

**IN THE SUPREME COURT OF
THE UNITED STATES**

SAMUEL RONAN and ANA CORDERO,)

Petitioners/Applicants,)

v.)

No. 25A1096

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)

**PETITIONERS’ REPLY TO OPPOSITION TO EMERGENCY
APPLICATION FOR PRELIMINARY INJUNCTION PENDING APPEAL,
ADMINISTRATIVE STAY AND EXPEDITED BRIEFING**

Respondents would have this Court believe that Ohio’s “good faith” and “political honesty” requirements are part of a common, time-worn aspect of Ohio law. They are not. Indeed, they never existed until this election cycle. Ohio added O.R.C. § 3513.191(B) in 1995 to create a perfect parallel between primary candidates and primary voters, the latter of which under O.R.C. § 3513.19(B) have an untestable right to vote in any primary of their choosing. So long as they file a declaration of intent to be a member of that party, under penalty of election falsification, they can vote in the primary. Whether honest good faith or political infiltration, they can vote. Neither state elections officials nor protestors can stop them.

Section 3513.191(B) applies the same principle to candidates. Since adoption of that change, no court has ever ruled that primary candidates can be removed for political dishonesty or bad faith. Indeed, even before the 1995 change—when Ohio used a two-year-look-back to restrict primary candidates—no primary candidate had ever been removed for political dishonesty or bad faith. Instead, if a primary candidate had not voted in another party’s primary within the preceding two calendar years she could change parties—no questions asked. “Political honesty” and “good faith” have simply never been a part of Ohio’s primary laws, for voters or candidates.

Section 3513.07 does not alter that fact. It has been on Ohio’s books for at least 75 years and no court has ever read it to require candidate honesty or good faith for political party affiliation.¹ That is why the Court in *Jolivette v. Husted*, 886 F. Supp. 2d 820, 835 (S.D. Ohio), *aff’d*, 694 F.3d 760 (6th Cir. 2012), could so easily and confidently conclude that under Ohio law “there is no requirement that the candidate make the [political party] change in good faith.”

The interpretation placed on Ohio law by the District Court and approved by the Sixth Circuit is new. Ronan appears to be the first primary candidate to ever be removed in Ohio for being politically dishonest, though the same law firm on the same day before the same elections board unsuccessfully attempted to remove a Libertarian Party candidate (challenging Mike Carey) for this same reason. *See* Stipulations, Doc. 30 at PageID# 1235. The total absence of authority supporting Respondents’ (and the District Court’s) interpretation of Ohio law is striking. It answers

¹ The District Court’s residency/domicile comparison is inapposite for the simple reason that objective, non-communicative facts can be used to establish a lack of residency/domicile. *See* Opinion and Order, Doc.36 at PageID# 1348 n.5. One’s residence/domicile is not “purely” a matter of subjective political self-identification. Enforcing a residence requirement thus does not give rise to the same dangerous chilling effect presented when government officials use one’s political statements and positions to judge one’s “purely” self-identified and declared political identity. *See Thomas v. Chicago Park District*, 534 U.S. 316, 322 (2002) (distinguishing a licensing scheme that is “not subject-matter censorship but [a] content-neutral time, place, and manner regulation” that “does not authorize a licensor to pass judgment on the content of speech”).

the question why after all these years a First Amendment challenge is finally being brought. The reason is that Ohio has never before required subjective good faith and political honesty on the part of its primary candidates. Ohio’s compelling need to remove Ronan, and others who stand in Mike Carey’s path, is thus highly questionable.

Even assuming that Ohio were to have a compelling interest in this case, Ohio’s new “political honesty” requirement—and the way it was administered (with a high-ranking Republican party official deciding against Ronan, in favor of Carey, and in support of her political party’s protest)—are hardly necessary. Indeed, they are dangerous. Ohio’s scheme provides no standards to guide decisionmakers and insufficient procedural safeguards to protect candidates from the surreptitious attacks of political opponents. It accordingly violates the First and Fourteenth Amendments as well as the Elections Clause.

I. The District Court’s And Sixth Circuit’s Holdings Contradict This Court’s Due Process Precedents.

The District Court ruled that Ronan was not entitled to fair proceedings, and even if he were the participation of a high-ranking officer in the political party that protested him as a decisionmaker was consistent with Due Process. Respondent-Board Members agree. Bd. Opp. at 7. They are wrong. The District Court’s holding is flawed on several grounds and directly contradicts this Court’s recent conclusion in *Bost v. Illinois State Elections Board*, 146 S. Ct. 513, 519 (2026), that “candidates also have an interest in a fair process.”

First, the District Court erred in concluding that Ronan was not entitled to fair protest procedures at all. *See* Hearing Trans., Doc. 34 at PageID# 1324; Opinion and Order, Doc.36 at PageID# 1355 (“Ronan does not have a protected interest in falsely claiming his party affiliation to appear on the ballot”). As *Bost* makes clear, this is incorrect. And *Bost* raises grave doubts about the decisions of those Circuits that, like the courts implicitly below and Respondent-LaRose, Opp.

