

2024-1238

IN THE SUPREME COURT
OF OHIO

ORIGINAL ACTION IN QUO WARRANTO, MANDAMUS, AND PROCEDENDO

JOHN JENNEWINE,
Relator,

v.

HON. JACK R. PUFFENBERGER, et al.,
Respondents.

RESPONDENT HON. JACK R. PUFFENBERGER'S MOTION TO DISMISS

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Hon. Jack R. Puffenberger

Now comes Respondent, Hon. Jack R. Puffenberger, pursuant to *S.Ct.Prac.R.* 12.01(A)(2)(b) and 12.04(A)(1) and *Civ.R.* 12(B)(6), and moves to dismiss Relator Jennewine's *Verified Complaint for Writ of Quo Warranto, Mandamus, and Procedendo*. The grounds for Judge Puffenberger's motion are that, based upon this Court's clear precedent, Relator Jennewine lacks standing to assert quo warranto, mandamus and/or procedendo claims against him or against Respondent Jill Johnson, another township trustee. Judge Puffenberger's *Civ.R.* 12(B)(6) motion is well-taken because Relator can prove no set of facts that would entitle him to quo warranto, mandamus, and/or procedendo relief, and Judge Puffenberger asks the Court to summarily dismiss the *Verified Complaint*.

Judge Puffenberger's motion is supported by the factual allegations of the *Verified Complaint* along with the exhibits attached thereto, certain matters of public record, and his memorandum of law below.

Respectfully submitted,

JULIA R. BATES
LUCAS COUNTY PROSECUTING ATTORNEY

By: /s/ Kevin A. Pituch
Steven Papadimos
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Counsel for Respondent Hon. Jack R. Puffenberger

MEMORANDUM OF LAW

I. STATEMENT OF THE CASE AND FACTS

This is a quo warranto, mandamus, and procedendo action initiated by Relator John Jennewine against Respondents Hon. Jack R. Puffenberger and Jill Johnson. Relator is one of three township trustees (elected in 2021 for a four-year term) for Sylvania Township, Lucas County, Ohio. *Verified Complaint*, ¶¶2-4, Ohio Supreme Court Case No. 2024-1238 (Aug. 30, 2024). Respondent Judge Puffenberger is judge of the Lucas County Common Pleas Court, Probate Division, and Respondent Johnson is the duly appointed township trustee, also for Sylvania Township, Lucas County, Ohio as the replacement for retired Trustee John H. Crandell (also elected in 2021 for a four-year term). *Id.*, ¶¶5-7, 12, 34-35.

Relator, dissatisfied with the selection of Trustee Johnson, asked the Lucas County Prosecuting Attorney and the Ohio Attorney General to file a quo warranto action to remove her from office. Because the Lucas County Prosecuting Attorney believed Trustee Johnson had been properly appointed, she declined to pursue the extraordinary relief of ousting an appointed trustee, and so far, the Ohio Attorney General has also not sought a writ for such relief. Relator now asks this Court to do what they would not--expel Trustee Johnson from office and order Judge Puffenberger to select another trustee. *Id.*, ¶¶65-66, 73-76. As will be established below, Relator, as a private citizen, lacks standing to seek quo warranto, mandamus and/or procedendo relief and, given his lack of standing, the merits of his case are unimportant so the Court should dismiss the *Verified Complaint*.

The material facts of Judge Puffenberger's motion are undisputed. Relator is an elector and a sitting township trustee for Sylvania Township, Lucas County, Ohio. *Verified Complaint*,

¶¶2-4. Former Sylvania Township Trustee John Crandell resigned from office on June 30, 2024. Relator and the remaining trustee, Neil Mahoney, could not agree on the appointment of Trustee Crandell's successor within the 30 days set forth such an appointment by *R.C. §503.24*. *Verified Complaint*, ¶¶5-7, 14-21. As a result, Trustee Johnson was selected in August of 2024 by a majority of the then-existing committee of five listed on the nominating petition of Trustee Crandell when he last ran for office in 2021. *Id.*, ¶¶22-47.

Since her appointment in August of 2024, Trustee Johnson has served as one of the three trustees of Sylvania Township. *Id.* After neither the Lucas County Prosecuting Attorney nor the Ohio Attorney General filed a quo warranto action, Relator requested that Judge Puffenberger appoint a successor to former Trustee Crandell. See, Exhibit No. 1 (Aug. 23, 2024 letter, attached hereto). Judge Puffenberger has chosen not to do so. *Id.*, ¶¶12, 59-60.

