

**IN THE SUPREME COURT OF OHIO**

State of Ohio *ex rel.*  
TRUMBULL COUNTY REPUBLICAN CENTRAL  
COMMITTEE  
1195 Niles Cortland Rd. SE  
Warren, Ohio 44484

SARAH THOMAS KOVOOR  
700 Muirwood Dr. SE  
Warren, Ohio 44484

Relators

vs.

TRUMBULL COUNTY BOARD OF ELECTIONS  
2947 Youngstown Rd. S.E.  
Warren, Ohio 44484

STEPHANIE N. PENROSE  
in her official capacity as Director  
2947 Youngstown Rd. SE  
Warren, Ohio 44484

OHIO SECRETARY OF STATE FRANK LAROSE  
22 North Fourth Street, 16th Floor  
Columbus, Ohio 43214

Respondents

CASE NO.

Original Action in Mandamus

Expedited Election Matter Under

S.C.Prac.R. 12.08

Peremptory Writs Requested.

A more accelerated time frame requested.

---

**VERIFIED COMPLAINT FOR WRITS OF MANDAMUS**

---

Sarah Thomas Kovoov (0069223)  
Kovoov Law, LLC  
P.O. Box 310  
Warren, OH 44482  
P: (330) 974-1212  
F: (330) 974-1220  
E: sarah.thomas.kovoov@gmail.com  
*Counsel for Relators*

Dennis Watkins (009949)  
Trumbull County Prosecuting Attorney  
Trumbull County Administration Bldg. 4th Floor  
160 High Street, NW  
Warren, Ohio, 44481  
P: (330) 675-2426  
F: (330) 675-2431  
E: prosecutor@co.trumbull.oh.us  
*Statutory counsel for Respondents Trumbull Co.  
Bd. of Elections and Stephanie N. Penrose*

Dave Yost  
OHIO ATTORNEY GENERAL  
Bridget C. Coontz (0072919)  
Assistant Attorney General  
Constitutional Offices Section  
30 E. Broad Street, 16th Floor  
Columbus, OH 43215  
P: (614) 466-2872  
E: [bridget.coontz@ohioago.gov](mailto:bridget.coontz@ohioago.gov)  
*Counsel for Respondent Ohio Secretary of  
State Frank LaRose*

This action is brought in the name of the State of Ohio on relation of the Trumbull County Republican Central Committee and Sarah Thomas Kovoov who aver as follows:

**Nature of the Action and Jurisdiction**

1. This is an original action in mandamus against the Trumbull County Board of Elections, Ohio Secretary of State Frank LaRose commenced pursuant to this Court’s original jurisdiction under Article IV, Section 2(B)(1)(b) of the Ohio Constitution and Chapter 2731 of the Ohio Revised Code, both of which govern mandamus actions, as well as Article IV, Section 2(B)(1)(f), which gives the Court original jurisdiction “[i]n any cause on review as may be necessary to its complete determination.”

2. This original action qualifies as an expedited election case under S.Ct.Prac.R. 12.08(A) because it is being filed within ninety (90) days prior to the election. This year’s general election (“General Election”) is set for November 8, 2022. Under S.Ct.Prac.R. 12.08(A), expedited election cases were permitted to be filed on or after August 10, 2022.

3. Relators request this Court to expedite this matter more than the accelerated time frame set forth in S.Ct.Prac.R. 12.08 for expedited election matters.

4. Sarah Thomas Kovoov (“Ms. Kovoov”) is an attorney licensed in good standing in the State of Ohio for 24 consecutive years and is therefore eligible to be elected to judicial office.

5. Relators’ action seeks a Writ of Mandamus from this Court compelling Respondents Trumbull County Board of Elections to immediately prepare and submit the motion, two position statements, minutes of the meeting at which the tie vote occurred, and any exhibits that had been admitted into evidence by email to the Secretary of State pursuant to Secretary of State Directive (“SOS Directive”) 2022-06 Section 2.01 TIE VOTES pages 30-32, that Ohio Secretary of State Frank LaRose (“Secretary LaRose”)

render his decision immediately and he also respond to Relators with his written opinion stating the facts, applicable law and reasons for the Secretary's decision.

