

**In The
Supreme Court Of Ohio**

STATE EX REL. MARGARET DeBLASE, <i>et al.</i> ,	:	
	:	
<i>Relators,</i>	:	
	:	Case No. 2023-0388
v.	:	
	:	Writ of Mandamus
OHIO BALLOT BOARD, <i>et al.</i> ,	:	
	:	
<i>Respondents.</i>	:	

**MERIT BRIEF OF RESPONDENTS
OHIO BALLOT BOARD AND ITS MEMBERS**

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I. INTRODUCTION

The people of Ohio reserved to themselves the power to draft and propose amendments to the Ohio Constitution. The Ohio Ballot Board and its members correctly refused to usurp the people’s power by splitting the petition titled “The Right to Reproductive Freedom with Protections for Health and Safety” into multiple amendments. The Ballot Board’s decision certifying the petition as drafted must stand.

According to Relators Margaret DeBlase and John Giroux, however, the petition contains multiple amendments and must be divided into multiple individual petitions each containing one proposed amendment. The weakness of Relators’ claim is best exemplified by their failure to argue how many proposed amendments are supposedly included within the petition and what those amendments are. If, as Relators claim, the petition so obviously includes multiple amendments that the Ballot Board abused its discretion in concluding otherwise, surely it would be easy for Relators to articulate the number and content of each separate amendment? Yet, a reader searching for the number of separate amendments purportedly included in the petition will not find it in

Relators' Complaint or Merit Brief. Nor will the reader find any proposal actually dividing the petition into concrete, separate amendments.

A writ of mandamus cannot issue on so thin a showing. The Ballot Board correctly determined that the petition contained but one constitutional amendment. Relators' request for writ of mandamus must be denied.

II. BACKGROUND

A. The Process for Amending the Ohio Constitution by Initiative Petition

The people of Ohio reserved to themselves the power to “propose amendments to the constitution and to adopt or reject the same at the polls.” Ohio Const. Art. II, Section 1. Before a citizen-initiated constitutional amendment can appear on the ballot, the amendment wends its way through several layers of review. First, an amendment’s proponents must submit the proposed “constitutional amendment and a summary of it to the attorney general for examination.” R.C. 3519.01(A). The petition must be signed by at least 1,000 Ohio electors. *Id.* Within ten days of receiving the petition, the Ohio Attorney General reviews the petition and determines whether the summary is a fair and truthful statement of the proposed amendment. *Id.* If it is, the Ohio Attorney General so certifies and forwards the petition to the Ohio Ballot Board. *Id.*

The Ohio Ballot Board (“the Board”) is a bipartisan board comprised of the Ohio Secretary of State and four appointed members, only two of whom can be affiliated with the same political party. R.C. 3505.061(A). The Secretary of State serves as Chairperson of the Board. R.C. 3505.061(D). Upon receipt of an initiative petition from the Attorney General, the Board has ten days to determine whether the proposed amendment “contains only one proposed law or constitutional amendment so as to enable the voters to vote on a proposal separately.” R.C. 3505.062(A). If the petition satisfies the requirements of R.C. 3505.062(A), the Board certifies its

approval to the Attorney General. *Id.* The Attorney General then files “a verified copy of the proposed law or constitutional amendment together with its summary and the attorney general’s certification of it.” *Id.*

If, however, the Ballot Board determines that a petition contains more than one proposed constitutional amendment, it must divide it into individual petitions and certify its approval of each to the Attorney General. *Id.* The petitioners then must resubmit the summary for each of the individual petitions to the Attorney General, who must review each summary to determine whether it is a fair and truthful statement of the petition’s proposed amendment. R.C. 3505.062(A); R.C. 3519.01(A).

