

## SUPREME COURT OF OHIO

### State ex rel. White v. Franklin County Board of Elections

State ex rel. White v. Franklin Cty. Bd. of Elections, 2020-Ohio-524 (Ohio 2020) · No. 2020-0150 · Decided February 14, 2020

#### SUMMARY

The Supreme Court of Ohio denied Tiffany M. White's petition for a writ of mandamus seeking to compel the Franklin County Board of Elections to place her name on the March 17, 2020 primary ballot. The court held that White failed to establish by clear and convincing evidence that disputed petition signatures were genuine or that the board abused its discretion in rejecting them. The court also denied White's motion to strike an amicus curiae brief.

#### CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Ohio                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| WRITING FOR THE COURT | Per Curiam; Maureen O'Connor, Chief Justice; Maureen O'Connor, C.J.; Pat DeWine, Justice; Judith L. French, Justice; Patrick F. Fischer, Justice; Michael P. Donnelly, Justice; Mary DeGenaro Stewart, Justice; Sharon L. Kennedy, Justice                                                                                                                                                                                                                                                      |
| JURISDICTION          | Ohio                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| DECIDED               | February 14, 2020                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| DOCKET                | 2020-0150                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| DISPOSITION           | writ_denied                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| PROCEDURAL POSTURE    | Original action in mandamus seeking to compel the Franklin County Board of Elections to place White's name on the March 17, 2020 primary ballot. White also moved to strike an amicus curiae brief.                                                                                                                                                                                                                                                                                             |
| STANDARD OF REVIEW    | A mandamus relator must prove by clear and convincing evidence a clear legal right to the requested relief, a clear legal duty on the respondent to provide it, and the absence of an adequate remedy in the ordinary course of law. In reviewing an elections board's decision, the court determines whether the board engaged in fraud, corruption, abuse of discretion, or clear disregard of applicable law. Abuse of discretion means acting unreasonably, arbitrarily, or unconscionably. |
| PRECEDENTIAL VALUE    | Published Ohio Supreme Court opinion; precedential                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

## PARTIES

Tiffany M. White, Tiffany White 4 the People v. Franklin County Board of Elections, Members of the Franklin County Board of Elections

## TOPICS

ballot access election law appellate procedure remedies standard of review

## PRACTICE AREAS

Election law Ballot access Mandamus Appellate procedure

## QUESTIONS PRESENTED

1. Whether White established a clear legal right to placement on the ballot and a corresponding clear legal duty by the board to certify her name based on unsworn statements concerning three disputed petition signatures.
2. Whether the board abused its discretion by rejecting Harmon's petition signature because it was printed rather than written in cursive.
3. Whether the court should strike the amicus curiae merit brief.

## HOLDINGS

1. White failed to establish by clear and convincing evidence that the disputed petition signatures were genuine or that the board abused its discretion in rejecting them; therefore, she did not establish a clear legal right to placement on the ballot or a clear legal duty requiring the board to certify her.
2. A printed signature is not invalid merely because it is printed rather than cursive, but White failed to prove that the board rejected Harmon's signature on that impermissible basis rather than because of a print-versus-cursive mismatch with the voter-registration signature.
3. The motion to strike was denied because an amicus curiae may file a merit brief in an original action without leave of court, and White identified no authority supporting striking the brief on the other grounds asserted.

## KEY QUOTATIONS

*"Although the caselaw speaks in terms of establishing whether a signature is genuine, \* \* \* the duty of the boards of elections is to establish the authenticity of the elector, not the signature."* (§ 11)

*"An affidavit must appear, on its face, to have been taken before the proper officer and in compliance with all legal requisites. A paper purporting to be an affidavit, but not to have been sworn to before an officer, is not an affidavit."* (§ 13)

## FACTUAL BACKGROUND

White sought the Democratic nomination for state representative for Ohio's 25th House District and needed at least 50 valid signatures to qualify for the ballot. After a protest, the Franklin County Board of Elections invalidated White's own signature, leaving her with 49 valid signatures, and rescinded her ballot certification. White relied on documents purportedly signed by three electors to establish additional signatures, but the documents were unsworn statements, lacked a notary signature and jurat, and were not supported by voter-registration forms or sworn testimony establishing the electors' authenticity.

## PROCEDURAL HISTORY

White filed a declaration of candidacy and nominating petition containing 89 signatures. After initially finding 47 valid signatures, the board's secondary review found 50 and certified White for the ballot. Following a protest, the board invalidated White's own signature, leaving 49 valid signatures, rescinded her certification, and did not address whether three additional signatures were valid. White then filed this original mandamus action in the Supreme Court of Ohio, which denied both the writ and her motion to strike.

## DISPOSITION

writ\_denied

## CASES CITED

- State ex rel. Davis v. Summit Cty. Bd. of Elections, 137 Ohio St.3d 222, 2013-Ohio-4616, 998 N.E.2d 1093, ¶ 12
- State ex rel. Finkbeiner v. Lucas Cty. Bd. of Elections, 122 Ohio St.3d 462, 2009-Ohio-3657, 912 N.E.2d 573, ¶ 18
- Whitman v. Hamilton Cty. Bd. of Elections, 97 Ohio St.3d 216, 2002-Ohio-5923, 778 N.E.2d 32, ¶ 11
- State ex rel. McCann v. Delaware Cty. Bd. of Elections, 155 Ohio St.3d 14, 2018-Ohio-3342, 118 N.E.3d 224, ¶ 12
- State ex rel. Scott v. Franklin Cty. Bd. of Elections, 139 Ohio St.3d 171, 2014-Ohio-1685, 10 N.E.3d 697, ¶¶ 7, 17, 19
- State ex rel. Crawl v. Delaware Cty. Bd. of Elections, 144 Ohio St.3d 346, 2015-Ohio-4097, 43 N.E.3d 406, ¶¶ 4, 11
- Georgetown v. Brown Cty. Bd. of Elections, 2019-Ohio-3915, ¶¶ 14, 20-25
- In re Disqualification of Pokorny, 74 Ohio St.3d 1238, 657 N.E.2d 1345 (1992)
- State ex rel. Heavey v. Husted, 152 Ohio St.3d 579, 2018-Ohio-1152, 99 N.E.3d 372, ¶¶ 7, 10-11
- State ex rel. Auken v. Blackwell, 10th Dist. Franklin No. 04AP-952, 2004-Ohio-5355, ¶ 19
- State ex rel. Duke Energy Ohio, Inc. v. Hamilton Cty. Court of Common Pleas, 126 Ohio St.3d 41, 2010-Ohio-2450, 930 N.E.2d 299, ¶ 11

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