LaRose at 15, have relied on *Snowden v. Hughes*, 321 U.S. 1 (1944), to deny fairness protections to candidates, including the Second, Fifth and Ninth Circuits. The split between those courts and the Circuits that correctly follow *Bost*, including the Sixth (before the present case) and Eleventh Circuits, warrants this Court's intervention here. Because the Court is reasonably likely to address this split, and because this case provides a worthy vehicle for doing so, preliminary relief protecting this Court's ability to decide this important issue is appropriate.

Second, the District Court erred in holding that because "Ohio law specifically contemplates some level of partisanship on the part of members of a board of elections," "political connections to an interested party do not, absent personal involvement in the matter being decided, overcome the presumption of the decision maker's neutrality." *Id.* at 1358. Further, the District Court erred in holding that because "[t]here is no evidence that [Freedhoff] knew the ORP was paying the legal fees for the protest," *id.*, Due Process fairness concerns did not require that she even conduct a cursory investigation to determine who was paying Schare's lawyers.

The District Court's Due Process analysis contradicts this Court's precedents on several levels. It places the cart before the horse by assuming that Ronan was "falsely claiming party affiliation" in order to conclude he was not entitled to fair procedures in the first place. Fair procedures, after all, are what determine whether a party's substantive claims have or lack merit. Further, the District Court's ruling contradicts this Court's holding in *Bost*, 146 S. Ct. 513 at 519, that "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.

Next, the District Court’s board-of-elections-political-exception to the Due Process Clause—allowing elections officials to have what would otherwise be disqualifying conflicts in proceedings over which they preside—finds no support in this Court’s precedents. *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009), says no such thing, nor does any other precedent Applicants can find. *Compare Masterpiece Cake Shop v. Colorado Civil Rights Commission*, 584 U.S. 617, 636 (2018) (requiring religious impartiality by administrative “adjudicatory body deciding a particular case”). Indeed, this Court in *Bost*, 145 S. Ct. at 519, stated the exact opposite. The District Court’s reasoning contradicts this Court’s reasoning in *Bost* by going well beyond allowing elections officials to simply flip coins; rather, according to the District Court, they can stack the deck.

The Sixth Circuit joined the District Court’s mistakes by concluding that the absence of any “personal financial benefit” on behalf of Freedhoff, Order, Doc.20-1 at Page 7, and positive evidence that she knew before the March 6, 2026 protest hearing that the organization she co-chaired (the Ohio Republican Party) was the true party in interest, her involvement did not violate Due Process. *Id.* In so holding the Sixth Circuit erroneously stated that Ronan “conceded that Freedhoff had no knowledge of any alleged Ohio Republican Party involvement.” *Id.* Ronan did no such thing, as Respondent-Board Members appear to acknowledge. Opp. Bd. at 10. Ronan merely stipulated that Freedhoff “testified that she had no knowledge of the Ohio Republican Party’s paying Schare’s lawyers for their actions in handling prior to the March 6, 2026 protest.” Stipulations, Doc.30 at PageID# 1234. As explained in greater detail below, given Respondent Freedhoff’s position as the second-highest ranking officer in the Ohio Republican Party, one could notwithstanding this testimony reasonably conclude that she was aware of the Ohio Republican Party’s involvement.

Even if Ronan had stipulated to Freedhoff's lack of knowledge, Due Process cannot be satisfied by willful blindness. Both the District Court and Sixth Circuit erred by ignoring this Court's precedents requiring that reasonable inquiries be made when "possible" conflicts of interest arise. *See, e.g., 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").

A perusal of the record facts demonstrates how far Respondent Freedhoff strayed from her duty to inquire. On February 27, 2026, just days after being protested by Marc Schare (on February 20, 2026), Ronan in writing moved the Franklin County Board of Elections to disqualify Respondent Freedhoff. Ronan had uncovered through public records that Freedhoff chaired the Central Committee of the Franklin County Republican Party (FCRP),² *see also* Freedhoff Dep., Doc.26-4 at PageID# 384, and that FCRP on August 26, 2025 had contributed \$500 to the 2026 congressional campaign of the incumbent, Mike Carey, Ronan's lone opponent in the Republican primary for Ohio's 15th congressional district. *See* Federal Election Commission, Schedule B, Franklin County Republican Party, <https://docquery.fec.gov/cgi-bin/forms/C00913681/1919146/sb/ALL>. Ronan further found that Carey's campaign on December 31, 2025 had paid to FCRP, which Respondent Freedhoff chaired, \$10,807.12. *See* Itemized Disbursements, Committee: Carey Victory Fund, <https://docquery.fec.gov/cgi-bin/forms/C00790691/1939947/sb/ALL>. Carey and FCRP therefore had established a symbiotic

² Schare, the protestor, served with Freedhoff at the time of this protest on this same Committee. *See* Stipulations., Doc.30 at PageID# 1233. He communicated with her frequently before the protest and called her "Boss" in text message exchanges after the BOE hearing. *Id.*

financial relationship, one of which Freedhoff was well-aware. Freedhoff Dep. Doc.26-4 at PageID# 389-91.