6. Alternatively, Relators' action seeks a Writ of Mandamus from this Court compelling Secretary LaRose to render his decision immediately, prior to receiving position statements from the board of elections, and he also respond to Relators with his written opinion stating the facts, applicable law and reasons for the Secretary's decision.

7. Should Secretary LaRose's decision be to not certify Ms. Koor to the ballot, Relators' action seeks a Writ from this Court compelling Respondents Trumbull County Board of Elections and Secretary LaRose to cause the name of Sarah Thomas Koor to be printed on the ballots for use at the General Election pursuant to R.C. 3513.31(I): "the name shall be printed as the party candidate under proper titles and in the proper place on the proper ballots for use at the election".

8. Relators seek that the writ issue from this Court in sufficient time before September 23, 2022 to prevent any delay in UOCAVA<sup>1</sup> absentee ballots for the General Election being ready for use.

9. Relators affirmatively allege that they have acted with the utmost diligence and that there has been no unreasonable delay or lapse of time in asserting their rights given that that they commenced this action on the first business day following the being informed of the length of time to submit position statements by Respondent Board of Elections. Relator also affirmatively alleges that there is no prejudice to the Respondents. *See State ex rel. Polo v. Cuyahoga Cty. Bd. of Elections*, 74 Ohio St.3d 143, 145, 656 N.E.2d 1277 (1995).

---

1 Uniform and Overseas Citizens' Absentee Voting Act.

10. Relators lack an adequate remedy in the ordinary course of the law because of the proximity to the General Election. *State ex rel. Allen v. Warren Cty. Bd. of Elections*, 115 Ohio St.3d 186, 2007-Ohio-4752, 874 N.E.2d 507, ¶ 8. The ordinary course of the law recently required 23 days as reflected in the July 28, 2022 certification of independent candidate Robert Lancaster for Clark county Common Pleas Judge. <https://www.ohiosos.gov/globalassets/elections/tievotes/2022/2022-07-28-clark.pdf>.

### **Parties**

11. Relator Trumbull County Republican Central Committee (the “Trumbull GOP”) is county central committee consisting of one member from each election precinct in the county created by R.C. 3517.03.

12. Relator Sarah Thomas Kovoov (“Ms. Kovoov”) is an attorney and a taxpayer who resides in Howland Township, Trumbull County, Ohio.

13. Respondent Trumbull County Board of Elections (the “Board”) is the duly established and acting election authority for Trumbull County, Ohio, pursuant to R.C. 3501.06. Pursuant to R.C. 3501.11(K)(1), the Trumbull County Board of Elections has the duty to “[r]eview, examine, and certify the sufficiency and validity of petitions and nomination papers” for candidates in Trumbull County, Ohio, including candidates for the Court of Common Pleas, for the General Election. The Board is currently comprised of four members: Mark A. Alberini (“Mr. Alberini”), Arno A. Hill (“Mr. Hill”), Diana J. Marchese (“Ms. Marchese”), and Ronald A. Knight (“Mr. Knight”). Mr. Alberini is currently the chairman.

14. Respondent Stephanie N. Penrose (“Ms. Penrose”) is the Director of Respondent Board and is named in her official capacity. Edrea K. Mientkiewicz (“Ms. Mientkiewicz”) is the Deputy Director of Respondent Board.

15. Respondent Secretary of State Frank LaRose (“Secretary LaRose”) is the chief election officer of Ohio and has duties to “[i]ssue instructions by directives and advisories . . . to members of the [county boards of elections] as to the proper methods of conducting elections,” “[p]repare rules and instructions for the conduct of elections,” “[d]etermine and prescribe the forms of ballots,” and “[c]ompel the observance by election officers in the several counties of the requirements of the election laws.” R.C. 3501.05(B), (C), (G), and (M). The boards of elections must perform “duties as prescribed by law or the rules, directives, or advisories of the secretary of state.” R.C. 3501.11(P).

#### **Allegations in Support of Claims**

16. The day one hundred fifteen days before the day of a primary election of May 3, 2022 is January 8, 2022.

17. Judge Peter J. Kontos resigned from the Trumbull Court of Common Pleas effective July 31, 2022, precisely 204 days subsequent to January 8, 2022 and 100 days before the general election of November 8, 2022, creating a vacancy in that elective office (the “Vacancy”).

