

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT,
IN AND FOR FLAGLER COUNTY, FLORIDA

MICHAEL NORRIS, Mayor of the City of Palm
Coast

Case No.: 2025-CA-000269

Plaintiff,

v.

CITY OF PALM COAST, THE SUPERVISOR
OF ELECTIONS OF FLAGLER COUNTY, and
CHARLES GAMBARO, City Council Member
District 4 of The City of Palm Coast,

Defendants.

**FINAL ORDER ON PLAINTIFF'S EMERGENCY MOTION FOR ORDER TO SHOW
CAUSE AND JUDGMENT ON THE PLEADINGS**

THIS CAUSE came to be heard before the Court at a final hearing on July 3, 2025, upon Plaintiff Michael Norris' ("Norris" or "Plaintiff") Emergency Verified Complaint and Emergency Motion for Order to Show Cause. All parties were present with or through counsel. The Court has reviewed the record, heard arguments of counsel, and being otherwise fully advised in the premises, hereby makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Mike Norris is the Mayor of the City of Palm Coast and the sole Plaintiff in this suit.
2. Plaintiff filed this suit against the City of Palm Coast and fellow Council Member Charles Gambaro ("Gambaro") seeking to remove Gambaro from City Council District Seat 4 and have the City hold a special election to replace him.

3. Cathy Heighter (“Heighter”) was elected to District Seat 4 in 2022 and was supposed to serve a 4-year term until the November 2026 election. However, Heighter resigned from the City Council on August 23, 2024.

4. At the time of Heighter’s resignation, the 2024 election was set for November 5, 2024, and District Seat 4 was not up for election.

5. Numerous 2024 election deadlines for City Council had already passed before Heighter’s resignation including the deadline to submit qualifying petitions to the Supervisor of Elections, the end of the qualifying period for City Council candidates, and the primary election for City Council candidates.

6. The City’s deadline to submit its general election ballots to the Supervisor of Elections was September 6, 2024.

7. On September 17, 2024, the City Council held a public workshop and interviewed numerous candidates for appointment to the vacant District 4 Seat.

8. On October 1, 2024, the City Council voted to appoint Gambaro to the City Council District 4 Seat.

9. District Seat 4 is up for regular election in November 2026.

10. Plaintiff did not seek the District 4 Seat on the Palm Coast City Council.

11. Plaintiff did not allege he had any claim or entitlement to the office of District 4 Council Member.

12. Plaintiff’s Complaint sought relief under three Counts: 1) Declaratory Relief, 2) Injunctive Relief, and 3) Petition for Writ of Quo Warranto.

13. The Florida Attorney General was not a party to this suit.

14. Plaintiff did not have authority from the Florida Attorney General to file the suit.

15. Plaintiff filed an Emergency Motion for Order to Show Cause and sought an expedited final hearing on his Complaint.

16. This Court issued an Order on the Emergency Motion requiring the City to respond to Plaintiff's Complaint and Motion within 15 days and set the matter for a final hearing to be heard on July 3, 2025, after the pleadings were closed.

17. There are no disputed material factual issues, and the Court is issuing this final order as a judgment on the pleadings under Rule 1.140(c), *Florida Rules of Civil Procedure*.

CONCLUSIONS OF LAW

18. The proper remedy to challenge an individual's title to hold office is through a writ of quo warranto. Fla. Stat. § 80.01.

19. Plaintiff does not have standing to bring an action for writ of quo warranto, because he is not the attorney general, and he is not seeking the office he challenged. Fla. Stat. § 80.01; *Fouts v. Bolay*, 795 So. 2d 1116, 1117 (Fla. 5th DCA 2001); *McGhee v. City of Frostproof*, 289 So. 2d 751, 752 (Fla. 2d DCA 1974); *Butterworth v. Espey*, 523 So. 2d 1278, 1279 (Fla. 2d DCA 1988); *Tobler v. Beckett*, 297 So. 2d 59, 61 (Fla. 2d DCA 1974); *State ex rel. Clark v. Klingensmith*, 163 So. 704, 705 (Fla. 1935); *State ex rel. Wurn v. Kasserman*, 179 So. 410, 411 (Fla. 1938).

20. Plaintiff's counts for declaratory and injunctive relief fail because quo warranto is the sole and exclusive remedy to challenge title to an office. *Tobler*, 297 So. 2d at 61; *Gentry-Futch Co. v. Gentry*, 106 So. 473, 476 (Fla. 1925); *Swoope v. City of*

New Smyrna Beach, 125 So. 371, 371-372 (Fla. 1929); *McSween v. State Live Stock Sanitary Brd.*, 122 So. 239, 244 (Fla. 1929); *Winter v. Mack*, 194 So. 225, 228 (Fla. 1940); *Penn v. Pensacola-Escambia Governmental Center Auth.*, 311 So. 2d 97, 101 (Fla. 1975).

21. Even if Plaintiff had standing, which he does not, the passage of essential election deadlines prior to Heigher's resignation and the proximity of the resignation to the general November 5, 2024, election thereafter, created a logistical impossibility of placing District Seat 4 on the November 2024 ballot. Accordingly, under the facts of this case, the next "regularly scheduled election" for District Seat 4 as contemplated by the Palm Coast City Charter was November 2026. See City Charter, Art. IV, § 7(e).

22. Due to the timing of Heigher's resignation, for the City to have had an election for District Seat 4 before the November 2026 election, the City would have had to have held a special election, which is not contemplated by the Charter for vacated Council seats. The City's Charter only allows for special elections when the Mayor's seat is vacated or there is a recall. See City Charter, Art. IV (7)(e); Art. VII (4) and (5)(a).

Accordingly, it is **ORDERED AND AJUDGED:**

- a. Final Judgment on the pleadings is entered in favor of Defendants and against Plaintiff on all counts;
- b. Plaintiff shall take nothing by this action, and Defendants shall go hence without day.

DONE and ORDERED in Chambers, Flagler County, Florida on _____
_____.

7/10/2025 12:05 PM 2025 CA
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e-Signed 7/10/2025 12:05 PM 2025 CA 000269

Christopher A. France,
Circuit Court Judge

Copies furnished to:

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