

STATE OF INDIANA )  
 ) SS:  
ST. JOSEPH COUNTY )

IN THE ST. JOSEPH SUPERIOR COURT  
CAUSE NO. 71D05-2210-PL-000231

THOMAS DIXON, in his capacity as the )  
Republican Member of the St. Joseph County )  
Election Board, )

INDIANA REPUBLICAN STATE COMMITTEE, INC., )  
and )  
ST. JOSEPH COUNTY REPUBLICAN PARTY, )

Plaintiffs, )

v. )

RITA GLENN, in her official capacity as Clerk of )  
the St. Joseph County Circuit Court and )  
Secretary of the St. Joseph County Election )  
Board, and )

CHARLES LEONE, in his official capacity as the )  
Chair of the St. Joseph County Election Board )  
(Democrat), )

Defendants. )

### DEFENDANTS' MOTION TO DISMISS

Defendants **Rita Glenn** and **Charles Leone**, by counsel, move to dismiss this action for the reason that this case is moot. There is no controversy before the court to be decided and the case should be dismissed because it is moot.

#### Argument

The long-standing rule in Indiana courts has been that a case is deemed moot when no effective relief can be rendered to the parties before the court. *Matter of Lawrance*, 579 N.E.2d 32, 37 (Ind. 1991). When the controversy at issue has been ended or settled, or somehow disposed of so as to render it unnecessary to decide the question involved, the case will be

dismissed. *T.W. v. St. Vincent Hosp. & Health Care Ctr., Inc.*, 121 N.E.3d 1039, 1042 (Ind. 2019). Plaintiffs brought this case for declaratory and injunctive relief, including a temporary restraining order without notice, to enjoin the two Defendants, Rita Glenn and Charles Leone, who are two members of the St. Joseph County Election Board, from “adopting and enforcing” a Resolution of the St. Joseph County Election Board approved at its meeting on October 7, 2022. The Resolution at issue, by its terms, was effective only for the “2022 election cycle”. The 2022 election now is over and Plaintiffs did not obtain any relief on their complaint before the election.

The Resolution at issue is no longer effective. A case becomes moot when it is no longer live and the parties lack a legally cognizable interest in the outcome or when no effective relief can be rendered. *Liddle v. Clark*, 107 N.E.3d 478, 481-82 (Ind. Ct. App. 2018), *trans. denied* (holding that the appellant’s claim for declaratory relief was moot where the challenged emergency rules had expired and were no longer in effect). An issue becomes moot when “the principal questions in issue have ceased to be matters of real controversy between the parties.” *Haggerty v. Bloomington Bd. of Public Safety*, 474 N.E.2d 114, 116 (Ind. Ct. App. 1985); *Taylor v. St. Vincent Salem Hosp., Inc.*, 180 N.E.3d 278, 289 (Ind. Ct. App. 2021) (declining to grant declaratory relief for mootness).

There is no reason for the court to make a decision in this case. Indiana courts may adjudicate a moot claim on the merits “upon the existence of three elements: the issue concerns a question of great public importance which is likely to recur in a context which will continue to evade review.” *DeSalle v. Gentry*, 818 N.E.2d 40, 49 (Ind. Ct. App. 2004). Plaintiffs’ complaint does not raise a question of great public importance which is likely to reoccur that requires the court to reach a decision despite the mootness of the case. *Yergy's State Rd. BBQ, LLC v. Wells*

*Cnty. Health Dep't*, 189 N.E.3d 189, 193 (Ind. Ct. App. 2022), reh'g denied (declining to apply the public interest exception to executive orders that were no longer effective). One of the defendants, Rita Glenn, who is the St. Joseph County Clerk and an *ex officio* member of the County Election Board by virtue of her position as County Clerk, Ind. Code § 3-6-5-2, was term-limited from seeking re-election and will leave office on December 31, 2022. The controversy between the parties to this lawsuit cannot reoccur as the 2022 election is over and Defendant Rita Glenn will not be the county clerk after January 1, 2023. This case is moot as between the parties to this action.

### **Conclusion**

For the foregoing reasons, Defendants Rita Glenn and Charles Leone move the Court to dismiss this action because it is moot.

/s/ **James A. Masters**

---

James A. Masters (#9074-71)  
NEMETH, FEENEY, MASTERS & CAMPITI, P.C.  
350 Columbia Street  
South Bend, Indiana 46601  
Telephone: (574) 234-0121  
E-mail: [jmasters@nfmlaw.com](mailto:jmasters@nfmlaw.com)  
Attorney for Defendants Rita Glenn and Charles Leone

**CERTIFICATE OF SERVICE**

The undersigned certifies that service of a true and complete copy of the above and foregoing pleading was made upon the parties herein by the e-filing system and by e-mail to counsel of record shown below on November 17, 2022:

Andrew B. Jones  
224 West Colfax Avenue  
Suite 100  
South Bend, Indiana 46601,  
[andrew@attorney-jones.com](mailto:andrew@attorney-jones.com)  
Attorney for Plaintiffs

*/s/ James A. Masters*

---

James A. Masters (#9074-71)

RETRIEVED FROM DEMOCRACYDOCS.NET.COM