IN THE SUPREME COURT OF THE UNITED STATES

SAMUEL RONAN and ANA CORDERO, Petitioners/Applicants, v. FRANK LAROSE, in his official capacity as Secretary of State of Ohio, and DOUGLAS J. PREISSE, MEREDITH FREEDHOFF, JAMIE L. SHUMAKER, and MICHAEL E. SEXTON, in their official capacities as members of the Franklin County Board of Elections, Respondents	**No. _____**

PETITIONERS' EMERGENCY APPLICATION FOR PRELIMINARY INJUNCTION PENDING APPEAL, ADMINISTRATIVE STAY AND EXPEDITED BRIEFING

Petitioners-Applicants respectfully request under Supreme Court Rule 23 an injunction pending their appeal from the District Court's April 2, 2026 Order denying Appellants' Motion for Temporary Restraining Order and Preliminary Injunction. *See* Doc. No. 32 (Order) (copy attached); Doc. No. 34 (Transcript and Opinion) (copy attached). The Sixth Circuit on April 6, 2026 denied Petitioners' emergency motion for a stay of the District Court's decision to lift its Temporary Restraining Order and for Petitioners' motion for injunction pending appeal. *See* Order (Batchelder, Larsen, Readler, JJ.), Doc. 20-1 (copy attached).

Applicants certify that this is an urgent matter of ballot access for Ohio's May 5, 2026 primary election. Applicant Ronan was previously certified to Ohio's Republican primary election ballot on February 17, 2026 by the Franklin County Board of Elections, then removed by the Secretary of State on March 19, 2026 (the day before UOCAVA ballots were to be sent out). The

District Court entered a temporary restraining order restoring Applicant Ronan to Ohio's ballot on March 20, 2026, Doc. 10 (TRO), but then entered an order denying further preliminary injunctive relief to keep him on the Ohio ballot on April 2, 2026. *See* Doc. 32. By that same order, acting upon Applicants' oral motion, *see* Doc. 34 at PageID# 1324, the District Court stayed lifting its TRO until 12:00 Noon on Monday, April 6, 2026 to allow Applicants time to seek emergency relief from this Court before removing Ronan from the ballot. *See* Doc. 34 at PageID# 1325.

Because time is of the essence, with the TRO preserving Applicant Ronan's ballot certification having dissolved at 12:00 Noon on April 6, 2026 and early voting in Ohio beginning on the morning of April 7, 2026, Applicants respectfully seek emergency relief from this Court. Specifically, Applicants respectfully request an immediate administrative stay of the District Court's April 2, 2026 order dissolving its Temporary Restraining Order and a preliminary injunction protecting his placement on Ohio's ballot.

Introduction

The First Amendment violation in this case warrants immediate injunctive relief. By their own written admission, Respondents removed Applicant Ronan from Ohio's Republican primary ballot based solely on the content of his political speech. They concluded that his past statements on various political issues were inconsistent with Republican principles and that he therefore must have lied when he swore under oath that he is a Republican and intends to abide by Republican principles. But Applicant Ronan did not lie. More important, the Elections Clause does not authorize Respondents to inquire into the content of Applicant Ronan's core political speech, and the Free Speech Clause of the First Amendment forbids it. The District Court committed clear error by concluding that Respondents' actions imposed a "minimal burden" under the *Anderson-Burdick* framework, and this Court should grant an immediate administrative stay and enter a preliminary

injunction to correct the District Court's error and restore Applicant Ronan to Ohio's primary ballot.

Factual and Procedural Background

This is an original action brought under 42 U.S.C. § 1983, *Ex parte Young*, 209 U.S. 123 (1908), and the First Amendment against Ohio's Secretary of State in his official capacity and Members of the Franklin County Board of Elections in their official capacities. Applicants seek emergency declaratory and injunctive relief preventing Respondents from using O.R.C. § 3513.07 to remove Applicant Ronan from Ohio's 15th District Republican congressional primary ballot. The election is scheduled for May 5, 2026, with UOCAVA voting already underway (with Applicant Ronan's name included on the ballot pursuant to the TRO) and early voting beginning on April 7, 2026.

On March 19, 2026, late in the afternoon, Respondent LaRose announced that he was removing Applicant Ronan from Ohio's primary ballot based on a protest ostensibly lodged by an Ohio voter. Applicants were not notified; they learned of the decision through a news release. Applicant Ronan immediately filed in District Court the following morning and was awarded a temporary restraining order later that day ordering Respondents to keep his name on Ohio's ballots until a preliminary injunction hearing could be held on April 2, 2026. The District Court ruled that there was a strong likelihood Applicant Ronan would prevail on his First Amendment claims. His name was therefore included on overseas ballots. *See* Doc. 10 (Order).

Applicant Ronan was certified by the Franklin County Board of Elections as a ballot-qualified candidate for Ohio's Republican Party May 5, 2026 primary election to fill Ohio's 15th Congressional District on or about February 17, 2026. Ronan had timely satisfied the statutory requirements to qualify for the ballot and had truthfully declared pursuant to O.R.C. § 3513.07

both "I am a member of the Republican Party" and "I further declare that, if elected to said office or position, I will qualify therefor, and that I will support and abide by the principles enunciated by the Republican Party."

