

**In the
Supreme Court of Ohio**

**State ex rel. OHIO DEMOCRATIC
PARTY, et al.**

Relators,

v.

**OHIO SECRETARY OF STATE FRANK
LAROSE,**

Respondent.

:
: Case No. 2024-1361
:
: For Writ of Mandamus
: (Expedited Election Under
: S.C.Prac.R. 12.08
:
:
:

EVIDENCE OF RESPONDENT OHIO SECRETARY OF STATE FRANK LAROSE

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Ohio Secretary of State Frank LaRose*

Affidavit of Chris Burnett

Exhibit	Description
1	Directive 2024-21
2	Instructions for Uniformed Services or Overseas Voters
3	Absentee Ballot Instructions
4	Transcript of Proceedings in In Re: Mary Cronin
5	Indictment for Mary Cronin in Summit County Court of Common Pleas
6	Motion to Dismiss filed in State of Ohio v. Mary Cronin

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CERTIFICATE OF SERVICE

I hereby certify that on October 1, 2024, the foregoing was filed electronically using the Court's efilings system. I further certify that the foregoing was served by electronic mail upon the following:

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Assistant Attorney General

IN THE SUPREME COURT OF OHIO

STATE EX REL. OHIO DEMOCRATIC
PARTY, ET AL.,

Relators,

v.

FRANK LAROSE,

Respondent.

:
:
: Case No. 2024-1361
:
:
: Expedited Elections Case
:
:
:

AFFIDAVIT OF CHRIS BURNETT

I, Chris Burnett, having been duly sworn according to law, declare as follows:

1. I am over eighteen years of age and competent to testify on the matters contained in this Affidavit. The facts set forth in this Affidavit are based on my personal knowledge.
2. I currently serve as the Deputy Assistant Secretary of State and State Elections Director in the Elections Division of the Office of Ohio Secretary of State Frank LaRose. I was appointed to this position in June 2023. Prior to being appointed, I served as the Director of the Gallia County Board of Elections from June 2017.
3. As part of my duties as Deputy Assistant Secretary of State and State Elections Director, I am responsible for developing and implementing policies, procedures, and guidelines for the administration of federal, state, and local elections to assist Ohio's 88 county boards of elections in the fulfillment of their statutory duties. I also have oversight of the statewide voter registration database; the receipt, review, and distribution of statewide candidate and issue petition filings; and campaign finance regulations and related filings.
4. Through my position, I am familiar with the election laws of the State of Ohio and with *State ex rel. Ohio Democratic Party, et al. v. LaRose*, which is currently pending before this Court.
5. In my role as Deputy Assistant Secretary of State and State Elections Director, I work closely with Ohio's 88 county boards of elections. In that capacity, I advise boards on the issuance and implementation of directives issued by the Secretary of State. These directives govern the conduct of elections, answer general questions, and help the boards ensure that elections run smoothly, accurately, and in accordance with Ohio law.

6. Ohio law contains numerous provisions with specific deadlines that Ohio's elections must follow. These deadlines apply to all methods of voting that are available in Ohio, including early voting and absentee voting. Accordingly, the Secretary of State and Ohio's county boards of elections are required to adhere to the following, but not limited to, statutory deadlines:
 - a. September 20, 2024 – Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”) absentee ballots for the November 5 general election must be ready (46 days before General Election);
 - b. September 21, 2024 – UOCAVA absentee ballots must be mailed, pursuant to federal law (45 days before General Election);
 - c. October 8, 2024 - Non-UOCAVA absentee ballots must be printed and ready for mailing (first day after close of voter registration); and
 - d. October 8, 2024 – early, in-person voting at the boards of elections begins (28 days before General Election).
7. To receive an absentee ballot, a voter must request one by filling out an application.
8. If an application for an absentee ballot is complete, the appropriate board of elections mails the following to the voter: (1) an absentee ballot for the voter's precinct, (2) instructions, (3) a preprinted return mailing envelope, and (4) an identification envelope. R.C. 3509.04. The instructions tell the voter how to mark the ballot, complete the identification envelope, affix proper postage and a post mark (if the voter opts to return the ballot by mail), timely return the ballot, who may assist them in returning their ballot, and track the receipt of the ballot online. Absentee voting is available until 7:30 p.m. on the day of the election, and voters have until November 4, 2024 to postmark absentee ballots returned by mail.
9. The voter may return an absentee ballot by mail or deliver it to the board of elections. R.C. 3509.05(C)(1). Relevant here, the voter's spouse, father, mother, father-in-law, mother-in-law, grandfather, grandmother, brother or sister of the whole or half blood, son, daughter, adopting parent, adopted child, stepparent, stepchild, uncle, aunt, nephew, or niece may deliver the voter's ballot to the office of the board. *Id.*
10. Moreover, federal law allows those with a disability to designate anyone other than their employer, an agent of their employer, or an officer or agent of the voter's union to deliver the voter's ballot to the office of the board.
11. Under Ohio law, “[n]o person shall knowingly * * * [r]eturn the absent voter's ballot of another to the office of a board of elections, unless * * * [t]he person is a relative who is authorized to do so under division (C)(1) of section 3509.05 of the Revised Code [or] * * * is, and is acting as, an employee or contractor of the United States postal service or a private carrier” or knowingly “possess the absent voter's ballot of another[.]” with some exceptions. R.C. 3599.21(A)(9)-(10).
12. I am familiar with the case *League of Women Voters, et al. v. LaRose*, which was filed in the United States District Court for the Northern District of Ohio on December 19, 2023. In that case, the court determined that R.C. 3599.21(A)(9)-(10) violated the United States Constitution as applied to voters with disabilities.