Notwithstanding Ronan's concerns over Freedhoff's organization's financial relationship and support for Carey's campaign,³ Freedhoff refused at the March 6, 2026 Board of Elections hearing to disqualify herself. BOE Hearing, Doc.26-1 at PageID# 234. Because the Bricker law firm – which was representing Schare – was commonly known to have a “standing” attorney-client relationship with the Ohio Republican Party, *see* Triantafilou Dep., Doc. 29-1 at PageID# 1201, Ronan at the hearing asked questions of Schare designed to reveal whether the Ohio Republican Party, the FCRP, or the Carey campaign was directly involved in the protest. Schare did not know. He did not even know that his attorneys were being paid by someone else. Because Freedhoff was the chair of the FCRP and also the vice-chair of the Ohio Republican Party, the involvement of either Republican Party organization would demonstrate a debilitating conflict of interest on Freedhoff's part.

In response to Ronan's questions at the BOE hearing on March 6, 2026, Schare testified that he did not sign the protest, did not write it, did not deliver it, Hearing, Doc.26-1 at PageID# 250, had never seen it, *id.* at 253, and (most importantly for purposes of Ronan's motion to disqualify) was not responsible for paying the three attorneys whose names were listed on it and who identified themselves as representing Schare. *Id.* at 256-62. Schare further testified that he did not know who was paying his lawyers. *Id.*

At this point Schare's attorneys at the March 6, 2026 hearing repeatedly objected to block Ronan's questions about who was actually behind the protest. Hearing, Doc.26-1 at PageID# 256,

³ FCRP had formally endorsed Carey in the 15th congressional district Republican primary before the hearing. Freedhoff Dep., 26-4 at PageID# 394.

260, 261, 262. The involvement of the Ohio Republican Party was thus not disclosed to the Board of Elections or Freedhoff, and Freedhoff would later testify at her deposition that she did not know the Ohio Republican Party was involved. Freedhoff Dep., 26-4 at PageID# 397. Freedhoff never asked Schare's attorneys about the identity of their "secret" client even though she knew she was vice-chair of the Ohio Republican Party and must have known the law firm representing Schare also represented the Ohio Republican Party. Had Freedhoff asked his lawyers she would have known that she was participating in a matter that directly involved the organization she vice-chaired. As vice-chair she was the "second in command" of that organization, according to it chair. *See Triantafilou Dep., Doc.29-1 at PageID# 1195.* A more debilitating conflict can hardly be imagined. Freedhoff's conflict is not mere "speculation," as Respondent-Board Members claim. Opp. Bd. at 2. It is established by the factual record.

Following the hearing Ronan's attorneys uncovered the identity of Schare's secret co-client by demanding disclosure from his attorneys. *See Ver. Comp., Doc.1 at PageID# 6.* Ohio Rule of Professional Conduct 1.8(f), after all, requires that attorneys disclose the real party in interest to their client, and courts in Ohio have ruled this creates a judicially enforceable legal obligation that can be discovered. *See Libertarian Party of Ohio v. Husted*, 2014 WL 3928293 (S.D. Ohio 2014) (holding that protested candidate was entitled to discover identity of person paying protestor's lawyers and that Ohio Rule of Professional Conduct 1.8(f) required lawyer to disclose). *Ver. Comp., Doc.1 at PageID# 6.* In response to Ronan's demand, Schare's lawyers belatedly responded three days later that "our client the Ohio Republican Party will be paying our invoices in connection with this protest." *Id.*

During discovery in the ensuing federal litigation, Ronan uncovered the reason the Ohio Republican Party protested Ronan as well as its reason for remaining secret. Mike Carey. His

campaign contacted the chair of the Ohio Republican Party, Alex Triantafilou, *see* Triantafilou Dep., Doc.29-1 at PageID# 1223, and “laid out the case for me as to why this was in the party's interest to support Mike Carey,” *id.* at 1224, by “by spending money on legal fees” to protest Ronan. *Id.* at 1225. Knowing that Freedhoff would be hopelessly conflicted if their identities were made known, the real parties behind the protest (Carey and the Ohio Republican Party) thus actively engaged in a professionally and ethically questionable scheme to keep their roles a secret. Not even Schare was told of their involvement, even though Ohio’s Rules of Professional Conduct require it. *See Husted*, 2014 WL 3928293 (S.D. Ohio 2014).

It bears repeating that no disclosure was made to the Board of Elections even though Ronan repeatedly attempted to discover the secret clients’ identities at the hearing, and Freedhoff, who must have known that Schare’s lawyers also represented the Ohio Republican Party, failed to ask a single question about who was involved in the protest. Instead, the Board allowed Schare’s lawyers’ objections to block disclosure of this crucial piece of information. For her part, Freedhoff consciously maintained a shield of plausible (though a reasonable observer could conclude not honest) deniability and – consistent with her organization’s wishes -- voted to remove Ronan from the ballot.