After the Attorney General files a verified copy of the proposed amendment with the summary and certification, the amendment’s proponents may begin to circulate the petition for signatures of Ohio electors. To place the proposed amendment on the ballot, the proponents must file the petition and signatures equal to at least 10 percent of the total vote cast for the office of governor in the last gubernatorial election. Ohio Const., Art. II, Sections 1g, 1a. The signatures must be from at least 44 of Ohio’s 88 counties, and from each of the 44 counties, there must be signatures equal to at least five percent of the total vote cast for governor in the last gubernatorial election. *Id.* To appear on the ballot, the petition and signatures must be filed with the Secretary of State’s Office not later than 125 days before the general election. *Id.*

B. Initiative Petition for “The Right to Reproductive Freedom with Protections for Health and Safety”

On February 21, 2023, an initiative petition titled “The Right to Reproductive Freedom with Protections for Health and Safety,” was filed with the Ohio Attorney General’s Office, together with a summary and supporting signatures. Stipulation of Facts ¶¶ 5-6 & Exhibit A thereto.

The amendment contains four provisions. First, it establishes that every individual has a right to “make and carry out one’s own reproductive decisions” on contraception, fertility treatment, continuing one’s own pregnancy, miscarriage care, and abortion. *Id.* at StipExh 002. Second, it prohibits the State from interfering with an individual’s exercise of those rights or with a person or entity assisting that individual, “unless the State demonstrates that it is using the least restrictive means to advance the individual’s health in accordance with widely accepted and evidence-based standard of care.” *Id.* The second provision allows the State to prohibit abortion after fetal viability with enumerated exceptions. *Id.* The third provision sets forth definitions, and the fourth makes the amendment self-executing. *Id.*

Within the statutory time prescribed for his fair-and-truthful review of the initiative petition, Ohio Attorney General Dave Yost certified the summary as a fair and truthful statement of the proposed amendment. Stipulation of Facts ¶¶ 7-8 & Exhibit B thereto. The Attorney General also confirmed that the county boards of elections had verified at least 1,000 signatures on the petition. *Id.* at StipExh 004. As required by R.C. 3519.01(A), the Attorney General forwarded the petition to the Ohio Ballot Board.

The Ballot Board is currently comprised of Chairman Ohio Secretary of State Frank LaRose, together with Members Senator Theresa Gavarone, Senator Paula Hicks-Hudson, William N. Morgan, and Representative Elliot Forhan. Stipulation of Facts ¶ 3. The Ballot Board met on March 13, 2023, to consider whether the initiative petition titled “The Right to Reproductive Freedom with Protections for Health and Safety” contained a single proposed amendment pursuant to R.C. 3505.062(A). *Id.* at ¶ 9. All Board members attended. *Id.* at StipExh 014.

The Ballot Board accepted documents and comments from the public opining on whether the initiative petition contained a single proposed amendment. *Id.* at StipExh 014-018. Don

McTigue, attorney for the petition committee, urged the Ballot Board to determine that the initiative petition contained a single proposed amendment whose common purpose is “the right to make and carry out one’s own reproductive decisions.” *Id.* at StipExh 017. Mr. McTigue argued that each of the four parts of the amendment related back to that purpose. *Id.*

Relator John Giroux also offered his opinion to the Ballot Board. According to Relator Giroux, the initiative petition is “intentionally unjust and misleading” because “a lot of Ohioans don’t know the differences between abortion, elective abortion, spontaneous abortion and these other medical terms.” *Id.* at StipExh 018. Relator Giroux did not offer any specific proposal splitting up the petition or further opine as to the number or content of the separate amendments contained therein. He simply asked the Ballot Board to take the “misleading” language of the petition “into consideration.” *Id.*

After receiving these public comments, Chairman LaRose moved to determine that the initiative petition contained one proposed constitutional amendment and Representative Hicks-Hudson seconded. *Id.* at StipExh 019. Chairman LaRose solicited comments from the Ballot Board. Senator Gavarone opined that her opposition to the initiative petition’s substance did not alter the “procedural” question before the Ballot Board: whether the petition contained “one question or more.” *Id.* at StipExh 020.