In seeking Trustee Johnson's removal from office, Relator has asserted claims for the extraordinary writs of quo warranto, mandamus, and procedendo. Relator alleges that Trustee Johnson was improperly selected as the successor trustee for retired Trustee Crandell and unlawfully holds the office of Sylvania Township trustee; that *R.C. §503.24* required Judge Puffenberger, as the Lucas County Probate Judge, to select Trustee Crandell's successor; that Relator asked Respondent to select a successor trustee; and that Respondent has refused to do so. *Verified Complaint*, ¶¶12, 60-67. Relator demands the following:

“This court should grant relief to relator John Jennewine under its original jurisdiction and expel co-respondent Jill Johnson from office, correct the Simkos' prior unauthorized exercise of Judge Puffenberger's power, and compel the judge to timely fill the vacancy created by John H. Crandell's resignation from the township board of trustees.”

Id., ¶76.

II. LAW AND ARGUMENT

A. Standard for granting a dismissal motion pursuant to Civ.R. 12 (B)(6).

A motion to dismiss, pursuant to *Civ.R. 12(B)(6)*, is a procedural device for testing the sufficiency of a complaint or a petition filed in an original action with an appellate court. *State ex rel. Hanson v. Guernsey County Board of Commissioners*, 65 Ohio St.3d 545, 548 (1992); *Assn. for the Defense of the Washington Local School Dist. v. Kiger*, 42 Ohio St.3d 116, 117 (1989). A motion to dismiss should be granted when, after examining the complaint, it appears beyond doubt that the non-moving party can prove no set of facts which would entitle him to the requested relief. *State ex rel. Seikbert v. Wilkinson*, 69 Ohio St. 3d 489, 490 (1994); *York v. Ohio State Highway Patrol*, 60 Ohio St.3d 143, 144 (1991). The Court must accept as true the factual allegations contained in the complaint/petition. *State ex rel. Seikbert v. Wilkinson*, 69 Ohio St. 3d at 490; *Mitchell v. Lawson Milk Company*, 49 Ohio St.3d 190, 192 (1988). However, unsupported conclusions of law are not considered admitted and are insufficient to withstand a motion to dismiss. *State ex rel. Seikbert v. Wilkinson*, 69 Ohio St. 3d at 490; *Mitchell*, 40 Ohio St.3d at 193; see also, *State ex rel. Hickman v. Capots*, 45 Ohio St.3d 324, 324 (1989).

In addition, the Court may rely upon facts from the public record. *State ex rel. Everhart v. McIntosh*, 2007-Ohio-4798, ¶ 8 (courts may take judicial notice of judicial opinions and public records accessible from the internet); *State ex rel. Crabtree v. Franklin Cty. Bd. of Health*, 77 Ohio St. 3d 247, 249, n. 1 (1997) (in assessing a motion to dismiss, the Court may also consider, as evidence, documents attached to the pleadings and matters of public record); *State ex rel. Neff v. Corrigan*, 75 Ohio St. 3d 12, 16 (1996) (courts may take judicial notice of appropriate matters in considering a motion to dismiss for failure to state a claim). Thus, in considering Judge Puffenberger's motion to dismiss, in addition to the factual allegations of

the *Verified Complaint*, the Court may consider the exhibits attached to it and the hand-delivered letter from Relator to Judge Puffenberger, which is attached hereto as Exhibit No. 1.

Also, as will be explained below, Judge Puffenberger seeks dismissal of this case because of Relator's lack of standing to assert his *Verified Complaint*. Such a dismissal motion is properly brought for resolution via *Civ.R.* 12(B)(6)—rather than via *Civ.R.* 12(B)(1)—as with a motion seeking dismissal of a complaint/petition for lack of subject matter jurisdiction. As stated by the Franklin County Court of Appeals:

“Lack of standing challenges the capacity of a party to bring an action, not the subject-matter jurisdiction of the court. *State ex rel. Jones v. Suster*, 84 Ohio St.3d 70, 77, 1998 Ohio 275, 701 N.E.2d 1002. These issues are properly raised by a *Civil Rule* 12(B)(6) motion to dismiss for failure to state a claim upon which relief can be granted. *Washington Mut. Bank v. Beatley*, 10th Dist. No. 06AP-1189, 2008 Ohio 1679, P10, citing *Woods v. Oak Hill Community Med. Ctr., Inc.* (1999), 134 Ohio App.3d 261, 267, 730 N.E.2d 1037 (noting that dismissal for lack of standing is a dismissal pursuant to *Civil Rule* 12(B)(6)); *Bourke v. Carnahan*, 163 Ohio App.3d 818, 2005 Ohio 5422, P10, 840 N.E.2d 1101 (finding elements of standing are an indispensable part of a plaintiff's case); and *Kiraly v. Francis A. Bonanno, Inc.* (Oct. 29, 1997), 9th Dist. No. 18250, 1997 Ohio App. LEXIS 4753 (affirming *Civil Rule* 12(B)(6) dismissal of complaint for plaintiff's lack of capacity to sue). Therefore, we will review the trial court's dismissal based upon lack of standing under *Civil Rule* 12(B)(6).”

