

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

RED WINE & BLUE, and OHIO	:	
ALLIANCE FOR RETIRED	:	
AMERICANS,	:	
	:	Case No. 1:25-cv-01760
Plaintiffs,	:	
	:	Judge Solomon Oliver, Jr.
v.	:	
	:	Mag. Judge James E. Grimes, Jr.
FRANK LAROSE, in his official capacity as	:	
Ohio Secretary of State; and CHARLES L.	:	
NORMAN, in his official capacity as Ohio’s	:	
Registrar of Motor Vehicles,	:	
	:	
Defendants.	:	

**DEFENDANTS’ REPLY IN FURTHER SUPPORT OF THEIR COMBINED MOTION TO
DISMISS AND PARTIAL MOTION FOR JUDGMENT ON THE PLEADINGS**

INTRODUCTION

A foundational principle of judicial restraint is that courts take cases as they are, not as the court or the litigants wish them to be. *See, e.g., Berry v. Experian Info. Sols., Inc.*, 115 F.4th 528, 544 (6th Cir. 2024) (Readler, J., concurring in part and dissenting in part) (“[W]e take a case as it is, not as we might think it could be.”). Plaintiffs, in their zeal to invalidate democratically enacted voting legislation, appear to have fallen prey to confirmation bias—that is, they see the world as they wish it were, not as it is. *See In re E. Palestine Train Derailment*, No. 4:23-CV-00242, 2025 U.S. Dist. LEXIS 13975, at *31 (N.D. Ohio Jan. 27, 2025) (“Confirmation bias is the label given to people’s tendency to process information by looking for, or interpreting, information that is consistent with their existing beliefs.” (citation modified)). More specifically, Plaintiffs read the text

of Ohio Revised Code § 3503.11(A)(1) to impose burdens and requirements on voter registration that simply are not there.

This misreading of § 3503.11(A)(1) leads to a series of logical and analogical errors. For instance, Plaintiffs repeatedly claim that § 3503.11(A)(1) restricts anyone without documentary proof of citizenship from registering to vote at the BMV. *See, e.g.*, Pls.' Opp'n at 1, 3, 12, Dkt. 25 at PageID 243, 245, 254. But the text of § 3503.11(A)(1) simply does not say that. It merely requires registrars and deputy registrars to offer voter registration applications to proven citizens. *See* Ohio Rev. Code § 3503.11(A)(1). It is silent about what should happen if a person fails to provide proper documentation but asks to register to vote. *See id.* This misunderstanding, in turn, leads Plaintiffs to repeatedly cite voter-identification cases and cases involving universal DPOC laws. *See, e.g.*, Pls.' Opp'n at 6–9, Dkt. 25 at PageID 248–51. Those cases are a poor fit, though, because § 3503.11(A)(1) imposes no such DPOC requirements, and even if it did, it reaches only registration applications at the BMV.

Plaintiffs' misreading of § 3503.11(A)(1) is compounded by their misunderstanding of the driver's license application process, and these errors undermine their standing arguments. Ohioans wishing to obtain a driver's license or state identification card must present documentary proof of their legal presence in the United States. Ohio Admin. Code § 4501:1-1-21(C), (G). Thus, even accepting Plaintiffs' erroneous reading of § 3503.11(A)(1) as requiring documentary proof of citizenship, Plaintiffs' representative members will not be harmed by § 3503.11(A)(1) because to apply for a driver's license they already must produce the same documentation that they are morally opposed to providing here.

Finally, Plaintiffs seek to avoid the dismissal of their vagueness claims by burying their metaphorical heads in the sand. Plaintiffs purport to be wholly unaware of what constitutes “proof

of United States citizenship”—despite preexisting regulations, sent to Plaintiffs before this litigation, that outline the different ways to prove legal presence in the United States, which will necessarily prove either citizenship or non-citizenship. *See* Ohio Admin. Code § 4501:1-1-21(G).

Ultimately, this Court should reject Plaintiffs’ claims as mere shadowboxing. This case is not, as Plaintiffs believe, about onerous new hurdles to voter registration. They have not adequately alleged that they, or any of their members, have suffered a legally cognizable injury traceable to the amendments to § 3503.11(A)(1) and redressable by this Court. Instead, Plaintiffs speculate about potential moral injuries caused by a statute that exists only in their minds. But this Court must take this case—and § 3503.11(A)(1)—as it is, not as Plaintiffs wish it to be. Accordingly, Plaintiffs lack standing and their vagueness claims fail as a matter of law.

