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By: C. Torres Deputy

Joel Gilbert
Petitioner (Pro Se)
13037 Ripple Creek
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

JOEL GILBERT, Petitioner) CASE NO. 26WM000011
)
vs) PRO SE PETITION FOR WRIT OF MANDATE
SHIRLEY N. WEBER, in her)
capacity as California Secretary) (Code Civ. Proc. § 1085)
of State)
Respondent)

I. INTRODUCTION

1. This is a petition for writ of mandate to compel Respondent Secretary of State to perform her ministerial, non-discretionary duty to enforce the qualifications for Governor prescribed by the California Constitution and Elections Code, and to decline certification of an ineligible candidate.
2. Petitioner seeks an order prohibiting Respondent from certifying Eric Michael Swalwell as a candidate for Governor of California for the 2026 election because Swalwell fails to satisfy the constitutional residency requirement and filed materially false candidate filings under penalty of perjury.

II. JURISDICTION AND VENUE

3. This Court has jurisdiction under Code of Civil Procedure §§ 1085 and 1086.
4. Venue is proper in Sacramento County because the acts complained of are performed by a statewide constitutional officer headquartered in Sacramento.

1 **III. PARTIES**

2
3 5. Petitioner Joel Gilbert is a registered California voter eligible to vote in the 2026
4 gubernatorial election. Respondent's unlawful certification of an ineligible candidate
5 impairs Petitioner's right to a lawful ballot.

6 6. Respondent Shirley N. Weber is the California Secretary of State and is responsible for
7 administering and certifying statewide elections.

8 **IV. FACTUAL ALLEGATIONS**

9
10 **A. Constitutional Residency Requirement**

11 7. Article V, section 2 of the California Constitution requires that the Governor be "a resident
12 of this State for five years immediately preceding the Governor's election."

13 8. The Secretary of State's own published qualifications acknowledge this constitutional
14 requirement, notwithstanding a footnoted assertion that the office considers it
15 "unenforceable."

16 9. The Secretary of State lacks authority to nullify, suspend, or disregard a constitutional
17 provision absent a judicial determination invalidating that provision.

18
19 **B. Swalwell's Declared Principal Residence Is Washington, D.C.**

20 10. Publicly recorded mortgage documents show that Eric Michael Swalwell and his spouse
21 executed a District of Columbia Deed of Trust dated April 18, 2022, designating 209 S
22 Street NE, Washington, D.C. as the borrower's principal residence.

23 11. The Deed of Trust includes a standard owner-occupancy clause stating that a borrower is in
24 default if materially false statements are made concerning occupancy as a principal
25 residence.

26 12. No rider, affidavit, or incorporated document in the recorded Deed of Trust disclaims
27 Swalwell's personal occupancy or assigns the residence solely to his spouse. Even if
28

1 Swalwell later submitted an affidavit to his lender, such extrinsic statements cannot alter the
2 clear terms of a fully executed Deed of Trust. Under the parol evidence rule, a party cannot
3 unilaterally rewrite an integrated written contract.

4
5 **C. Absence of California Domicile**

- 6 13. Public records searches reveal no current ownership or leasehold interest held by Eric
7 Swalwell in California, nor any history of any ownership or leasehold interest based on
8 available public records.
- 9 14. Swalwell’s congressional financial disclosures from 2011 to 2024 list no California real
10 estate ownership.
- 11 15. Under Elections Code § 349, domicile is the place where habitation is fixed and where a
12 person intends to return and remain, and is determined by objective acts rather than
13 subjective declarations of intent. Swalwell’s declared principal residence in Washington,
14 D.C., coupled with his absence of any California residence, defeats California domicile.
15 Once ballot preparation or certification deadlines pass, no post-hoc judicial remedy can
16 restore a lawful ballot.

17
18 **D. False Candidate Filings Under Penalty of Perjury**

- 19 16. On December 4, 2025, Swalwell filed California Form 501 (Candidate Intention Statement)
20 listing 400 Capitol Mall, Suite 2400, Sacramento, California as his “home address.”
- 21 17. That address is not a residence; it is the office address of Swalwell’s campaign attorneys and
22 is properly used on Form 410 for committee purposes—but not as a personal residential
23 address.
- 24 18. Form 501 is signed under penalty of perjury, and the use of a non-residential address
25 constitutes a material misrepresentation in a filing required to establish candidate
26 qualifications, thereby triggering the Secretary of State’s duty to withhold certification.

27
28 **V. LEGAL DUTY VIOLATED**

1 19. The above facts establish a clear violation of a ministerial duty enforceable by writ. The
2 Secretary of State has a ministerial duty to enforce candidate qualifications prescribed by the
3 Constitution and Elections Code.

4
5 20. The Secretary of State may not substitute her own constitutional interpretation for that of the
6 judiciary, nor selectively decline enforcement of constitutional requirements.

7 21. Certifying a candidate who does not meet the constitutional residency requirement and who
8 has submitted materially false qualification filings violates that duty.

9 **VI. IRREPARABLE HARM**

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11 22. Placement of an ineligible candidate on the ballot irreparably harms Petitioner and all
12 California voters by:

- 13 a) Diluting lawful votes
14 b) Undermining ballot integrity
15 c) Forcing voters to choose among unlawfully certified candidates
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17 Such harm cannot be remedied after ballots are printed or votes cast.

18
19 **VII. PRAYER FOR RELIEF**

20 WHEREFORE, Petitioner respectfully requests that this Court:

21
22 A. Issue a peremptory writ of mandate directing Respondent not to certify Eric Michael Swalwell as
23 a candidate for Governor of California and declaring him ineligible for certification;

24 B. Grant expedited consideration;


25 C. Alternatively, issue an alternative writ and order to show cause;

26 D. Grant such other relief as the Court deems just and proper.
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1 **VIII. VERIFICATION**

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3 I, Joel Gilbert, declare under penalty of perjury under the laws of the State of California that the
4 foregoing is true and correct.

5 Executed this 6th day of January, 2026, at Santa Rosa, Volby, California.

6
7 
8 _____
9 Joel Gilbert, Petitioner (Pro Se)