13. In response to the decision in *League of Women Voters*, Secretary LaRose issued Directive 2024-21, which is the subject of this lawsuit. A true and accurate copy of Directive 2024-21 is attached hereto as Exhibit 1.
14. Directive 2024-21 instructs the boards by setting “forth procedures for enforcement of Ohio law regarding the return of an absent voter’s ballot.” Ex. 1.
15. Specifically, for voters who choose to return their absentee ballot via a county board’s drop box, the Directive clarifies that only the actual voter, not anyone lawfully returning a ballot on another’s behalf, may use a drop box to return a ballot. *Id.*
16. Drop boxes, although convenient to the voters, present a unique challenge to the boards of elections related to election security. Importantly, they create a mechanism for ballot harvesting. Ballot harvesting is the collection of absentee ballots by third parties for delivery to the boards of elections. Drop boxes pose a unique risk of illegal ballot harvesting because drop boxes, while monitored by video, are typically unstaffed. The risk that illegal ballot harvesting will go undetected is far greater when absentee ballots are returned to an unattended drop box as opposed to an election official in person. Ohio’s ballot-harvesting laws, therefore, provide a vital safeguard against election fraud, and boards of elections rely on those laws to ensure election integrity.
17. To ensure the integrity of each vote, to prevent illegal ballot harvesting and voter fraud, and to guarantee compliance with state and federal law, Secretary LaRose issued Directive 2024-21 on August 31, 2024. The Directive instructs the boards to require persons who are delivering another person’s absentee ballot to the board to complete an attestation form, provided by the Secretary’s Office. The attestation form confirms that the assistant is authorized under state and federal law to return the absentee ballot. *Id.*
18. Additionally, boards were instructed that they must place signage on a drop box that directs an assistant to go into the board of elections to drop off any absentee ballots in their possession other than their own. *Id.*
19. Directive 2024-21 serves the important interests of promoting election integrity and deterring fraud. By requiring attestation, Directive 2024-21 works to both protect the vote of those who require assistance in absentee voting and deter those who would illegally harvest voters’ ballots. Directive 2024-21 is also the only way that Ohio’s ballot harvesting laws can be effectively enforced. Although *League of Women Voters v. LaRose* carved out an exception to Ohio’s ballot harvesting laws for disabled persons, the rest of those laws remain in effect. As the chief elections official of the State of Ohio, Secretary LaRose is statutorily mandated to compel the observance of election laws—including Ohio’s ballot harvesting laws. R.C. 3505.01(M). Directive 2024-21 provides a simple and clear mechanism for Secretary LaRose to ensure compliance with Ohio’s ballot harvesting laws, while also ensuring compliance with the decision in *League of Women Voters*. Indeed, the instructions outlined in Directive 2024-21 are the only way for Secretary LaRose to do so with respect to unstaffed, unattended drop boxes.
20. This problem is not just theoretical. In 2022, the Summit County Board of Elections referred a nursing-home employee for prosecution by the Summit County Prosecutor’s Office. The employee attempted to return a group of ballots from the nursing home residents to the Board. After Board staff members cautioned the employee that she could

not return the ballots of third parties, the employee deposited the ballots in the drop box at the Board of Elections' office. A true and correct copy of the Board of Elections' hearing transcript is attached hereto as Exhibit 4. After the Board of Elections' prosecution referral, the Secretary Office assisted the prosecutor's office with the investigation, connecting the prosecutor's office with officials from the Board of Elections, and assisted with obtaining video evidence. The case was presented to a grand jury in August 2023, which resulted in an indictment. A true and correct copy of the indictment is attached hereto as Exhibit 5. However, on September 12, 2024, the Summit County Prosecutor moved to dismiss the indictment. The dismissal was explicitly "made pursuant to a recent federal court decision in *League of Women Voters of Ohio v. Frank LaRose*, 1:23-cv-02414." A true and correct copy of the motion to dismiss is attached hereto as Exhibit 6.