On February 20, 2026 Applicant Ronan's candidacy was protested by Marc A. Schare. *See* Ver. Com., Doc. 1, Ex. A. Schare's protest claimed that Applicant Ronan was not ideologically a Republican and did not intend to abide by Republican principles if elected. Schare claimed that because of Applicant Ronan's lack of ideological agreement with what Schare deemed to be acceptable Republican principles, Ronan's declaration of candidacy under O.R.C. § 3513.07 was not truthful. Applicant Ronan, Schare claimed, was thus precluded from running as a candidate in Ohio's Republican primary.

At the March 6, 2026 hearing before the Franklin County Board of Elections, Schare pointed to O.R.C. § 3513.07 as the legal authority supporting his theory that an "untrue" Republican can be removed from a primary ballot by elections officials who do not believe his political philosophy is consistent with Republican principles. In their papers filed with Respondent LaRose after the Board hearing, Schare elaborated that "Ohio law does not and should not allow a candidate to intentionally lie about their party affiliation." *See* Ver. Com., Doc. 1. Ex. B. Schare's protest, in sum, relied on the theory that § 3513.07 requires "ideological purity" and that such a standard can be enforced by elections officials.

Unknown to Applicants at the time of the hearing, Schare's lawyers were being paid by the Ohio Republican Party. Schare's lawyers were thus effectively representing Schare and the Ohio Republican Party before the Board of Elections. This fact was not disclosed to Applicant Ronan until after the Board of Elections tied 2-2 over his removal. Later, during discovery, Ronan also

learned that the Ohio Republican Party protested him at the request of the campaign of Mike Carey, Applicant Ronan's lone primary opponent in the Republican 15th congressional contest.

Ronan testified at the hearing before the District Court that his § 3513.07 declarations on his nominating petitions were true when made, Doc. 34 at PageID# 1254, were true at the time of the hearing before the Board of Elections, *id*. at 1256, and true to this day. *Id*.

Notwithstanding Applicant Ronan's sworn self-identification as a Republican, Respondent Freedhoff questioned him extensively about his past political positions and statements. Referring to a 2024 news article about Ronan's 2024 candidacy in the Republican primary against former President Donald Trump, *see* Ver. Com. Ex. C, Freedhoff pointed to a number of Ronan's statements and positions and stated that she did not believe these to be compatible with the principles of the Republican party. *See* Trans., March 6, 2026, Doc. 26-2 at PageID# 320-23. After describing Mr. Ronan's positions on taxation, health care, President Trump, et cetera, she concluded, "I don't see these as being things that the Republican Party would agree on …." *Id*. at 323.

Anticipating that Respondent Freedhoff's chairing the Franklin County Republican Party, which endorsed Ronan's incumbent opponent, Mike Carey, compromised her neutrality, Ronan on February 27, 2026 timely moved to disqualify Freedhoff from participating in the protest. Federal Election Commission filings established that the Franklin County Republican Party had contributed $500 to Carey's campaign in late August 2025 and that Carey's campaign had paid the Franklin County Republican Party over $10,000 in December 2025. *See* Ver. Com., Ex. D. Further, the Franklin County Republican Party formally and publicly endorsed Carey's candidacy. Ver. Comp. Ex. E.

Appellees discovered after the March 6, 2026 hearing that the Franklin County Republican Party's parent organization, the Ohio Republican Party, was the real party in interest behind Schare's protest, and that Respondent Freedhoff was also the vice-chair (second-in-command) of that organization. Neither Freedhoff nor Schare disclosed this fact to the Ronan or the Board of Elections.

Respondent Freedhoff rejected Ronan's motion to disqualify herself at the March 6, 2026 hearing. She then voted, along with the other Republican Board member, Respondent Preisse, against a motion to deny Schare's protest and to remove Ronan from the ballot. The Board denied that motion on the ground that it had no authority not to proceed with a hearing once a protest was filed.

After hearing testimony from the protestor and Ronan, as well as examples of Applicant Ronan's past and present political statements and positions, the four-member Board of Elections tied 2 to 2 over a motion to deny the protest. The two Republican members of the Board of Elections, Preisse and Freedhoff, voted against the motion, while the two Democratic members, Shumaker and Sexton, voted in favor. Because the motion tied, O.R.C. § 3501.11(X) directed that the vote be forwarded to the Secretary of State, Respondent LaRose, to break the tie.

In a letter explaining their vote to Respondent LaRose following the hearing, Preisse and Freedhoff wrote, "Our conclusion that Mr. Ronan should not remain on the ballot as a Republican is based on his own past, recent, and repeated declarations." *See* Letter, March 13, 2026, Doc.26-1, at PageID# 215 (emphasis added). LaRose cast the tie-breaking vote on March 19, 2026 by voting to disqualify Appellant Ronan. In explaining his rational, he wrote:

> Mr. Ronan's public statements, and those of individuals associated with him and his candidacy, make clear that Mr. Ronan is seeking the Republican nomination as part of his longstanding strategy to have Democrats run as Republicans in Republican primaries.