Having solicited written and oral comments by the public and after discussion by the Ballot Board, Chairman LaRose called the roll. The Ballot Board unanimously determined that the initiative petition titled “The Right to Reproductive Freedom with Protections for Health and Safety” contained a single proposed amendment. Stipulation of Facts ¶¶ 14-15 & Exhibit F thereto. The Ballot Board transmitted its decision to the Ohio Attorney General, who then filed a verified copy of the proposed constitutional amendment, its summary, and his fair-and-truthful

certification. *Id.* at ¶ 17 & Exhibit G. The amendment’s proponents now have until June 30 to gather the requisite number of signatures to place the amendment on the November general election ballot. Ohio Const. Article II, Section 1a.

Relators Margaret DeBlase and John Giroux filed this complaint for writ of mandamus shortly after the Attorney General’s filing of the verified amendment, summary, and certification. Relators allege that the petition contains more than one proposed amendment. Compl. ¶¶ 62-65. Relators seek an order compelling the Ballot Board to vacate its one-amendment determination and divide the petition into multiple individual petitions. *Id.* at Wherefore Clause.

III. ARGUMENT

A. Standard of Review

It is well established that relief in the form of mandamus is extraordinary relief. *See, e.g., State ex rel. Rashada v. Pianka*, 112 Ohio St.3d 44, 2006-Ohio-6366, 857 N.E.2d 1220, ¶ 2. To be entitled to the requested writ of mandamus, a relator must establish by clear and convincing evidence three elements: (1) the relator has a clear legal right to the requested relief; (2) the respondent is under a clear legal duty to perform the requested act; and (3) the relator has no plain and adequate remedy at law. *State ex rel. Linnabary v. Husted*, 138 Ohio St.3d 535, 2014-Ohio-1417, 8 N.E.3d 940, ¶ 13. “[A]ll three of these requirements must be met in order for mandamus to lie.” *State ex rel. Kirtz v. Corrigan*, 61 Ohio St.3d 435, 438, 575 N.E.2d 186 (1991). In an extraordinary action challenging a ballot-board decision under R.C. 3505.062, the standard is whether the board engaged in “fraud, corruption or abuse of discretion, or acted in clear disregard of applicable legal provisions.” *State ex rel. Ohioans for Secure & Fair Elections v. LaRose*, 159 Ohio St.3d 568, 2020-Ohio-1459, 152 N.E.3d 267, ¶ 14. An abuse of discretion “implies an unreasonable, arbitrary, or unconscionable attitude.” *State ex rel. Greene v. Montgomery County*

Bd. of Elections, 121 Ohio St.3d 631, 2009-Ohio-1716, 907 N.E.2d 300, ¶ 12. Mere disagreement with the Ballot Board’s conclusion is not sufficient for issuance of a writ. *Cf. State ex rel. Portage Lakes Educ. Ass’n v. State Empl. Rels. Bd.*, 95 Ohio St.3d 533, 2002-Ohio-2839, 769 N.E.2d 853, ¶¶ 40-41.

Before progressing to the merits of this action, it is important to note what this case is *not* about. “This case is not about the relative merits of [the] proposed constitutional amendment and whether its passage would actually result in” achieving the amendment’s stated purpose. *State ex rel. Ohio Liberty Council v. Brunner*, 125 Ohio St.3d 315, 2010-Ohio-1845, 928 N.E.2d 410, ¶ 24. This case is not about “the constitutionality or legality of the substance of the proposed amendment.” *Id.* Nor is this case about whether the sensitive issues addressed in the petition “should form the basis of an amendment to the Constitution” at all. *Secure & Fair Elections* at ¶ 69 (Kennedy, J., concurring). And this case is certainly not about whether the people of Ohio should vote for or against the petition. *Id.*