21. Rescinding Directive 2024-21 at this point in the lead-up to the General Election will pose significant problems for the boards of elections and for voters. First and foremost, voting in the General Election has already begun. UOCAVA ballots were finalized on September 20, 2024, and sent beginning on September 21, 2024, as required by state and federal law. The UOCAVA ballot envelopes included instructions that were updated pursuant to the *League of Women Voters* decision and Directive 2024-21. A true and accurate copy of the UOCAVA ballot instructions is attached hereto as Exhibit 2.
22. Moreover, in anticipation of the upcoming regular absentee ballot deadline, the Secretary's Office has already updated instructions for regular absentee ballots, and the 88 county boards of elections have already printed those instructions. A true and accurate copy of the instructions for regular absentee ballots is attached hereto as Exhibit 3.
23. Based on my experience as a former Director of the Gallia County Board of Elections, and as the current State Elections Director, if this Court were to grant the writ requested by Relators, regular absentee ballots, including instructions, will not be ready by October 8, 2024. Failure to meet the October 8 deadline will result in litigation, diminished voter confidence, increased room for errors, and hardship for voters because they will necessarily lose days in which to vote absentee. This is also true for UOCAVA ballots, which were sent out beginning on September 21, 2024.
24. Even if the Court issues its decision on the close of briefing, October 7, there is simply not enough time for the Secretary's Office and county boards to comply with the law.
25. First, the Secretary's Office would have to issue a new directive. This new directive must contain instructions that are consistent with the court's decision in *League of Women Voters*.
26. Next, all drop box signage, including those developed by both the Secretary's Office and the county boards of elections, would need to be reprinted, again, consistent with the *League of Women Voters* decision.
27. Based on my prior experience as the Director of the Gallia County Board of Elections, I would estimate that the boards of elections will require three to five days, at a minimum, to remove, reprint, and stuff new instructions. Additionally, county boards use outside vendors to print materials. Thus, the boards' ability to reprint materials will depend on vendor schedules and resources.

28. These burdens will strain the already limited financial and staffing resources of the boards of elections. And the additional time and money will come while the boards are handling the numerous other duties and tasks that they must complete in these last weeks before the General Election.

FURTHER AFFIANT SAYETH NAUGHT.


Chris Burnett

Sworn to and subscribed before me this 4 day of October, 2024.



PETER GRAYBEAL
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES 2-25-27


Notary Public

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Exhibit 1

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DIRECTIVE 2024-21

August 31, 2024

To: All County Boards of Elections

Board Members, Directors, and Deputy Directors

Re: Enforcement of Absent Voter's Ballot Provisions and Compliance with State and Federal Laws

SUMMARY

This directive sets forth procedures for enforcement of Ohio law regarding the return of an absent voter's ballot. I am acting under my statutory authority to compel the observance of election laws,¹ in this case Ohio's prohibition on "ballot harvesting," a process by which an individual attempts to collect and return absent voters' ballots of other persons without accountability. To ensure compliance with applicable state and federal laws, this directive provides that a designated assistant delivering a ballot for another must sign an attestation that they comply with applicable law.

BACKGROUND AND OVERVIEW

Among other requirements, Ohio law generally prohibits a person from returning the absent voter's ballot of another to the office of a board of elections, unless "[t]he person is a relative who is authorized to do so under division (C)(1) of section 3509.05 of the Revised Code," or "[t]he person is, and is acting as, an employee or contractor of the United States postal service or a private carrier."² There is an important exception for disabled voters, and the persons assisting them, under a recent federal court decision applying Section 208 of the Voting Rights Act.³ However, Ohio's prohibition on ballot harvesting is still required to be enforced with respect to voters who are not disabled.

It is important to ensure the integrity of each vote delivered on behalf of an absent voter. The security of the delivery of absentee ballots remains paramount, especially as it applies

¹ See R.C. 3501.05.

² R.C. 3599.21(A)(9).

³ See *League of Women Voters of Ohio, et al., v. Larose, et al.*, 1:23-cv-02414 (N.D. Ohio) (July 22, 2024).

to the use of unattended drop box receptacles. To ensure compliance with applicable state and federal laws, this directive provides that an assistant delivering a ballot for another must sign an attestation that they comply with applicable state and federal law. As a practical matter, this means that only a voter's personal ballot may be returned via drop box.

Drop boxes are monitored by video surveillance and typically unstaffed. Therefore, this directive also requires boards to post a notification on each drop box indicating that voter-assisted ballots must be returned inside the board office, where the voter assistant will be asked to complete the attestation form.

INSTRUCTIONS

Each board of elections must share this directive with its legal counsel, the county prosecuting attorney. We understand that UOCAVA ballots must be mailed and regular absentee voting begins in less than 40 days.

I. USE OF SECURE ABSENTEE BALLOT DROP BOX

A. Attestation of Assistant Delivering a Ballot to a Board of Elections

To ensure compliance with state and federal law, and to protect the security of absentee ballot delivery, the only individual who may use a drop box to return the ballot is the voter. All individuals who are delivering ballots for a family member or disabled voter may either mail the ballot to the county board of elections or return the ballot to a county board of elections official at the county board of elections office and complete an attestation at the board of elections.