18. R.C. 3513.31(I) provides that:

If a person holding an elective office \* \* \* resigns subsequent to the one hundred fifteenth day before the day of a primary election and prior to the eighty-sixth day before the day of the next general election, and if, under the laws of this state, a person may be elected at that general election to fill the unexpired term of the person who has \* \* \* resigned, the appropriate committee of each political party, acting as in the case of a vacancy in a party nomination, as provided in divisions (A) to (D) of this section, may select a person as the party candidate for election for such unexpired term at that general election, and certify the person's name to the appropriate election official not later than four p.m. on the eighty-sixth day before the day of that general election, or on the tenth day following the day on which the vacancy occurs, whichever is later. \* \* \* Thereupon the name shall be printed as the party candidate under proper titles and in the proper place on the proper ballots for use at the election. If a person

has been nominated in a primary election or nominated by petition under section 3517.012 of the Revised Code, the authorized committee of that political party shall not select and certify a person as the party candidate.

19. Under the laws of this state, a person may be elected at that general election to fill the unexpired term of Peter J. Kontos, who has resigned.

20. Relator Trumbull GOP, being the appropriate committee for the Republican party, acting as in the case of a vacancy in a party nomination, as provided in R.C. 3513.31 divisions (A) to (D), has selected Sarah Thomas Kovoov as the party candidate for election for the unexpired term of Peter J. Kontos at the General Election, and has timely certified Sarah Thomas Kovoov's name to the appropriate election official, Respondent Trumbull County Board of Elections pursuant to R.C. 3513.31.

21. Ms. Kovoov has not been nominated in a primary election.

22. Ms. Kovoov has not been nominated by petition under R.C. 3517.012.

23. Ms. Kovoov has not become a candidate by nominating petition.

24. On August 16, 2022 at 11:16am, Ms. Penrose sent an email with the subject “Kontos seat” to assistant prosecuting attorneys Jason M. Toth and William J. Danso. (“Mr. Toth” and “Mr. Danso” respectively). The body of said email reads as follows:

Good morning,

A section of ORC was brought to my attention by Tribune reporter David Skolnick, 3513.04. He also referenced Brown v Ashtabula County Bd of Elections.

It appears to say that anyone who ran for an office in a partisan primary cannot run for any office in the general election.

Sarah Thomas Kovoov, the Republican nominee for Judge Kontos' seat, was an unsuccessful candidate for an Unexpired term for 11th District Court of Appeals.

Please advise.

Thank you!

25. On August 17, 2022, Mr. Danso and Mr. Toth responded to Ms. Penrose's opinion request relying on a flawed application of R.C. 3513.04 and of *State ex rel. Brown v. Ashtabula Cty. Bd. of Elections*, 142 Ohio St.3d 370, 2014-Ohio-4022 to arrive at the following erroneous conclusion:

Under the factual circumstances that you have presented to our office, it is our opinion that Ms. Kovoov, who was unsuccessful as a candidate in the May 2022 Republican Party primary election for an unexpired seat on the Court of Appeals of Ohio, Eleventh District, may not run for Judge Kontos' vacant office in the November 2022 general election, based on the clear language of the referenced portion of R.C. 3513 .04.

26. On August 18, 2022 at 2:35pm, Mr. Danso sent an email with the subject "Appointment for Vacancy - Follow Up" to Ms. Penrose and Ms. Mientkiewicz which includes the statement "I also pointed out to Mr. Hill that the inclusion of this language relating to vacancies is relatively new in the statute, so there is not much legal authority guiding any additional interpretation."

27. On August 19, 2022, the Board held a special meeting to certify candidates and issues to the ballot for the General Election. Neither Mr. Danso nor Mr. Toth were in attendance.

28. In that meeting, Mr. Alberini incorrectly argued that:

This statute was from 1997. It was upheld. It went up in front of another Supreme Court in 2014 in which it was upheld. So, this has been on the books for a while and upheld each time.