Brown v. Columbus City Schs. Bd. of Educ., 2009-Ohio-3230, ¶ 4 (10th Dist.); see also, *Bank of Am., N.A. v. Kuchta*, 2014-Ohio-4275, paragraph three of the syllabus (“Although standing is required in order to invoke the jurisdiction of the court of common pleas over a particular action, lack of standing does not affect the subject-matter jurisdiction of the court”).

B. Relator does not have standing to bring a quo warranto action.

Relator, as a private citizen, has asserted a quo warranto claim, but he has not alleged facts to show that he has the requisite standing to do so. Quo warranto actions are governed

by Chapter 2733 of the *Ohio Revised Code*. *R.C. 2733.01* provides in part: “A civil action in quo warranto may be brought in the name of the state: (A) Against a person who usurps, intrudes into, or unlawfully holds or exercises a public office.” As against a person alleged to be unlawfully holding a public office, the Ohio Attorney General or county prosecuting attorney are granted the authority to file a quo warranto action. See, *R.C. 2733.04-05*. Neither the Ohio Attorney General nor Lucas County Prosecuting Attorney has filed such a quo warranto action against Trustee Johnson. In addition, Relator has not alleged that the Lucas County Prosecuting Attorney is not available to seek quo warranto under *R.C. 2733.07*. See, e.g., *State ex rel. Thomas v. Kane*, 43 Ohio St. 3d 164, 164-165 (1989) (“When the office of prosecuting attorney is vacant, or the prosecuting attorney is absent, interested in the action in quo warranto, or disabled, the court, or a judge thereof in vacation, may direct or permit any member of the bar to act in his place to bring and prosecute the action”).

A private person, such as Relator, may assert a quo warranto action under *R.C. 2733.06*, but only if he is a “person claiming to be entitled to a public office unlawfully held and exercised by another.” So--the question is, does Relator possess the ability to do so-- does he have standing to seek Trustee Johnson’s ouster from office? In terms of quo warranto standing, this Court has stated:

“‘Standing is a preliminary inquiry that must be made before a court may consider the merits of a legal claim.’ *Kincaid v. Erie Ins. Co.*, 128 Ohio St.3d 322, 2010-Ohio-6036, 944 N.E.2d 207, ¶9. ‘A party lacks standing to invoke the jurisdiction of the court unless he has, in an individual or representative capacity, some real interest in the subject matter of the action.’ (Emphasis added.) *State ex rel. Dallman v. Franklin Cty. Court of Common Pleas*, 35 Ohio St.2d 176, 298 N.E.2d 515 (1973), syllabus. ‘[T]he inquiry as to standing must begin with a determination of whether the statute in question authorizes review at the behest of the plaintiff.’ *State ex rel. E. Cleveland Fire Fighters’ Assn., Local 500, Internatl. Assn. of Fire Fighters v. Jenkins*, 96 Ohio St.3d 68, 2002-Ohio-3527, 771 N.E.2d 251, ¶11, quoting *Sierra Club v. Morton*, 405 U.S. 727, 732, . . . (1972).

An action in quo warranto against a public official must be brought by the attorney general or a prosecuting attorney, *R.C. 2733.05*, or by a person claiming to be entitled to the public office unlawfully held and exercised by another, *R.C. 2733.06*. After Flanagan lost the 2012 election, he asked the Belmont County prosecutor to file an action in quo warranto seeking the ouster of the elected Belmont County sheriff, David Lucas, but the prosecutor refused. Flanagan then filed this quo warranto action under *R.C. 2733.06*, claiming ‘entitlement to the office of Belmont County sheriff’ as ‘the only qualified candidate’ on the November 6, 2012 ballot.

R.C. 2733.06 sets forth the standing requirement for a private citizen to file the action. It authorizes a ‘person claiming to be entitled to a public office unlawfully held and exercised by another’ to bring an action in quo warranto.

In *State ex rel. Halak v. Cebula*, 49 Ohio St.2d 291, 361 N.E.2d 244 (1977), we set out the two requirements for a relator to bring an action in quo warranto:

‘[H]e must show not only that he is entitled to the office, but also that it is unlawfully held and exercised by the defendant in the action.’ *State ex rel. Heer v. Butterfield* (1915), 92 Ohio St. 428, 111 N.E. 279, paragraph one of the syllabus; *State ex rel. Lindley v. The Maccabees* (1924), 109 Ohio St. 454, 2 Ohio Law Abs. 181, 142 N.E. 888; *State ex rel. Smith v. Nazor* (1939), 135 Ohio St. 364, 21 N.E.2d 124.

Id. at 292. We emphasized that the claim of the individual asserting entitlement to the office must be made in “good faith and upon reasonable grounds.” *Id.* at 293, quoting *State ex rel. Ethell v. Hendricks*, 165 Ohio St. 217, 135 N.E.2d 362 (1956), paragraph three of the syllabus.”

