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SLIP OPINION NO. 2026-OHIO-4323

THE STATE EX REL. DAVIS *v.* HAMILTON COUNTY BOARD OF ELECTIONS ET AL.

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Davis v. Hamilton Cty. Bd. of Elections*, Slip Opinion No. 2026-Ohio-4323.]

Elections—Mandamus—Writ sought to compel county officials to remove issue from general-election ballot—Writ denied.

(No. 2026-1446—Submitted October 30, 2026—Decided November 2, 2026.)

IN MANDAMUS.

The per curiam opinion below was joined by FISCHER, BRUNNER, and SHANAHAN, JJ. HAWKINS, J., concurred, noting that he would have dismissed the claim against the board of elections for lack of subject-matter jurisdiction. KENNEDY, C.J., concurred in judgment only and would deny the writ on the merits in accordance with her separate opinion addressing standing and laches in *State ex rel. Koebel v. Erie Cty. Bd. of Elections*, 2026-Ohio-3999. DEWINE, J., concurred in judgment only and would dismiss the case for lack of standing for the reasons

set forth in his separate opinion in *Koebel*. DETERS, concurred in judgment only and would dismiss for lack of standing.

Per Curiam.

{¶ 1} This is an expedited election action filed by relator, Carrie Davis, against respondents, the Hamilton County Board of Elections, the Hamilton County Board of County Commissioners, the Hamilton County Auditor, and the Hamilton County Budget Commission. Davis contends that the county commissioners did not follow the requirements of R.C. 5705.24 when they adopted a resolution certifying a proposed children's-services-related tax levy to the board of elections for placement on the November 3, 2026 general-election ballot. The board of elections has certified the proposal to the ballot, where it appears as Issue 10.

{¶ 2} For her requested relief, Davis principally seeks a writ of mandamus ordering the board of elections to remove Issue 10 from the ballot. As an alternative, Davis asks that the county commissioners be ordered to perform the duties imposed on them under R.C. 5705.24. As a further alternative, Davis asks that the county budget commission be ordered to review whether the levy was properly authorized by law.

{¶ 3} We deny the writ, and we deny respondents' motion for oral argument.

I. BACKGROUND

{¶ 4} On July 30, 2026, the county commissioners adopted a resolution determining that it was

> necessary to levy a renewal and increase tax in excess of the ten-mill limitation for the benefit of [the] County, for the purpose of making appropriations to provide support for children services and the care and placement of children at a rate not exceeding five and

> sixty-one hundredths (5.61) mills, of which amount four and fifty-one hundredths (4.51) mills is the renewal of an existing levy and one and ten hundredths (1.10) mills is an increase, for each one dollar ($1.00) of valuation which amount to five hundred and sixty-one dollars ($561.00) for each one hundred thousand dollars ($100,000.00) of valuation for a four-year period.

The county commissioners further determined that the proposed tax levy be submitted to the electors of Hamilton County at the November 3, 2026 general election "as authorized by R.C. 5705.24." R.C. 5705.24 provides:

> The board of county commissioners of any county, at any time and in any year, after providing the normal and customary percentage of the total general fund appropriations for the support of children services and the care and placement of children, by vote of two-thirds of all the members of said board may declare by resolution that the amount of taxes which may be raised within the ten-mill limitation will be insufficient to provide an adequate amount for the support of such children services, and that it is necessary to levy a tax in excess of the ten-mill limitation to supplement such general fund appropriations for such purpose.

The statute goes on to provide that the board of county commissioners' "resolution shall be certified to the board of elections not less than ninety days before the general . . . election upon which it will be voted . . . ." *Id.*

{¶ 5} As part of their July 30 resolution, the county commissioners requested that the county auditor certify "the total current tax valuation" of the county and the amount of revenue that would be produced by a 5.61-mill levy

outside of the ten-mill limitation. The county auditor responded to the county commissioners' request the next day. *See* R.C. 5705.03(B)(1) ("When a taxing authority determines that it is necessary to levy a tax outside the ten-mill limitation for any purpose authorized by the Revised Code, the taxing authority shall certify to the county auditor a resolution or ordinance requesting that the county auditor certify to the taxing authority the amounts described" by law).

