

**In The
Supreme Court Of Ohio**

<i>State ex rel.</i> TERPSEHORE P. MARAS,	:	
	:	
<i>Relator,</i>	:	Case No. 2022-1270
	:	
v.	:	Original Action in Mandamus
	:	Expedited Election Matter Under
	:	S.C.Prac.R. 12.08
OHIO SECRETARY OF STATE	:	Original Action in Mandamus
FRANK LAROSE,	:	
	:	
<i>Respondent.</i>	:	

ANSWER OF OHIO SECRETARY OF STATE FRANK LAROSE

WARNER MENDENHALL (0070165)
JOHN T. PFLEIDERER (0100195)
Mendenhall Law Group
190 North Union Street, Suite 201
Akron, Ohio 44304
Tel: 330-535-9160 | Fax: 330-762-3423
Warner@warnermendenhall.com
John@warnermendenhall.com

Counsel for Relator

DAVE YOST (0056290)
Ohio Attorney General

ANN YACKSHAW (0090623)*
**Counsel of Record*
JULIE M. PFEIFFER (0069762)
ALLISON D. DANIEL (0096186)
Assistant Attorneys General
Constitutional Offices Section
30 E. Broad Street, 16th Floor
Columbus, Ohio 43215
Tel: 614-466-2872 | Fax: 614-728-7592
Ann.Yackshaw@OhioAGO.gov
Julie.Pfeiffer@OhioAGO.gov
Allison.Daniel@OhioAGO.gov

Counsel for Respondent
Ohio Secretary of State Frank LaRose

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Respondent Secretary of State Frank LaRose hereby responds to Relator’s Verified Petition for Writ of Mandamus as follows:

1. The Secretary admits the allegations contained in Paragraph 1 of the Petition.
2. As to Paragraph 2 of the Petition, the Secretary admits that Relator purports to seek a writ of mandamus but denies that this Court possesses jurisdiction over Relator’s claims or that Relator is entitled to mandamus relief. The Secretary denies the remaining allegations contained therein.
3. As to Paragraph 3 of the Petition, the Secretary admits that Relator purports to seek a writ of mandamus but denies that this Court possesses jurisdiction over Relator’s claims or that Relator is entitled to mandamus relief. Secretary LaRose denies the remaining allegations contained therein. Further answering, Secretary LaRose is in compliance with all laws that provide for and regulate election observers and he is in compliance with all federal and Ohio laws that pertain to the use of electronic voting and vote tabulating equipment.

4. Paragraph 4 of the Petition is a legal conclusion to which no response is required. Further answering, R.C. 3505.21 speaks for itself.

5. As to Paragraph 5 of the Petition, Secretary LaRose admits that observers as defined in R.C. 3505.21 serve an important role in election integrity and in ensuring transparency in Ohio's elections. Further answering, the cited case speaks for itself.

6. Paragraphs 6 through 8 of the Petition state legal conclusions to which no response is required. Further answering, the cited statutes speak for themselves.

7. As to Paragraph 9 of the Petition, Secretary LaRose admits that Relator will appear on the November 8, 2022 General Election ballot as an independent candidate. Further answering, Secretary LaRose lacks sufficient knowledge to admit or deny whether Relator currently "affiliates" with any political party.

8. Secretary LaRose denies the allegations contained in Paragraph 10 of the Petition.

9. Paragraphs 11 and 12 of the Petition contain legal conclusions to which no response is required. Further answering, the cited cases speak for themselves.

10. As to Paragraph 13, Secretary LaRose admits that Ohio law equally prohibits both a party-affiliated candidate and a non-affiliated candidate from unilaterally appointing observers. Further answering, Secretary LaRose lacks sufficient knowledge to admit or deny the remaining allegations contained therein.

11. Paragraph 14 of the Petition contains a legal conclusion to which no response is required. Further answering, the cited statute speaks for itself.

12. As to Paragraph 15 of the Petition, Secretary LaRose admits that this Court granted Relator a writ of mandamus to be certified as a candidate on the 2022 General Election ballot.

Secretary LaRose lacks sufficient knowledge to admit or deny the remaining allegations contained therein.

13. Secretary LaRose lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 16 of the Petition. To the extent a response is required, Secretary LaRose denies same.

14. As to Paragraph 17 of the Petition, Secretary LaRose admits that election observers as defined in R.C. 3505.21 are an important component in preventing voter fraud and intimidation. Secretary LaRose denies the remaining allegations contained therein.

15. Secretary LaRose denies the allegations contained in Paragraph 18 of the Petition.

16. As to Paragraph 19 of the Petition, Secretary LaRose admits that election observers as defined in R.C. 3505.21 are a critical component to preserving the integrity of Ohio's election system.

