

**In the
Supreme Court of Ohio**

State ex rel. BRIAN M. AMES,	:	
	:	
<i>Relator,</i>	:	Case No. 2022-0850
	:	
v.	:	Original Action in Mandamus
	:	
FRANK LAROSE, et al.,	:	Expedited Election Matter
	:	Pursuant to S.Ct.Prac.R. 12.08
<i>Respondents.</i>	:	

**ANSWER OF RESPONDENT
OHIO SECRETARY OF STATE FRANK LAROSE**

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**ANSWER RESPONDENT
OHIO SECRETARY OF STATE FRANK LAROSE**

For his Answer to Relator’s Complaint for Writ of Mandamus, Respondent Ohio Secretary of State Frank LaRose (“Secretary LaRose”) states as follows:

ANSWER

1. Secretary LaRose states that Paragraph 1 of the Complaint contains legal conclusions to which no response is required and that Article IV, Sections 2(B)(1)(b) and 2(B)(1)(f) of the Ohio Constitution and Chapter 2731 of the Ohio Revised Code speak for themselves.
2. In response to Paragraph 2, Secretary LaRose states that the Complaint speaks for itself. Further answering, Secretary LaRose denies that Relator is entitled to the relief sought.
3. Secretary LaRose states that Paragraph 3 of the Complaint contains legal conclusions to which no response is required. To the extent a response is required, the allegations are denied.
4. In response to Paragraph 4 of the Complaint, Secretary LaRose admits that Relator has been certified to the ballot as a candidate for the Republican State Central Committee

for the 28th District. Secretary LaRose lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 4 and therefore denies same.

5. In response to Paragraph 5 of the Complaint, Secretary LaRose admits that as the Ohio Secretary of State, he is the chief elections officer. Further answering, Chapter 3501 of the Ohio Revised Code speaks for itself.
6. In response to Paragraph 6 of the Complaint, Secretary LaRose admits that Respondent Summit County Board of Elections is the board of elections for Summit County. Further answering, Chapters 3501 and 3513 of the Ohio Revised Code speak for themselves. The remaining allegations contained in Paragraph 6 call for a legal conclusion to which no response is required. To the extent a response is required, the allegations are denied.
7. In response to Paragraph 7 of the Complaint, Secretary LaRose admits that Respondent Portage County Board of Elections is the board of elections for Portage County. Further answering, Chapters 3501 and 3513 of the Ohio Revised Code speak for themselves. The remaining allegations contained in Paragraph 7 call for a legal conclusion to which no response is required. To the extent a response is required, the allegations are denied.
8. In response to Paragraph 8 of the Complaint, Secretary LaRose admits that Respondent Geauga County Board of Elections is the board of elections for Geauga County. Further answering, Chapters 3501 and 3513 of the Ohio Revised Code speak for themselves. The remaining allegations contained in Paragraph 8 call for a legal conclusion to which no response is required. To the extent a response is required, the allegations are denied.

9. Secretary LaRose states that Paragraph 9 of the Complaint contains a legal conclusion to which no response is required. To the extent a response is required, the allegations are denied.
10. In response to Paragraph 10, Secretary LaRose states that Exhibit 1 speaks for itself. Further answering, Secretary LaRose denies that he is the Ohio Attorney General.
11. In response to Paragraph 11, Secretary LaRose states that Exhibit 2 speaks for itself.
12. In response to Paragraph 12, Secretary LaRose states that Exhibit 3 to the Complaint speaks for itself.
13. In response to Paragraph 13, Secretary LaRose states that Exhibit 4 to the Complaint speaks for itself.
14. In response to Paragraph 14, Secretary LaRose admits that a May 3 primary did not occur for General Assembly and state central committee candidates. Further answering, Secretary LaRose states that Justice Kennedy's dissenting opinion in *State ex rel. DeMora v. LaRose*, Slip Opinion No. 2022-Ohio-2173, speaks for itself.
15. In response to Paragraph 15, Secretary LaRose states that the decision of the United States District Court for the Southern District of Ohio in *Gonidakis v. LaRose*, S.D. Ohio No. 2:22-cv-0773, 2022 U.S. Dist. LEXIS 72172 (Apr. 20, 2022), and the associated pleadings, speak for themselves. Further answering, Justice Kennedy's dissenting opinion in *State ex rel. DeMora v. LaRose* speaks for itself.
16. In response to Paragraph 16, Secretary LaRose states that Justice Kennedy's dissenting opinion in *State ex rel. DeMora v. LaRose* speaks for itself.
17. In response to Paragraph 17, Secretary LaRose states that Justice Kennedy's dissenting opinion in *State ex rel. DeMora v. LaRose* and R.C. 3501.01 speak for themselves.

