

In The Supreme Court Of Ohio

State ex rel. Robert W. Parrott, *et al.*,

Relators

vs.

Case No. 08-0410

Secretary of State Jennifer Brunner

Original Action in Prohibition

Respondent.

ANSWER OF RESPONDENT OHIO SECRETARY OF STATE JENNIFER BRUNNER

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Marysville, Ohio 43040

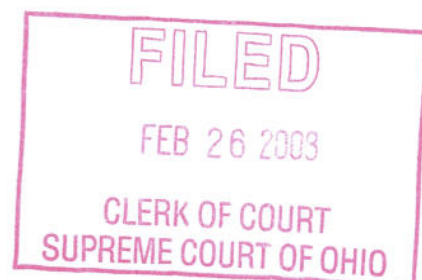
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Ohio Secretary of State Jennifer Brunner



Answer

Now comes Respondent Ohio Secretary of State Jennifer Brunner and gives the following for her answer to the Relators' complaint.

1. Denies each and every allegation not specifically admitted to.
2. With respect to the allegations contained in Paragraph 1 of the Complaint, admits that Robert W. Parrott is a member of the Union County Board of Elections but denies for lack of knowledge the remaining allegations contained in Paragraph 1 of the Complaint.
3. With respect to the allegations contained in Paragraph 2 of the Complaint, admits that the Union County Commissioners have attempted to bring this action under the statutes cited therein but denies that the Union County Commissioners have standing to bring this litigation under that statutory section or any others. The Respondent further denies that the Union County Commissioners have stated any claim whatsoever.
4. Admits the allegations contained in Paragraph 3 of the Complaint.
5. With respect to the allegations contained in Paragraph 4 of the Complaint, admits that the provisions cited therein vest this Court with original jurisdiction in cases of prohibition but denies that the Relators have stated any claim for a Writ of Prohibition.
6. With respect to the allegations contained in Paragraph 5 of the Complaint, the Respondent states that RC 2503.40 speaks for itself. The Respondent denies that the Relators are entitled to any alternative writ or any relief whatsoever.
7. With respect to the allegations contained in Paragraph 6 of the Complaint, the Respondent admits that Rule X, Section 9 of the Rules of Practice of the Supreme

Court does allow for expedited review of certain elections matters but denies that this matter meets the requirements for expedited review under that rule.

8. With respect to the allegations contained in Paragraph 7 of the Complaint, the Respondent states that RC 3506.02 speaks for itself and that the Relators have simply made a legal assertion, not a factual allegation as required by the Ohio Rules of Civil Procedure. As a result, the Respondent is not required to make any response to the allegations contained in Paragraph 7 of the Complaint. To the extent a response is necessary, the Respondent denies the allegations contained in Paragraph 7 of the Complaint.

9. Denies the allegations contained in Paragraph 8 of the Complaint.

10. Denies the allegations contained in Paragraph 9 of the Complaint.

11. With respect to the allegations contained in Paragraph 10 of the Complaint, admits that Secretary of State Brunner issued Directive 2008-01 on January 2, 2008. The Respondent further states that Directive 2008-01 speaks for itself and as such there is no reason to either admit or deny the remaining allegations contained in Paragraph 10 of the Complaint.

12. With respect to the allegations contained in Paragraph 11 of the Complaint, the Respondent states that Directive 2008-01 speaks for itself and the Respondent denies the allegations contained in Paragraph 11 of the Complaint.

13. Denies the allegations contained in Paragraph 12 of the Complaint.

14. With respect to the allegations contained in Paragraph 13 of the Complaint, the Respondent states that the Relators have only included a legal assertion, not a factual allegation, in Paragraph 13 of the Complaint. As a result, the Respondent is

not required to either admit or deny any of the allegations contained in Paragraph 13 of the Complaint. To the extent a response is required, the Respondent denies these allegations.

15. Denies the allegations contained in Paragraph 14 of the Complaint.

16. Denies the allegations contained in Paragraph 15 of the Complaint.

17. With respect to the allegations contained in Paragraph 16 of the Complaint, the Respondent states that the Relators have only included a legal assertion, not a factual allegation, in Paragraph 16 of the Complaint. As a result, the Respondent is not required to either admit or deny any of the allegations contained in Paragraph 16 of the Complaint. To the extent a response is required, the Respondent denies these allegations.

18. With respect to the allegations contained in Paragraph 17 of the Complaint, the Respondent states that the Relators have only included a legal assertion, not a factual allegation, in Paragraph 17 of the Complaint. As a result, the Respondent is not required to either admit or deny any of the allegations contained in Paragraph 17 of the Complaint. To the extent a response is required, the Respondent denies these allegations.

19. Denies the allegations contained in Paragraph 18 of the Complaint.

20. Denies the allegations contained in Paragraph 19 of the Complaint.

21. With respect to the allegations contained in Paragraph 20 of the Complaint, the Respondent admits that on February 5, 2008, she broke the tie vote of the Union County Board of Elections and that this tie breaking decision was released less

than 30 days before the March 4, 2008 Presidential Primary election. The Respondent denies the remaining allegations contained in Paragraph 20 of the Complaint.