A. Plaintiffs cannot manufacture a legally cognizable associational standing injury by reframing their allegations and relying on inapposite case law.

At their core, the injuries that Plaintiffs allege their representative members will face are speculative, self-inflicted, psychic injuries. In the Complaint, neither Ms. Dutcher nor Ms. Borgerson is alleged to have attempted to register to vote at the BMV only to be turned away. Compl. ¶¶ 29–30, Dkt. 1 at PageID 9. Furthermore, neither representative member is alleged to lack the documents referenced in § 3503.11(A)(1). Instead, Ms. Dutcher and Ms. Borgerson assert a moral opposition to producing documentary proof of citizenship for the purpose of voting. But moral opposition is insufficient to prove injury. *See FDA v. All. for Hippocratic Med.*, 602 U.S. 367, 381 (2024) (“By requiring the plaintiff to show an injury in fact, Article III standing screens out plaintiffs who might have only a general legal, moral, ideological, or policy objection to a particular government action.”). And because they will already be required to produce DPOC to obtain their driver’s licenses, they face no new burdens—beyond those concocted in their minds.

The cases Plaintiffs cite in support of their members' alleged injuries are all distinguishable. At the outset, nearly all of them involved voter-identification requirements, which are materially different from the motor-voter process presented here. In the voter-identification context, a plaintiff is solely attempting to vote (or update their registration). Thus, any "burden" along the way may create an actionable injury. But here, Ms. Dutcher and Ms. Borgerson are trying to get a credential *and* register to vote, so this Court must consider whether the "burdens" alleged are burdens associated with voting or burdens associated with credentialing. And because Ms. Dutcher and Ms. Borgerson will already need to produce DPOC to obtain or update their driver's licenses, *see* Ohio Admin. Code § 4501:1-1-21(G), § 3503.11(A)(1) imposes no new burdens on them. This distinction makes the voter-identification cases a poor fit.

Nevertheless, it is worth distinguishing each case individually. Begin with *Common Cause/Georgia v. Billups*, 554 F.3d 1340 (11th Cir. 2009). There, the court found individuals who lacked photo identification possessed standing to challenge a photo-identification law. *Id.* at 1351–51. By contrast, here, both Ms. Dutcher and Ms. Borgerson have conceded that they possess proof of citizenship. Compl. ¶¶ 29–30, Dkt. 1 at PageID 9. The *Common Cause* court did opine, in dicta, that even if the plaintiffs possessed identification they would have had standing because "[r]equiring a registered voter . . . to produce photo identification to vote . . . is an injury sufficient for standing." 554 F.3d at 1351–52. But that is not scenario here. This case is about an alleged burden on registration, not the burden on a registered voter who must produce an identification in order to vote. Extending the logic of *Common Cause* to the registration context would grant every potential voter standing to challenge any portion of the registration process because the registration process is, by its very nature, "a barrier" to voting. *Id.* (quoting *Ne. Fla. Chapter of Assoc. Gen. Contractors of Am. v. City of Jacksonville, Fla.*, 508 U.S. 656, 666 (1993)). And regardless, unlike

the provision in *Common Cause*, § 3503.11(A)(1) does not require Ms. Dutcher and Ms. Borgerson to do anything: it merely requires the BMV to provide them with a voter registration application after they necessarily provide documentary proof of citizenship as part of their driver's application. They face no additional burden.

Fish v. Schwab, 957 F.3d 1105 (10th Cir. 2020), is likewise distinguishable. There, the law at issue explicitly forbade someone from registering to vote without providing documentary proof of citizenship. *Id.* at 1111–12. The plaintiff in *Fish* submitted an application to register to vote, but when he failed to submit documentary proof of citizenship, the defendants canceled his application. *Id.* at 1112–13. This case is different in at least two ways. First, as discussed above, § 3503.11(A)(1) does not require documentary proof of citizenship before voting. Plaintiffs' atextual interpretation does not control. Second, unlike the plaintiff in *Fish*, neither Ms. Dutcher nor Ms. Borgerson has been denied voter registration. Their injury is wholly speculative.