18. In response to Paragraph 18, Secretary LaRose states that Justice Kennedy's dissenting opinion in *State ex rel. DeMora v. LaRose* and R.C. 3513.05 speak for themselves.
19. In response to Paragraph 19, Secretary LaRose states that the pleadings filed in *Gonidakis v. LaRose* speak for themselves. Further answering, Justice Kennedy's dissenting opinion in *State ex rel. DeMora v. LaRose* speaks for itself.
20. In response to Paragraph 20, Secretary LaRose states that 2022 Sub.H.B. No. 93 ("H.B. 93") and Justice Kennedy's dissenting opinion in *State ex rel. DeMora v. LaRose* speak for themselves.
21. In response to Paragraph 21, Secretary LaRose states that H.B. 93 and Justice Kennedy's dissenting opinion in *State ex rel. DeMora v. LaRose* speak for themselves.
22. In response to Paragraph 22, Secretary LaRose states that H.B. 93 and Justice Kennedy's dissenting opinion in *State ex rel. DeMora v. LaRose* speak for themselves. To the extent any response is required, the allegations are denied.
23. In response to Paragraph 23, Secretary LaRose states that Directive 2022-31 and Justice Kennedy's dissenting opinion in *State ex rel. DeMora v. LaRose* speak for themselves.
24. In response to Paragraph 24, Secretary LaRose states that Justice Kennedy's dissenting opinion in *State ex rel. DeMora v. LaRose* speaks for itself.
25. In response to Paragraph 25, Secretary LaRose states that the pleadings filed in *Gonidakis v. LaRose* speak for themselves. Further answering, Justice Kennedy's dissenting opinion in *State ex rel. DeMora v. LaRose* speaks for itself.
26. In response to Paragraph 26, Secretary LaRose states that *Gonidakis v. LaRose* and Justice Kennedy's dissenting opinion in *State ex rel. DeMora v. LaRose* speak for themselves.

27. In response to Paragraph 27, Secretary LaRose denies that the federal court in *Gonidakis v. LaRose* did not set a new date for the 2022 primary. Secretary LaRose states that the majority of three-judge panel in *Gonidakis v. LaRose* clearly ordered a second primary election for state legislative seats on August 2 for the 2022 election cycle. See *Gonidakis v. LaRose*, S.D. Ohio No. 2:22-cv-0773, 2022 U.S. Dist. LEXIS 72172, at *64, 85 (Apr. 20, 2022). Further answering, Justice Kennedy’s dissenting opinion in *State ex rel. DeMora v. LaRose* speaks for itself.
28. In response to Paragraph 28, Secretary LaRose states that *Gonidakis v. LaRose* and Justice Kennedy’s dissenting opinion in *State ex rel. DeMora v. LaRose* speak for themselves.
29. In response to Paragraph 29, Secretary LaRose states that *Gonidakis v. LaRose* and Justice Kennedy’s dissenting opinion in *State ex rel. DeMora v. LaRose* speak for themselves.
30. In response to Paragraph 30, Secretary LaRose states that this Court’s decisions in *State ex rel. Linnabary v. Husted*, 138 Ohio St.3d 535, 2014-Ohio-1417, 8 N.E.3d 940, and *Creasy v. Waller*, 1 Ohio St.3d 93, 438 N.E.2d 414 (1982), speak for themselves.
31. The allegations contained in Paragraph 31 of the Complaint call for a legal conclusion to which no response is required. To the extent a response is required, the allegations are denied.
32. In response to Paragraph 32, Secretary LaRose denies that the federal court in *Gonidakis v. LaRose* ordered the primary election on August 2 in order “to finish the May 3 primary.” Further answering, Secretary LaRose states that *Gonidakis v. LaRose* and