Bost means what it says. Due process requires that candidates be provided fair procedures. Neither of Responses, meanwhile, bother to address *Bost*. They would prefer that it not exist. But it does, and it makes plain that candidates are also entitled to fair procedures. Flipping coins is not allowed, nor is stacking the deck. The District Court and Sixth Circuit erred. The procedures they sanctioned—an elections official presiding over an election protest the party she vice-chairs secretly initiated—are not fair. This Court should grant emergency relief to correct the lower courts’ errors and preserve the Circuit split they implicate for this Court’s review.

II. The District Court's and Sixth Circuit's Outright Rejection of Ronan's Facial Challenge Contradicts Longstanding Precedent.

Both the District Court and Sixth Circuit erred by ruling that Ronan could not make a facial challenge to Ohio's "good faith" and "political honesty" requirements because he had not "shown that there is any danger that the statute itself will 'significantly compromise recognized First Amendment protections of parties not before the Court.'" Opinion and Order, Doc. 36 at PageID# 1345; Order, Doc. 20-1 at Page 4.

This Court in *Moody v. NetChoice, LLC*, 603 U.S. 707 (2024), explained that the determination of whether to invalidate a law on its face proceeds in a two-step fashion. "The first step in the proper facial analysis is to assess the state laws' scope." *Id.* at 724. "The next order of business is to decide which of the laws' applications violate the First Amendment, and to measure them against the rest." *Id.* Only when the "measure" tilts more toward violations of the First Amendment—exactly how far was left undecided—is facial relief proper. The Supreme Court has long recognized that "substantial" overbreadth justifies ruling a law unconstitutional on its face. *See Broadrick v. Oklahoma*, 413 U.S. 601, 615 (1973); *e.g., United States v. Stevens*, 559 U.S. 460, 473 (2010) (facial review under the overbreadth doctrine is warranted whenever a law violates the First Amendment speech clause in a "substantial number of its applications ... judged in relation to [its] legitimate sweep").

As lower courts have repeatedly recognized, "*Moody* did not involve, and does not speak to, a First Amendment facial challenge to a statute's coverage definition that extends to every application of the statute's substantive provisions." *NetChoice v. Bonta*, 770 F. Supp.3d 1164, 1192 (N.D. Cal. 2025); *see also NetChoice v. Reyes*, 748 F. Supp.3d 1105, 1121, 1123 (D. Utah 2024) (same); *NetChoice v. Weiser*, 2025 WL 3101019 (D. Colo., Nov. 6, 2025); *NetChoice v. Bonta*, 770 F. Supp.3d 1164, 1192 (N.D. Cal. 2025); *see also NetChoice v. Reyes*, 748 F. Supp.3d 1105,

1121, 1123 (D. Utah 2024) (same); *NetChoice v. Weiser*, 2025 WL 3101019 (D. Colo., Nov. 6, 2025) (same); *Singleton v. City of Montgomery*, 2025 WL 1042101, *2 (11th Cir., April 8, 2025) (sustaining facial challenge where law in “its ‘full range of applications’ criminalizes begging alone”) (citation omitted).

Where a law is invalid “in all applications,” *Bonta*, 770 F. Supp.3d at 1195 (emphasis original), a challenged requirement “in every application ... raises the same First Amendment issues,” *NetChoice, LLC v. Bonta*, 113 F.4th 1101, 1116 (9th Cir. 2024), “the pertinent facts ... are the same across the board,” *Americans for Prosperity Foundation v. Bonta*, 594 U.S. 595, 618 (2021), or “[t]he [challenged] statute simply bans an entire category of activity that the First Amendment protects,” *Speet v. Schuette*, 726 F.3d 867, 879 (6th Cir. 2013), substantial overbreadth is established and “the *Moody* questions are easily answered” in favor of facial review. *Reyes*, 748 F. Supp.3d at 1121 n.92; *see also Bonta*, 770 F. Supp.3d at 1192 (“if a statute’s gateway coverage definition is content-based, the statute as a whole is subject to strict scrutiny because the coverage definition applies in all applications of the statute”); *NetChoice v. Yost*, 716 F. Supp.3d 539, 551 (S.D. Ohio 2024) (“in the First Amendment context, “[l]itigants ... are permitted to challenge a statute not because their own rights of free expression are violated, but because of a judicial prediction or assumption that the statute’s very existence may cause others not before the court to refrain from constitutionally protected speech or expression.”) (citation omitted).

The District Court and Sixth Circuit construed O.R.C. § 3513.07 to incorporate a “good faith” requirement that allows elections officials to explore candidates’ speech for consistency with party principles. Opinion and Order, Doc. 36 at PageID# 1343; Order, Doc. 20-1 at Page 4. So construed, the statute applies “across the board” to all primary candidates. *Bonta*, 594 U.S. at 618. Every primary candidate is at risk of having their political speech tested to determine whether they

declared their partisan affiliation in good faith. Every instance will raise the exact same issue presented here: whether government officials are constitutionally qualified to judge the content of candidates' core political speech to determine its consistency with partisan orthodoxy. This risk cries out for facial relief. The Courts below erred in rejecting Ronan's facial claim.

