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IN THE
Supreme Court of the United States

State of Ohio, ex. Rel Terpsehore P. Maras
Petitioner,

v.

Frank Larose, in his Official Capacity as Ohio Secretary of State
Respondent.

**MOTION FOR EXPEDITED CONSIDERATION OF PETITION FOR
EXTRAORDINARY WRIT OF MANDAMUS AND EXPEDITED MERITS BRIEFING
IN THE EVENT THE PETITION IS GRANTED**

Independent candidate for Ohio Secretary of State Terpsehore P. Maras (“Petitioner Maras”) moves, pursuant to Supreme Court Rule 21, for expedited consideration of the petition for extraordinary writ of mandamus and merit briefing to review the October 28, 2022 Ohio Supreme Court judgment in the case captioned: *State ex rel. Maras v. LaRose*, No. 2022-Ohio-3852. In this case, the Ohio Supreme Court decided on October 28, 2022 that Petitioner Maras was not entitled to a writ of mandamus compelling Ohio Secretary of State Frank LaRose to allow Petitioner Maras to appoint her own election observers on the grounds Ohio election law — which allows a candidate who is not affiliated with a political party to appoint election observers but only if he or she makes the request as part of a group of five candidates — is unconstitutional under the Equal Protection Clause of the United States Constitution given unaffiliated candidates have no such requirement.

The petition was filed today, November 2, 2022, three business days after the Ohio Supreme Court published its decision and six days before the November 8, 2022 general election. Petitioner Maras respectfully requests expedited consideration of her petition and an expedited merit briefing schedule so the Court may rule by November 7, 2022.

STATEMENT

Ohio electoral law provides for the appointment of election observers to observe the casting and counting of ballots. O.R.C. 3505.21(B) states:

At any primary, special, or general election, any political party supporting candidates to be voted upon at such election and any group of five or more candidates may appoint to the board of elections or to any of the precincts in the county or city one person, a qualified elector, who shall serve as observer for such party or such candidates during the casting of the ballots and during the counting of the ballots; * * *.

Any political party or group of candidates appointing observers must notify the board of elections of its appointees and the precincts at which they will serve as observers. O.R.C. 3505.21(C). This notification must occur at least 11 days before the election, on forms prescribed by the secretary of state.

Petitioner Maras is a general-election candidate for Ohio Secretary of State. She appears on the November 2022 general-election ballot as an independent candidate, rather than one affiliated with a political party. It is noteworthy that Petitioner Maras was rejected as a candidate after the Ohio Secretary of State rejected her nominating petition, Petitioner Maras first had to seek relief from a decision of the Ohio Secretary of State barring her from running. On September 20, 2022, the Ohio Supreme Court granted a writ of mandamus “to compel Ohio Secretary of State Frank LaRose to add nine valid signatures to the total number of signatures on Terpsehore P. Maras’s nominating petition and to certify Maras’s name to the November 8, 2022 ballot as an independent candidate for Ohio Secretary of State, consistent with the opinion rendered herein.” *See State ex rel. Maras v. LaRose*, Slip Opinion No. 2022-Ohio-3295.

After getting on the ballot in late September, Petitioner Maras attempted to assert her rights as a candidate - including the right to appoint election observers. As a candidate who is not affiliated with a political party Petitioner Maras, however, was required to join with at least

four other candidates to appoint election observers under R.C. 3505.21(B). To comply with this constitutionally infirm statute, Petitioner Maras contacted eight other candidates to join her in appointing observers but was unsuccessful in finding four that would do so.

On October 12, 2022, Petitioner Maras filed an expedited election mandamus action directly in the Ohio Supreme Court arguing O.R.C. 3505.21(B) imposes unconstitutional restrictions on her ability to appoint election observers. Petitioner Maras asserted that the disparate treatment between non-affiliated candidates and party-affiliated candidates violates the Equal Protection Clause of the United States Constitution because it makes appointing election observers practically impossible for a non-affiliated candidate, thus infringing on the fundamental right to vote.

After expedited briefing on the matter pursuant to the Ohio Supreme Court's Expedited Election Case Rule of Procedure 12.08, the Ohio Supreme Court found on October 28, 2022, that O.R.C. 3505.21(B) does not violate the Equal Protection Clause. It found the appointment of election observers does not impact the fundamental right to vote and therefore, O.R.C. 3505.21(B) is not subject to strict scrutiny under the Equal Protection Clause. *State ex rel. Maras v. LaRose*, 2022-Ohio-3852, ¶ 19. Instead, the Ohio Supreme Court applied the rational basis test and found "O.R.C. 3505.21(B) is rationally related to a legitimate government interest and is therefore constitutional under the Equal Protection Clause." *Id.* at ¶ 17.

