In the Supreme Court of Ohio

STATE EX REL. AMY RENNER,	:	
	:	CASE NO. 2024-0078
Relator,	:	
v.	:	
	:	
ATHENS COUNTY BOARD OF ELECTIONS	:	
	:	
Respondent.	:	

ANSWER OF RESPONDENT ATHENS COUNTY BOARD OF ELECTIONS TO VERIFIED COMPLAINT FOR WRIT OF MANDAMUS

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ANSWER

Respondent Athens County Board of Elections ("Respondent"), through counsel, respectfully submits for its Answer to Relator's Complaint, the following:

1. Respondent admits the allegations in Paragraph 1.

2. Respondent admits the allegations in Paragraph 2.

3. Respondent admits the allegations in Paragraph 3.

4. Respondent admits that the allegations in Paragraph 4.

5. Respondent admits the allegation in Paragraph 5 that Relator seeks an Order, Judgment, and/or Writ from this Court compelling Respondents to place Relator on the March 19, 2024 Democratic primary ballot as a candidate for the office of Athens County Commissioner for the full term commencing on January 2, 2024. Respondent denies that Relator is entitled to any such order, judgment, or a writ of mandamus.

6. In response to Paragraph 6, Respondent denies that Relator has acted with the utmost diligence in bringing this action. Respondent avers that Relator was aware of Respondent's action no later than January 3, 2024, but did not bring this action until January 16, an unreasonable delay of two weeks. Respondent further denies that Relator's delay in bringing this action has not prejudiced Respondent.

7. Respondent admits the allegations in Paragraph 7.

8. Paragraph 8 cites sections of the Ohio Revised Code which speak for themselves and no response is required.

9. Respondent admits the allegations in Paragraph 9.

10. Respondent admits the allegations in Paragraph 10.

11. Respondent admits the allegation in Paragraph 11.

12. In response to Paragraph 12, Respondent states that the statutory deadline for a candidate to file a declaration of candidacy for the March 19, 2024 primary election was December 20, 2024, the ninetieth day before the primary election. Relator references sections of the Ohio Revised Code. The Ohio Revised Code speaks for itself and Respondent denies the remaining allegations for lack of knowledge.

13. In response to Paragraph 13, Respondent admits that the Relator filed a Declaration of Candidacy on December 15, 2023, but denies for lack of knowledge the remaining allegations.

14. Paragraph 14 simply quotes Relator's Declaration of Candidacy. The Declaration speaks for itself and no response is required. .

15. In response to Paragraph 15, Respondent admits that Relator's December 15 Declaration of Candidacy was defective because there is no Athens County Commissioner seat with a full term commencing January 1, 2025 on the March 19, 2024 primary election ballot.

16. In response to Paragraph 16, Respondent denies for lack of knowledge when Relator realized her Declaration of Candidacy was defective. Respondent admits that Relator filed a letter with Respondent seeking to withdraw her candidate petition on December 18, 2023. Respondent states that the letter, which contains a single sentence "Please withdraw my *petitions* filed on 12/15/23 for county commissioner," (emphasis added) speaks for itself. Respondent denies that Relator made any effort to withdraw her December 15 Declaration of Candidacy in that letter

or at any other point. Relator further references a section of the Ohio Revised Code which speaks for itself, and no response from Respondent is required.

17. Respondent admits the allegations in Paragraph 17.

18. In response to Paragraph 18, Respondent denies that Relator ever withdrew, or attempted to withdraw, Relator's December 15 Declaration of Candidacy. Respondent admits that Relator attempted to submit an amended declaration of candidacy containing additional signatures after Relator's December 18 letter, but denies for lack of knowledge when the additional signatures were collected and by whom.

19. In response to Paragraph 19, Respondent denies that Relator ever attempted to withdraw her December 15 Declaration of Candidacy. Respondent admits that Relator attempted to submit an amended declaration of candidacy and additional signatures on December 20, 2023, but denies for lack of knowledge whether the amended Declaration of Candidacy and accompanying petition contained at least 50 valid signatures.

20. Paragraph 20 cites draft minutes of Respondent's December 27, 2023 meeting which speak for themselves and no response is required.

21. In response to Paragraph 21, Respondent denies for lack of knowledge whether Relator was aware that the December 20, 2023 Declaration of Candidacy and accompanying petitions were invalid. Respondent admits that Relator did not attend the December 27, 2023 Athens County Board of Elections Meeting.

22. Paragraph 22 references meeting minutes which speak for themselves and no response is required. Respondent avers that the executive session to discuss

"pending or imminent legal action" was to discuss an insurance claim, and that, at the time of the meeting, there was no pending or imminent legal action involving Relator.