Letter, March 19, 2026, Doc.26-2 at PageID# 362 (emphasis added).

Applicants immediately brought this action in the District Court. Following an informal hearing on March 20, 2026, Chief Judge Morrison granted a temporary restraining order maintaining Applicant Ronan's presence on the ballot. Chief Judge Morrison found a strong likelihood that Respondents' interpretation and use of O.R.C. § 3513.07 violated the First Amendment. A hearing on the preliminary injunction was held on April 2, 2026, during which Chief Judge Morrison dissolved the TRO and denied preliminary relief. Trans., Doc. 34, at PageID# 1319.

The Chief Judge's oral ruling from the bench explained that she was denying preliminary relief because (1) Applicants' facial First Amendment challenge lacked merit, *id*. at 1321; (2) their as-applied challenge failed under *Anderson-Burdick*; (3) their Due Process challenge failed for lack of a protected life, liberty or property interest on the part of a candidate for office, *id*. at 1324; and (4) their Elections Law challenge failed because Ronan as a candidate lacked standing, citing *Bognet v. Secretary of Commonwealth*, 980 F.3d 336 (3d Cir. 2020). *Id*.

The single most important factor in the District Court's decision was its interpretation of a Ronan post Respondents had cherry-picked from Facebook. In that January 2026 post Ronan stated:

> Democrats, if they wanted to govern and regain the trust of Americans, would have to primary Republican in deep red districts as Republicans just to get a foot in the door. So if I am doing anything it's following the argument I made at that stage.
>
> That said, I am not fighting on behalf of the traitorous Democrats who just crossed the party line to vote for more ICE funding. I'm not a grifter. I'm running for office in the party of the dominant district, fighting for the working class.

Trans. Doc. 34, at PageID # 1264-65 (Exhibit C).

Relying on this post, the District Court concluded that Ronan "was running as a Republican while publicly stating that he is not one and is only pretending to be one to infiltrate the party." Trans.,

Doc. 34, at PageID# 1321. It added "Where the candidate states that he does not self-identify – as indicated in his petition – the State can use that speech to remove him from the ballot." *Id*. at 1323.

But Ronan's Facebook post did not say that "he does not self-identify." It did not say that he "was running … to infiltrate the party" and was really a Democrat. It did not disavow his stated intent to run as a Republican. The cherry-picked post (one of literally hundreds or thousands Ronan has posted about his campaign) merely explained that he was attempting to transfer his "working class" principles to Republican primaries. Indeed, the post states "I'm not a grifter" and chastises the "traitorous Democrats." His comments are a far cry from publicly disavowing his Republican self-identification or expressing an intent to fraudulently infiltrate Republican primaries as a self-identified Democrat.

Further, Ronan submitted substantial evidence that he identified with the Republican Party. An interview he gave to Alabama Public Radio, for example, reported that "Ronan said he chose to run on the GOP ballot for this election because his policies and values align more with that party. 'I believe my values are actually better received in the Republican Party. So, I am choosing to run as a Republican.'" Ver. Com., Doc. 1 at PageID# 31.

From that same piece:

> Another reason Ronan said he chose to run on the Republican ballot is because the party is open to hearing new ideas from their candidates. "The Republican Party, for all of the faults or all of its good, is open to varying ideas," he explained. "They do not prevent people from running. They do not close their primaries, and they do not deny the winner their victory so they can have their preferred candidate in place. My values match the Republican Party of yesterday. I feel that I represent the history of the Republican Party, the true value of where the Republican Party thrived back during the [Dwight D.] Eisenhower years," Ronan said.

Id. at 31.

It was this journalistic piece that caused Respondent Freedhoff to state at the hearing that "I don't see these as being things that the Republican Party would agree on …." *See* Trans. Doc. 26-1 at PageId#320-23. Ronan vehemently disagreed at the hearing, testifying "I'm 80 plus, 85 percent in agreement with the [Republican Party] platform." Hearing, Doc. 26-1 at PageID# 278. He submitted into evidence his Republican policies, *see* Ex. C1, Doc. 26-1 at PageID# 350, and testified "[t]hose are 100 percent Republican principles." *Id*. at 316. "So for anyone to argue that my beliefs, my politics, as presented," Ronan further testified, aren't Republican, that is totally incorrect." *Id*. at 317.

These are just a few of Ronan's many, many statements – made under oath, on social media, to journalists and to voters -- repeatedly emphasizing his agreement with Republican principles (not all but many), his self-identification as a Republican, and his future intent to abide by Republican principles. The protestor and the Ohio Republican Party claimed that all of this is false, that Ronan is acting in bad faith, but they are wrong—and their "honesty" inquiry into his political beliefs violates the First Amendment. Knowing that state elections officials have this power, after all, candidates will be forced to self-censor their speech. Should they risk taking political positions that might offend the sensibilities of powerful people, they risk being precluded from running for office.