Nor is *N.H. Youth Movement v. Scarihan*, No. 24-cv-291, 2025 U.S. Dist. LEXIS 156192 (D.N.H. Aug. 13, 2025), helpful here. As in *Fish*, the law at issue required documentary proof of citizenship as part of the voter-registration application. *Id.* at *4. Section 3503.11(A)(1) imposes no such requirement. Even if § 3503.11(A)(1) were read to require documentary proof of citizenship, *N.H. Youth Movement* remains distinguishable. There, the “proof-of-citizenship requirement . . . force[d] [the plaintiff] to locate and bring documentary evidence of citizenship that they would not otherwise need to provide.” *Id.* at *16 (emphasis added). The law here, because it is concerned only with voter registration at the BMV, does not require Ms. Dutcher and Ms. Borgerson to produce documents “they would not otherwise need to provide.” *See id.* They will already need to provide proof of legal presence as part of their driver's license applications,

which will necessarily either prove that they are or are not citizens. Section 3503.11(A)(1) imposes no new burden on them.

Much the same is true for Plaintiffs' string cite of additional cases from the voter-identification context. *See* Pls.' Opp'n at 7–8, Dkt. 25 at PageID 249–50. Those cases concerned constitutional claims about how voter-identification laws burdened the right to vote or violated due process or equal protection. *See, e.g., Ne. Ohio Coal. for the Homeless v. Brunner*, 652 F. Supp. 2d 871, 880–81 (S.D. Ohio 2009). But Plaintiffs have brought no such claims. Ms. Dutcher and Ms. Borgerson remain free to register to vote by other means that do not require documentary proof of citizenship, such as the National Voter Registration Application, Ohio's Voter Registration and Information Update Form, or Ohio's online registration system.. *See* National Mail Voter Registration Form, United States Election Assistance Commission (Sept. 18, 2024), https://www.eac.gov/sites/default/files/eac_assets/1/5/Federal_Voter_Registration_ENG.pdf; Voter Registration and Information Update Form, Ohio Secretary of State, https://www.ohiosos.gov/globalassets/elections/forms/vr_form_english.pdf; Answer ¶ 78. Put another way, a voter-identification law necessarily burdens the right to vote because it applies to all voters. Section 3503.11(A)(1), even under Plaintiffs' reading, applies only to registering at the BMV. Thus, the voter-identification cases Plaintiffs cite are not relevant to the standing inquiry here.

Finally, Plaintiffs cite a redistricting case, *Gonidakis v. LaRose*, 599 F. Supp. 3d 642 (S.D. Ohio 2022), that is inapposite. Even accepting that “wasted effort” is a concrete injury sufficient for standing purposes, Plaintiffs have alleged no such “wasted effort” by their members. Nowhere

in the Complaint do Plaintiffs allege that Ms. Dutcher, Ms. Borgerson, or any of its members have attempted to register at the BMV and been turned away.¹ *Gonidakis* has no purchase here.

B. Based on her own additional allegations, Ms. Dutcher’s claims are now moot.

In a footnote to their Opposition, Plaintiffs concede that Ms. Dutcher has successfully registered to vote in Ohio. Pls.’ Opp’n at 9 n.3, Dkt. 25 at PageID 251. Plaintiffs then make a cursory argument that their claims fit the “capable of repetition but evading review” exception. *Id.* But in doing so, Plaintiffs fail to appreciate the contours of “this narrow exception” to traditional mootness doctrine. *Radiant Glob. Logistics, Inc. v. Furstenuau*, 951 F.3d 393, 396 (6th Cir. 2020). “This exception applies when ‘(1) the challenged action was in its duration too short to be fully litigated prior to its cessation or expiration, and (2) there was a reasonable expectation that the same complaining party would be subjected to the same action again.’” *Lawrence v. Blackwell*, 430 F.3d 368, 371 (6th Cir. 2005) (quoting *Weinstein v. Bradford*, 423 U.S. 147, 149 (1975)).

Even accepting Plaintiffs’ argument that the second prong can be relaxed in election cases—and is thus satisfied here by an unknown future prospective voter—the first prong is conspicuously lacking. Unlike many other election cases, such as *Lawrence*, that concerned claims surrounding a particular election, Plaintiffs’ claims are about voter registration. Voter registration is an ongoing process that is not tied to a particular election. In other words, “the challenged action was [not] in its duration too short to be fully litigated prior to its cessation or expiration.” *Lawrence*, 430 F.3d

¹ In a footnote to their Opposition, Plaintiffs attempt to shoehorn in a new allegation about Ms. Dutcher being denied a voter-registration application “for want of an acceptable social security card.” Pls.’ Opp’n at 9 n.3, Dkt. 25 at PageID 251. It is unclear how this incident has anything to do with § 3503.11(A)(1), considering a social security card does not prove citizenship, *see* Ohio Admin. Code § 4501:1-1-21(G). Regardless, Rule 12(c) motions, such as this, are decided based solely on “the four corners of the pleadings.” *Eye Ctrs. of Am. v. Series Protected Cell 1*, 583 F. Supp. 3d 1105, 1113 (M.D. Tenn. 2022); *accord Garrett Day LLC v. Int’l Paper Co.*, No. 3:15-cv-00036, 2017 U.S. Dist. LEXIS 188568, at *13 (S.D. Ohio Nov. 15, 2017); *see also* Fed. R. Civ. P. 12(d).