This Court, moreover, has repeatedly ruled that these standardless schemes are properly subject to facial challenges under the First Amendment. In *Lakewood v. Plain Dealer Publishing Co.*, 486 U.S. 750, 757 (1988), for example, the Court observed that “the mere existence of the licensor's unfettered discretion, coupled with the power of prior restraint, intimidates parties into censoring their own speech, even if the discretion and power are never actually abused.” “These evils engender identifiable risks to free expression that can be effectively alleviated only through a facial challenge.” *Id.* See also *Lovell v. Griffin*, 303 U.S. 444 (1938). The Courts below plainly erred in rejecting Ronan's facial claim. Ohio's protest process “intimidates parties into censoring their own speech,” just as it did in *Lakewood*. Regardless of whether these powers are ever “actually abused,” Ronan has a proper facial First Amendment claim. The risk and its chilling effect necessarily make a facial claim proper. The Courts below plainly erred.

III. The District Court's and Sixth Circuit's Applications of First Amendment Principles Strayed Far From This Court's Precedents.

Respondents have admitted in writing that they removed Ronan from Ohio's Republican primary ballot based solely on the content of his speech, which they believe to be inconsistent with Republican Party principles. This squarely violates the First Amendment. See *Meyer v. Grant*, 486 U.S. 414, 425 (1988). As the Court recognized in *Grant*, where “the speech at issue is ‘at the core of our electoral process,’” First Amendment protection “is at its zenith,” and the State's burden to justify an intrusion thereon “is well-nigh insurmountable.” *Id.* (quoting *Buckley v. Valeo*, 424 U.S. 1, 39 (1976)).

The District Court attempted to recast Respondents' intrusion upon Ronan's core political speech as nothing more than the enforcement of a requirement that he declare his partisan affiliation in good faith. Ronan's "statements do not show a change in affiliation," the District Court stated, but rather "highlight his ongoing mission to run Democrats as Republicans to infiltrate the party." Opinion and Order, Doc. 36 at PageID# 1340. Ronan, the District Court stated, "admitted to following a strategy to run Democrats as Republicans in 'deep red districts' so that Democrats could win." *Id.* at 1350. Ronan was "falsely claiming his party affiliation" in an effort "to infiltrate the Republican Party." *Id.* at 1355. The Sixth Circuit likewise concluded that "the Board removed Ronan because Ronan's own speech disavowed his sworn statement [that he is a Republican]." Order, Doc. 36 at Page 5.

The lower Courts' characterizations of Ronan's Facebook statements are both factually dubious and legally incorrect. First, it is not possible under Ohio law to "run as a Democrat in a Republican primary." All parties concede that Ronan timely complied with the statutory requirements to qualify as a candidate in Ohio's Republican primary election. Opinion and Order, Doc. 36 at PageID# 1336. Under Ohio law, his self-identification makes him a Republican. *Id.* at PageID# 1347. His Facebook posts do not claim otherwise. Neither Respondents nor the lower Courts identified any other basis for Ronan's removal from the Republican primary ballot.

Second, Ronan did not make a false oath, nor did he disavow that oath. He truthfully declared that he was a member of the Republican Party under Ohio's self-identification requirement and intended to abide by its principles if elected. The record is replete with his sworn statements and evidence confirming the truth of that oath. One cherry-picked statement that Ronan agrees that Democrats should run in Republican primaries or "infiltrate" the Republican Party (to use the District Court's words) does not contradict or undermine his prior truthful declaration.

Donald Trump famously infiltrated the Republican Party when he first won its nomination as a political novice in 2016. Many “never-Trump” Republicans now wish—in good faith—to infiltrate the party and take it back. Ronan’s interest in running as a Republican is no less legitimate nor deserving of First Amendment protection than theirs.

Ronan’s statement that Democrats should run in the Republican Party primary to convince voters to support progressive positions, which he believes to be consistent with the “Republican Party of yesterday ... during the Eisenhower years,” Opinion and Order, Doc. 36 at PageID# 1335, is core political speech. *See Grant*, 486 U.S. at 425. Ronan is entitled to say it—as a Republican, no less—without answering to elections officials who seek to disqualify him based on the content of that speech. Rather than affording this speech the First Amendment protection it deserves, however, Secretary LaRose with the blessing of the lower Courts here relied on it to brand Ronan a liar. Opinion and Order, Doc. 36 at PageID# 1349, 1351; Order, Doc. 20-1 at Page 5. That was error. *See Grant*, 486 U.S. at 425-428.

