

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

NORTHEAST OHIO COALITION FOR THE HOMELESS, et al.,	:	
	:	
Plaintiffs,	:	Case No. 1:23-CV-26-DCN
	:	
v.	:	JUDGE DONALD C. NUGENT
	:	
OHIO SECRETARY OF STATE FRANK LaROSE,	:	Magistrate Judge Greenberg
	:	
Defendant.	:	

ANSWER OF DEFENDANT OHIO SECRETARY OF STATE FRANK LaROSE

Now comes Defendant Ohio Secretary of State Frank LaRose, and for his Answer to Plaintiffs' Amended Complaint, states as follows:

1. Defendant admits that Plaintiffs have brought suit challenging certain provisions of Ohio Substitute House Bill 458 ("HB 458"). Defendant denies that HB 458 imposes needless and discriminatory burdens on Ohioans' fundamental right to vote. Defendant denies all remaining allegations in Paragraph 1.

2. Defendant's statements regarding the State's election system speak for themselves. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 2, and therefore, those allegations are denied.

3. Defendant denies the allegations in Paragraph 3.

4. HB 458 speaks for itself. To the extent a response is required, Defendant denies the allegations in Paragraph 4.

5. Defendant denies the allegations in Paragraph 5.

6. Defendant denies the allegations in Paragraph 6.

7. Paragraph 7 consists of legal conclusions and no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 7.

8. Defendant admits that Plaintiffs have brought this action under 42 U.S.C. § 1983. Defendant denies all remaining allegations in Paragraph 8.

9. Paragraph 9 consists of legal conclusions and no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 9.

10. Defendant admits that venue is proper in this district but denies the allegations in Paragraph 10.

11. Paragraph 11 consists of legal conclusions and no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 11.

12. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12, and therefore, those allegations are denied.

13. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 13, and therefore, those allegations are denied.

14. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 14, and therefore, those allegations are denied.

15. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15, and therefore, those allegations are denied.

16. Defendant denies that the Ohio Alliance for Retired Americans has chapters in the cities of Warrant, Bowling, and Green, Ohio. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 16, and therefore, those allegations are denied.

17. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 17, and therefore, those allegations are denied.

18. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 18, and therefore, those allegations are denied.

19. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 19, and therefore, those allegations are denied.

20. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 20, and therefore, those allegations are denied.

21. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 21, and therefore, those allegations are denied.

22. Defendant admits that, pursuant to Ohio Revised Code section 3501.04, he is the chief election officer of Ohio and is the Secretary of State of Ohio. The remaining allegations in Paragraph 22 are legal conclusions, and therefore no response is required. To the extent that a response is required, Defendant denies the allegations in Paragraph 22. Further answering, the cited statutes speak for themselves.

23. Defendant admits that Ohioans went to the polls at impressive rates in 2020. Defendant admits that the number of votes cast in the 2020 election was the highest number in an Ohio election and that it was a remarkable feat. Defendant denies the remaining allegations in Paragraph 23.

24. Ohio voter participation rate data speaks for itself, and no response to Plaintiffs' characterization is required. To the extent further response is required, Defendant denies the allegations in Paragraph 24.

25. Defendant admits that he issued directives regarding drop boxes in the year 2020. The directives speak for themselves, and no response is required. To the extent further response is required, Defendant denies the allegations in Paragraph 25.

26. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 26, and therefore, those allegations are denied.

27. Defendant admits that he issued guidance regarding drop boxes in the year 2022. The referenced fact sheet speaks for itself. To the extent further response is required, Defendant denies the allegations in Paragraph 27.

28. Ohio participation rate data for early in-person and mail voting speaks for itself, and no response to Plaintiffs' characterization is required. To the extent further response is required, Defendant denies the allegations in Paragraph 28.

29. Defendant denies the allegations in Paragraph 29.

30. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 30, and therefore, those allegations are denied.

31. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 31, and therefore, those allegations are denied.

32. The amendments to Ohio's election laws in 2005 speak for themselves. Defendant denies all other allegations in Paragraph 32.

33. Defendant's references to voter fraud speak for themselves, and no response to Plaintiffs' characterization is required. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 33, and therefore, those allegations are denied.

34. The post-election audit data in Paragraph 34 speaks for itself, and no response to Plaintiffs' characterization is required. To the extent further response is required, Defendant denies the allegations in Paragraph 34.

