

IN THE SUPREME COURT OF OHIO

STATE EX REL. OHIO DEMOCRATIC PARTY, ET AL,	:
	:
Relators,	:
	:
v.	:
	:
OHIO SECRETARY OF STATE FRANK LAROSE,	:
	:
Respondent.	:

ANSWER OF RESPONDENT OHIO SECRETARY OF STATE FRANK LAROSE

Respectfully submitted,

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Ohio Attorney General

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Counsel for Respondent
Ohio Secretary of State Frank LaRose

ANSWER

By and through counsel, Respondent Ohio Secretary of State Frank LaRose (“Secretary LaRose”), sued in his official capacity, provides the following Answer to Relators’ Complaint for Writ of Prohibition, and states the following:

Introductory paragraph: The unnumbered introductory paragraph states legal conclusions to which no response is required. Any remaining allegations are denied.

NATURE OF THE ACTION AND JURISDICTION

1. Respondent admits that Relators bring this action pursuant to this Court’s original jurisdiction but denies that this Court possesses jurisdiction over Relators’ action. Respondent further denies that Relators have stated a claim for which relief can be granted.
2. Respondent admits that Relators’ action is an attempt to seek relief as set forth in Paragraph 2 of Relators’ Complaint. Respondent denies that he set the date of Ohio’s 2020 presidential primary election. The General Assembly set March 17, 2020 as the date of Ohio’s 2020 presidential primary election. Due to the current, unprecedented COVID-19 public health emergency, and to control its spread, the Ohio Department of Health issued an order that closed all Ohio polling locations to in-person voting on March 17, 2020. This lawful Order unexpectedly prevented millions of Ohio voters from voting in-person on March 17, 2020. No other provision currently exists in Ohio statutes that will allow these individuals to cast a ballot in Ohio’s 2020 Presidential Primary. Thus, Respondent, as Ohio’s chief election officer, and pursuant to his lawful authority to instruct boards of elections on the proper conduct of elections, issued a Directive to extend the period of time by which those registered voters who did not cast absentee ballots by March 17, 2020 and who were intending to vote in-person at the polls that day could cast a ballot. The Directive is currently the only mechanism in Ohio law that will

ensure that millions of Ohioans are not disenfranchised and can safely exercise their constitutional right to vote during this public health emergency. Respondent denies that this Court possesses jurisdiction over Relator's action and further denies that Relators have stated a claim for which relief can be granted.

3. Respondent admits that Relators' seek relief as set forth in Paragraph 3 of Relators' Complaint. Respondent denies that Relators are entitled to such relief. By way of further answer, Directive 2020-06, which is attached as Exhibit A to Relators' Complaint, provides all necessary contingencies so that registered voters who did not vote by absentee ballot prior to March 17, 2020 and who intended to vote in-person on March 17, 2020 will be afforded the opportunity to vote in the 2020 presidential primary election. Respondent denies that he set "a later primary date."

PARTIES

4. Respondent admits the allegations set forth in Paragraph 4 of Relators' Complaint.

5. Respondent denies for lack of information the allegations set forth in Paragraph 5 of Relators' Complaint.

6. Respondent admits the allegations set forth in Paragraph 6 of Relators' Complaint.

FACTUAL ALLEGATIONS IN SUPPORT OF CLAIM

7. Respondent admits that on July 17, 2019, the Ohio General Assembly passed Am. Sub. H.B. 166 and that the Governor signed it on July 18, 2019. The remaining allegations contained in Paragraph 7 of Relators' Complaint are legal conclusions to which no response is required. To the extent a response is required, Respondent denies same.

8. Respondent denies the allegations set forth in Paragraph 8 of Relators' Complaint.

9. Respondent admits the allegations set forth in Paragraph 9 of Relators' Complaint. By way of further answer, Exhibit B speaks for itself.

10. Respondent admits that he issued Directive 2020-06 to Ohio's 88 county boards of election but denies that the Directive was sent "the morning of Tuesday, March 17, 2020." Directive 2020-06 was sent to Ohio's 88 county boards at 10:30 pm on Monday, March 16, 2020. The remaining allegations set forth in Paragraph 10 of Relators' Complaint are denied. By way of further answer, Exhibits C and D speak for themselves.

11. Paragraph 11 of Relators' Complaint is an incomplete recitation of Directive 2020-06. By way of further answer, Exhibits C speaks for itself.

CLAIM FOR RELIEF

12. Relators' unnumbered allegation appearing directly before Paragraph 12 of Relators' Complaint is a legal conclusion to which no response is required. To the extent a response is required, Respondent denies same. Finally, each and every response contained above is incorporated as if fully rewritten herein. Respondent denies the allegations incorporated in Paragraph 12.

13. Paragraph 13 of Relators' Complaint is a legal conclusion to which no response is required. To the extent a response is required, Respondent denies the same.

14. Paragraph 14 of Relators' Complaint is a legal conclusion to which no response is required. To the extent a response is required, Respondent denies the same.

15. Paragraph 15 of Relators' Complaint is a legal conclusion to which no response is required. To the extent a response is required, Respondent denies the same.

16. Paragraph 16 of Relators' Complaint is a legal conclusion to which no response is required. To the extent a response is required, Respondent denies the same. Respondent denies that he "set the date" of Ohio's 2020 presidential primary.

17. Respondent denies the allegations contained in Paragraph 17 of Relators' Complaint.

18. Paragraph 18 of Relators' Complaint is a legal conclusion to which no response is required. To the extent a response is required, Respondent denies the same.

19. Respondent denies the allegations contained in Paragraph 19 of Relators' Complaint.

PRAYER FOR RELIEF

WHEREFORE, Respondent denies that Relators are entitled to any relief, including the requested relief as set forth in Relators' Complaint.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

This Court lacks subject matter jurisdiction over the claims raised in the Complaint.

SECOND DEFENSE

Respondent did not, and cannot, exercise judicial or quasi-judicial power in issuing directives, which includes but is not limited to Directive 2020-06.

THIRD DEFENSE

To the extent that Respondent exercised judicial or quasi-judicial power, it was authorized by law.

FOURTH DEFENSE

Relators have an adequate remedy at law.

FIFTH DEFENSE

Relators have not stated a claim for which relief can be granted.

SIXTH DEFENSE

Relator Sanders does not have standing to bring this action.

SEVENTH DEFENSE

Relators are not legally entitled to attorneys' fees, costs, or other expenses.

EIGHTH DEFENSE

Respondent did not set the date of Ohio's 2020 presidential primary election.

NINTH DEFENSE

Respondent reserves the right to add additional defenses, including affirmative defenses, as they become known or as the case progresses.

Respectfully submitted,

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/s/ Julie M. Pfeiffer

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Counsel for Ohio Secretary of State Frank LaRose

CERTIFICATE OF SERVICE

I hereby certify that Answer of Respondent Ohio Secretary of State Frank LaRose was electronically filed and a true and accurate copy was served on March 20, 2020, via email upon the following:

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