Boards are required to provide the person assisting a voter with an attestation form which declares under penalty of election falsification:

- (1) That they are returning a ballot on behalf of a family member under R.C. 3509.05 (C)(1), and that they have been lawfully designated to assist another voter with the return of an absentee ballot;⁴ or

⁴ See R.C. 3599.21(A)(9).

- (2) If the person is assisting a disabled voter, that they are complying with Section 208 of the Voting Rights Act and that they are not the voter's employer or agent of that employer or officer or agent of the voter's union.⁵

The attached Form No. 12-P meets the requirements of this directive.

B. Drop Box Signage

Each board of elections must post a weather resistant notice at or on a drop box specifying the security protocols for its use, including clear instructions on who is eligible to return such a ballot under this directive, as well as instructions for someone other than the voter attempting to return a ballot. The Secretary of State has issued the attached Drop Box Protocol Sign Template (the "Template") meeting the requirements of this directive, and will be providing a laminated copy of the Template to each county's board of elections. The signage required by this directive supersedes prior signage requirements.

A board of elections may make its own sign, provided that it uses substantially the same language found in the Template. If a board chooses to make its own sign and needs assistance, please contact the appropriate regional liaison at the Secretary of State's office.

II. REFERRAL OF POTENTIAL BALLOT HARVESTING

Current security measures for drop boxes remain in place, including the 24/7 surveillance of drop boxes. Ongoing routine monitoring of drop boxes should continue, specifically monitoring for individuals who are dropping off more than one ballot. My office will vigorously investigate and refer for prosecution any individual engaged in ballot harvesting in violation of Ohio law. It is recommended that any allegation of ballot harvesting be reported to the Public Integrity Division – Election Integrity Unit of the Secretary of State at EIU@OhioSoS.gov.

If you have any questions regarding this directive, please contact the Secretary of State's Elections Counsel at 614-728-8789.

⁵ See 52 U.S.C. §10508.

Yours in service,

A handwritten signature in blue ink, reading "Frank LaRose". The signature is fluid and cursive, with the first name "Frank" and last name "LaRose" clearly distinguishable.

Frank LaRose
Ohio Secretary of State

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Exhibit 2

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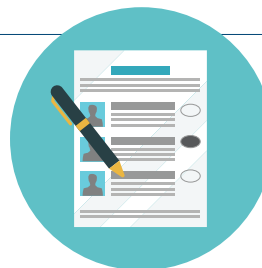
Instructions for Uniformed Services or Overseas Voters

R.C. 3511.021, 3511.09, 3511.021, 3505.181 & VRA Section 208

Please Read Carefully

1 Complete Your Ballot

- Fill in the entire box or oval for your selection.
- Do not make any other markings on your ballot.
- Follow the specific instructions on the ballot.



2 Prepare Your Ballot and Envelope

On the **outside** of the Identification Envelope, you **must** do the following:

- Print your name and address on the Identification Envelope (if not already pre-printed by your board of elections).
- Provide **ONE** of the following:
 - A. The last four digits of your Social Security number **OR**
 - B. Your Ohio driver's license or state ID card number (2 letters followed by 6 numbers) **OR**
 - C. A **COPY** of a different form of current photo identification (a driver's license, state ID card, or interim ID form issued by the Ohio BMV; a US passport or passport card; or a US military ID card, Ohio National Guard ID card, or US Department of Veterans Affairs ID card). The copy of the photo ID must include images of the front and back, except for a passport which must include the passport's identification page.



Place the **copy of your ID** in the Return Envelope **separate** from the Identification Envelope. Election officials must be able to see you have provided ID in order to open and count your ballot.

- Sign your name. **Important!** Your ballot cannot be counted without your signature.
- Do not remove the numbered stub attached to your ballot. The numbered stub must remain attached to your ballot. Your ballot cannot be counted if the stub is removed.
- Sign your completed Identification Envelope.

If you received your ballot by mail:

- Place your voted ballot into the completed Identification Envelope.
- Seal the envelope. Your ballot cannot be counted if it is not sealed in the Identification Envelope.
- Place the sealed, completed and signed Identification Envelope into the Return Envelope.

If you received your ballot by fax or email:

- You may print a copy of the first page of the Return Envelope which accompanied your balloting materials from your county boards of elections (SOS Form 285 – using the number 10 or 6" x 9" template size depending on what will fit best on your envelope) and securely affix it to a return envelope.¹
- Place the Identification Envelope/Statement of Voter and your voted ballot in the Return Envelope. If you did not write your Ohio driver's license number, state ID card number, or the last four digits of your Social Security number on your Identification Envelope/Statement of Voter, include a copy of a current and valid photo identification (a driver's license, state ID card, or interim ID form issued by the Ohio BMV; a US passport or passport card; or a US military ID card, Ohio National Guard ID card, or US Department of Veterans Affairs ID card). Place the copy of your identification in the Return Envelope but not inside the Identification Envelope. Election officials must be able to determine you have provided identification in order to count your ballot.
- Seal the Return Envelope.