23. The minutes referenced in Paragraph 23 speak for themselves and no response is required.

24. Respondent admits the allegation in Paragraph 24 that Respondent's counsel provided legal advice to the Board regarding Relator's December 18, 2023 letter seeking to withdraw her petitions.

25. Paragraph 25 references sections of the Ohio Revised Code which speak for themselves. Respondent admits that the Board's counsel referenced those statutes while advising Respondent.

26. Paragraph 26 references a section of the Ohio Revised Code and an exhibit to the complaint which speak for themselves, and no response is required. To the extent a response is required, Respondent denies that Relator attempted to withdraw her Declaration of Candidacy.

27. Respondent admits the allegation in Paragraph 27.

28. Paragraph 28 references meeting minutes which speak for themselves and no response is required.

29. Paragraph 29 references meeting minutes which speak for themselves and no response is required.

30. Paragraph 30 contains Relator's legal conclusions to which no response is required. To the extent that a response is required, Respondent denies Relator's assertions and legal conclusions.

31. Paragraph 31 contains Relator's legal conclusions to which no

response is required and the sited statutes and case speak for themselves. To the extent a response is required, Respondent denies that Relator ever attempted to withdraw her December 15, 2023 Declaration of Candidacy; Relator's failure to do so distinguishes this case from *State ex rel. Coble v. Lucas Cty. Bd. of Elections*, 130 Ohio St.3d, 132, 2011-Ohio-4550, 956 N.E.2d 282. Respondent further denies that Relator's failure to properly fill out her Declaration of Candidacy renders it a nullity and entitles Relator to a second bite at the apple.

32. Paragraph 32 contains a prediction of the future to which no response is required. To the extent a response is required, Respondent denies for lack of knowledge that there will be no additional candidates on the November general election ballot because not all applicable deadlines have passed.

33. In response to Paragraph 33, Respondent incorporates all prior responses as if fully rewritten herein.

34. Paragraph 34 contains Relator's legal conclusions to which no response is required. To the extent a response is required, Respondent denies that Relator's declaration of candidacy satisfies all legal requirements, denies that Relator has a clear legal right to have her name certified to the March 19 ballot as a candidate for Athens County Commissioner for a full term commencing on January 2, 2024, and denies that Relator otherwise satisfies all requirements to be certified to the ballot.

35. Paragraph 35 contains Relator's legal conclusion to which no response is required. To the extent that a conclusion is required, Respondent denies that Relator has a clear legal right to have Respondent examine and determine the

sufficiency of Relator's additional signatures or to certify Relator's name to the ballot on the basis of those additional signatures.

36. Paragraph 36 contains Relator's legal conclusions to which no response is required. To the extent a response is required, Respondent denies it has a clear legal duty to certify Relator to the March 19, 2024 Democratic Party primary ballot or that it has a clear legal duty to determine the sufficiency of Relator's additional signatures.

37. Paragraph 37 contains Relator's legal conclusions to which no response is required. To the extent a response is necessary, Respondent denies Relator's assertions and legal conclusions.

All allegations in the PRAYER FOR RELIEF and WHEREFORE paragraphs are denied. Further answering, Respondent denies that Relator is entitled to any relief listed in the PRAYER FOR RELIEF and WHEREFORE paragraphs, or to any relief whatsoever.

GENERAL DENIAL

38. Respondent denies every allegation in the Complaint that is not expressly admitted herein. Respondent further denies that it engaged in any unlawful conduct and that Relator is entitled to any of the relief requested pursuant to the Complaint.

AFFIRMATIVE DEFENSES

1. Relator's complaint is barred by the doctrine of laches.

2. Respondent acted and continues to act lawfully at all times, and there is no violation of law to support this action.

3. Relator is not entitled to the relief she seeks.

4. Relator fails to state a claim upon which relief can be granted.

5. This action fails due to the absence of a clear legal right, clear legal duty, and because Relator has an adequate remedy at law.

6. Relator may have failed to join a party or parties under Civ.R. 19 and/or 19.1.

7. Realtor's claims may fail due to contributory negligence, estoppel, fraud, illegality, res judicata, statutes of limitations, and/or waiver.

8. This Court lacks jurisdiction to issue an order or judgment other than a writ of mandamus.

RESERVATION OF ADDITIONAL DEFENSES

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

WHEREFORE, Respondent respectfully requests that this Court dismiss this action with prejudice, and order any other relief at law or in equity that is just and appropriate.

Respectfully submitted,

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ATHENS COUNTY PROSECUTING ATTORNEY

/s/ N. Zachary West
By N. Zachary West, #0087805
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CERTIFICATE OF SERVICE

I certify that on January 18, 2023, the foregoing was filed electronically and served pursuant to S.Ct.Prac.R. 12.08(C) by e-mail upon:

Patrick M. Quinn
pmq@brunnerlaw.com
Counsel for Relators

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