forthwith.

DATED: September 4, 2026

BY THE COURT:



The Honorable Adam J. Espinosa
District Court Judge