¹Alternatively, you may utilize the Open Postage-Paid Envelope Template on the Federal Voting Assistance Program website (www.fvap.gov and search "Envelopes") which may be used if mailed in the U.S. Postal System, which includes all U.S. military post offices (APO/FPO) overseas, or through the diplomatic pouch available at U.S. embassies/consulates. The template must be printed on a number 10 or larger.

3 Return Your Ballot

Return Your Ballot In Person By: **Election Day at 7:30 p.m.**

Mail Your Ballot By: **The close of polls on Election Day**

By Mail

- If you are returning the ballot through the U.S. Postal Service, APO/FPO system, or diplomatic pouch, no postage is necessary.
- If you are returning the ballot from outside of the U.S. Postal Service, APO/FPO system, or diplomatic pouch, you must affix sufficient postage to ensure the prompt delivery of your ballot. Affix any sufficient postage required to the envelope over the U.S. Postage Paid 39 USC 3406 indicia.
- In order for your ballot to be counted, the ballot must be submitted for mailing by the close of polls on Election Day and the voted ballot must be received by the county board of elections by the fourth day after the election.
- You may not return your absentee voter ballot to your polling place or transmit your ballot by electronic means (fax or email).
- Ballots received late cannot be counted.



In Person

If you are returning your absentee ballot in person to your board of elections, you must do so by 7:30 p.m. on Election Day. Only you, your spouse, child, or a near relative* may deliver your ballot to the board of elections for you. A disabled voter may select any person of their choosing to deliver their ballot, other than their employer or an officer in their union. The person delivering the ballot for a family member or disabled voter must complete an attestation form at the county board of elections office (Form 12-P). For county boards of elections locations and hours, please visit: VoteOhio.gov.

Drop boxes may only be used by a voter to return their own personal ballot.

You may **NOT** return your absentee ballot to your polling place.



4 Track Your Ballot

- ☐ Go to VoteOhio.gov/track.
- ☐ Select your county.
- ☐ Enter your first and last name to see where your ballot is or if it has been processed.

What happens if I make an error when I mark my ballot?

If you make a mistake when marking your ballot, please contact your county board of elections for a replacement ballot. You may request a replacement ballot only two times.

NOTICE:

If you change your mind about voting absentee and decide to vote at your polling location on Election Day, you will be required to vote a provisional ballot.

*Persons who may return the voted ballot include: the voter, the voter's spouse or the voter's father, mother, father-in-law, mother-in-law, grandfather, grandmother, brother, or sister of the whole or half blood, or the son, daughter, adopting parent, adopted child, stepparent, stepchild, uncle, aunt, nephew, or niece (R.C. 3509.05).

Exhibit 3

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Absentee Ballot Instructions

R.C. 3509.04, 3509.05, 3509.08, 3505.181 & VRA Section 208

Please Read Carefully

1 Complete Your Ballot

- Fill in the entire box or oval for your selection.
- Do not make any other markings on your ballot.
- Follow the specific instructions on the ballot.



2 Prepare Your Ballot and Envelope

On the **outside** of the Identification Envelope, you **must** do the following:

- Print your name and address on the Identification Envelope (if not already pre-printed by your board of elections)
- Provide **ONE** of the following:
 - A. The last four digits of your Social Security number **OR**
 - B. Your Ohio driver's license or state ID card number (2 letters followed by 6 numbers) **OR**
 - C. A **COPY** of a different form of current photo identification (a driver's license, state ID card, or interim ID form issued by the Ohio BMV; a US passport or passport card; or a US military ID card, Ohio National Guard ID card, or US Department of Veterans Affairs ID card). The copy of the photo ID must include images of the front and back, except for a passport which must include the passport's identification page.



If you choose option C above, place the **copy of your photo ID** in the Return Envelope **separate** from the Identification Envelope. Election officials must be able to see you have provided ID in order to open and count your ballot.

- Sign your name. **Important!** Your ballot cannot be counted without your signature.
- Seal your voted ballot into the Identification Envelope. Do not remove the numbered stub attached to your ballot.



- Place the sealed, completed, and signed Identification Envelope into the Return Envelope.
- Seal the Return Envelope containing your completed and sealed Identification Envelope and, if applicable, a copy of your photo ID.

3 Return Your Ballot

Return Your Ballot In Person By: **7:30 p.m. on Election Day**
 Mail Your Ballot Postmarked By: **The day before Election Day**



By Mail

If you are returning your absentee ballot by mail, it must be postmarked by the day before Election Day. If you are mailing your ballot during the week before Election Day, take your ballot to a post office and ensure a postmark as follows:

- ➔ If you use a postage label purchased at a USPS customer service window or vending machine, the date on the label is the postmark. This is the USPS recommended way to postmark your ballot.
- ➔ If you use postage stamps, ask that it be postmarked.