State ex rel. Flanagan v. Lucas, 2014-Ohio-2588, ¶ 17-20; see also, *State ex rel. Salim v. Ayed*, 2014-Ohio-4736, ¶ 11 (“Ordinarily, an action in quo warranto must be brought by the attorney general or a prosecuting attorney” and a “private person cannot maintain an action in quo warranto except under the authority of *R.C. 2733.06*, and ‘he must show not only that he is entitled to the office, but also that it is unlawfully held and exercised by the defendant in the action’”).

Taking together the undisputed facts noted above and this Court’s precedent, the Court should easily find that Relator lacks standing to bring a quo warranto action against Trustee

Johnson and dismiss his *Verified Complaint*. First, Relator is neither the Ohio Attorney General (nor one of his agents) nor the Lucas County Prosecuting Attorney (nor one of her agents). Second, Relator does not claim the right to occupy the office held by Trustee Johnson as is required by *R.C. 2733.06*. How could he be? He is already a sitting trustee of Sylvania Township. Third, because Relator lacks standing to assert a quo warranto action, the Court need not consider the issue of Johnson's appointment before dismissing the *Verified Complaint*. See, *State ex rel. Ohio Stands Up! v. Dewine*, 2021-Ohio-4382, ¶ 5 (“A party must establish standing to sue before a court can consider the merits of the claim”); *State ex rel. Flanagan*, 2014-Ohio-2588, ¶ 28 (“Because Flanagan lacks standing to bring this quo warranto action, we do not reach the issue of Lucas's qualifications for office”); *State ex rel. Ohio Academy of Trial Lawyers v. Sheward*, 86 Ohio St.3d 451, 469 (1999) (“It is well settled that before an Ohio court can consider the merits of a legal claim, the person seeking relief must establish standing to sue”).

While Relator insists otherwise, this Court's recent decisions have made it clear that where a relator lacks standing, the quo warranto action is to be summarily dismissed. *State ex rel. Flanagan*, 2014-Ohio-2588, ¶ 30, J. Kennedy *concurring* (“But to reach the merits of whether he is qualified, the dissent leaps over the first and fundamental requirement of a quo warranto case brought under *R.C. 2733.06*: that the challenger have a good faith claim to the office. No matter how enticing the merits of a case, the merits do not justify allowing a party who lacks standing to bring it”); see also, *Moore v. City of Middletown*, 2012-Ohio-3897, ¶ 23 (“It is well settled that standing does not depend on the merits of the plaintiff's contention that particular conduct is illegal or unconstitutional. Rather, standing turns on the nature and source of the claim asserted by the plaintiffs”). Since *State ex rel. Flanagan, supra*, this Court

has refused to rely on the cases Relator cites in his *Verified Complaint* to permit a review of the merits of quo warranto claims. See, *State ex rel. Flanagan*, 2014-Ohio-2588, ¶ 38, J. Kennedy *concurring* (“Although some of our quo warranto cases may have caused confusion over whether a relator in an R.C. 2733.06 action must show that he has reasonable grounds to believe that he is entitled to the disputed office before the court will address the respondent's entitlement to the office, today's decision makes clear that he must”); *State ex rel. Salim v. Ayed*, 2014-Ohio-4736, ¶ 11; see also, *State ex rel. Ohio Stands Up!, Inc. v. DeWine*, 2021-Ohio-4382, ¶ 5; *State ex rel. Ames v. Portage Cty. Bd. of Revision*, 2021-Ohio-4486, ¶ 9 (“A party must establish standing to sue before a court will consider the merits of the party's claim”). Accordingly, Relator's lack of standing precludes a review of the merits of his quo warranto claims and, for that reason, Judge Puffenberger asks the Court to dismiss the *Verified Complaint*.

- C. Because quo warranto is the exclusive remedy by which the right to hold a public office may be litigated, Relator's other claims should be dismissed as well; assuming otherwise, he also lacks standing to assert mandamus and/procedendo claims.