22. With respect to the allegations contained in Paragraph 21 of the Complaint, the Respondent states that her tie-breaking vote decision speaks for itself and thus no response is necessary to the allegations contained in Paragraph 21 of the Complaint. To the extent a response is necessary, the Respondent denies the allegations contained in Paragraph 21 of the Complaint.

23. With respect to the allegations contained in Paragraph 22 of the Complaint, the Respondent states that her tie-breaking vote decision speaks for itself and thus no response is necessary to the allegations contained in Paragraph 22 of the Complaint. To the extent a response is necessary, the Respondent denies the allegations contained in Paragraph 22 of the Complaint.

24. With respect to the allegations contained in Paragraph 23 of the Complaint, the Respondent states that despite the fact that she had already entered a notice of appearance in the Union County Common Pleas Court, the Union County Commissioners and the Union County Prosecutor sought and obtained what purported to be an ex parte temporary restraining order in violation of Ohio R. Civ. P. 65 against the Respondent. That order was later declared to be void ab initio and of no force and effect. The Respondent denies the remaining allegations contained in Paragraph 23 of the Complaint.

25. Denies the allegations contained in Paragraph 24 of the Complaint.

26. With respect to the allegations contained in Paragraph 25 of the Complaint, the Respondent states that the lack of standing was only one of the reasons

that the Franklin County Common Pleas Court ruled against the Union County Commissioners in the case referred to in Paragraph 25. The Respondent states that the Judge's order in Union County Commissioners v. Brunner speaks for itself and there is no reason to either admit or deny the allegations contained in Paragraph 25 of the Complaint. To the extent a response is necessary, the Respondent denies the allegations contained in Paragraph 25 of the Complaint.

27. Denies the allegations contained in Paragraph 26 of the Complaint.

28. With respect to the allegations contained in Paragraph 27 of the Complaint, the Respondent states that the failure to join necessary parties including the Union County Board of Elections was only one of the reasons that the Franklin County Common Pleas Court ruled against the Union County Commissioners in the case referred to in Paragraph 27 of the Complaint. The Respondent states that the Judge's order in Union County Commissioners v. Brunner speaks for itself and there is no reason to either admit or deny the allegations contained in Paragraph 27 of the Complaint. To the extent a response is necessary, the Respondent denies the allegations contained in Paragraph 27 of the Complaint.

29. Denies the allegations contained in Paragraph 28 of the Complaint.

30. Denies the allegations contained in Paragraph 29 of the Complaint.

31. Denies the allegations contained in Paragraph 30 of the Complaint.

32. Denies the allegations contained in Paragraph 31 of the Complaint.

33. Denies the allegations contained in Paragraph 32 of the Complaint.

34. Denies that the Relators are entitled to any of the relief requested in the

WHEREFORE, having answered this Complaint, Respondent Ohio Secretary of State Jennifer Brunner raises the following defenses, including affirmative defenses.

First Defense

35. Laches bars this Court from hearing the Relators' Complaint.

Second Defense

36. This Court lacks the subject matter jurisdiction to hear the Relators' Complaint.

Third Defense

37. The Relators lack standing to assert their claims.

Fourth Defense

38. The Respondent has not exercised any judicial or quasi-judicial function.

Fifth Defense

39. The Relators have an adequate remedy at law.

Sixth Defense

40. The Relators' claims are barred by the doctrine of Fact Preclusion.

Seventh Defense

41. The Relators' claims are barred by the doctrine of Issue Preclusion.

Eight Defense

42. The Relators have failed to state a claim upon which relief can be granted.

Ninth Defense

43. This Court lacks jurisdiction to provide a remedy to the Relators because they really seek injunctive relief, not a Writ of Prohibition.

Tenth Defense

44. Directive 2008-01 is a lawful and appropriate exercise of the authority of the Ohio Secretary of State to ensure that each polling place in the State of Ohio has adequate polling place supplies as those terms are defined in RC 3501.30(A) and (B) as well as RC Chapter 3506.

Eleventh Defense

45. The Relators' Claims are Moot.

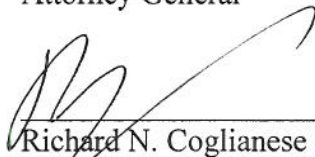
Twelfth Defense

46. The Respondent reserves the right to supplement her answer with additional defenses, including additional affirmative defenses, as discovery in this case progresses.

WHEREFORE, having answered the Relators' Complaint, the Respondent prays that this Court dismiss this case and grant the Respondent her costs and fees in defending this action.

Respectfully submitted,

MARC DANN
Attorney General



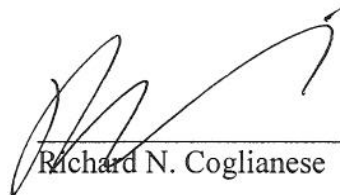
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Certificate of Service

This is to certify a copy of the foregoing was served upon the following by US Mail, postage prepaid, and by fax and email transmission on this 26th day of February, 2008.

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