17. Paragraphs 20 through 23 contain legal conclusions to which no response is required. Further answering, the cited statutes and the Ohio Election Manual speak for themselves.

18. As to Paragraph 24 of the Petition, Secretary LaRose admits that for Ohio to comply with the federal "Help America Vote Act of 2002," 52 U.S.C. § 20901, *et seq.*, all 88 county boards of elections long ago procured and have been using electronic voting and vote tabulating systems that have been tested and certified by the federal Election Assistance Commission and certified for use in Ohio by the Board of Voting Machine Examiners, *see* Revised Code Chapter 3506. Further answering, the document identified in footnote 1 speaks for itself.

19. Secretary LaRose denies the allegations contained in Paragraph 25 of the Petition.

20. Paragraph 26 of the Petition contains a legal conclusion to which no response is required. Further answering, the cited definition speaks for itself.

21. Secretary LaRose denies the allegations contained in Paragraph 27 of the Petition. Further answering, only qualified electors, not machines, cast votes in Ohio's elections and only qualified elections officials, who are aided by technology, count votes. Further answering, all county vote totals are audited after the election to ensure accuracy.

22. Secretary LaRose denies the allegations contained in Paragraphs 28 and 29 of the Petition.

23. As to Paragraph 30 of the Petition, Secretary LaRose admits that voting technology has advanced dramatically since the days of lever voting machines and paper punch cards. Secretary LaRose denies the remaining allegations contained therein.

24. As to Paragraph 31 of the Petition, Secretary LaRose admits that observers as defined in R.C. 3505.21 are allowed to observe and inspect the counting of the ballots. Further answering, making the software and source code for the tabulating machines publicly available would greatly increase the risk of tabulating machines being tampered with by malicious domestic and foreign actors who wish to disrupt our elections. The accuracy of the tabulating equipment is verified after each election through each county conducting a post-election audit in which the tabulated results are compared to paper ballots scanned or Voter Verified Paper Audit Trails generated by the Direct Recording Electronic voting machines. Secretary LaRose denies the remaining allegations contained therein.

25. As to Paragraph 32 of the Petition, Secretary LaRose admits that federal and Ohio law provides for an extensive statutory framework for the testing, certification, and use of voting and vote tabulating systems in Ohio. Secretary LaRose further admits that, while instances of illegal voting and election fraud are rare, he recently created a public integrity division within his

office to investigate such allegations. *See* Petition at fn. 2. Secretary LaRose denies the remaining allegations contained therein.

26. As to Paragraph 33 of the Petition, Secretary LaRose admits that Ohio law provides for the observation and inspection of voting, counting ballots, and canvassing the vote. Secretary LaRose further admits that transparency is an important aspect of ensuring election integrity while at the same time preserving the secrecy of each voter's ballot. The remaining allegations contained in Paragraph 33 are legal conclusions to which no response is required. Further answering, the cited case speaks for itself.

27. Secretary LaRose denies all allegations set forth in the Prayer for Relief and specifically denies that Relator is entitled to any relief.

28. All allegations not specifically admitted herein, including but not limited to those contained in the introduction and any titles or section headers, are hereby denied.

FIRST DEFENSE

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

SECOND DEFENSE

2. This Court lacks subject matter jurisdiction because the claims are not proper mandamus actions.

THIRD DEFENSE

3. Secretary LaRose has no clear legal duty to perform the actions requested by Relator.

FOURTH DEFENSE

4. Relator has no clear legal right to the relief they seek from Secretary LaRose.

FIFTH DEFENSE

5. Relator has an adequate remedy at law.

RESERVATION OF ADDITIONAL DEFENSES

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

Respectfully submitted,

DAVE YOST
Ohio Attorney General

/s/ Ann Yackshaw

ANN YACKSHAW (0090623)*

**Counsel of Record*

JULIE M. PFEIFFER (0069762)

ALLISON D. DANIEL (0096186)

Assistant Attorneys General

30 East Broad Street, 16th Floor

Columbus, Ohio 43215-3431

Tel: 614-466-2872 | Fax: 614-728-7592

Ann.Yackshaw@OhioAGO.gov

Julie.Pfeiffer@OhioAGO.gov

Allison.Daniel@OhioAGO.gov

Counsel for Respondent

Ohio Secretary of State Frank LaRose

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of October, 2022, the foregoing was filed electronically and served by electronic mail upon the following counsel:

Warner Mendenhall
John Pfeiderer
Warner@warnermendenhall.com
John@warnermendenhall.com

Counsel for Relator

/s/ Ann Yackshaw

ANN YACKSHAW (0090623)
Assistant Attorney General

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