Here, Ronan did not act in bad faith. He was honest. He made plain that though he was once a Democrat he is now seeking to transport across the aisle ideas that were not embraced by the Democratic Party. Ronan's campaign is a good faith attempt to win over Republican voters by advocating his values – values he believes Democrats have forsaken. That is not a "strategic candidacy" or some kind of trick. It is not unlawful. It is not wrong. It is what countless politicians, including Ronald Reagan, Donald Trump and hundreds of others, have done before Ronan. Noble

American politicians have frequently abandoned one political party for another. Appellees attempt to misrepresent such political realignment as something nefarious—"infiltration," they call it—but it is nothing more than the common, everyday practice of partisan politics. But whatever the name, it is quintessentially protected First Amendment conduct.

Many famous American politicians have changed parties, sometimes while holding office and other times in the run-up to winning elections. This list includes Presidents and presidential candidates. Donald Trump is one. *See Political positions of Donald Trump*, Wikipedia, https://en.wikipedia.org/wiki/Political_positions_of_Donald_Trump (observing that Trump switched parties several times as late as 2012). Ronald Reagan is another, having switched from being a long-time Democrat to being a Republican to run for Governor of California. *See* National Constitution Center: *10 famous people who switched political parties*, March 20, 2015, https://constitutioncenter.org/blog/10-famous-people-who-switch-political-parties. Franklin Roosevelt changed parties, *see List of American politicians who switched parties in office*, Wikipedia, https://en.wikipedia.org/wiki/List_of_American_politicians_who_switched_parties_in_office, as did Abraham Lincoln. *See Abraham Lincoln*, Wikipedia, https://en.wikipedia.org/wiki/Abraham_Lincoln. Bernie Sanders moved fluidly from minor party affiliations to a U.S. Senate seat to running for President in the Democratic primaries and then away from the Democratic party again. *See Bernie Sanders*, Wikipedia, https://en.wikipedia.org/wiki/Bernie_Sanders..

The historical record is replete with elected officials, candidates and voters changing political parties from one election to the next. The one constant in American politics is change. People evolve politically just like parties. America's political system fortunately facilitates these

changes. Neither voters nor candidates historically have been forcibly fixed into their political positions. Evolution is the norm, something that has greatly benefited the American electoral system. Further, candidates today use social media to communicate with voters. A lot. If state elections officials are allowed to peruse a candidate's social media history, locate a single post that suggests political disloyalty as they define it, and remove a candidate from the ballot, all of America's political process will suffer. The First Amendment cannot allow that.

Ohio Law

Ohio law does not authorize elections officials to determine whether candidates' past political speech conforms with the ideology of their chosen party, nor to remove them from the ballot on that basis. Instead, partisan affiliation is governed by Ohio's self-identification principle. As the Ohio Supreme Court has said repeatedly, political party membership in Ohio is determined "purely" by "self-identification." *See State ex rel. Bender v. Franklin County Board of Elections*, 132 N.E.3d 664, 668 (Ohio 2019) ("Party affiliation in Ohio is purely a matter of self-identification, and that self-identification is subject to change."). *See also State ex rel. Young v. Gasser*, 257 N.E.2d 389, 391 (Ohio 1970) ("[P]arty affiliation or membership [in Ohio] is that which [a voter or candidate] desires it to be from time to time."); *Pirincin v. Board of Elections of Cuyahoga County*, 368 F. Supp. 64, 70 (N.D. Ohio 1973) ("In practice Ohio's election laws permit and result in shifting party affiliations."). Candidates may thus "from time to time" change their political affiliation and change political parties.

Section 3513.191(B) of the Ohio Revised Code codifies this principle for candidates, while 3513.19(B) codifies it for voters. Section 3513.191(B) states that "either of the following persons may be candidates for nomination of <u>any</u> political party at a party primary: (1) A person who does not hold an elective office; (2) A person who holds an elective office other than one for which

candidates are nominated at a party primary." (Emphasis added). Section 3513.191(B) authorizes any candidate in Ohio who is not presently holding an elective office to run for office in "any" political party primary no matter his or her prior party affiliation. *See Jolivette v. Husted*, 886 F. Supp. 2d 820, 835 (S.D. Ohio), *aff'd*, 694 F.3d 760 (6th Cir. 2012). Unlike with party members who seek to disassociate and run as independents, primary candidates can switch parties at their pleasure: "there is no requirement that the candidate make the change in good faith." *Jolivette*, 886 F. Supp. 2d at 835 (emphasis added).

For voters, O.R.C. § 3513.19(B) controls. It allows any voter to pull any party primary ballot and vote in that party's primary. Should a primary voter be challenged as not being a true member of the political party, §3513.19(B) states that "membership in or political affiliation with a political party shall be determined by the person's statement, made under penalty of election falsification, that the person desires to be affiliated with and supports the principles of the political party whose primary ballot the person desires to vote." (Emphasis added). It perfectly parallels 3513.191(B), which applies to primary party candidates. Both primary candidates and primary voters may thus change party affiliations instantly. Both are required to declare their affiliations with the political party and support for party principles under penalty of election falsification, and neither can be disenfranchised by elections officials or protestors who do not believe them. There is absolutely no authority to the contrary.

