

**In the
Supreme Court of Ohio**

State ex rel. CITY OF NELSONVILLE, et al.,	:	
	:	
<i>Relator,</i>	:	Case No. 2025-1061
	:	
v.	:	Original Action Involving
	:	Expedited Election Matter
ATHENS COUNTY BOARD OF ELECTIONS,	:	S. Ct. Prac. R. 12.08
	:	
<i>Respondent.</i>	:	

**SECRETARY OF STATE FRANK LAROSE’S OPPOSITION TO RESPONDENT’S
MOTION FOR JOINDER**

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Respectfully submitted,

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Respondent Athens County Board of Elections articulates no basis under Rule 19 for the joinder of Secretary of State Frank LaRose. Respondent's motion should be denied.

Ohio Rule of Civil Procedure 19 requires that a party be joined when:

- (1) in his absence complete relief cannot be accorded among those already parties, or
- (2) he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (a) as a practical matter impair or impede his ability to protect that interest or (b) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest, or
- (3) he has an interest relating to the subject of the action as an assignor, assignee, subrogor, or subrogee.

Civ. R. 19(A). Respondent does not allege that Rule 19(A)(2) or (3) is implicated here; nor could it. Secretary LaRose does not claim an interest relating to the subject matter of this action under Rule 19(A)(2). Nor is he an assignor, assignee, subrogor, or subrogee under Rule 19(A)(3). Rather, Respondent alleges that this Court will not be able to afford complete relief without Secretary LaRose. Mot. at 2.

Respondent is wrong. This Court will be able to provide complete relief—if warranted—without Secretary's LaRose's participation. Indeed, this Court has already determined that Secretary LaRose is not a necessary party to a mandamus action involving purely local ballot issues. *State ex rel. Miller v. Union Cnty. Bd. of Elections*, 2023-Ohio-3664. In *Miller*, a petition committee sought to subject an annexation ordinance passed by the City of Marysville to a referendum. *Id.* ¶ 3. Although the Union County Board of Elections initially certified the referendum to the 2023 ballot, it deadlocked 2-2 on a protest filed against the referendum. *Id.* ¶ 10. After the Secretary of State sustained the protest and excluded the referendum from the ballot, the referendum committee sought a writ of mandamus to compel the Union County Board of

Elections to place the referendum on the ballot. The Secretary was not named as a party, and this Court rejected an intervening respondent’s argument that the Secretary was a necessary party: “[Relators] have petitioned this court to request a writ of mandamus ordering the board of elections to place the referendum on the ballot. Such relief can be granted without the Secretary of State’s involvement.” *Id.* ¶ 23.

Here, Respondent’s case for joining Secretary LaRose is even weaker than in *Miller*. Like *Miller*, this case involves local ballot races within the purview of the county board of elections. Like *Miller*, no statewide races or ballot issues are implicated. But here, unlike *Miller*, Secretary LaRose made no decision whatsoever with respect to the disputed races. He did not break a tie vote or otherwise offer any direction or instruction to the Athens County Board of Elections as to the disputed races. *See generally* Compl. As in *Miller*, this Court may—if warranted—award full relief to Relators by directing the Athens County Board of Elections to remove the “current slate of statutory positions set to appear on the November 2025 ballot for elected positions within the city of Nelsonville.” Compl. at Prayer for Relief; *Miller* ¶ 23. Secretary LaRose need not become involved.

Respondent does not mention *Miller* or attempt to distinguish it in any way. Instead, Respondent offers three reasons why Secretary LaRose should be joined as a party. None convinces.

First, Respondent argues that Secretary LaRose should be joined because he issues rules and directives that the local boards of elections must follow while performing their statutory functions. Mot. at 2 (citing R.C. 3501.05(B)). But Respondent points to no rule or directive issued by the Secretary of State that is implicated in this mandamus action. For good reason: the Complaint never refers to any relevant rule or directive issued by the Secretary LaRose. *See*

generally Compl. Secretary LaRose’s statutory duties are simply irrelevant to the resolution of the claims before this Court.

Second, Respondent argues that Secretary LaRose certifies the form of the ballot, the names of the candidates for state offices, and the form and wording of state referendum questions and issues. Mot. at 3 (citing R.C. 3501.05(I)). But Respondent identifies no candidate for any *state* office nor any *state* referendum question at issue in this mandamus action. *See id.* Nor does the Complaint. *See generally* Compl. Relators seek to decertify candidates for *local* elected positions within the city of Nelsonville, so Secretary LaRose’s statutory duties as to *statewide* candidates under R.C. 3501.05(I) are not implicated. And while it is true that Secretary LaRose certifies the form of the ballot, Relators do not challenge the form of the ballot. Relators challenge the certification of specific, local candidates for the ballot. Under R.C. 3501.11(K)(1), the Athens County Board of Elections certifies the sufficiency and validity of petitions and nomination papers for specific candidates. The Board also presides over any protests against those candidacies. R.C. 3513.05. Accordingly, the Athens County Board of Elections determines whether the disputed candidates ought to be certified for the ballot.

Finally, Respondent argues that Secretary LaRose gives “final approval to ballot language for any local question or issue approved and transmitted by boards of elections.” Mot. at 3 (quoting R.C. 3501.05(J)). Although this is an accurate statement of Secretary LaRose’s statutory authority, it is irrelevant to the issues before this Court. Secretary LaRose’s office may have approved Issue 23’s ballot language in 2024, but Respondent fails to identify any local question or issue that must be approved for the 2025 election. And in any event, arguments about the “lack of transition plan in the so-called ‘Issue 23’” misunderstand the Secretary’s role under R.C. 3501.05(J). *See* Mot. at 3. The Secretary’s only role for local issues under R.C. 3501.05(J) is to review and approve ballot

language *as to form*. See *State ex rel. Walker v. LaRose*, 2021-Ohio-825, ¶ 13; *State ex rel. Perry Twp. Bd. of Trs. v. Husted*, 2018-Ohio-3830, ¶ 15. Concerns about the underlying wisdom (or lack thereof) of a ballot issue do not provide a basis for relief against the Secretary. *Id.*

For these reasons, Secretary LaRose is not a necessary party to this case, and Respondent's motion should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 28, 2025, the foregoing was filed electronically using the Court's e-filing system and served via email on the following:

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