In addition to the quo warranto claim brought in his *Verified Complaint*, Relator has also asserted mandamus and procedendo claims. However, his mandamus and procedendo claims against Judge Puffenberger are related to his desire to expel Trustee Johnson from office, and this Court has held that "quo warranto is the *exclusive remedy* by which one's right to hold a public office may be litigated." *State ex rel. Battin v. Bush*, 40 Ohio St.3d 236, 238-239 (1988); see also; *State ex rel. Bates v. Smith*, 2016-Ohio-5449, ¶ 10 (“Quo warranto is the exclusive remedy to litigate the right of a person to hold a public office”); *State ex rel. Flanagan*, 2014-Ohio-2588, ¶ 12 (same). Because quo warranto is the exclusive remedy to oust Trustee Johnson from office and because Relator's mandamus and procedendo claims involve the

same remedy, these additional claims seeking the same result should also be dismissed. *State ex rel. Stamps v. Automatic Data Processing Bd.*, 42 Ohio St.3d 164, 167 (1989) (“Quo warranto is the proper means for challenging a public official's right to hold office. . . and the remedy of ouster can be pronounced in no other proceeding . . . Thus, even if Judge Kessler were holding his position on the board illegally, mandamus would not lie to remove him”); *State ex rel. Crenshaw v. Hemmons-Taylor*, 2023-Ohio-1379, ¶ 19 (8th Dist.) (“No matter how these are labeled, the thrust of relator's claims sound in quo warranto” and “relator lacks standing to assert these claims in quo warranto and she may not avoid this standing requirement by retitling her request for relief”).

If not, the Court may easily find that Relator, either as a Trustee or as a Lucas County elector, does not possess standing to assert either a mandamus or procedendo claim. First, this Court has explained the standing requirements for a mandamus action:

“To have standing in a mandamus case, a relator must be ‘beneficially interested’ in the case. *State ex rel. Spencer v. E. Liverpool Planning Comm.*, 80 Ohio St.3d 297, 299, 1997-Ohio-77, 685 N.E.2d 1251 (1997); see also R.C. 2731.02. ‘[T]he applicable test is whether [the] relators would be directly benefited or injured by a judgment in the case.’ *State ex rel. Sinay v. Soddors*, 80 Ohio St.3d 224, 226, 1997-Ohio-344, 685 N.E.2d 754 (1997). It is difficult to see how Ohio Stands Up!, a corporation, could be injured by discrimination based on vaccination status or how it is directly harmed by the administration of an allegedly harmful vaccine to children.

Moreover, although Ohio Stands Up! asserts that it has standing under the public-right doctrine, that doctrine does not apply here. ‘The public-right doctrine represents ‘an exception to the personal-injury requirement of standing.’ *ProgressOhio.org, Inc. v. JobsOhio*, 139 Ohio St.3d 520, 2014-Ohio-2382, 13 N.E.3d 1101, ¶9, quoting *State ex rel. Ohio Academy of Trial Lawyers v. Sheward*, 86 Ohio St.3d 451, 503, 1999-Ohio-123, 715 N.E.2d 1062 (1999). To bring such a case, the litigant must allege ‘rare and extraordinary’ issues (emphasis sic), *Sheward* at 504, that are ‘of great importance and interest to the public,’ *Id.* at 471. Not every allegedly illegal or unconstitutional government action rises to that level of importance. *Id.* at 503-504. Upon review of the complaint, we conclude that Ohio Stands Up! has not alleged ‘the type of rare

and extraordinary public-interest issue required by *Sheward*.’ *ProgressOhio.org* at ¶12.”

State ex rel. Ohio Stands Up! Inc., 2021-Ohio-4382, ¶ 7-8; *State ex rel. Ohio Academy of Trial Lawyers v. Sheward*, 86 Ohio St.3d 451, 503 (1999). Whether Relator is viewed as a sitting trustee of Sylvania Township or as an elector of Lucas County, he cannot show that he “would be directly benefited or injured by a judgment in this case” as this Court requires for mandamus standing. Further, Relator cannot show that his request to remove a successor township trustee whose term in office ends in December of 2025 is one of those “rare and extraordinary” issues that are “of great importance and interest to the public” for public-interest mandamus standing. *Id.* In addition, *Sheward*, as it concerns public interest standing, has not aged well, and as of 2018, this Court “ha[d] not granted a public-right-doctrine exception to standing pursuant to *Sheward* in the past 15 years.” *State ex rel. Food & Water Watch v. State*, 2018-Ohio-555, ¶ 30 (“*Sheward* essentially allows this court to engage in policy-making by ruling on the legislation of the General Assembly in cases that lack an injured party, i.e., a party that can establish traditional standing. Thus, any authority provided by *Sheward* is, at best, questionable”). Thus, Relator cannot show he has standing to seek mandamus relief and this claim should be dismissed. *Id.*

Second, Relator does not have standing to bring a procedendo claim. As stated by the Darke County Court of Appeals:

“A writ of procedendo is an order from a court of superior jurisdiction to one of inferior jurisdiction to proceed to judgment. *Yee v. Erie Cty. Sheriff’s Dept.*, 51 Ohio St.3d 43, 45, 553 N.E.2d 1354 (1990). It is intended to remedy a court’s ‘refusal or failure to timely dispose of a pending action.’ *State ex rel. Rodak v. Betleski*, 104 Ohio St.3d 345, 2004-Ohio-6567, 819 N.E.2d 703, ¶16 (internal citations omitted). The writ tells the lower court to rule on a motion but does not tell that court how to rule. *State ex rel. Morgan v. Fais*, 10th Dist. Franklin No. 14AP-910, 2015-Ohio-1514, ¶ 4. It ‘will not issue for the purpose of

controlling or interfering with ordinary court procedure.’ *State, ex rel. Utley v. Abruzzo*, 17 Ohio St.3d 203, 204, 17 Ohio B. 439, 478 N.E.2d 789 (1985).