Contrary to these established State law principles and the Sixth Circuit's own prior conclusion in *Jolivette*, the Panel below concluded that Ohio law requires that candidates change political parties in good faith. Order, Doc.20-1 at Page 4. Regardless, even assuming the Panel is correct, the First Amendment and Elections Clause still apply, and neither allows state elections officials to judge the honesty and credibility of a federal candidate's political identification. Even

if Ohio requires good faith, Ohio has no standards, let alone objective ones, to guide how an elections official is to make this decision. As Respondent LaRose conceded in the District Court, the only standard is whether the state elections officials believe the candidate is "honest." Trans., Doc. 34 at PageID# 1310. That is not an objective standard at all. Indeed, it is the equivalent of a prior restraint. *See*, *e.g.*, *Lakewood v. Plain Dealer Publishing Co*., 486 U.S. 750 (1988).

ARGUMENT

Legal Standard

This Court may stay a lower court's order and/or grant preliminary relief pending appeal when an applicant is "clearly … entitle[d] to relief pending appellate review," *Roman Cath. Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63, 66 (2020), the applicant's constitutional claim is "likely to prevail," *id.*, denying relief will "lead to irreparable injury," *id.*, and granting an emergency injunction will "not harm the public interest." *Id. See Nken v. Holder*, 556 U.S. 418 (2009).

To obtain such relief, an applicant must show a likelihood of success on the merits, a reasonable probability of obtaining certiorari, and a likelihood of irreparable harm. *See*, *e.g.*, *Brewer v. Landrigan*, 562 U.S. 996 (2010); *Brunner v. Ohio Republican Party*, 555 U.S. 5 (2008) (per curiam); *Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010) (per curiam). In "close cases," "the Court will balance the equities and weigh the relative harms." *Id.* Those factors strongly support a stay here.

Here, the District Court denied Applicants' motion for a preliminary injunction on April 2, 2026 after granting them a temporary restraining order on March 20, 2026. On the same day it denied preliminary relief, the District Court ordered that its temporary restraining order be lifted, but stayed that order until Noon on April 6, 2026. Applicants appealed that same day and sought

emergency relief from the Sixth Circuit. The Sixth Circuit denied emergency relief and refused an administrative stay on April 6, 2026. *See* Order, Doc. 20-1. The District Court's Temporary Restraining Order accordingly dissolved at 12 Noon on April 6, 2026. Applicants' UOCAVA votes will be discarded without emergency relief from this Court, and without this Court's immediate intervention Ronan will be removed from Ohio's ballots by the time early voting begins on April 7, 2026.

This Court will have jurisdiction under 28 U.S.C. §1254(1), so it can grant an injunction pending appellate review under 28 U.S.C. §1651. *See*, *e.g.*, *Chrysafis v. Marks*, 141 S. Ct. 2482, 2482-83 (2021).

I. The Court Should Grant an Injunction Pending Appeal Based on Applicants' Strong Likelihood of Success.

As the District Court initially and correctly concluded, Applicants have a strong likelihood of success on their First Amendment claims because it is undisputed that Respondents removed Applicant Ronan from the ballot based solely on the content of his core political speech. Applicants are also likely to prevail on their claims under the Elections Clause because Respondents' inquiry into the content of Ronan's core political speech plainly exceeds their regulatory authority under that Clause.

Applicants are likely to prevail on their Due Process claims because "candidates also have an interest in a fair process," *Bost v. Illinois State Elections Board*, 146 S. Ct. 513, 519 (2026), and that fair process includes an objectively unbiased decisionmaker. Respondent Freedhoff not only had a Due Process duty to inquire, but also to disqualify, upon notice of the conflicts of interest that placed her ability to remain impartial in reasonable doubt.

A. Section 3513.07 Violates the First Amendment as Applied and on Its Face.

Applicants assert that Respondents violated the First Amendment by removing Ronan from Ohio's Republican Party primary ballot based exclusively on his core political speech. Ver. Comp. ¶¶ 47-50. *See*, *e.g.*, *Susan B. Anthony List v. Driehaus*, 814 F.3d 466, 476 (6th Cir. 2016) (striking down Ohio's political false-statements laws as "content-based restrictions targeting core political speech…."). It is undisputed that Ronan timely complied with all relevant provisions of Ohio law and qualified for placement on the primary ballot, Ver. Comp. ¶ 2, and that Respondents removed Ronan from the ballot based solely on his "past political positions and political statements…." Ver. Comp. ¶ 5; Ver. Comp. ¶¶ 39-42.

This Court in *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 164 (2014), warned about the implicit and explicit dangers that are present in Ohio's "false campaign speech" laws: "Because the universe of potential complainants is not restricted to state officials who are constrained by explicit guidelines or ethical obligations, there is a real risk of complaints from, for example, political opponents." (Citing Brief for Michael DeWine, Attorney General of Ohio, as Amicus Curiae 8). Citing that same Brief, the Court observed that Ohio "has no system for weeding out frivolous complaints." Id. (citation omitted). Political opponents "are easy targets." *Id.*

Relying on this language, the Sixth Circuit in *Driehaus* on remand from this Court invalidated Ohio's false election speech statute, which prohibited the knowing or reckless dissemination of false information about a political candidate during the campaign season. *See Driehaus*, 814 F.3d at 470. Like Applicants here, the *Driehaus* plaintiffs asserted that the laws violated the First Amendment both facially and as applied. *See Susan B. Anthony List v. Ohio Elections Comm'n.*, 45 F. Supp. 3d 765, 770 (S.D. Ohio 2014). Their argument is equally apt here: "We are not arguing for a right to lie. We're arguing that we have a right not to have the truth of

our political statements be judged by the Government." *Id.* at 774. Finding that Ohio's laws were "content-based speech restrictions" that "target[] political speech," *id.* at 775, the District Court applied strict scrutiny and held the laws unconstitutional on their face. *Id.* at 779-80. The Sixth Circuit affirmed. *See Driehaus*, 814 F.3d at 476.

