

ORIGINAL

FILED

09/25/2026

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 26-0618

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 26-0618

FILED

SEP 25 2026

Bowen Greenwood
Clerk of Supreme Court
State of Montana

406 PEOPLE FIRST and DENISE KELLY,

Plaintiffs and Appellants,

v.

THE CITY-COUNTY OF BUTTE-SILVER BOW
and CYNTHIA SHERMAN, in her official
capacity as Clerk and Recorder/Election
Administrator,

Defendants and Appellees.

ORDER

Plaintiffs and Appellants 406 People First and Denise Kelly (collectively Proponents) petition this Court for rehearing of its September 24, 2026 Order that vacated this Court's previous Order enjoining Defendants and Appellees The City-County of Butte-Silver Bow and Cynthia Sherman, in her official capacity as Clerk and Recorder/Election Administrator (collectively the City-County), from denying certification of Local Initiative 00-02 because it failed to comply with the deadline for submission of signatures as set forth in § 13-28-206, MCA (2025). As explained in our September 24, 2026 Order, once we learned that ballots had already been printed without Local Initiative 00-02 included, absentee and mail ballots had been mailed, some voters had already returned their ballots, and with no clear statutory procedure for remediating the ballots to add the initiative at this juncture, we concluded that vacatur of the injunction was the only reasonable action this Court could take.

Under M. R. App. P. 20, this Court seldom grants petitions for rehearing and will do so only upon grounds set forth in M. R. App. P. 20(1). Under Rule 20(1)(a), this Court will consider a petition for rehearing only if: (i) it overlooked some fact material to the decision; (ii) it overlooked some question presented by counsel that would have proven decisive to the

case; or (iii) its decision conflicts with a statute or controlling decision not addressed by the Court. Pertinent to the matter before us, Rule 20(1)(d) further provides, “Absent clearly demonstrated exceptional circumstances, the supreme court will not grant petitions for rehearing of its orders disposing of motions or petitions for extraordinary writs.”

Seeking rehearing, Proponents ask this Court to order Sherman to account for her actions between August 12, 2026, and August 28, 2026—the time when the District Court had in place a temporary restraining order (TRO) that, in relevant part, temporarily restrained Sherman from “treating Local Initiative 00-02 as finally rejected; or taking any action that would make certification or ballot placement impracticable.” Proponents request a “sworn report” identifying a list of information they believe we should require from Sherman. Proponents further renew their request that this Court order Sherman to mail a supplemental ballot.

In their petition for rehearing, Proponents acknowledge that the ballot statutes do not prescribe a procedure for this situation. Although they argue this Court has the authority to order relief, they have not addressed the legal or practical impediments to supplementing the ballot after some electors have already voted. Moreover, an accounting of Sherman’s actions regarding Local Initiative 00-02 during the 16 days the TRO was in effect will not afford Proponents the relief they seek. Proponents have not demonstrated that exceptional circumstances exist that warrants rehearing of our September 24, 2026 Order.

IT IS THEREFORE ORDERED that the petition for rehearing is DENIED.

The Clerk is directed to provide immediate notice of this Order to parties.

DATED this 25th day of September, 2026.



Chief Justice



Katherine M. Bidegaray

John H. H. H.

Angela H. H.

Justices