The members of the Ballot Board may have strongly divergent and fiercely held opinions on these issues. But those opinions have nothing to do with the dispute before the Court today. The Ballot Board’s role here was exceedingly narrow. The Ballot Board had to determine whether the petition contained one proposed constitutional amendment. The Ballot Board members set aside their personal views on the underlying substance of the initiative petition and answered this purely procedural question with one voice: the petition contains one constitutional amendment. The issue now before the Court is similarly limited. The Court need only decide “whether the ballot board abused its discretion and clearly disregarded applicable by determining that [the] initiative petition” contained one proposed constitutional amendment. *Liberty Council* at ¶ 25. Under any legal rationale the Court chooses to apply here, the answer is an easy “no.” No, the

Ballot Board did not abuse its discretion or disregard applicable law and its decision should not be disturbed.

B. Because all components of the petition relate to the same general purpose, the Ballot Board did not abuse its discretion in determining that the petition contained one constitutional amendment.

This Court’s most recent decision on R.C. 3505.062(A) to garner a majority of justices was *Liberty Council* in 2010.¹ In that decision, this Court held that a petition contains one amendment “so long as each of its subjects bears some reasonable relationship to a single *general* objective or purpose.” *Liberty Council* at ¶ 42, quoting *State ex rel. Willke v. Taft*, 107 Ohio St.3d 1, 2005-Ohio-5303, 836 N.E.2d 536, ¶ 34. What constitutes a single general purpose must be construed liberally. *Id.* That is, if an amendment’s components can be reasonably interpreted as “germane” to the amendment’s purpose, it is but one amendment. *Willke* at ¶ 38.

An amendment’s individual components may be different without violating the one-amendment provision. Indeed, the one-amendment provision does not require that the disparate components of an amendment complement *each other* to constitute a single amendment. *See Secure & Fair Elections* at ¶ 49 (O’Connor, C.J., concurring). So long as each provision within the amendment relates to the amendment’s purpose, the provisions themselves need not necessarily be alike. Accordingly, a petition with a general purpose “to increase ballot access for Ohio voters” may contain disparate provisions for *registering* to vote and *casting* an absentee ballot. *Id.* at ¶ 50. Although these provisions act independently of each other, they are both “plainly related to the overarching concept of ‘voting.’” *Id.*

¹ The more recent decision on R.C. 3505.062(A), *Secure & Fair Elections* in 2020, did not produce any legal rationale with majority support. The alternative theories advanced in that decision will be addressed in Section II.C.

Similarly, in *Liberty Council*, this Court considered a petition with multiple disparate components: (1) a provision prohibiting laws compelling participation in a health care system, (2) a provision prohibiting laws that limit the purchase or sale of health care or health insurance, (3) a provision prohibiting laws that impose fines or penalties for the sale or purchase of health care or health insurance, (4) a provision setting forth exceptions to (1)-(3), and (5) a provision setting forth definitions. *Liberty Council* at ¶¶ 8-15. The Court concluded that all the amendment’s components related to “the single general purpose or object of preserving freedom of choice of health care and health-care coverage.” *Id.* at ¶ 44. As in *Secure & Fair Elections*, some of the amendment’s components could operate independently of each other. And one component, the prohibition on laws that penalize the purchase or sale of health care or health insurance, particularly stood apart. Unlike the amendment’s other provisions, it had the potential for far-reaching and “unintended consequences” that would “fundamentally rework the way Ohio regulates the insurance industry.” *Id.* This provision was *different* than the others in the petition; indeed, it was far more *consequential* than the rest of the petition. But because it nonetheless related to the amendment’s purpose of health-care choice, it did not run afoul of R.C. 3505.062(A)’s one-amendment requirement. *Id.* at ¶¶ 45-53.