at 371 (quoting *Weinstein*, 423 U.S. at 149); *see also Radiant Global*, 951 F.3d at 396 (“[T]his narrow exception applies to disputes that by their nature will become moot before litigation runs its course, such as a college graduation date, and thus are ‘likely forever’ to evade appellate review.” (quoting *Lewis v. Cont’l Bank Corp.*, 494 U.S. 472, 481–82 (1990))). There is nothing about the nature of voter-registration claims that make them evade review. Quite the contrary, courts have specifically rejected the argument made by Plaintiffs here. *See, e.g., Wattleton v. Simon*, No. 16-cv-2707, 2017 U.S. Dist. LEXIS 128155, at *11 (D. Minn. July 13, 2017) (“[T]his or any other lawsuit premised on a denial of voter registration and absentee ballot forms is not of a character that will evade review.”); *cf. also Diaz v. Cobb*, 475 F. Supp. 2d 1270, 1275 (S.D. Fla. 2007) (finding that successful voter registration mooted a plaintiff’s claims and did not fit the “capable of repetition yet evading review” exception).

Moreover, this was not a situation where Ms. Dutcher’s claim was mooted by the passage of time or Defendants’ actions. *See, e.g., Lawrence*, 430 F.3d at 371 (“Defendants assert that the court of appeals should affirm the district court’s dismissal of the complaint because the controversy is now moot since the 2004 election has already taken place.”). Ms. Dutcher alone mooted her claims. The capable-of-repetition-but-evading review doctrine does not permit Ms. Dutcher to have her cake and eat it too. *See Already, LLC v. Nike, Inc.*, 568 U.S. 85, 96 (2013) (“Although the voluntary cessation standard requires the defendant to show that the challenged behavior cannot reasonably be expected to recur, we have never held that the doctrine . . . allows the plaintiff to rely on theories of Article III injury that would fail to establish standing in the first place.”).

C. Regardless, Plaintiffs lack standing because their members’ alleged injuries are neither traceable to § 3503.11(A)(1) nor redressable by this Court.

Plaintiffs’ arguments regarding traceability and redressability reveal a misunderstanding of the credentialing process at the BMV. Plaintiffs allege that Ms. Dutcher intends to register when she

applies for a driver's license, and Ms. Borgerson intends to update her voter registration when she updates her driver's license. Compl. ¶¶ 29–30, Dkt. 1 at PageID 9. But what Plaintiffs fail to grasp is that the very same documents Ms. Dutcher and Ms. Borgerson will be required to produce to apply for or update their driver's license will prove their citizenship. *See* Ohio Admin. Code §§ 4501:1-1-21(C)(5), 4501:1-1-21(G)(1)–(5); Answer ¶ 4, Dkt. 14 at PageID 80. Thus, the alleged injury (having to produce documentary proof of citizenship) is not traceable to the amendments to § 3503.11(A)(1). They must produce these documents anyway.

In fact, this proper understanding of the credentialing process further undermines Ms. Dutcher's and Ms. Borgerson's alleged injuries. They allege that they are morally opposed to presenting DPOC for the purpose of voting. *See* Compl. ¶¶ 29–30, Dkt. 1 at PageID 9. But because they necessarily will have already presented proof of citizenship as part of their driver's license applications, *see* Ohio Admin. Code § 4501:1-1-21(G), Ms. Dutcher and Ms. Borgerson will not be required to independently produce any DPOC as part of their voter-registration application. In other words, they will not have to commit the act to which they are morally opposed, producing DPOC for voting, because they will have already produced DPOC as part of their driver's license applications—an act to which they have not alleged any opposition.

For much the same reason that traceability is lacking, Ms. Dutcher's and Ms. Borgerson's alleged injuries are not redressable. Even if this Court were to enjoin the amendments to § 3503.11(A)(1), Ms. Dutcher and Ms. Borgerson would still be required to produce these documents as part of their driver's license applications. *See, e.g., Miller v. City of Wickliffe*, No. 1:12-CV-1248, 2015 U.S. Dist. LEXIS 170196, at *15–16 (N.D. Ohio Dec. 21, 2015) (finding plaintiffs lacked standing to challenge a zoning ordinance because they lacked other necessary permits, so striking the ordinance would not redress their injury).