To be entitled to a writ of procedendo, Sponaugle must show ‘a clear legal right to require the court to proceed, a clear legal duty on the part of the court to proceed, and the lack of an adequate remedy in the ordinary course of the law.’ *State ex rel. Brown v. Logan*, 138 Ohio St.3d 286, 2014-Ohio-769, 6 N.E.3d 42, ¶13.”

State ex rel. Sponaugle v. Hein, 2017-Ohio-1210, ¶ 12-13 (2d Dist.). Because Relator is not a party in any underlying litigation presided over by Judge Puffenberger, he does not have standing to seek a writ of procedendo. *Id.*, ¶ 12 (procedendo “is intended to remedy a court’s refusal or failure to timely dispose of a pending action”); *State ex rel. Barnes v. Fuerst*, 8th Dist. Cuyahoga No. 73619, 1999 Ohio App. LEXIS 3126 (July 1, 1999) (“We find the motion to dismiss to be well-taken. Alfrieda Barnes lacks standing to commence this action in procedendo”).

Relator, perhaps recognizing that he does not have the necessary standing to be here, argues that the Court should hear his claims anyway—it “should create an exception for [the] standing requirement” because Relator will be “left without a remedy” otherwise. See, *Verified Complaint*, ¶¶69, 72. That argument fails as well. As this Court has explained:

“Finally, appellants argue that even if they cannot bring a quo warranto action on their own behalf, the court should exercise its power under R.C. 2733.04 to direct the attorney general to commence an action in quo warranto on their behalf. However, the only case in which we explored this question held that ‘the power of the court under this section should, as a general rule, be exercised only when something relating to the court, or its business, renders it necessary or advisable.’ *Thompson v. Watson*, 48 Ohio St. 552, 553, 31 N.E. 742 (1891).

Appellants argue that the matter does pertain to the courts, because the mosque’s money is still being held by the Franklin County Clerk of Courts. This connection is too thin a reed. The court is holding the mosque’s money not for itself or because of an issue regarding court functions. It is holding the money pending resolution of the dispute between the factions at the mosque. Following the holding in *Thompson*, we refuse to direct the attorney general to

bring a quo warranto action on behalf of appellants against the members of the Old Board.

Appellants argue that unless the court allows them to bring a quo warranto case or directs the attorney general to bring such an action, they are without a remedy. The court of appeals correctly analyzed this issue:

‘Relators aver that, so far, neither the attorney general nor the prosecuting attorney has agreed to proceed on their behalf. While we recognize that the statutory requirements of R.C. Chapter 2733 place relators in a difficult position, relators' plight is not a reason to allow them to proceed with this action. . . .’

Thus, despite the fact that appellants and similarly situated litigants may have no remedy if they cannot persuade the attorney general or a prosecutor to initiate a case, the statutes allow no other outcome. This fact may raise an issue for the legislature to address, but it is not a reason to allow appellants to proceed.”

State ex rel. Salim v. Ayed, 2014-Ohio-4736, ¶ 25-28; see also, *Kirby v. Oatts*, 2020-Ohio-301, ¶ 40 (2d Dist.) (“simply because the statutory mandates governing standing for quo warranto actions leave the Plaintiff Board without a remedy to determine the validly elected Board does not affect our decision; this is an issue for the legislature to address”). As a result, Relator’s lack of standing requires dismissal of all his claims even if it leaves him without a remedy, other than perhaps next year’s general election when Sylvania Township electors can decide for themselves whether to retain Trustee Johnson.

III. CONCLUSION

Based upon the foregoing undisputed facts, Judge Puffenberger’s motion to dismiss is well-taken and should be granted. Relator does not possess standing to ask the Court to expel Trustee Johnson from office or to order Judge Puffenberger to get involved. His requested relief, no matter how it is characterized (as quo warranto, mandamus, and/or procedendo), is unavailable to him as a matter of law. Therefore, Judge Puffenberger moves the Court to dismiss Relator’s *Verified Complaint* on the ground that it does not state a claim or cause of action against him upon which relief can be granted.