Here, the protest filed against Ronan was premised on the allegation—based on his past political statements—that he had "intentionally lie[d] about [his] party affiliation." Ver. Comp. ¶ 7. Further, despite Ronan's sworn testimony that he is a member of the Republican Party and that he intends to abide by Republican principles if elected, Ver. Comp. ¶¶ 12-13, Respondent Freedhoff "questioned Plaintiff-Ronan extensively about the past political positions he had taken when he ran against former President Donald Trump in the Republican primary in 2024." Ver. Comp. ¶ 14 & Ex. C. Freedhoff specifically raised several of Ronan's past political statements and stated that she found them "incompatible with the principles of the Republican party." After describing Ronan's positions on taxation, health care, President Trump, et cetera, Freedhoff concluded, "I don't see these as being things that the Republican Party would agree on …." *See* Trans. Doc. 26-1 at PageId#320-23.

Furthermore, Respondents have admitted, in writing, that their votes to uphold the protest against Ronan's candidacy were based solely on the content of his core political speech. "Our conclusion that Mr. Ronan should not remain on the ballot as a Republican is based on his own past, recent, and repeated declarations," wrote Preisse and Freedhoff. *See* Letter, Doc. 26-1 at PageId# 215 (emphasis added). Similarly, LaRose wrote, "Mr. Ronan's public statements, and those of individuals associated with him and his candidacy, make clear that Mr. Ronan is seeking the Republican nomination as part of his longstanding strategy to have Democrats run as Republicans in Republican primaries." *See* Letter, Doc.26-2 at PageID# 362 (emphasis added).

These statements provide written confirmation that Respondents imposed a content-based restriction on core political speech. Ronan's speech about his political positions, they determined, rendered him "dishonest." If this is allowed, then any political candidate in Ohio risks removal; state elections officials, after all, can peruse the political speech of any candidate and conclude that they don't think he is honest about his views and his statement of party identification.

In *Driehaus*, this Court was especially concerned that Ohio's political false-statements laws could be weaponized by political adversaries, thus chilling political speech. "'Because the universe of potential complainants is not restricted to state officials who are constrained by explicit guidelines or ethical obligations, there is a real risk of complaints from, for example, political opponents.'" *Driehaus*, 573 U.S. at 164 (emphasis added). That risk materialized here. Record evidence establishes that the person who contacted the Ohio Republican Party to ask that it support the protest filed against Ronan was a consultant for the campaign of Ronan's opponent in the Republican primary. *See* Dep. Trans., Doc. 29-1 at Pageid# 1223-26. Thus, one of the critical factors that concerned this Court in *Driehaus*—the risk of weaponization by political opponents—is actually present here.

It is well settled that state officials cannot "discriminate[] on the basis of viewpoint" when deciding which candidates can appear on ballots. *See Cooke v. Gralike*, 531 U.S. 510, 532 (2001) (Rehnquist, C.J., concurring); *see also Duke v. Smith*, 13 F.3d 388 (11th Cir. 1994) (applying strict scrutiny to strike down Florida statute that vested state officials with broad discretion to determine which candidates appeared on primary ballot). This Court has applied traditional First Amendment principles applied to invalidate content-based restrictions on speech in cases like *Meyer v. Grant*, 486 U.S. 414, 422 (1988) and *Miami Herald Publishing Co. v. Tornillo*, 418 U.S. 241, 258 (1974), as well as under the *Anderson-Burdick* framework. Under either analysis, governmental editorial

review of core political speech violates the First Amendment. That is exactly what is happening here. Government officials—one of whom is the second-ranking officer in the organization that initiated the protest against Ronan—are sitting in judgment of Ronan's core political speech about his candidacy. They claim he is lying. They seek to punish him. They even threaten criminal prosecution. Such infringement of core political speech is unconstitutional under both traditional First Amendment analysis and *Anderson-Burdick*.

The Panel below rejected Applicants' First Amendment claim because it concluded that elections officials could properly conclude he was running a "sham" candidacy. Order, Doc.20-1, at Page 5. It assumed that it and state elections officials have the constitutional authority to question the political honesty and credibility of federal candidates who claim to associate with a particular political party. This approach contradicts this Court's reasoning in *Boy Scouts of America v. Dale*, 530 U.S. 640, 651 (2000), where it stated that "it is not the role of the courts to reject a group's expressed values because they disagree with those values or find them internally inconsistent." "[W]e give deference to an association's assertions regarding the nature of its expression." *Id*. The same must be true for an association's members. State elections officials cannot be allowed to reject a candidate's claim to party membership simply because they find his values disagreeable or even "internally inconsistent." Doing so cedes to them the power to dictate electoral outcomes. Neither the First Amendment nor the Elections Clause allow that.