{¶ 6} On August 3, the county commissioners took further action to ensure that the proposed tax levy would be submitted to the voters, this time resolving that the form of the ballot cast at the November 3 general election would appear as follows:

A RENEWAL OF 4.51 MILLS AND AN INCREASE OF 1.10 MILL TO CONTINUE TO SUPPLEMENT THE GENERAL FUND OF HAMILTON COUNTY, OHIO For Children Services A Majority Affirmative Vote Is Necessary For Passage	
A renewal of four and fifty-one hundredths (4.51) mills and an increase of one and ten hundredths (1.10) mill for each $1.00 of taxable value, to constitute a tax for the benefit of Hamilton County, for the purpose of supplementing the general fund to provide support for children services and the care and placement of children, that the county auditor estimates will collect $116,888,718 annually, at a rate not exceeding five and sixty-one-hundredths (5.61) mills for each one dollar ($1.00) of taxable value, which amounts to $121 for each $100,000 of county auditor's market value, for four (4) years commencing in 2026, first due in calendar year 2027.	
	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

{¶ 7} In addition to adopting the form of the ballot, the county commissioners directed their clerk to transmit the resolution to the board of elections for placement of the issue on the November 3, 2026 general-election ballot. The resolution states that the county commissioners "provid[ed] the normal and customary percentage of total general revenue fund appropriations for the support of children services and the care and placement of children," but the actual percentage does not appear in the resolution.

{¶ 8} On August 11, the board of elections certified the proposed tax levy to the ballot, where it appears as Issue 10.

{¶ 9} On October 8, Davis emailed the assistant county administrator asking for the "percentage" of the general-fund revenues that was used in making the determinations to propose the tax levy. Davis clarified by email on October 11 that she was asking for "*the normal and customary percentage* used for [the] levy." (Emphasis added.) Although Davis did not say so in her email, the italicized language comes directly from R.C. 5705.24's first sentence. The assistant county administrator who responded to Davis's emails did not provide a percentage in his response.

{¶ 10} On October 23, Davis filed this action. On the same day, this court sua sponte entered a scheduling order directing a highly accelerated schedule for the filing of briefs and evidence. 2026-Ohio-4204. The case is fully briefed, with the county prosecutor's office filing a consolidated brief on behalf of respondents. While briefing was ongoing, respondents filed a motion for oral argument.

II. ANALYSIS

A. Motion for oral argument

{¶ 11} Respondents have filed a motion for oral argument, arguing that because Issue 10 presents a matter of great public importance, the court would benefit from further argument from the parties. Davis opposes the motion. We deny the motion because the parties' briefs are sufficient to decide the case and the

urgency of this expedited election matter cuts against further delaying our decision. *See State ex rel. Brecksville v. Husted*, 2012-Ohio-4530, ¶ 8 (denying request for oral argument in an expedited election case); *State ex rel. Meyer v. Warren Cty. Bd. of Elections*, 2020-Ohio-4863, ¶ 18 (same).

B. Laches

{¶ 12} Respondents argue that this court need not address Davis's argument on the merits concerning the meaning of R.C. 5705.24 because this action is barred by laches.

{¶ 13} This court's precedent requires that relators act with extreme diligence and promptness in filing election-related actions. *See State ex rel. Clark v. Twinsburg*, 2022-Ohio-3089, ¶ 11. "Laches will bar an action when there is (1) an unreasonable delay or lapse of time in asserting a right, (2) the absence of an excuse for the delay, (3) actual or constructive knowledge of the injury or wrong, and (4) prejudice to the opposing party." *Id.*

{¶ 14} Starting with the first element, we find that Davis's delay in bringing this case is plainly unreasonable. The board of elections certified Issue 10 to the ballot on August 11. Seventy-three days later, and 11 days before election day, Davis filed this case. Seldom, if ever, has this court encountered a delay of this length so close to election day. When faced with significantly shorter delays in election cases, this court has found the delay to be unreasonable. *See, e.g.*, *State ex rel. Pinkston v. Delaware Cty. Bd. of Elections*, 2023-Ohio-1060, ¶ 16 (applying laches based on a 14-day delay); *State ex rel. Syx v. Stow City Council*, 2020-Ohio-4393, ¶ 11 (22-day delay); *State ex rel. Fuller v. Medina Cty. Bd. of Elections*, 2002-Ohio-5922, ¶ 11 (17-day delay); *State ex rel. Landis v. Morrow Cty. Bd. of Elections*, 2000-Ohio-295, ¶ 8-9 (22-day delay); *State ex rel. Polo v. Cuyahoga Cty. Bd. of Elections*, 1995-Ohio-269, ¶ 11, 13 (17-day delay).