D. Plaintiffs' arguments are based on either a misreading of the statute, a logical fallacy, or both.

Plaintiffs' attempts to disprove traceability and redressability once again run up against the clear text of § 3503.11(A)(1). In their Opposition, Plaintiffs correctly note that the NVRA's requirements are triggered at the time of an individual's application. Pls.' Opp'n at 10–12, Dkt. 25 at PageID 252–54. But then they assert that § 3503.11(A)(1) “specifically prohibits BMV employees from offering those individuals the opportunity to register to vote.” Pls.' Opp'n at 12, Dkt. 25 at PageID 254. That simply is not what the statute says. Section 3503.11(A)(1) states that when an applicant has demonstrated proof of citizenship, “the registrar or deputy registrar shall offer the applicant the opportunity to register to vote or to update the applicant's voter registration.” The statute does not prohibit anything; it merely requires a BMV employee to offer an application under certain circumstances.

Plaintiffs are either misreading the statute or “denying the antecedent.” *See, e.g., Danny Lee Banks v. United States*, 773 F. App'x 814, 820 (6th Cir. 2019). As the name suggests, that logical fallacy arises when one assumes that because a particular antecedent is not present, the consequent must not be present. Put succinctly: “‘If P then Q’ does not mean ‘If Not P then Not Q.’” *Jewell v. Magnolia Bank, Inc.*, No. 3:23-cv-78-RGJ, 2024 U.S. Dist. LEXIS 9206, at *8 n.2 (W.D. Ky. Jan. 17, 2024) (quoting *New England Power Generators Ass'n v. F.E.R.C.*, 707 F.3d 364, 370 (D.C. Cir. 2013)). For example, “if it is raining, then the ground is wet” does not mean that if it is not raining, the ground is not wet. Other antecedents could have led to the same consequent; that is, something other than rain could make the ground wet.

Here, the Plaintiffs' syllogistic reasoning can be summarized as follows:

1. If a license applicant presents documentary proof of citizenship, the BMV must provide them with a voter registration application.

2. Ms. Dutcher and Ms. Borgerson refuse to present documentary proof of citizenship.
3. Therefore, the BMV will not provide Ms. Dutcher and Ms. Borgerson with a voter-registration application.

This reasoning is flawed, and the Court should reject it. Nothing in the text of § 3503.11(A)(1) prohibits a BMV employees from offering a voter-registration application,; it merely requires such an offer when citizenship has been established.

Plaintiffs cannot escape the clear text of § 3503.11(A)(1). It is true that the previous version of § 3503.11(A)(1) required a BMV employee to offer a voter-registration application to all identification applicants. *See* Ohio Rev. Code § 3503.11(A)(1) (2024). And the amendments to § 3503.11(A)(1) narrowed that requirement to proven citizens. *See* Ohio Rev. Code § 3503.11(A)(1). But again, it does not logically follow that “HB 54 amended that law so that *only* applicants who present proof of United States citizenship (or who have previously done so) are offered the opportunity to register to vote.” Pls.’ Opp’n at 16, Dkt. 25 at PageID 258 (citation modified). And Defendants never made that argument. *Contra* Pls.’ Opp’n at 17, Dkt. 25 at PageID 259. Plaintiffs’ claim that “[t]here is no way to read that amendment as anything other than a prohibition on registering someone to vote who has not provided DPOC” is just wrong. Pls.’ Opp’n at 16, Dkt. 25 at PageID 258. Quite the opposite. There is no way to read § 3503.11(A)(1) as prohibiting anything.

Nor does the natural reading of the plain text of § 3503.11(A)(1) somehow render it superfluous. *See* Pls.’ Opp’n at 16–17, Dkt. 25 at PageID 258–59. Section 3503.11(A)(1) places an obligation on BMV employees to do a certain act under certain circumstances. It is silent on the situation that Plaintiffs propose: a driver’s license applicant who fails to provide proof of citizenship. But there is nothing superfluous about a statute that speaks to some but not all circumstances. *Cf.* *Russello v. United States*, 464 U.S. 16, 23 (1983) (noting that Congress could have written a statute

to be more restrictive but “[t]he short answer is that Congress did not write the statute that way” (citation omitted)).