B. Section 3513.07 Violates the Elections Clause as Applied and on Its Face.

Respondents' removal of Ronan from the primary ballot based on their determination that he is not a genuine Republican also violates the Elections Clause. In her oral ruling from the bench, Chief Judge Morrison incorrectly concluded that the federal Elections Clause in Article I, § 4, is not privately enforceable by a candidate who has been subjected to ballot access restrictions that

exceed a State's power under that Clause. In *Cook*, however, this Court recognized that a candidate may challenge a state's ballot access laws that have been applied to him under the Elections Clause and 42 U.S.C. § 1983. *See Cook*, 531 U.S. 510. *Cook* involved a challenge to a Missouri ballot law that required congressional candidates to carry labels about their positions on term limits on ballots. A candidate sued under § 1983 based on the Elections Clause and prevailed. *See Gralike v. Cook*, 996 F. Supp. 901, 903 (W.D. Mo. 1998), *aff'd*, 191 F.3d 911 (8th Cir. 1999), *aff'd*, 531 U.S. 510 (2001). Cook makes plain that a candidate who is removed or prevented from appearing on a ballot because of a state law that exceeds power vested by the Elections Clause can bring suit under § 1983 and Article I, § 4.

Chief Judge Morrison's reliance on *Bognet v. Secretary*, 980 F.3d 336 (3d Cir. 2020), *vacated sub nom. Bognet v. Degraffenreid*, 145 S. Ct. 2508 (2021), constitutes plain error. The Third Circuit there ruled that neither voters nor congressional candidates possessed Article III standing to challenge the state supreme court's extension of mail-in voting at the expense of the state general assembly. "Their relief would have no more directly benefitted them than the public at large," the Third Circuit ruled. *Id*. at 349. "Plaintiffs' Elections Clause claims thus 'belong, if they belong to anyone, only to the Pennsylvania General Assembly.'" *Id*. at 349-50 (citation omitted). Here, unlike in *Bognet*, Ronan does not assert any injury to the Ohio General Assembly under the Elections Clause. Rather, he asserts his own injury—*i.e*., removal from the ballot. Just as in *Cook* he has Article III standing and can pursue his Elections Clause argument under § 1983.

Further, Chief Judge Morrison's conclusion contradicts this Court's holding in *Bost v. Illinois State Elections Board*, 146 S. Ct. 513 (2026). There, this Court ruled that candidates possess standing to challenge State statutes requiring election officials to count mail-in ballots

postmarked or certified no later than election day and received within two weeks of election day. As the Court observed:

> candidates also have an interest in a fair process. Candidates are not common competitors in the economic marketplace. They seek to represent the people. And their interest in that prize cannot be severed from their interest in the electoral process—a process "of the most fundamental significance under our constitutional structure." Win or lose, candidates suffer when the process departs from the law. Thus, the long-shot and shoo-in alike would suffer harm if a State chose to conduct its election by, say, flipping a coin.

Id. at 519-20.

Under *Bost*, Applicants plainly have standing to assert their rights under the Elections Clause.

C. Freedhoff's Refusal to Disqualify Herself Violated the Due Process Clause.

Chief Judge Morrison in her ruling from the bench concluded that Ronan possessed no cognizable property interest in remaining on the Ohio ballot. The Sixth Circuit refused emergency relief because it assumed that Freedhoff acted in good faith, Doc. 20-1 at Page 7, was not personally financially interested in the matter, *id*., and was not actually aware at the time of the hearing that the organization she vice-chaired, the Ohio Republican Party, was the real party in interest. *Id*. Chief Judge Morrison and the Sixth Circuit both erred. Due process applies, it imposes an objective bias standard, and it does not insulate ignorance when a reasonable (even cursory) investigation would uncover the truth.

Although some courts have interpreted this Court's 1944 holding in *Snowden v. Hughes*, 321 U.S. 1 (1944), to continue to control the procedural rights of office holders and other public officials under the Due Process Clause, *see*, *e.g*., *Wilson v. Birnberg*, 667 F.3d 591 (5th Cir. 2012) (holding that candidates have no interest protected by the Due Process Clause); *Velez v. Levy*, 401 F.3d 75 (2d Cir. 2005) (same); *D'Agnostino v. Delgadillo*, 111 Fed. App'x 885 (9th Cir. 2004) (finding no property interest on party of candidate); *Newsome v. Golden*, 602 F. Supp.3d 1073