{¶ 15} Turning to the second element, we find that Davis has not provided a legitimate excuse for why she waited over two months from the time the board of

elections certified Issue 10 to the ballot to file this case. She maintains that she held off on filing this mandamus action because she was awaiting responses to questions she had sent to the county requesting information county officials considered in adopting their resolutions. This argument is meritless. It is rarely the case that a litigant has the opportunity to file suit armed with every factual detail necessary to argue her case. If Davis were right that she needed more facts before filing this action, then "'a similar argument could likely be made in every election case and, if successful, would swallow the doctrine of laches,' " *Syx* at ¶ 13, quoting *State ex rel. Citizens for Responsible Green Govt. v. Green*, 2018-Ohio-3489, ¶ 22 (lead opinion); *see id.* (rejecting as an invalid excuse for delay the "high number of personal and professional obligations of the attorneys in [the relator's] office"). Moreover, Davis's own actions undermine her position. She points to the county commissioners' August 3 resolution as prompting her to investigate whether the county commissioners had complied with R.C. 5705.24's procedures, but by her own account, she waited over two months—until October 8—to question the county.

{¶ 16} As for the third element, Davis knew or should have known that the board of elections certified Issue 10 to the ballot on or around August 11. Indeed, Davis's own evidence shows that she is capable of contacting county officials and requesting information from them had she not known whether and when the board of elections had certified Issue 10 to the ballot.

{¶ 17} What remains to be determined is the prejudice element of the laches standard. "[T]he majority of the cases in which we have held that laches barred an election claim have involved the passage of the statutory absentee-ballot deadline." *State ex rel. Brinda v. Lorain Cty. Bd. of Elections*, 2007-Ohio-5228, ¶ 13; *see also State ex rel. Ascani v. Stark Cty. Bd. of Elections*, 1998-Ohio-586, ¶ 14 ("[The r]elators' delay in filing a written protest with the board was prejudicial because by the time they filed [their] action for extraordinary relief, the date for certifying the

ballot form had passed, and by the time the expedited briefing schedule was completed, the date for providing absentee ballots had passed."); *State ex rel. Steele v. Morrissey*, 2004-Ohio-4960, ¶ 14 ("cases in which laches is dispositive generally involve prejudice to the respondents in their statutory obligation to absentee voters to have absentee ballots printed and ready for use").

{¶ 18} In this case, absentee ballots were required by law to be sent to overseas and absent uniformed-services voters ("UOCAVA" ballots) on September 18, 2026. *See State ex rel. Koebel v. Erie Cty. Bd. of Elections*, 2026-Ohio-3999, ¶ 24 (lead opinion), citing R.C. 3509.01(B)(1) and 3511.04(B). And the remaining class of absentee ballots were required by law to be printed and ready for use on October 6, 2026. *Id.*, citing R.C. 3509.01(B)(2). Davis filed this case 35 days after the passage of the UOCAVA-ballot deadline and 17 days after the passage of the October 6 absentee-ballot deadline. Evidence in the record establishes that the board of elections has sent out 95,063 absentee ballots and, as of October 26, has received 31,898 absentee ballots and recorded 47,730 early-in-person votes. And the director of the board of elections attests that removing the issue from the ballot at this late stage would be logistically impossible because doing so would involve, among other things, reprinting ballots, reprogramming voting equipment, and issuing replacement ballots, all of which would have substantial costs. Under our caselaw and in view of the evidence, Davis's delay in seeking pre-election relief in this case so late in the election season is prejudicial.

{¶ 19} This is not a case in which the statutory deadline for sending absentee ballots "would have expired even under the best of circumstances" (cleaned up), *Brinda* at ¶ 13. "[F]or laches to apply, the prejudice must have been avoidable if the relators in a case had filed their case promptly." *State ex rel. Ohio Democratic Party v. LaRose*, 2024-Ohio-4953, ¶ 31. Under the standard expedited-election-filing schedule, S.Ct.Prac.R. 12.08, it typically takes several weeks for this court to decide an expedited election case. *See Koebel* at ¶ 25 (lead opinion). Here,

the board of elections certified Issue 10 to the ballot on August 11, which was over two and a half months before the election, and over a month before the UOCAVA-ballot deadline and other absentee-ballot deadlines.

{¶ 20} In sum, we deny the writ.

III. CONCLUSION

{¶ 21} Davis's request for a writ of mandamus is denied, and respondents' motion for oral argument is denied.

Writ denied.

Carrie Davis, pro se.

Connie Pillich, Hamilton County Prosecuting Attorney, and Matthew Miller-Novak, Jonathan Daugherty, and Ann Schooley, Assistant Prosecuting Attorneys, for respondents.