Petitioner Maras expeditiously filed her petition arguing the United States Supreme Court should respectfully review the Ohio Supreme Court's decision under 28 U.S.C. § 1257 because her challenge is to "the validity of a statute of any State... on the ground of its being repugnant to the Constitution ... of the United States." This petition also raises an important question of federal law that should be settled by the Court, namely whether a candidate's statutory right to

appoint election observers impacts the fundamental right to vote. Petitioner Maras believes the answer is in the affirmative and that O.R.C. 3505.21(B) must be subject to the strict scrutiny test or *Anderson-Burdick* test to determine whether it violates the Equal Protection Clause.

Because this issue may become moot on November 8, 2022, Petitioner Maras seeks an expedited consideration of her petition and an expedited merit briefing schedule in which Respondent's response brief is due November 3, 2022. If the petition is granted, then Petitioner requests simultaneous merit briefs be required on November 4, 2022 and responses due the next day on November 5, 2022 to allow the Court to make a ruling by November 7, 2022.

ARGUMENT

This Court should review the Ohio Supreme Court's decision and enter an appropriate remedy on an expedited basis.

28 U.S.C. § 1257 provides the only procedural mechanism by which Petitioner Maras may seek appellate review of whether the appointment of election observers impact the fundamental constitutional right to vote. Under the *Rooker-Feldman* doctrine, lower federal courts are precluded from exercising appellate jurisdiction over final state-court judgments. *Lance v. Dennis*, 546 U.S. 459, 463, 126 S. Ct. 1198, 1201, 163 L. Ed. 2d 1059 (2006). Petitioner Maras properly exhausted her state remedies by seeking a writ of mandamus at the Ohio Supreme Court, which ruled that it had jurisdiction to make a ruling on this federal question. *State ex rel. Maras v. LaRose*, 2022-Ohio-3852, ¶ 15. Thus, the next and final step is for this Court to decide whether or not to grant a petition to take appellate jurisdiction over this important federal question.

If this Court determines this important federal question should be decided, then it must respectfully do so on an expedited basis. Otherwise, the federal question may become moot if a

decision is not rendered prior to the November 8, 2022 general election. *Brockington v. Rhodes*, 396 U.S. 41, 43 (1969) (holding an appeal of an Ohio expedited election mandamus case is moot because the election is over). In short, to provide the extraordinary relief Petitioner Maras sought at the Ohio Supreme Court, this Court would have to reverse the Ohio Supreme Court's decision prior to the November 8, 2022 general election. *Id* at 44 (quoting, "it is now impossible to grant the appellant the limited, extraordinary relief he sought in the Ohio courts"). Therefore, an expedited merit briefing schedule which requires all merit and response briefs be filed prior to November 4, 2022 is necessary to render a decision on or before November 7, 2022.

This Court's expedited review will in no way prejudice Respondent, because Secretary LaRose has an interest in Ohio law complying with the United States Constitution. Further, Respondent has a capable and experienced legal team in the Ohio Attorney General Constitutional Offices Section who regularly submit merit briefs on an expedited basis for the numerous expedited election mandamus cases filed before the Ohio Supreme Court every election cycle. Requiring an expedited merit briefing schedule would be par for the course for them and not cause prejudice in any way.

More to the point, if this matter is not timely resolved, not only will Petitioner Maras' supporters, but the Nation as whole, may suffer injury from the lack of answer on this important federal question. Large swaths of the population on both sides and between the aisle have come to doubt election outcomes due to allegations of fraud and voter suppression. The appointment of election observers is the established mechanism by which voters supporting both party-affiliated and independent unaffiliated candidates such as Petitioner Maras can verify for themselves that elections are conducted in a fair and free manner. Any law that imposes more onerous restrictions on an independent candidate's ability to appoint election observers severely impacts that

independent candidate supporters' right to vote, because the supporters have no other mechanism to "trust but verify" if their vote was properly counted or not. In a letter to Ohio Secretary of State LaRose dated October 22, 2022, Congressman Rodney Davis, Ranking Member Committee on House Administration wrote "election observers have the authority to be in rooms where local elections officials process ballots, tabulate votes, to see where ballots are stored, and to observe other, non-public process". See Letter, dated October 22, 2022, last accessed on November 2, 2022 at: <https://justthenews.com/sites/default/files/2022-10/DavisLetterToLaRoseOhioElnObsevers.pdf>. More to the point, election observers are the on-the-ground persons present "to ensure that conduct of the election was free and fair". *Id.* Prompt review of this petition and an expedited merit briefing schedule is an important step towards helping restore the public's confidence in our system of free and fair elections through the increased transparency afforded by election observers.

Petitioner Maras respectfully submits that Respondent should be directed to file a response to the petition by 5 p.m. on November 3, 2020. If the petition is granted, Petitioner Maras respectfully submits that the case should respectfully be decided based on the petition and response. Given the time constraints of this matter, Petitioner Maras waives her right to reply.

Respectfully submitted this 2nd day of November,

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