At the end of the day, Plaintiffs want to read § 3503.11(A)(1) to be something that it is not. Just as to a hammer, everything is a nail, to Plaintiffs every mention of documentary proof of citizenship is an unlawful impediment to voting. But that is not what the text of § 3503.11(A)(1) says. It requires that when citizenship has been established, a voter-registration application must be provided. The statute is silent about what happens when citizenship has not been established. Absent allegations that members of Plaintiffs’ organizations have been denied voter-registration applications at the BMV, there is no evidence of actual injury—only psychic injury based on a misreading of the statute.

E. Plaintiffs’ organizational standing arguments rest on the same false premise about how § 3503.11(A)(1) works.

Plaintiffs argue that their “core organizational missions” are obstructed “when their members are turned away from voter registration opportunities.” Pls.’ Opp’n at 15, Dkt. 25 at PageID 257. But Plaintiffs have not alleged anyone has been “turned away from [a] voter registration opportunit[y].” Instead, they speculate, based on a misreading of statute, that their members will be turned away at the BMV. The prospect of their members being turned away is especially specious because their members will already have to produce the same documentation for their driver’s license applications as they object to providing in the Complaint. There is nothing in the pleadings to support this speculative claim of being denied voter registration applications.

Unsurprisingly then, because Plaintiffs misunderstand the driver’s license application process and the plain text of § 3503.11(A)(1), they cite cases that are distinguishable. Take, for instance, *LULAC v. Exec. Office of the President*, 780 F. Supp. 3d 135 (D.D.C. 2025); accord *LULAC v. Exec. Office of the President*, No. 25-0946, 2025 U.S. Dist. LEXIS 215411 (D.D.C. Oct.

31, 2025). Plaintiffs are correct that the plaintiffs in *LULAC* had standing because the DPOC requirement at issue would have made it more difficult for the organization to register voters. 780 F. Supp. 3d at 188. But the executive order in *LULAC* was different from § 3503.11(A)(1), both in content and scope. The executive order purported to add a DPOC requirement to the federal voter-registration form. *Id.* at 166. By contrast, § 3503.11(A)(1) does not make any changes to the voter-registration process or form, and it does not require DPOC before registering to vote. All it does is require a BMV employee to offer a voter registration application to proven citizens. Plaintiffs have failed to allege how § 3503.11(A)(1), as written, would make it more difficult for them to register voters.

Much the same is true for Plaintiffs' remaining citations, *Mi Familia Vota v. Fontes*, 719 F. Supp. 3d 929 (D. Ariz. 2024), *March for Our Lives Idaho v. McGrane*, 749 F. Supp. 3d 1128 (D. Idaho 2024), and *Tennessee State Conf. of NAACP v. Hargett*, 420 F. Supp. 3d 683 (M.D. Tenn. 2019). *Mi Familia Vota* involved comprehensive amendments to the voter-registration process, including a requirement to provide DPOC before registering to vote. 719 F. Supp. 3d at 949–52. Section 3503.11(A)(1) merely requires a registrar or deputy registrar to provide a voter-registration application to proven citizens. *March for Our Lives Idaho* likewise imposed a DPOC requirement for all voter-registration applicants, 749 F. Supp. 3d at 1134, which § 3503.11(A)(1) does not. And finally, *Tennessee State Conf. of NAACP* involved a law that targeted the plaintiff organizations by imposing restrictions on voter-registration drives. 420 F. Supp. 3d at 690–91. Any connection between § 3503.11(A)(1) and Plaintiffs' mission of registering voters is far more tenuous than in *Tennessee State Conf. of NAACP*.

Plaintiffs also fail to distinguish the cases cited by Defendants. While it is true that *Tennessee Conf. of NAACP v. Lee*, 139 F.4th 557 (6th Cir. 2025), was adjudicated at the summary

judgment stage, its statements about the contours of organizational standing are nonetheless binding precedent. Plaintiffs cannot hide behind the Rule 12 standard to save their deficient organizational standing allegations. As discussed in Defendants' Motion, Plaintiffs have not alleged how § 3503.11(A)(1) affects their organizations in any way: any diversion of resources would be self-inflicted, and the alleged organizational injuries suffer from the same traceability and redressability problems underlying their associational standing claims. *See supra* Sections A, C; Defs.' Mot. Dismiss at 14–16, Dkt. 15 at PageID 123–25.