Neither the District Court nor the Sixth Circuit addressed Applicants’ claim that Respondents’ actions violated the First Amendment by infringing Ronan’s core political speech under *Grant*. Neither Court addressed *Grant*. Instead, both courts analyzed O.R.C. § 3513.07 under only the flexible *Anderson-Burdick* framework. *See Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983); *Burdick v. Takushi*, 504 U.S. 428, 434 (1992). Applying that analysis, the Sixth Circuit summarily concluded that O.R.C. § 3513.07 “does not impose a severe burden on Ronan,” because it merely “prevents a candidate from running a sham election in which he self-identifies as a Democrat but tells voters he is a Republican, or vice-versa.” Order, Doc. 20-1 at Page 5. Based on that conclusion, the Sixth Circuit determined that Ronan is unlikely to prevail on his First

Amendment claims because the statute is “a reasonable means” to achieve the State’s “substantial interest” in regulating elections. *Id.* at 6.

According to the District Court, meanwhile, the burden imposed on Ronan (and other candidates) is “incidental,” Opinion and Order, Doc. 36 at PageID# 1346, and only a “‘check’ on a prospective candidate’s affiliation.” *Id.* at 1347. “[T]he statute uniformly requires any prospective primary candidate seeking to run in a partisan primary to truthfully attest under penalty of election falsification that he is a member of said party.” *Id.* at 1348. Although “election officials generally must take them at their word,” the District Court stated, “where, as here, the candidate later states that he does not self-identify with the party he included on his declaration, election officials can use that speech to remove him from the ballot.” *Id.* at 1348. This constituted a “minimal burden on Mr. Ronan’s First Amendment rights and is subject to rational basis review,” the District Court concluded. *Id.*

These analyses, premised on the erroneous conclusion that Ronan necessarily lied when he swore he is a Republican who intends to support Republican principles, entirely elide Respondents’ infringement on Ronan’s core political speech. They ignore that Respondent Freedhoff questioned Ronan extensively about his political speech, including his positions on taxation, health care and President Trump, among others, and concluded, “I don’t see these things as being things that the Republican Party would agree on....” *See* Trans., March 6, 2026, Doc. 26-2 at PageID# 320-23. Evidence that Respondents imposed a content-based restriction on Ronan’s core political speech could not be more clear. As the Sixth Circuit itself has recognized, such a restriction—even when imposed by a ballot access statute—is properly subject to strict scrutiny under *Grant*. *See Brown v. Yost*, 133 F.4th 725, 732-35 (6th Cir. 2025).

The Sixth Circuit has also recognized that a content-based restriction on core political speech “severely burdens” First Amendment rights under the *Anderson-Burdick* analysis. *See id.* at 736. That is because it forces political actors “to alter the message that they wish to share” when advocating their positions or viewpoints. *Id.* Respondents imposed that severe burden on Ronan here. They admit that they disqualified him from the ballot because they believe his political strategy and viewpoints are inconsistent with Republican Party principles and that his sworn oath as a Republican therefore must be false. Such actions are unconstitutional under both *Grant* and *Anderson-Burdick*. *See id.* at 732-37.

Putting to one side the fact that Ronan has never said, as the District Court erroneously concluded, that he “does not self-identify with the party he included on his declaration,” and was not running a sham Democratic Party candidacy, the conclusion that Ohio’s law places only minimal or incidental burdens on candidates is wrong. Very wrong.

“Just don’t lie” is what the two Courts below are saying. “If you don’t lie you are not burdened.” The problem is this simplistic justification ignores the reality of Ohio’s protest system. For candidates in Ohio it is not a matter of not lying, it is a matter of a candidate’s making sure his speech is bullet-proof against a potential protestor and/or politically partisan election board that wants to accuse him of lying, remove him from the ballot and potentially prosecute him for election fraud. Any qualified voter in Ohio who self-identifies as a Republican can protest a Republican candidate. There is no filtering mechanism, since Ohio’s boards of elections have no power to dismiss frivolous protests. *See* BOE Hearing, Doc.26-1 at PageID# 234. *See Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 164 (2014). As this case makes plain, political opponents and powerful political parties can under Ohio law surreptitiously file protests against candidates to remove them

from ballots and clear away electoral obstacles. All they need to do is file, cherry-pick social media posts, and stack the deck with conflicted Election Board members.

Because of these realities, candidates like Ronan are pressured to self-censor their political speech. Should they take political positions that are not acceptable to the powers-that-be they risk being charged with lying about their self-identified party membership and intent to abide by party principles in the future. This pressure presents a severe chilling effect on candidates' speech. A conservative candidate who enters a Democratic primary should avoid broadcasting her conservative credentials lest she be called a liar. She most certainly should avoid telling voters that she was once a Republican and now seeks to import her conservative values into the Democratic party. Ronan's experience here teaches that a candidate who does that is a liar, subject to removal and possible prosecution. These risks severely burden candidates' core political speech. Rational basis review, which is what the District Court used, has no place. Nor does the Sixth Circuit's "reasonable means" approach. *See* Order, Doc.20-1 at Page 6. Instead, the proper question under both *Anderson-Burdick* and traditional First Amendment analysis is whether Ohio's "political honesty" requirement is narrowly tailored to achieve a compelling interest.