***Your voted
absentee ballot
postage will cost:***

In Person

If you are returning your absentee ballot in person to your board of elections, you must do so by 7:30 p.m. on Election Day. Only you, your spouse, child, or a near relative* may deliver your ballot to the board of elections for you. A disabled voter may select any person of their choosing to deliver their ballot, other than their employer or an officer in their union. The person delivering the ballot for a family member or disabled voter must complete an attestation form at the county board of elections office (Form 12-P). For county boards of elections locations and hours, please visit: VoteOhio.gov.



Drop boxes may only be used by a voter to return their own personal ballot.

You may **NOT** return your absentee ballot to your polling place.

4 Track Your Ballot

- Go to VoteOhio.gov/track.
- Select your county.
- Enter your first and last name to see where your ballot is or if it has been processed.

What happens if I make an error when I mark my ballot?

If you make a mistake when marking your ballot, please contact your county board of elections for a replacement ballot. You may request a replacement ballot only two times.

NOTICE:

If you change your mind about voting absentee and decide to vote at your polling location on Election Day, you will be required to vote a provisional ballot.

Exhibit 4

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BOARD OF ELECTIONS

SUMMIT COUNTY, OHIO

IN RE:)

MARY CRONIN)

) TRANSCRIPT OF PROCEEDINGS)

Transcript of Proceedings held before Summit
County Board of Elections, taken by the undersigned,
Susan M. Petro, a Professional Reporter and Notary
Public in and for the State of Ohio, at the
Summit County Board of Elections, 470 Grant Street,
Akron, Ohio, on Monday, the 30th day of August 2022
at 9:15 a.m.

Premier Court Reporting
Canton 330.492.4221 Akron 330.928.1418
www.premierreporters.com

1 APPEARANCES:

2 William D. Rich, Chairman

3 Ray L. Weber, Republican Member

4 Bryan C. Williams, Republican Member

5 Lance E. Reed, Director

6 Pete Zeigler, Deputy Director

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1 MR. RICH: The next item is the Mary
2 Cronin hearing.

3 Is Mary Cronin here?

4 MR. KEATING: Mary Cronin is here, and
5 I'm Patrick Keating on her behalf as her
6 attorney.

7 MR. RICH: Hello, Patrick. Do you want
8 to come up to the lectern?

9 MR. REED: Would you like me to get her
10 sworn in first --

11 MR. RICH: Yeah.

12 MR. REED: Mary, can you please raise
13 your right hand, please?

14 (Whereupon, Mary Cronin was administered
15 the oath.)

16 MR. REED: Thank you.

17 MR. RICH: There is not anything behind
18 Tab 4..

19 MR. REED: Yeah, we don't have anything
20 behind the tab. What I did do is -- I'll
21 kind of give a small recap here just to kind
22 of refresh everybody's memory.

23 So on July 31st, which would have been,
24 the Sunday before Election Day, Mary had come
25 into the early vote center next door, had

1 spoken with one of the part-time employees at
2 the front counter which then ended up leading
3 to Cheryl, I believe Barb, and potentially
4 even Brian and maybe Amanda. It was -- most
5 of the full-time staff involved in absentee
6 were kind of involved in this conversation as
7 well where Mary had brought in a stack of
8 ballots from the nursing home she works at,
9 Laurel Lake, I believe. Is that correct?

10 MR. KEATING: Ms. -- Ms. Cronin is not
11 going to be making any statements or
12 answering any questions pursuant to her
13 rights under the Fifth Amendment.

14 MR. RICH: So Laurel Lake. And then --
15 so she was advised that, you know -- well,
16 she was asked if any of them were family
17 members, and it sounds like the answer was
18 no. And then, you know, she said that she
19 was going to -- since we were not accepting
20 the ballots since she wasn't related to
21 anybody, she said she was just going to drop
22 them in the drop-box, and that's what
23 happened.

24 I do have -- I think Cheryl is up here in
25 case there's any questions for her, but

1 that's kind of a quick recap there.

2 After I was notified -- Brian had walked
3 next door, kind of informed me of the
4 situation. I asked him and I believe he
5 grabbed Jake Ochsenhirt on the democrat side
6 to go out to the drop box, pull out the
7 ballots that were dropped in by Mary and
8 segregate those just so that we knew what was
9 dropped off.

10 And, Brian, was there 15 ballots?

11 MR. BRIAN WILLIAMS: Yes.

12 MR. REED: Okay. So there's -- there was
13 15 ballots from the Laurel Lake address that
14 was retrieved out of the drop box at that
15 time.