Here, each provision within the “The Right to Reproductive Freedom with Protections for Health and Safety,” relates back to the amendment’s general purpose: reproductive rights. *See* Stipulations of Facts at StipExh 017 (“So they all relate to the common purpose of the right to make and carry out one’s own reproductive decisions.”). The first provision sketches out five different areas in which individuals would have reproductive rights should the amendment pass: contraception, fertility treatments, continuing one’s own pregnancy, miscarriage care, and abortion. *Id.* at StipExh 002. The second provision prohibits the State, with some exceptions, from

interfering with the exercise of the reproductive rights described in the first provision. *Id.* The third provision defines terms relating to reproductive rights, and the fourth makes the reproductive-rights amendment self-executing. *Id.* No provision in “The Right to Reproductive Freedom with Protections for Health and Safety” addresses any objective or purpose other than reproductive rights. Accordingly, because each of the provisions reasonably relates to the amendment’s general purpose of reproductive rights, the petition contains just one amendment. The Ballot Board correctly concluded as much, and the Court’s analysis can and should end here.

Relators’ argument to the contrary rests on a premise that this Court has repeatedly rejected. Relators argue that the amendment’s disparate provisions do not sufficiently relate to *each other*. Specifically, Relators complain that “continuing one’s own pregnancy” and “abortion” stand apart from the other rights described in the petition—contraception, fertility, and miscarriage care. Compl. ¶¶ 48-56. Even if true, Relators’ argument gets them nowhere. The relevant test is not whether an amendment’s provisions sufficiently relate to each other; the relevant test is whether an amendment’s provisions sufficiently relate to a single general objective or purpose. Therefore, it is of no moment whether the petition’s creation of a right to an abortion operates independently of its creation of a right to contraception, fertility, or miscarriage care. *See, e.g., Secure & Fair Elections* at ¶ 49 (O’Connor, C.J., concurring) (rejecting the position that “each provision had to be reasonably necessary to effectuate *the other provisions*” to survive one-amendment review). Nor does it matter if the petition’s creation of a right to abortion “fundamentally reworks” Ohio law in a way that the rights to contraception, fertility treatment, or miscarriage care would not. *See, e.g., Liberty Council* at ¶ 44 (rejecting the argument that a health-care provision that “fundamentally reworks” Ohio law is a separate amendment from health-care provisions with less

drastic effects). The only inquiry that matters is whether each individual component of the petition relates to reproductive rights. As explained above, the petition easily satisfies that test.

For the same reason, Relators’ argument that the petition unlawfully contains both “broad general principles” in Section A and “detailed, self-executing legislative provisions” in Sections B-D fails. Relators’ Br. at 17. This is just another argument that the provisions in the petition do not sufficiently relate to *each other*. The broad principles articulated in Section A relate to the petition’s general objective of reproductive rights. And the detailed provisions in Section B-D relate to that same purpose. Nothing more is required. *See Liberty Council* at ¶ 25.

Relators here fall well short of the applicable standard for mandamus relief. To show that the Ballot Board abused its discretion under R.C. 3505.062(A), Relators must establish by clear and convincing evidence, that some component of the petition does not—under the most liberal construction—reasonably relate to reproductive rights. Relators have made no such *argument*, let alone a clear-and-convincing showing.

C. Should the Court determine that the legal rationale set forth in *Liberty Council* does not apply and instead adopts the concurrence in *Secure & Fair Elections*, the Ballot Board did not abuse its discretion by certifying the petition.

This Court’s most recent decision in a mandamus action challenging a ballot-board decision under R.C. 3505.062 was fractured, with “no majority in support of a single legal rationale” for issuing the writ. *Secure & Fair Elections* at ¶ 15 & fn.3 (per curiam opinion). Three justices applied the analysis articulated in *Liberty Council* and evaluated whether the petition’s subjects all bore “some reasonable relationship to a single *general* objective or purpose.” *Id.* at ¶ 31 (O’Connor, C.J., concurring).