Justice Kennedy's dissenting opinion in *State ex rel. DeMora v. LaRose* speak for themselves.

33. The allegations contained in Paragraph 33 of the Complaint call for a legal conclusion to which no response is required. To the extent a response is required, the allegations are denied.
34. The allegations contained in Paragraph 34 of the Complaint call for a legal conclusion to which no response is required. To the extent a response is required, the allegations are denied.
35. The allegations contained in Paragraph 35 of the Complaint call for a legal conclusion to which no response is required. To the extent a response is required, Secretary LaRose denies that Relator has a clear legal right to relief and denies the remaining allegations in Paragraph 35.
36. In response to Paragraph 36, Secretary LaRose reincorporates his responses to Paragraphs 1 through 35 of the Complaint, as if set forth herein.
37. The allegations contained in Paragraph 37 of the Complaint call for a legal conclusion to which no response is required. To the extent a response is required, the allegations are denied. Further answering, Secretary LaRose states that Ohio law speaks for itself.
38. The allegations contained in Paragraph 38 of the Complaint call for a legal conclusion to which no response is required. To the extent a response is required, the allegations are denied. Further answering, Secretary LaRose states that Ohio law speaks for itself.
39. The allegations contained in paragraph 39 of the Complaint call for a legal conclusion for which no response is required. To the extent a response is required, the allegations are denied. Further answering, Secretary LaRose states that Ohio law speaks for itself.

40. Secretary LaRose denies that Relator is entitled to any relief listed in its Prayer, or to any relief whatsoever.
41. Secretary LaRose denies each and every allegation in the Complaint not otherwise expressly admitted in this Answer.

AFFIRMATIVE DEFENSES

WHEREFORE, having answered Relator's Complaint, Secretary LaRose raises the following defenses:

1. Relator has failed to state a claim upon which relief can be granted.
2. Relator does not have a clear legal right to prevent voters from voting a different party's ballot in the August 2, 2022 election than they did in the May 3, 2022 election, or a clear legal right to prevent voters from voting any party's ballot who did not vote in the May 3, 2022 election. Relator does not establish a clear legal right in his Complaint.
3. Secretary LaRose does not have a clear legal duty to instruct and direct the county boards of election and their precinct election officials to challenge voters who request a ballot for a party other than the party ballot voted on in the May 3, 2022 election.
4. Relator's requested relief will unconstitutionally deprive Ohio voters of their constitutional right to vote.
5. Relator is barred by the doctrine of laches.
6. Secretary LaRose has acted in conformity with his obligations under Ohio law as Ohio's Chief Elections Official.
7. Secretary LaRose reserves the right to additional defenses, including additional affirmative defenses, as this matter proceeds.

WHEREFORE, having answered Relator's Complaint, Secretary LaRose respectfully requests that this Court deny the relief sought and dismiss the Complaint.

Respectfully submitted,

DAVE YOST (0056290)
Ohio Attorney General

s/ Allison D. Daniel

ALLISON DANIEL (0096186)*

**Counsel of Record*

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Ohio Secretary of State Frank LaRose

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CERTIFICATE OF SERVICE

I hereby certify that on July 25, 2022, the foregoing was filed electronically and that notice of this filing will be sent to the following parties by electronic mail.

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