29. Mr. Alberini continued to argue the law for much of the meeting.

30. With his argument, Mr. Alberini persuaded Ms. Marchese to join him in voting "no" to the motion to certify Ms. Kovoov to the ballot for the General Election



with Mr. Hill and Mr. Knight voting “yes”. As a result of the tie vote, Secretary LaRose must render a decision.

31. In all cases of a tie vote or a disagreement in the board, if no decision can be arrived at, the director or chairperson shall submit the matter in controversy, not later than fourteen days after the tie vote or the disagreement, to the secretary of state, who shall summarily decide the question, and the secretary of state's decision shall be final.

32. The pertinent language, “or by filling a vacancy under section 3513.31 of the Revised Code”, on which the votes of Mr. Alberini and Ms. Marchese to deny Ms. Kovoor’s certification relied, has never been challenged in this Court. It is, in the words of Mr. Danso, “relatively new in the statute, so there is not much legal authority guiding any additional interpretation.”

33. The *Brown* court did not consider the constitutionality of R.C. 3513.04 in its entirety but only in part as shown following:

No person who seeks party nomination for an office or position at a primary election \* \* \* shall be permitted to become a candidate by nominating petition \* \* \* at the following general election for any office other than the office of member of the state board of education, office of member of a city, local, or exempted village board of education, office of member of a governing board of an educational service center, or office of township trustee. (Emphasis deleted) *Brown* ¶ 28.

34. As of August 24, 2022, Secretary LaRose has not decided to certify Ms. Kovoor to the ballot for the General Election. If this Court does not act, the Democrat appearing on the ballot for the contest for to fill the unexpired term will be unopposed.

35. The last paragraph of R.C. 3513.04 affects only the rights of candidates, not the rights of a county central committee in general and the Trumbull GOP specifically.

36. This Court has held that the constitutionality of a statute may, in certain instances, be challenged by mandamus. *State ex rel. Zupancic v. Limbach* (1991), 58 Ohio St.3d 130, 133, 568 N.E.2d 1206, 1209; see, also, *State ex rel. Brown v. Summit Cty. Bd. of Elections* (1989), 46 Ohio St.3d 166, 545 N.E.2d 1256.

37. Relators challenge the constitutionality of applying R.C. 3517.04 to R.C. 3513.31(I) here as seeking relief in declaratory judgment would not be adequate due to the proximity of the General Election.

### **Claims for Relief**

#### **First Claim for Relief: Relators Are Entitled to a Writ of Mandamus ordering Secretary LaRose to Render a Timely Decision.**

38. Relators incorporate the above paragraphs as if fully rewritten herein.

39. Relators have a clear legal right to have Sarah Thomas Kovoov certified to the ballot as the Republican Party's candidate to fill the unexpired term of Peter J. Kontos on the Court of Common Pleas in the General Election.

40. Secretary LaRose has a clear legal duty under R.C. 3501.11(X) and SOS Directive 2022-06 to render a decision on the tie vote in sufficient time to allow this Court to timely decide this case and Relators to carry on a campaign for the office.

41. Relators are prejudiced by the delay due to the campaign limitations placed on candidates for judges by Jud.Cond. Canon 4.

42. Respondents have been unjustly denied that right through the unconstitutional application of R.C. 3513.04 to the selection of a candidate under R.C. 3513.31(I).

43. Relators lacks any adequate remedy in the ordinary course of the law.

#### **Second Claim for Relief: Relator Trumbull GOP is Entitled to a Writ of Mandamus to have its Candidate Certified to the November 8, 2022 General Election Ballot.**

44. Relators incorporate the above paragraphs as if fully rewritten herein.

45. Relator Trumbull GOP has a clear legal right to have the person it selected pursuant to R.C. 3513.31(I), Sarah Thomas Kovoov, certified to the ballot as the Republican Party's candidate to fill the unexpired term of Peter J. Kontos on the Court of Common Pleas in the General Election.

46. Respondents have been unjustly denied that right through the unconstitutional application of R.C. 3513.04 to the selection of a candidate under R.C. 3513.31(I).