Three other justices embraced a legal rationale that, if adopted here, would stop this case in its tracks. These justices held that Article II, Section 1a of the Ohio Constitution “does not establish a ‘single-subject rule’ that limits the people to proposing a constitutional amendment

with one only subject, purpose or objective.” *Id.* at ¶ 75 (Kennedy, J., concurring). For these justices, the *Liberty Council* test wrongfully considers the general objective or purpose of an amendment and wrongfully requires an amendment to contain just one objective or purpose. *Id.* ¶¶ 84-86, 96 (“The people possess the power to amend the Constitution, and in ratifying Article II, Sections 1a and 1g, they did not limit that right to proposing only an amendment that addresses one subject, purpose, or object at a time.”). The concurring opinion would have overruled *Liberty Council* and held that the Ballot Board lacks authority to separate a petition into multiple proposed amendments because the petition embraces multiple subjects or purposes. *Id.* at ¶¶ 92, 100.

Should the Court choose to adopt now-Chief Justice Kennedy’s concurrence from *Secure & Fair Elections*, the Court must deny the requested writ of mandamus. The underlying petition was submitted under Article II, Section 1a, which lacks any single-subject rule. Without a single-subject rule, the Ballot Board would have had no legal basis to separate the petition into multiple amendments. It follows, therefore, that the Ballot Board did not abuse its discretion in refusing to take an action it lacked a legal basis to take. *Cf. Secure & Fair Elections* at ¶ 100 (ordering the Ballot Board to certify as drafted a proposed amendment under Article II, Section 1a).

Ultimately, the Court need not decide between applying *Liberty Council* or adopting the concurrence in *Secure & Fair Elections*. Both legal rationales lead to the same result here: the writ should be denied because the Ballot Board did not abuse its discretion in certifying the petition as drafted.

D. The Ballot Board did not abuse its discretion by failing to deliberate.

Finally, Relators’ claim that the Ballot Board abused its discretion by failing to deliberate enough is incorrect. Rel. Brief at 9. “Abuse of discretion” means a decision that is “unreasonable, arbitrary or unconscionable.” *State ex rel. Demora v. Larose*, S. Ct. No. 2022-0661, 2022-Ohio-2173, ¶ 30, citing *State ex rel. Grady v. State Emp. Relations Bd.*, 78 Ohio St.3d 181, 183, 677

N.E.2d 343 (1997); *State ex rel. Pipoly v. State Teachers Retirement Sys.*, 95 Ohio St.3d 327, 2002-Ohio-2219, 767 N.E.2d 719, ¶ 14; *State ex rel. Portage Lakes Educ. Ass'n v. State Empl. Rels. Bd.*, 95 Ohio St.3d 533, 2002-Ohio-2839, 769 N.E.2d 853, ¶ 35. This Court may not substitute its judgment for that of the Ballot Board even if there is conflicting evidence on an issue so long as the Board did not abuse its discretion. *See Portage Lakes* at ¶¶ 40-41.

Here, the Ballot Board's duty was to review the proposed amendment and, on its face, determine whether it contained one amendment. *See Secure & Fair Elections* at ¶ 53 (O'Connor, C.J., concurring) (“[T]he only question before the board was whether there was a reasonable relationship between the various provisions of the proposed amendment and its central purpose, and that could be determined from the face of the document.”). On March 13, 2023, the Ballot Board commenced a formal meeting where it received the proposed amendment, took public comment from the Relator, and accepted a written memorandum from the Petitioners. Stipulation of Facts at StipExh 014-018. With that information, the Ballot Board voted unanimously to certify that the proposed amendment contained only one amendment. Relators fail to show how any alleged failure by the Ballot Board members to conduct a fulsome discussion amongst themselves before voting to certify the proposed amendment led to a decision that was “unreasonable, arbitrary or unconscionable.”

Indeed, Relators' “failure to deliberate” claim, without more, is a legally insufficient basis for the issuance of a writ of mandamus. The Ballot Board has “no duty to state the basis of [its] decision ... when no statute or duly adopted administrative rule requires it.” *State ex rel. Marmaduke v. Ohio Police & Fire Pension Fund*, 10th Dist. Franklin No. 14AP-489, 2015-Ohio-2491, *affirmed* 147 Ohio St.3d 390, 2016-Ohio-5550, 66 N.E.3d 705. No statute or duly adopted administrative rule requires the Ballot Board to conduct any type or amount of deliberations or to

state the basis of its decision. Rather, the Ballot Board shall, “[e]xamine, within ten days after its receipt, each written initiative petition received from the attorney general under section 3519.01 of the Revised Code to determine whether it contains only one proposed law or constitutional amendment so as to enable the voters to vote on a proposal separately. If the board so determines, it shall certify its approval to the attorney general” R.C. 3505.062(A).