One need not question Ohio's interest in the integrity of its electoral process to determine that Ohio fails this test. Ohio's means are the problem. They are not sufficiently tailored. Ohio cannot establish that the "political honesty" rule recognized by the District Court and the protest process Ohio's elections boards use are necessary to preserve electoral integrity. It cannot because Ohio's protest process—whereby the honesty of political candidates can be tested at the discretion of election board members—is far from necessary to ensure the integrity of its elections. Indeed, Ohio's process is the worst of all possible alternatives. Anyone can protest, frivolous protests cannot be screened out, and then boards of elections are left without objective standards of any

sort to decide who is and who is not being politically honest. Standardless discretion, that is what Ohio relies on.

What could Ohio do? It could require that candidates register with political parties. That would provide the needed objective evidence to ensure party membership. Ohio could, as it once did, require that party candidates not have voted in another party's primary in the preceding two calendar years. Ohio could leave it to the political parties themselves to police their ballots, as opposed to vesting the power in state elections officials. Numerous tried-and-true alternatives exist. What Ohio cannot do is authorize state elections officials to remove candidates because they (elections officials) conclude they (candidates) are not being honest. That risks chilling candidate speech from the very beginning as well as the removal of candidate purely because of ideology.

The risk here is large. Candidates from all parties should censor their speech lest they be accused of political dishonesty. Ronan was not the only one. The same day the protest was argued by Schare's attorneys against Ronan those same attorneys before the same Franklin County Board of Elections claimed that the Libertarian candidate who challenged Carey in the 15th Congressional District was not really a Libertarian. *See* Stipulations, Doc. 30 at PageID# 1235. The bona fides of his Libertarian membership were questioned there by the same lawyers that challenged Ronan, and he too was accused (on behalf of a named client who did not show up for the hearing) of being a political liar.

Ohio's freshly recognized "good faith" and "political honesty" requirement cannot survive any level of searching scrutiny. Both the District Court and Sixth Circuit erred.

IV. The District Court Erred in Ruling that the Elections Clause is Not Enforceable By Candidates Under Section 1983.

The District Court erroneously relied on *Bognet v. Sec'y Commonwealth of Pennsylvania*, 980 F.3d 336, 349 (3d Cir. 2020), *vacated sub nom. Bognet v. Degraffenreid*, 145 S. Ct. 2508

(2021), to hold that candidates who are subject to ultra vires ballot restrictions have no recourse under the Elections Clause and § 1983. Opinion and Order, Doc. 36 at PageID# 1354. This constitutes plain error, since this Court in *Cook v. Gralike*, 531 U.S. 510 (2001), necessarily concluded that candidates can sue under § 1983 using the Elections Clause. As pointed out in their Application, the District Court misinterpreted *Bognet*, which merely ruled that candidates and voters lacked Article III standing to assert the right of the state legislature, as opposed to the state supreme court, to regulate federal elections. Here, the Ohio legislature has acted and Ronan's challenge is that its ballot rule falls beyond its power under the Elections Clause. He has Article III standing to assert his own rights and may use § 1983 just like the candidate did in *Cook*.

The Sixth Circuit, meanwhile, side-stepped this obvious error and concluded that the Elections Clause's limitations on state regulations of federal elections is necessarily co-extensive with the First Amendment. Order, Doc.20-1 at Page 6. Because it ruled Ronan's First Amendment claim failed, so did his Elections Clause claim.

Although this Court in *Cook* found overlap between the Elections Clause and the First Amendment, the majority still found them to be distinct. Justice Stevens ruled that because of Article I, § 4, States do not derive power from their own constitutions to regulate federal elections. Their power to regulate federal elections comes from § 4 of Article I of the United States Constitution. Whatever they might do with their own elections, they are restricted by the Elections Clause when regulating federal elections, like the one at issue here. *See also Trump v. Anderson*, 601 U.S. 100, 113 (2024) ("Perhaps a State may burden congressional authority in such a way when it exercises its "exclusive" sovereign power over its own state offices. But it is implausible to suppose that the Constitution affirmatively delegated to the States the authority to impose such a burden on congressional power with respect to candidates for federal office."). This federal grant

of power, Justice Stevens concluded, only allows States to “regulate the ‘Times, Places and Manner of holding Elections for Senators and Representatives.’” *Id.* at 522 (quoting U.S. Const., art.I, § 4). “No other constitutional provision gives the States authority over congressional elections, and no such authority could be reserved under the Tenth Amendment.” *Id.* at 522-23.