47. Relator Trumbull GOP lacks any adequate remedy in the ordinary course of the law.

**Third Claim for Relief: Relator Sarah Thomas Kovoov is Entitled to a Writ of Mandamus to have its Candidate Certified to the November 8, 2022 General Election Ballot**

48. Relators incorporate the above paragraphs as if fully rewritten herein.

49. Relator Sarah Thomas Kovoov has a clear legal right to be certified to the ballot as the Republican Party's candidate to fill the unexpired term of Peter J. Kontos on the Court of Common Pleas in the General Election.

50. Respondents have unjustly denied that right through the unconstitutional application of R.C. 3513.04 to the selection of a candidate under R.C. 3513.31(I).

51. Relator Sarah Thomas Kovoov lacks any adequate remedy in the ordinary course of the law.

**Prayer for Relief**

WHEREFORE, Relators pray the Court grant all of the following:

- (1) Issue an Order, Judgment and/or Peremptory Writ of Mandamus ordering Respondent Secretary of State Frank LaRose to render a decision immediately on the tie vote.

- (2) Issue an Order, Judgment and/or Peremptory Writ of Mandamus ordering Respondents Trumbull County Board of Elections and Secretary of State Frank LaRose to certify Sarah Thomas Kovoov to the ballots for use at the General Election as a candidate to fill the unexpired term of Peter J. Kontos on the Court of Common Pleas;
- (3) Assess all costs of this action against Respondents Trumbull County Board of Elections and Secretary of State Frank LaRose;
- (4) Award Relators their attorneys' fees and expenses; and
- (5) Award such other relief as may be appropriate.

Respectfully submitted,

  
Sarah Thomas Kovoov (0069223)  
Kovoov Law, LLC  
P.O. Box 310  
Warren, OH 44482  
P: (330) 974-1212  
F: (330) 974-1220  
E: sarah.thomas.kovoov@gmail.com  
*Counsel for Relators*

**AFFIDAVIT OF VERIFICATION**

State of Ohio            )  
                                  ) SS  
County of Trumbull    )

Now comes Michael A. Bollas, who, having first been duly cautioned and sworn deposes and says as follows:

1. I am, and have been during all time periods relevant to the foregoing Complaint, a citizen and taxpayer residing in Trumbull County, Ohio.
2. I have reached the age of majority and am competent to make these statements.
3. I have read the foregoing Complaint and swear that I have personal knowledge of the facts stated therein and that the facts stated therein are true and accurate to the best of my knowledge, information, and belief.
4. I am the duly elected chair of the Trumbull County Republican Central Committee.

Further, Affiant sayeth naught.

Michael A. Bollas  
Michael A. Bollas

Before me, a Notary Public in and for said county and state, personally appeared Michael A. Bollas who swore to the truth of the foregoing Affidavit of Verification and subscribed same in my presence at Warren, Ohio on this 24<sup>th</sup> day of August, 2022.



Kaila Alderman  
Notary Public, State of Ohio  
My Commission Expires:  
07/11/2027

Kaila Alderman  
Notary Public  
My Commission Expires: 7/11/2027

**AFFIDAVIT OF VERIFICATION**

State of Ohio            )  
                                  ) SS  
County of Trumbull    )

Now comes Sarah Thomas Kovoov, who, having first been duly cautioned and sworn deposes and says as follows:

1. I am, and have been during all time periods relevant to the foregoing Complaint, a citizen, elector, and taxpayer residing in Trumbull County, Ohio.
2. I have reached the age of majority and am competent to make these statements.
3. I have read the foregoing Complaint and swear that I have personal knowledge of the facts stated therein and that the facts stated therein are true and accurate to the best of my knowledge, information, and belief.


Further, Affiant sayeth naught.

  
\_\_\_\_\_  
Sarah Thomas Kovoov

Before me, a Notary Public in and for said county and state, personally appeared Sarah Thomas Kovoov who swore to the truth of the foregoing Affidavit of Verification and subscribed same in my presence at Warren, Ohio on this 24<sup>th</sup> day of August, 2022.



Kaila Alderman  
Notary Public, State of Ohio  
My Commission Expires:  
07/11/2027

  
\_\_\_\_\_  
Notary Public  
My Commission Expires: 7/11/2027