In arguing for a duty to deliberate, Relator relies entirely on inapplicable, irrelevant case law. For example, *In re G.B.*, 2d Dist. Montgomery No. 27992, 2019-Ohio-236, ¶ 19, was an action for contempt where the trial court abused its discretion by denying the contempt motion without conducting an evidentiary hearing to resolve factual issues. *See* Rel. Brief at 9. Likewise, *Aetna Better Health, Inc. v. Colbert*, 10th Dist. Franklin No. 12AP-720, 2012-Ohio-6206, involved a fact-intensive inquiry as to whether the Ohio Department of Job and Family Services properly rejected a vendor application. After a trial on the merits, the appellate court found that the trial court did not abuse its discretion when it dismissed the case for failure to state a claim. *Id.* In *State v. Chase*, 2d Dist. Montgomery No. 26238, 2015-Ohio-545, ¶ 13, the trial court denied without opinion a defendant’s motion to vacate mandatory fees and costs. The appellate court remanded the decision for an explanation of the facts that the trial court relied upon in denying the motion because without it, the appellate court could not analyze whether the trial court abused its discretion. *Id.* at ¶¶ 14, 19.

In this case, however, the Ballot Board did not need to analyze any facts. “The ballot board does not hear and weigh evidence when it conducts its meetings.” *Secure & Fair Elections* at ¶ 53 (O’Connor, C.J., concurring). Rather, the Board considers arguments and determines whether, on “the face of the document,” the petition contains but one amendment. *Id.* Here, the answer to this

question was clear from the text of the proposed amendment, and the Board correctly certified the amendment as drafted.

Also misplaced is Relators' reliance on federal cases from the U.S. Bureau of Immigration Appeals in *Aponte v. Holder*, 610 F.3d 1 (1st Cir. 2010), and *Onwuamaegbu v. Gonzales*, 470 F.3d 405 (1st Cir. 2006). Rel. Brief at 10. In those cases, the courts reviewed legal decisions *de novo*, not for abuse of discretion, and any "material error of law automatically constitutes an abuse of discretion." *Aponte* at 4. Thus, those cases involve different legal standards and have no factual relevance to the present issue of whether the Ballot Board properly certified the proposed amendment under R.C. 3505.062.

The Ballot Board complied with its legal duty under R.C. 3505.062(A) and certified the proposed amendment as containing only one amendment. The Relators possess no legal right to a fulsome discussion or written explanation of the Ballot Board's decision. Thus, so long as the Ballot Board's decision was not "unreasonable, arbitrary or unconscionable," Relators' demand for a writ of mandamus fails. For the reasons set forth above, the Ballot Board neither abused its discretion nor clearly disregarded the law when it certified the proposed constitutional amendment as containing only one amendment.

IV. CONCLUSION

At the end of the day, most of the arguments advanced by Relators and their amici are arguments on the substance of the proposed amendment. The Ballot Board correctly ignored these substantive arguments, decided the petition contained one amendment, and certified it as drafted. The Board's limited decision fell well within its discretion and should not be disturbed. Relators' complaint for writ of mandamus should be dismissed. "Ultimately, the judgment over whether

[this] proposed amendment should be adopted . . . rests within the sound discretion of the people of Ohio.” *Secure & Fair Elections* at ¶ 97 (Kennedy, J., concurring).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 4, 2023, the foregoing was filed electronically using the Court's e-filing system. I further certify that the foregoing was served by electronic mail upon the following:

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