Justice Stevens further explained that State authority is restricted to “procedural regulations.” *Id.* at 523. States have no “power to dictate electoral outcomes, to favor or disfavor a class of candidates, or to evade important constitutional restraints.” *Id.* (citation omitted). Applying this logic to Missouri’s attempt to force candidates to include labels on their ballots stating whether they supported term limits, the Court had little difficulty concluding that the federal Elections Clause had been violated. “[Missouri’s law] is not a procedural regulation. It does not regulate the time of elections; it does not regulate the place of elections; nor, we believe, does it regulate the manner of elections.” *Id.* (footnote omitted). It “bears no relation to the ‘manner’ of elections as we understand it” *Id.* “Rather, [it] is plainly designed to favor candidates who are willing to support the particular form of a term limits amendment set forth in its text and to disfavor those who either oppose term limits entirely or would prefer a different proposal.” *Id.* “[F]ar from regulating the procedural mechanisms of elections, it attempts to ‘dictate electoral outcomes.’ Such ‘regulation’ of congressional elections simply is not authorized by the Elections Clause.” *Id.* at 525-26 (citation omitted).

Any attempt by a lone protestor or elections official to remove a congressional candidate from Ohio’s political primary ballot based on their disagreement with his ideology, or the content of his speech, or their conclusion that he is politically dishonest, necessarily runs afoul of the Elections Clause. Even if the First Amendment allows such a system, the Elections Clause prohibits it. It prohibits States from “favor[ing] candidates,” “attempt[ing] to dictate electoral

outcomes,” “intrud[ing] upon the relationship between the people and their congressional delegates,” or “inject[ing] itself into the election process” in a way that is “not neutral as to issues or candidates.” That is exactly what Ohio’s “honesty” command does here. It allows state elections officials to inject themselves into the election system by employing standardless discretion to pick and choose between which candidates can run based solely on the content of their core political speech. This is not a neutral system. It facilitates favoring candidates and risks dictating electoral outcomes. Requiring “good faith” and “political honesty” are not neutral procedural rules. They violate the Elections Clause.

V. *Purcell* Does Not Dictate That Ronan Be Refused Emergency Relief.

“This Court has repeatedly emphasized that federal courts ordinarily should not alter state election laws in the period close to an election—a principle often referred to as the *Purcell* principle.” *Democratic National Committee v. Wisconsin State Legislature*, 141 S. Ct. 28, 30 (2020) (Kavanaugh, J., concurring) (citing *Purcell v. Gonzalez*, 549 U.S. 1 (2006) (per curiam)). This “not only prevents voter confusion but also prevents election administrator confusion—and thereby protects the State’s interest in running an orderly, efficient election and in giving citizens (including the losing candidates and their supporters) confidence in the fairness of the election.” 141 S. Ct. at 31.

With the understanding that “[t]here is no good blanket answer to the question of what the status quo is,” *Labrador v. Poe*, 144 S. Ct. 921, 930 (2024) (Kavanaugh, J., concurring), here it is clear that status quo placed Ronan on the ballot and already (hopefully) receiving votes. Overseas voting commenced on March 20, 2026, and the TRO made sure Ronan was and is on those ballots. “It is too late to reprint the May 5 primary ballots, said Franklin County Board of Elections Director Antone White. Barring the Supreme Court intervening, the board will notify absentee voters that

votes for Ronan will not count and post notices at polling places” Jordan Laird, *Carey challenger—ousted from GOP ballot—appeals to SCOTUS*, April 8, 2026, COLUMBUS DISPATCH, <https://www.dispatch.com/story/news/politics/elections/2026/04/07/samuel-ronan-removed-from-republican-primary-against-mike-carey/89498528007/?gnt-cfr=1&gca-cat=p&gca-uir=true&gca-epti=z118180p119250l004450c119250e1173xxv118180d--70--b--70--&gca-ft=206&gca-ds=sophi>. Changing Ronan’s status quo candidacy at this late date is what could confuse voters. Emergency relief is warranted to prevent this from happening.

Respondent LaRose, moreover, is responsible for the temporal predicament he has created. From the time Ronan was certified on February 17, 2026 he has been, without interruption, qualified for Ohio’s ballot. The Board of Elections tied 2-2 on March 6, 2026 over the protestor’s effort to remove Ronan from the ballot, but as the Board made clear following the vote Ronan remained on the ballot with his certification in place. LaRose then inexplicably waited for two weeks until late in the afternoon on March 19, 2026, just hours before UOCAVA ballots were to be finalized the next day, to attempt (without notifying Ronan, who only discovered LaRose’s action through news reports and LaRose’s social media post) to remove Ronan from the ballot by casting the decisive tie-breaking vote. Ronan is not attempting to change the status quo, he is trying to preserve it.

Conclusion

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

Respectfully submitted,

s/Mark R. Brown

Mark R. Brown (81941)
Counsel of Record
Newton D. Baker/Baker & Hostetler Chair
CAPITAL UNIVERSITY*
303 East Broad Street
Columbus, Ohio 43215
614.236.6590
mbrown@law.capital.edu

Oliver Hall
Legal Counsel
CENTER FOR COMPETITIVE DEMOCRACY
P.O. Box 21090
Washington, DC 20009
202.248.9294
oliverhall@competitivedemocracy.org

Counsel for Appellants
*For purpose of identification only