Respectfully submitted,

JULIA R. BATES
LUCAS COUNTY PROSECUTING ATTORNEY

By: /s/ Kevin A. Pituch
Steven J. Papadimos
John A. Borell
Kevin A. Pituch (counsel of record)
Evy M. Jarrett
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Counsel for Respondent Hon. Jack R. Puffenberger

CERTIFICATE OF SERVICE

A copy of the foregoing Motion to Dismiss was sent by electronic mail on the 13th day of September 2024 to: Counsel for Relator John Jennewine, Andrew R. Mayle, Benjamin G. Padanilam, and Nichole Kanios Papageorgiou; and to Counsel for Respondent Jill Johnson, Douglas G. Haynam.

Respectfully submitted,

JULIA R. BATES
LUCAS COUNTY PROSECUTING ATTORNEY

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Steven J. Papadimos
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EXHIBIT 1

John Jennewine
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419.450.0031

August 23, 2024

Hand Delivered

The Honorable Judge Jack R. Puffenberger
Lucas County Probate Court

Re: Fulfilling Sylvania Township Board of Trustees Vacancy under R.C. 503.24

Dear Judge Puffenberger:

I am a Sylvania Township trustee. I write to bring to your attention a situation where it appears that two persons purport to have arrogated your judicial power with respect to filling a vacancy on the board of trustees. After the trustee meeting on June 18, 2024, trustee John Crandall announced he was retiring effective June 30, 2024. This created a vacancy as of July 1, 2024. The process of fulfilling vacancies is governed by R.C. 503.24, which potentially culminates with the probate judge making the appointment. The statute states:

If there is a vacancy by reason of the nonacceptance, death, or removal of a person chosen to an office in any township at the regular election, or if there is a vacancy from any other cause, the board of township trustees shall appoint a person having the qualifications of an elector to fill such vacancy for the unexpired term or until a successor is elected.

If a township is without a board or if no appointment is made within thirty days after the occurrence of a vacancy, a majority of the persons designated as the committee of five on the last-filed nominating petition of the township officer whose vacancy is to be filled who are residents of the township shall appoint a person having the qualifications of an elector to fill the vacancy for the unexpired term or until a successor is elected. If at least three of the committee members who are residents of the township cannot be found, or if that number of such members fails to make an appointment within ten days after the thirty-day period in which the board of township trustees is authorized to make an appointment, then the presiding probate judge of the county shall appoint a suitable person having the qualifications of an elector in the township to fill the vacancy for the unexpired term or until a successor is elected.

If a vacancy occurs in a township elective office more than forty days before the next general election for municipal and township officers a successor shall be chosen at that election to fill the unexpired term, provided the term does not expire within one year from the day of the election. If the term expires within one year from the day of the

next general election for municipal and township officers, a successor appointed pursuant to this section shall serve out the unexpired term.

The first paragraph gives the trustees first shot at filling the vacancy. My board colleague Neal Mahoney and I explored this option, solicited applications, and interviewed interested candidates.¹ But after thirty days we were deadlocked on an appointment. This triggered the second paragraph of R.C. 503.24:

If a township is without a board or if no appointment is made within thirty days after the occurrence of a vacancy, a majority of the persons designated as the committee of five on the last-filed nominating petition of the township officer whose vacancy is to be filled who are residents of the township shall appoint a person having the qualifications of an elector to fill the vacancy for the unexpired term or until a successor is elected. If at least three of the committee members who are residents of the township cannot be found, or if that number of such members fails to make an appointment within ten days after the thirty-day period in which the board of township trustees is authorized to make an appointment, then the presiding probate judge of the county shall appoint a suitable person having the qualifications of an elector in the township to fill the vacancy for the unexpired term or until a successor is elected.

I've attached retired trustee Crandall's last-filed nominating petition and here is a screenshot of the relevant portion:

I, John H. Crandall hereby designate the persons named below as a committee to represent me

Name	Residence
MARY S. CRANDALL	20 WINDING CREEK PLACE, SYLVANIA, OH 43560
ROBERT CRANDALL	7451 CLUB RD., SYLVANIA, OH 43560
DAVID SIMKO	4620 GINGER TRAIL, TOLEDO, OH.
KATHY SIMKO	4620 GINGER TRAIL, TOLEDO, OH.
SUE CRANDALL	7451 CLUB RD. SYLVANIA, OH. 43560

Here, all “persons designated as the committee of five” are “residents of the township.”² Thus, “a majority” is three. Therefore, three votes of the committee are needed to appoint a person to fill the vacancy. Herein lies the problem: I’ve attached a purported resolution entitled, “A Majority of the Persons Designated as the Committee of Five on the Last-Filed Nominating Petition of Former Sylvania Township Trustee John Crandall.” Two persons—husband and wife David and Kathy Simko—purport to have appointed Jill Johnson. Two people do not constitute “a majority of the persons designated as the committee of five on the last-filed nomination petition of the township officer whose vacancy is to be filled who are residents of the township.” Perhaps someone might offer that because Mary S. Crandall, the retired trustee’s spouse, passed away on May 3, 2024 we must look to the second sentence of the second paragraph of R.C. 503.24, which says that, “If at

¹ See, <https://www.toledoblade.com/local/suburbs/2024/07/03/17-apply-for-vacant-sylvania-twp-trustee-seat/stories/20240628141>

² The “Toledo” addresses are simply mailing addresses. Also, please note that the territorial boundaries of Sylvania township encompass the city of Sylvania.