16 MR. RICH: I think it -- I think it would
17 be worth hearing from Cheryl. She sent us
18 the email describing what happened, but I
19 think it would be worth hearing from her.

20 So if you -- if you wouldn't mind
21 stepping --

22 MR. KEATING: By all means.

23 MR. RICH: We do want to give you an
24 opportunity to dispute any -- anything you
25 wish to dispute.

1 But, Cheryl, would you please give your
2 account of what happened?

3 MS. PERROTTA: Yes. So that Sunday she
4 came in, she was intending to drop off
5 ballots from the nursing home where she
6 worked as we were told. And we told her that
7 we could not accept those, it had to be an
8 immediate family member. Went to show her
9 the list and she said that she works at a
10 nursing home and it would be fine, she's done
11 this before, and she was going to put them in
12 the drop box. So she walked out and came up
13 to the drop box where they were able to watch
14 her put them in, and then take the ballots
15 out.

16 MR. RICH: Did you talk to her at any
17 point about the impermissibility of putting
18 the ballots in the drop box?

19 MS. PERROTTA: Yes. So when she first
20 came in, there was a part-timer that was
21 working at the counter and they -- she handed
22 the ballots to her -- or started to. And she
23 asked her if she was a family member. She
24 said, no, they're from where she works. So
25 she was told by another employee as well as

1 myself that we're not permitted to take those
2 under law, that it has to be an immediate
3 family member. We referenced the list
4 multiple times. And then she said she was
5 going to do it anyways and walked out.

6 MR. RICH: And did you tell her that it
7 was illegal to do?

8 MS. PERROTTA: Yes. Yes, and there was
9 actually a witness behind her who after she
10 walked out kind of looked at me and said,
11 "Well, you told her it was illegal."

12 And I said, "Yeah." So that was when we
13 moved -- moved forward with making sure we
14 talked to Lance about it.

15 MR. RICH: Okay.

16 MR. BRYAN WILLIAMS: That's the same --
17 we have a written statement from the staff --

18 MS. PERROTTA: You do, yes.

19 MR. BRYAN WILLIAMS: -- which you just
20 kind of orally gave that was on the day of
21 this action.

22 MR. REED: Yes.

23 MS. PERROTTA: Yes.

24 MR. BRYAN WILLIAMS: There was a
25 statement written on the day of?

1 MR. REED: It was, yes. After -- after
2 we had segregated the ballots, I called
3 Cheryl back and asked her -- you know, put
4 something in writing while it's fresh on your
5 mind. So --

6 MR. BRYAN WILLIAMS: Do -- do we have
7 that statement?

8 MR. REED: I do have extra copies printed
9 off here, yes.

10 MR. BRYAN WILLIAMS: And the -- I'm most
11 interested in making that an exhibit.

12 This probably should be given to the
13 court reporter for --

14 MR. RICH: Yeah.

15 MR. BRYAN WILLIAMS: -- as Exhibit A.

16 MR. REED: We should give one to her
17 attorney too.

18 MS. HILL: Can you spell your name for
19 the court reporter?

20 MS. PERROTTA: C-h-e-r-y-l.

21 MS. HILL: Can you spell your last name?

22 MS. PERROTTA: P-E-R-R-O-T-T-A.

23 MR. RICH: All right. So as I understand
24 it, Ms. Cronin attempted to deliver the
25 ballots next door at 500 Grant Street, was

1 told that we aren't allowed to take them
2 because she's not the voter or a family
3 member of the voter. She said that she would
4 put them in the drop box. You advised her
5 that that would be illegal, and then she went
6 and did it?

7 MS. PERROTTA: Yes.

8 MR. RICH: Okay. Anybody have any
9 questions for Cheryl?

10 No.

11 Thank you.

12 MS. PERROTTA: Thank you.

13 MR. RICH: The main purpose of the
14 hearing really is to give Ms. Cronin an
15 opportunity to be heard. I gather she
16 doesn't wish to take advantage of the
17 opportunity, but I do want to make sure
18 that -- if she wishes to dispute or clarify
19 any of these factual assertions, this is her
20 opportunity to -- to do it.

21 MR. BRYAN WILLIAMS: We should probably
22 swear her in.

23 MR. REED: She was sworn in.

24 MR. BRYAN WILLIAMS: Oh, she was sworn
25 in?

1 MR. RICH: Yeah.

2 MR. KEATING: Well, on behalf of
3 Ms. Cronin, she would dispute that she was
4 told anything was illegal. And I didn't hear
5 any witness say that they saw her drop any
6 ballots in the ballot box. So --

7 MR. ZIEGLER: Do we have video of that?

8 MR. REED: Yeah. I mean, I know we've
9 got video.

10 MR. KEATING: Video of -- of what?

11 MR. REED: Of her dropping the ballots in
12 the drop box.

13 MR. BRYAN WILLIAMS: The ballot drop
14 box is -- has several cameras trained on it.

15 MR. KEATING: I -- I would assume it did.
16 And did anyone determine how many ballots
17 were dropped off allegedly by Ms. Cronin?