Tellingly, Plaintiffs' weakest attempt to distinguish case law is in response to the most on-point case: *Equality State Policy Center v. Gray*. Plaintiffs seek to distance themselves from *Equality State Policy Center* by claiming their alleged organizational injuries are different, *see* Pls.' Opp'n at 15–16, Dkt. 25 at PageID 257–58, but they are nearly identical. The organization in *Equality State Policy Center* alleged it “devote[d] significant resources to helping qualified Wyomingites register to vote and successfully participate in Wyoming elections,” and the challenged law “directly affect[ed] and interfere[d] with [those] core activities.” Defs.' Mot. Dismiss, Ex. A at 6, Dkt. 15-1 at PageID 138 (citation modified). Here, Plaintiffs assert they are “organizations whose core missions involve ensuring that their members are able to register, vote, and participate in the political process,” and the amendments to § 3503.11(A)(1) will “hinder [their] missions and make it harder for their members to make their voices heard through the ballot box.” Compl. ¶ 12, Dkt. 1 at PageID 4. The similarities are as striking as they are obvious. Just as the organization in *Equality State Policy Center* lacked organizational standing, so too do Plaintiffs.

In many respects, Plaintiffs' arguments for organizational standing are reminiscent of a bygone era. There was a time, in the wake of *Havens Realty Corp. v. Coleman*, 455 U.S. 363 (1982), where some courts construed organizational standing broadly, treating the doctrine as little

more than a speed bump for impact litigators. But the Supreme Court has clarified, most notably in *Alliance for Hippocratic Med.*, 602 U.S. at 395, that organizational standing should be narrowly construed. As the Fifth Circuit summarized, “Only in the rarest cases can organizations demonstrate standing by showing a defendant’s action interferes with their activities.” *Deep S. Ctr. for Env’t Just. v. EPA*, 138 F.4th 310, 318 (5th Cir. 2025); *see also Am. Marriage Ministries v. Collins*, 781 F. Supp. 3d 669, 683 n.5 (E.D. Tenn. 2025) (noting the “generally narrow scope” of organizational standing after *All. for Hippocratic Medicine*).

It is worth remembering that “[t]he fundamental aspect of standing is that it focuses on the party seeking to get his complaint before a federal court and not on the issues he wishes to have adjudicated.” *Flast v. Cohen*, 392 U.S. 83, 99 (1968). This Court should decline Plaintiffs’ invitation to breeze by the constitutional standing limitations and rush to reach the merits. Because Plaintiffs lack standing, either as an organization or on behalf of its members, this Court should dismiss the Complaint.

F. Plaintiffs cannot salvage their vagueness claims by feigning ignorance of the relevant statutes and regulations.

If the Court were to read Plaintiffs’ Opposition in isolation, it would be left with the impression that the term “proof of United States citizenship,” as used in § 3503.11(A)(1), is exceedingly opaque or unknowingly complex. But as with so many of their other arguments, Plaintiffs’ vagueness claims are based on willful blindness.

Start with Plaintiffs’ claims that “[n]owhere in Ohio law—not in any statute, not in the administrative code, and not in any guidance document—does Ohio define what suffices as ‘proof of citizenship’ for voter registration.” Pls.’ Opp’n at 17, Dkt.25 at PageID 17. This claim ignores the text and context of both Ohio Rev. Code § 3503.11(A)(1) and Ohio Admin. Code § 4501:1-1-21. Recall that § 3503.11(A)(1) applies only to a subset of voter registrations: those that occur as

part of a state-identification application. Thus, it is only natural to look at the regulations governing state-identification applications to define the terms of § 3053.11(A)(1). Such regulations are not, as Plaintiffs claim, “different regulation[s] about a different topic.” Pls.’ Opp’n at 17, Dkt. 25 at PageID 259.

When the Court looks at the administrative code sections covering state-identification applications, it will find a list of documents “acceptable to establish the applicant’s legal presence in the United States.” Ohio Admin. Code § 4501:1-1-21(G). Plaintiffs are correct that “proof of United States citizenship” and “proof of legal presence” are “different things.” Pls. Opp’n at 18, Dkt. 25 at PageID 260. But Plaintiffs fail to appreciate that, based on the full text of Ohio Admin. Code § 4501:1-1-21, “proof of legal presence” is obviously a broader term that includes citizenship status.

A quick look at Ohio Admin. Code § 4501:1-1-21(C) illustrates this point. That subsection lays out the five categories of information an applicant must prove through appropriate documentation. The fifth in that list is “[s]tatus as a citizen, permanent resident or temporary resident of the United States.” The subsections of § 4501:1-1-21 that follow then list the acceptable documents for each category: subsection (E) covers proof name and date of birth; subsection (F) concerns proof of social security number; and subsection (I) discusses proof of address. As relevant here, subsection (G) lists the documents used to prove “the applicant’s legal presence in the United States.” A person of ordinary intelligence, based on the context and the plain reading of the regulation’s text, could determine that “legal presence” is shorthand for “[s]tatus as a citizen, permanent resident or temporary resident of the United States,” as used in the list of categories above.