(M.D. Tenn. 2022) (same), others have either or assumed or concluded it does not. *See*, *e.g*., *Miller v. Lorain County Board of Elections*, 141 F.3d 252, 260 & n.18 (6th Cir. 1998) (finding procedural Due Process not violated); *Schmitt v. LaRose*, 933 F.3d 628 (6th Cir. 2019) (same); *Duke v. Massey*, 87 F.3d 1226, 1232 (11th Cir. 1996) ("Duke also has a procedural due process right to have his petition to be placed on the ballot to be free from a committee's 'unfettered discretion' in rendering a decision."); *Rivera-Powell v. New York City Board of Elections*, 470 F.3d 458, 464-65 (2d Cir. 2006) (applying procedural Due Process to candidate); *Berg v. Egan*, 979 F. Supp. 330 (E.D. Pa. 1997); *Leroy v. New York City Board of Education*, 793 F.Supp. 2d 533 (E.D.N.Y 2011); *Abrahamson v. Neitzel*, 120 F. Supp.3d 905, 920-21 (W.D. Wis. 2015) ("*Snowden's* statement is jarring to contemporary sensibilities"). Others, meanwhile, suggested that Snowden might not apply to federal candidates. *See*, *e.g*., *Biener v. Calio*, 361 F.3d 206, 216 (3d Cir. 2004) ("We do not decide here whether the *Snowden* holding would extend to *federal* elective offices").

Because the Circuit's are split on the continuing vitality of *Snowden*, with the Sixth and Eleventh applying procedural Due Process protections to candidates and the Second, Fifth and Ninth not, certiorari is reasonably likely in this case. *See Noem v. Vasquez Perdomo*, 146 S. Ct. 1, 2 (2025) (Kavanaugh, J., concurring). The Circuit split warrants this Court's granting certiorari in the present case to address whether candidates possess a Due Process right to fair proceedings in election controversies.

This Court this term stated in *Bost v. Illinois State Elections Board*, 146 S. Ct. 513, 519 (2026), stated that they do—at least in terms of Article III standing: "candidates also have an interest in a fair process. Candidates are not common competitors in the economic marketplace. They seek to represent the people." Consequently, "the long-shot and shoo-in alike would suffer harm if a State chose to conduct its election by, say, flipping a coin." *Id*. at 519-20. Under *Bost* a

strong argument can be made that "fair" election procedures are required when States seek to remove candidates from ballots; especially when they do so based on candidates' speech. Flipping coins and employing standardless, unbridled discretion, as here, are the antitheses of fair process. Allowing state elections officers to choose between candidates based on their "credibility," "honesty," and consistency with party principles cause candidates cognizable, and intolerable, constitutional injuries. Emergency relief from this Court is warranted.

Because Procedural Due Process principles apply here, so does *Caperton v. A.T. Massey Coal Co*., 556 U.S. 868 (2009). The question is whether "'the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable.'" 556 U.S. at 872 (citation omitted). The conflicts in this case involving Board Member Freedhoff are manifold. The nominal protestor, Schare, serves on the same Republican Party County Central Committee as Freedhoff. Freedhoff serves as the second ranking officer, vice chair, of the Ohio Republican Party, which is Appellants learned after the protest hearing was paying the lawyers' fees and responsible for the protest. This conflict alone required disqualification. A judge exercising what turned out to be the decisive vote against Ronan was the second-highest ranking officer of the organization responsible for the protest. But the conflicts do not end there. Mike Carey, Ronan's lone primary opponent, instigated the protest. Carey paid Freedhoff's Franklin County Republican Party over $10,000 on December 31, 2025, while accepting a $500 contribution from it and its endorsement. Had Freedhoff reasonably inquired, which she had a duty to do, *Wood v. Georgia*, 450 U.S. 261, 272 (1981), (stating that when "the *possibility* of a conflict of interest was sufficiently apparent at the time of the … hearing [that possibility] impose[s] upon the court a duty to inquire further"), she would have known all this. Blissful ignorance is not countenanced by Due Process.

Freedhoff cast the decisive vote in the Board of Elections 2-2 tie. Had she not voted, Ronan would have prevailed 2-1. The matter would have ended there. Emergency relief is accordingly warranted.

D. The Remaining Factors Weigh Decisively in Applicants' Favor.

1. Irreparable Harm

In *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (plurality), this Court stated that "[i]t is clear … that First Amendment interests were either threatened or in fact being impaired at the time relief was sought. The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." The same is true here. Applicants will suffer irreparable harm without timely relief.

2. Absence of Substantial Harm to Others

It is equally clear that granting the requested relief not only will not "cause substantial harm to others" – it will not harm anyone at all. *See Northeast Ohio Coalition for the Homeless v. Blackwell*, 467 F.3d 999, 1009 (6th Cir. 2006). Ronan was already on Ohio's primary election ballot. Replacing him will harm no one. Indeed, his removal at this late date will itself risk confusion. Ronan already has appeared on UOCAVA ballots. Removing him from domestic early voting ballots or refusing to count his votes will confuse voters.

3. The Public Interest Will Be Served

Finally, the public interest will be served by granting the requested relief. "[T]he public interest weighs in favor of allowing registered voters to vote freely." *Summit County Democratic Party v. Blackwell*, 388 F.3d 547, 555 (6th Cir. 2004); *see also Northeast Ohio Coalition for the Homeless*, 467 F.3d at 1012 ("There is a strong public interest in allowing every registered voter to vote.").

Conclusion

Applicants' request for a stay and/or injunction pending appeal should be GRANTED.

Respectfully submitted,

s/Mark R. Brown

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