18 MR. REED: Fifteen.

19 MR. RICH: Fifteen.

20 MR. KEATING: Fifteen were retrieved
21 afterwards?

22 MR. REED: Correct.

23 MR. BRYAN WILLIAMS: Very shortly
24 afterwards.

25 MR. KEATING: All right.

1 MR. BRYAN WILLIAMS: The -- so she's
2 exercising her Fifth Amendment right to not
3 testify.

4 I mean, I don't think there's any -- I
5 think it's just a matter we refer to the
6 prosecutor and -- with the record and let
7 them further investigate and do what the
8 prosecutor does.

9 MR. RICH: Okay. Is there a motion to
10 refer this matter to the prosecutor?

11 MR. BRYAN WILLIAMS: So moved.

12 MR. WEBER: Second.

13 MR. RICH: Any debate on the motion?

14 All in favor say aye.

15 MR. BRYAN WILLIAMS: Aye.

16 MR. WEBER: Aye.

17 MR. RICH: Aye.

18 The motion is adopted without dissent.

19 - - - - -
20 (The proceedings were concluded at 9:25 a.m.)
21 - - - - -
22
23
24
25

C E R T I F I C A T E

STATE OF OHIO,)
) SS:
SUMMIT COUNTY.)

I, Susan Petro, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that these proceedings were taken by me and reduced to Stenotype, afterwards prepared and produced by means of Computer-Aided Transcription, and that the foregoing is a true and correct transcription of the proceedings so taken as aforesaid.

I do further certify that these proceedings were taken at the time and place in the foregoing caption specified, and was completed.

I do further certify that I am not a relative, employee of or attorney for any party or counsel, or otherwise financially interested in this action.

I do further certify that I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Akron, Ohio, this 7th day of September 2022.

Susan M. Petro, Notary Public
My commission expires May 7, 2027



Exhibit 5

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SANDRA KURT

2023 AUG 31 AM 7:37

IN THE COURT OF COMMON PLEAS
COUNTY OF SUMMIT, OHIO

SUMMIT COUNTY
CLERK OF COURTS

INDICTMENT TYPE: SECRET

CASE NO. CR 2023-08-2879

INDICTMENT FOR: PROHIBITIONS CONCERNING ABSENT VOTER BALLOT (1) §3599.21(A)
(9) F4

In the Common Pleas Court of Summit County, Ohio, of the term of JULY in the year of our Lord,
Two Thousand Twenty Three.

The Jurors of the Grand Jury of the State of Ohio, within and for the body of the County aforesaid,
being duly impaneled and sworn and charged to inquire of and present all offenses whatever committed
within the limits of said County, on their oaths, IN THE NAME AND BY THE AUTHORITY OF THE
STATE OF OHIO,

COUNT ONE

DO FIND AND PRESENT, that **MARY KATHERINE CRONIN** on or about the 31st day of July,
2022, in the County of Summit and State of Ohio aforesaid, did commit the crime of **PROHIBITIONS
CONCERNING ABSENT VOTER BALLOT** in that she did possess the absent voter's ballot of
another, in violation of Section 3599.21(A)(9) of the Ohio Revised Code, a **FELONY OF THE
FOURTH DEGREE**, contrary to the form of the statute in such case made and provided and against the
peace and dignity of the State of Ohio.

s/ Sherri Bevan Walsh
Sherri Bevan Walsh, Prosecutor
County of Summit, Ohio

Prosecutor, County of Summit, by

s/ [Signature]
Assistant Prosecuting Attorney

[Signature]
Grand Jury Foreperson/Deputy Foreperson

Date: 08/29/2023

A TRUE BILL

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Exhibit 6

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IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

STATE OF OHIO,)	CASE NO. 2023-08-2879
)	
Plaintiff,)	
-vs-)	JUDGE ROWLANDS
)	
MARY CRONIN,)	
)	MOTION TO DISMISS
)	
Defendant.)	

Now comes the State of Ohio, by and through its Assistant Summit County Prosecutor S. Benjamin Carro, and respectfully moves this Honorable Court to dismiss with prejudice the indictment against Mary Cronin. This motion is made pursuant to a recent federal court decision in *League of Women Voters of Ohio v. Frank LaRose*, 1:23-cv-02414.

Respectfully submitted,

Elliot Kolkovich
Summit County Prosecuting Attorney

/s/ S. Benjamin Carro
S. Benjamin Carro
Assistant Summit County Prosecutor
Registration No. 0090260
53 University Ave.
Akron, Ohio 44308
330.643.2800

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing State's Motion to Dismiss Indictment was delivered to Defendant's attorney, William Mason, on September 12, 2024.

/s/ S. Benjamin Carro
S. Benjamin Carro
Assistant Summit County Prosecutor

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