Thus, someone reading § 3503.11(A)(1) and its accompanying regulations is not “left to guess what the statute requires.” Pls.’ Opp’n at 19, Dkt. 25 at PageID 261. To the contrary, they could look to Ohio Admin. Code § 4501:1-1-21(G), which lists six ways to prove “legal presence in

the United States.” Five of those documents would plainly prove one’s United States citizenship: (1) a birth certificate issued by any state, territory, or possession of the United States; (2) a consular report of a birth abroad; (3) a United States passport; (4) a United States passport card; and (5) a United States naturalization document. Ohio Admin. Code § 4501:1-1-21(G)(1)–(5). The remaining way to prove legal presence is, by its own terms, proof of non-citizenship: “For a person who is not a citizen of the United States, appropriate United States citizenship and immigration services (USCIS) documents that are original and valid, or like documents issued by the successor agency to the USCIS showing the dates of legal presence.” Ohio Admin. Code § 4501:1-1-21(G)(6).

Plaintiffs’ attempts to obfuscate and complicate this plain reading are unconvincing. For instance, it is irrelevant that other states have defined documentary proof of citizenship in different ways. *See* Pls.’ Opp’n at 19, Dkt. 25 at PageID 261. All that matters here is that Ohio has provided a list of acceptable documents, both in regulations and on the BMV’s website. *See* Ohio Admin. Code 4501:1-1-21(G); Answer Exs. 1–2.

Nor can Plaintiffs plausibly claim that Defendants’ citation to Ohio Admin. Code 4501:1-1-21 is “a post-hoc suggestion, made during litigation.” Pls.’ Opp’n at 17, Dkt. 25 at PageID 259. Recall that before bringing this suit, Plaintiffs, as required by the NVRA, sent a notice of alleged allegations to Defendant Secretary of State LaRose. Compl. ¶ 15, Dkt. 1 at PageID 5. In response to Plaintiffs’ vagueness concerns Defendant LaRose explicitly directed Defendants to Ohio Admin. Code § 4501:1-1-21: “The documents that are sufficient to establish legal presence and citizenship are specified in the Ohio Administrative Code. *See* Ohio Admin. Code § 4501:1-1-21(G).” Compl. Ex. B, at 2, Dkt. 1-2 at PageID 39. Thus, Plaintiffs’ allegations of post-hoc rationalization are baseless. The list of documents that can be used to prove United States citizenship was published

long before this litigation, and Defendant LaRose pointed Plaintiffs to that list before the Complaint was filed.

Because § 3503.11(A)(1) is not impermissibly vague, even if this Court finds Plaintiffs have standing to bring this suit, this Court should dismiss Plaintiffs' vagueness claims.

G. This Court should reject Plaintiffs' attempts to misconstrue Defendants' arguments.

One final note bears mentioning. In their Opposition, Plaintiffs argue that "Defendants do not even attempt to dispute that HB 54 is in clear conflict with the NVRA." Pls.' Opp'n at 1, Dkt. 25 at PageID 243. This statement is misleading. Defendants' Motion is a jurisdictional challenge based on the Plaintiffs' lack of standing, not the underlying merits. Defendants, in their Answer, explicitly disputed any claim that HB 54 violates the NVRA or otherwise conflicts with any federal law. *See, e.g.*, Answer ¶¶ 8, 107, 115, Dkt. 14 at PageID 81, 96–97. This Court should reject Plaintiffs' attempt to manufacture a concession by Defendants.

CONCLUSION

Because Plaintiffs do not have standing, this Court lacks jurisdiction over this case. For this reason, the Court should dismiss Plaintiffs' Complaint. Alternatively, if this Court believes Plaintiffs have standing, it should grant Defendants judgment as a matter of law on Count III and the portion of Count II alleging a violation of 52 U.S.C. § 20507(b)(1).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 3, 2025, 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. Additionally, a copy of the foregoing was emailed to all counsel of record.

/s/ Ann Yackshaw

ANN YACKSHAW (0090623)

Assistant Attorney General

CERTIFICATE OF COMPLIANCE

Pursuant to Northern District of Ohio Local Civil Rule 7.1(f), I hereby certify that this case has not been assigned to a track. This memorandum complies with the page limitations for unassigned cases.

/s/ Ann Yackshaw

ANN YACKSHAW (0090623)

Assistant Attorney General

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