35. Defendant's remarks on election night in 2020 speak for themselves, and no response to Plaintiffs' characterization is required. Defendant denies any allegations in Paragraph 35 that are inconsistent therewith.

36. Defendant's February 2022 remarks speak for themselves, and no response to Plaintiffs' characterization is required. Defendant denies any allegations in Paragraph 36 that are inconsistent therewith.

37. Defendant's November 2022 remarks speak for themselves, and no response to Plaintiffs' characterization is required. Defendant denies any allegations in Paragraph 37 that are inconsistent therewith.

38. Defendant's year-end review speaks for itself, and no response to Plaintiffs' characterization is required. Defendant denies any allegations in Paragraph 38 that are inconsistent therewith.

39. Any remarks by Defendant on Ohio's election administration speak for themselves, and no response to Plaintiffs' characterization is required. Defendant denies any allegations in Paragraph 39 that are inconsistent therewith.

40. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 40, and therefore, those allegations are denied.

41. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 41, and therefore, those allegations are denied.

42. The referenced 2021 resolution speaks for itself. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 42, and therefore, those allegations are denied. To the extent a response is required, Defendant denies the allegations in Paragraph 42.

43. Defendant denies the allegations in Paragraph 43.

44. Defendant denies the allegations in Paragraph 44.

45. Defendant's remarks on HB 294 speak for themselves, and no response to Plaintiffs' characterization is required. Defendant denies any allegations in Paragraph 45 that are inconsistent therewith.

46. Defendant's remarks on voter fraud speak for themselves, and no response to Plaintiffs' characterization is required. Defendant denies any allegations in Paragraph 46 that are inconsistent therewith.

47. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 47, and therefore, those allegations are denied.

48. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 48, and therefore, those allegations are denied.

49. Defendant denies the allegations in Paragraph 49.

50. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 50, and therefore, those allegations are denied. Further answering, the legislative history of HB 458 speaks for itself.

51. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 51, and therefore, those allegations are denied. Further answering, the legislative history of HB 458 speaks for itself.

52. Paragraph 52 contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations contained in Paragraph 52.

53. The referenced Photo-ID Provision speaks for itself and no response is required. To the extent further response is required, Defendant denies the allegations in Paragraph 53.

54. The referenced Cure Provisions speak for themselves and no response is required. To the extent further response is required, Defendant denies the allegations in Paragraph 54.

55. The referenced Mail-Ballot Provisions speak for themselves and no response is required. To the extent further response is required, Defendant denies the allegations in Paragraph 55.

56. The referenced Drop-Box Provisions speak for themselves and no response is required. To the extent further response is required, Defendant denies the allegations in Paragraph 56.

57. The referenced Monday-Voting Provision speaks for itself and no response is required. To the extent further response is required, Defendant denies the allegations in Paragraph 57.

58. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 58, and therefore, those allegations are denied.

59. Defendant denies the allegations in Paragraph 59.

60. Defendant admits that Governor DeWine signed HB 458 on January 6, 2023.

61. The Ohio Constitution and HB 458 speaks for itself. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 61, and therefore, those allegations are denied.

62. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 62, and therefore, those allegations are denied.

63. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 63, and therefore, those allegations are denied.

64. Defendant's remarks on Ohio's election system speak for themselves, and no response to Plaintiffs' characterization is required. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 64, and therefore, those allegations are denied.

65. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 65, and therefore, those allegations are denied.

66. Defendant denies the allegations in Paragraph 66.

67. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 67, and therefore, those allegations are denied. Further answering, the legislative history of HB 458 speaks for itself.

68. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 68, and therefore, those allegations are denied.

69. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 69, and therefore, those allegations are denied.

70. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 70, and therefore, those allegations are denied.

71. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 71, and therefore, those allegations are denied.

72. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 72, and therefore, those allegations are denied.

73. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 73, and therefore, those allegations are denied.

74. Defendant denies the allegations in Paragraph 74.

75. Defendant denies the allegations in Paragraph 75.

76. The cited statutory provisions in Paragraph 76 speak for themselves. To the extent further response is required, Defendant denies the allegations in Paragraph 76.

77. Defendant's referrals to the Ohio Attorney General speak for themselves. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 77, and therefore, those allegations are denied.

78. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 78, and therefore, those allegations are denied.

79. The referenced Photo-ID Provision speaks for itself. To the extent further response is required, Defendant denies the allegations in Paragraph 79.

80. The Ohio Revised Code, as amended by HB 458, speaks for itself. To the extent further response is required, Defendant denies the allegations in Paragraph 80.

81. The Ohio Revised Code, as amended by HB 458, speaks for itself. To the extent further response is required, Defendant denies the allegations in Paragraph 81.

82. Defendant denies the allegations in Paragraph 82.

83. Defendant denies the allegations in Paragraph 83.

84. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 84, and therefore, those allegations are denied.

85. Defendant denies the allegations in Paragraph 85.

86. The referenced Photo ID provision speaks for itself. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 86, and therefore, those allegations are denied.

87. The referenced Photo-ID Provision speaks for itself. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 87, and therefore, those allegations are denied.

88. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 88, and therefore, those allegations are denied.

89. Defendant denies the allegations in the first sentence of Paragraph 89. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 89, and therefore, those allegations are denied.

90. Defendant denies the allegations in the first sentence of Paragraph 90. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 90, and therefore, those allegations are denied.

91. HB 458 and the cited statutes speak for themselves. To the extent a response is required, Defendant denies the allegations in Paragraph 91.

92. Defendant denies the allegations in the first sentence of Paragraph 92. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 92, and therefore, those allegations are denied.

93. The Ohio Revised Code speaks for itself. To the extent a response is required, Defendant denies the allegations in Paragraph 93.

94. Defendant denies the allegations in Paragraph 94.

95. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 95, and therefore, those allegations are denied.

96. Paragraph 96 consists of legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 96.

97. The Ohio Revised Code, as amended by HB 458 and HB 45, speaks for itself. To the extent further response is required, Defendant denies the allegations in Paragraph 97.

98. The Ohio Revised Code, as amended by HB 458, speaks for itself. To the extent further response is required, Defendant denies all allegations in Paragraph 98.

99. Defendant admits that voters who vote by mail and make technical mistakes in the voting process will have the opportunity to cure the defects. Defendant denies all remaining allegations in Paragraph 99.

100. The Ohio Revised Code speaks for itself. To the extent further response is required, Defendant denies the allegations in Paragraph 100.

101. The Ohio Revised Code speaks for itself. To the extent further response is required, Defendant denies the allegations in Paragraph 101.

102. The Ohio Revised Code speaks for itself. To the extent further response is required, Defendant denies the allegations in Paragraph 102.

103. Defendant denies the allegations in Paragraph 103.

104. Defendant denies the allegations in Paragraph 104.

105. Defendant denies the allegations in Paragraph 105.

106. The Mail-Ballot Provisions speak for themselves. To the extent further response is required, Defendant denies the allegations in Paragraph 106.

107. The Ohio Revised Code, as amended by HB 458, speaks for itself. To the extent further response is required, Defendant denies the allegations in Paragraph 107.

108. Defendant denies the allegations in Paragraph 108.

109. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 109, and therefore, those allegations are denied.

110. The Ohio Revised Code, as amended by HB 458, speaks for itself. To the extent further response is required, Defendant denies the allegations in Paragraph 110.

111. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 111, and therefore, those allegations are denied.

112. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 112, and therefore, those allegations are denied.

113. The Ohio Revised Code and HB 458 speak for themselves. The remaining allegations in Paragraph 113 consist of legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 113.

114. The Ohio Revised Code, as amended by HB 458 and HB 45, speaks for itself. To the extent further response is required, Defendant denies the allegations in Paragraph 114.

115. Defendant denies the allegations in Paragraph 115.

116. Defendant denies the allegations in Paragraph 116.

117. The Ohio Revised Code and the case cited in Paragraph 117 speak for themselves. To the extent further response is required, Defendant denies the allegations in Paragraph 117.

118. The Ohio Revised Code, as amended by HB 458 and HB 45, speaks for itself. To the extent further response is required, Defendant denies the allegations in Paragraph 118.

119. Defendant denies the allegations in Paragraph 119.

120. Paragraph 120 consists of legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 120.

121. Defendant denies the allegations in Paragraph 121.

122. Defendant denies the allegations in the first sentence of Paragraph 122. Regarding the second sentence, the Drop-Box Provisions speak for themselves and no response is required. To the extent further response is required, Defendant denies the allegations in the second sentence of Paragraph 122.

123. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 123, and therefore, those allegations are denied.

124. Defendant denies the allegations in Paragraph 124.

125. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 125, and therefore, those allegations are denied.

126. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 126, and therefore, those allegations are denied.

127. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 127, and therefore, those allegations are denied.

128. The referenced Monday-Voting Provision speaks for itself. To the extent further response is required, Defendant denies the allegations in Paragraph 128.

129. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 129, and therefore, those allegations are denied.

130. The cases cited in Paragraph 130 speak for themselves. To the extent further response is required, Defendant denies the allegations in Paragraph 130.

131. Ohio voter participation rate data speaks for itself. To the extent further response is required, Defendant denies all allegations in Paragraph 131.

132. Defendant denies the allegations in the first sentence of Paragraph 132. The case cited in Paragraph 132 speaks for itself. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 132, and therefore, those allegations are denied.

133. Defendant denies the allegations in Paragraph 133.

134. As to Paragraph 134, Defendant incorporates by reference all answers and defenses in the preceding paragraphs.

135. The cases cited in Paragraph 135 speak for themselves. To the extent further response is required, Defendant denies the allegations in Paragraph 135.

136. The cases cited in Paragraph 136 speak for themselves. To the extent further response is required, Defendant denies the allegations in Paragraph 136.

137. The cases cited in Paragraph 137 speak for themselves. The remaining allegations in Paragraph 137 consist of legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 137.

138. Defendant denies the allegations in Paragraph 138.

139. Defendant denies the allegations in Paragraph 139.

140. Defendant denies the allegations in Paragraph 140.

141. Defendant denies the allegations in Paragraph 141.

142. Defendant denies the allegations in Paragraph 142.

143. Defendant denies the allegations in Paragraph 143.

144. Defendant denies the allegations in Paragraph 144.

145. Defendant denies the allegations in Paragraph 145.

146. Any allegations not specifically answered herein, including but not limited to those contained in any titles, footnotes, or section headers, are hereby denied.

147. Defendant denies that Plaintiffs are entitled to any relief in this matter.

148. Defendant denies all allegations in Plaintiffs' "WHEREFORE" clause.

WHEREFORE, having answered Plaintiffs' Amended Complaint, Defendant Ohio Secretary of State Frank LaRose raises the following defenses, including affirmative defenses.

DEFENSES AND AFFIRMATIVE DEFENSES

FIRST DEFENSE

1. This Court lacks subject-matter jurisdiction over Plaintiffs' case.

SECOND DEFENSE

2. Plaintiffs lack standing to bring this Amended Complaint.

THIRD DEFENSE

3. Plaintiffs fail to state a claim upon which relief may be granted.

FOURTH DEFENSE

4. Plaintiffs have not been deprived of any federal constitutional or statutory rights.

FIFTH DEFENSE

5. The challenged laws do not violate the United States Constitution.

SIXTH DEFENSE

6. The challenged laws are supported by sufficient state interests.

SEVENTH DEFENSE

7. The challenged laws are sufficiently tailored to meet constitutional scrutiny.

EIGHTH DEFENSE

8. Plaintiffs are unable to establish the elements required for injunctive or declaratory relief.

NINTH DEFENSE

9. The doctrine of judicial restraint precludes Plaintiffs' claims.

TENTH DEFENSE

10. The principle of constitutional avoidance bars Plaintiffs' claims.

RESERVATION OF ADDITIONAL DEFENSES

Defendant reserves the right to supplement his Answer with additional defenses, including affirmative defenses, as litigation in this matter proceeds.

Thus, having fully answered Plaintiffs' Amended Complaint, Defendant requests that this Court dismiss Plaintiffs' claims, with prejudice, and that Plaintiffs be awarded no relief, no costs, and no fees.

Respectfully submitted,

DAVE YOST
Ohio Attorney General

/s/ Andrew D. McCartney

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Frank LaRose*

CERTIFICATE OF SERVICE

I hereby certify that on March 7, 2023, the foregoing Answer was filed with the Court. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties for whom counsel has entered an appearance. Parties may access this filing through the Court's system.

/s/ Andrew D. McCartney
ANDREW D. McCARTNEY (0099853)
Assistant Attorney General