

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MICHAEL GONIDAKIS, et al.,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	Case No. 2:22-CV-773
	:	
FRANK LaROSE,	:	Chief Judge Algenon Marbley
	:	
	:	
Defendant.	:	

NOTICE BY OHIO SECRETARY OF STATE LAROSE

At the March 14, 2022 status conference, this Court asked counsel for Ohio Secretary of State LaRose when is the last date by which this Court must request a three-judge panel to adopt a General Assembly district plan and no longer defer to the pending state court processes pursuant to the United State Supreme Court's precedent in *Grove v. Emison*, 507 U.S. 25, 34 (1993) (quoting *Chapman v. Meier*, 420 U.S. 1, 27 (1979)). Currently, Ohio election officials are proceeding with preparations for the May 3, 2022 primary election using the February 24, 2022 state legislative plan ("Third Plan") adopted by the Ohio Redistricting Commission.

For the reasons set forth in this Notice, the date by which a three-judge panel could be impaneled and adopt a new state legislative district plan (other than the Third Plan) in time to be used for the May 3, 2022 primary has passed. There is no time in Ohio's current election schedule for Ohio's county boards of elections to implement a *fourth* state legislative district plan and have the General Assembly primary races included with the May 3, 2022 primary election, regardless of who adopts it.

There are many reasons this is the case. Immediately upon the Ohio Redistricting Commission's adoption of the Third Plan on February 24, 2022, the Secretary received a letter from Senate President Matt Huffman and House Speaker Bob Cupp directing him to immediately transmit the Third Plan to all 88 county boards of elections so they could make the necessary preparations to use it in the May 3rd primary election. *See generally* Directive 2022-026, Doc. 67-1. The county boards of elections have been proceeding accordingly. For example, the boards of elections were required to review all House and Senate candidate petition signatures in each House and Senate district and certify, by March 14, 2022, which candidates qualified for the ballot. *Id.* at PageID #957. Candidates who wished to take advantage of the 30-day period for moving into a new legislative district set forth in Ohio Const., Art. XI, Sec. 9(C) needed to notify, by March 10, 2022, the county board of elections where they first filed if they intended to run in a different district. *Id.* at PageID #958. And, candidates who need to move into the new legislative district where they wish to run must do so by March 26, 2022. *Id.* Finally, protests against partisan candidates, including those for Ohio House and Ohio Senate, must be filed by March 17, 2022. *Id.* at PageID #957.

All of these deadlines directly relate to the Third Plan. If the Third Plan is invalidated, and even if an alternative plan were to be adopted at breakneck speed, there is simply no time for the county boards of election to do all of those tasks again in time for the House and Senate primary election contests to be included in the May 3, 2022 primary election, especially when early in-person voting for it begins on April 5, 2022.

Relatedly, the Secretary has made inroads in resolving any issues regarding the timeliness of UOCAVA ballots and the implementation of the Third Plan even at this late date. Because the Third Plan was not adopted until February 24, 2022, some county boards of election may not have

their ballots (with the General Assembly primary races) finalized in time to begin sending them on the federally-mandated date of March 19, 2022 (*i.e.*, 45 days before the election). Recently enacted amendments to Ohio Senate Bill 11 will enable the county boards of elections to begin sending UOCAVA ballots via expedited delivery between March 19, 2022, and April 5, 2022. *See* 2022 Am. S.B. 11, Sec. 5, Ex. A. Under S.B. 11, overseas voters will have an additional ten days to return their ballots *beyond* the 10 days after the election they already have under R.C. 3511.11. *Id.* The Secretary has reached a tentative agreement with the U.S. Department of Justice, expected to be memorialized this week, in which the Department has indicated that these state legislative changes to the UOCAVA ballot deadlines are sufficient for the Department not to seek court enforcement of the federal UOCAVA deadlines against the State.

These UOCAVA deadline changes, along with other elections calendar modifications made by the Secretary pursuant to the authority he was given in recently-enacted Ohio H.B. 93, will make holding primaries for the state legislative districts possible with the Third Plan. But, if the Ohio Supreme Court invalidates the Third Plan, there will be insufficient time for the county boards of election to once again complete all of the mandatory pre-election processes using new a fourth plan in time for the May 3rd primary.

Respectfully submitted,

OHIO ATTORNEY GENERAL

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CERTIFICATE OF SERVICE

I hereby certify that on March 16, 2022, the foregoing was filed with the Court. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties for whom counsel has entered an appearance. Parties may access this filing through the Court's system.

/s/ Bridget C. Coontz

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