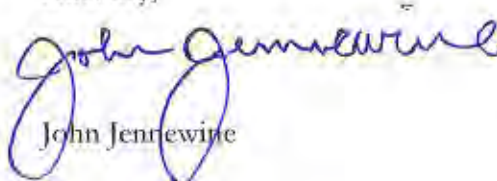
least three of the committee members who are residents of the township cannot be found, or if that number of such members fails to make an appointment within ten days after the thirty-day period in which the board of township trustees is authorized to make an appointment, then the presiding probate judge of the county shall appoint a suitable person having the qualifications of an elector in the township to fill the vacancy for the unexpired term or until a successor is elected.” But this sentence confirms that three votes of designated committee members are necessary to fill the vacancy. This is why the probate judge appoints if “at least three of the committee members who are residents of the township cannot be found.” The sentence also says that “if the number of such members fails to make an appointment,” then the probate judge shall appoint. The phrase “the number of such members” refers to the “number of committee members who are residents of the township” and can be found. Here, that number is four. Indeed, all designated committee members except decedent Mary S. Crandall are residents of the township. And those four persons participated in multiple meetings concerning filling the vacancy. Just three of them showed up for a final meeting on August 8, 2024. Sue Crandall didn’t attend. And, as shown by the attachment, Robert Crandall ultimately abstained from voting. Therefore, unless these three all formally agreed to appoint someone at this meeting, it was impossible to generate a majority of the originally designated committee or such designated persons who could be found residing in the township. The three attendees did not so agree. Thus, “the presiding probate judge of the county shall appoint a suitable person having the qualifications of an elector in the township to fill the vacancy for the unexpired term or until a successor is elected.”

I hence ask you, Judge Puffenberger, to fulfill this mandatory statutory duty. Perhaps you’d appoint Ms. Johnson; perhaps not. This is your decision. But the problems concerning the Simkos’ purported appointment leave me in a difficult position as a board member (and as a citizen) as Ms. Johnson’s appointment doesn’t seem to be legitimate.

Indeed, on a final and important note, the Simkos never actually passed their resolution until—at the earliest—August 13, 2024. We know this because the township administrator sent them a draft resolution on August 13, 2024. I’ve attached that email. This was too late. The vacancy arose on July 1, 2024. The trustees had a thirty-day appointment window, which closed on July 31, 2024. After that, the designed five-person committee had only ten days, which would be a deadline of August 10, 2024. By purporting to make an appointment within the timeframe when it was your statutory duty to appoint, the Simkos have effectively attempted to preempt the exercise of what at this point is your exclusive judicial power to act under R.C. 503.24. Their “appointment” is a nullity.

I’d be happy to discuss this matter with you. You may also contact my personal attorney, Andy Mayle. Thank you.

Sincerely,



John Jenrewire

Cc: Neal Mahoney
John A. Borell, Esq.

Nominating Petition and Statement of Candidacy

For Township Office

To be filed with the Board of Elections not later than 4 p.m. of the 90th day before the general election.
 R.C. 3501.30, 3513.253, 3513.267, 3513.287

LE ROE AUG 3 21 10:45

Statement of Candidacy

NOTE - The candidate must fill in, sign and date this statement of candidacy before the signatures of electors are affixed.

I, John H. Crandall, the undersigned, hereby declare under penalty of election falsification that my voting residence address is 20 WINDING CREEK R. SYLVANIA Ohio 43560 and I am a qualified elector.
Name of Candidate
Street Number and Address, if any, (or rural route and number) City or Village Zip Code

I further declare that I desire to be a candidate for election to the office of TRUSTEE in the Township of SYLVANIA for the full term or unexpired term ending in LUCAS County, Ohio at the general election to be held on the 2 day of November, 2021
Name of Township Office Name of Township Unexpired Term Ending Date County Day Year

I further declare that I am an elector qualified to vote for the office I seek.

Dated this 21 day of JULY, 2021 John H. Crandall
Day Month Year Signature of Candidate

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

I, John H. Crandall, hereby designate the persons named below as a committee to represent me.
Name of Candidate

Name	Residence
MARY S. CRANDALL	20 WINDING CREEK RD. SYLVANIA, OH 43560
ROBERT CRANDALL	7451 CLUB RD. SYLVANIA, OH 43560
DAVID SIMKO	4620 GINGER TRAIL, TOLEDO, OH.
KATHY SIMKO	4620 GINGER TRAIL, TOLEDO, OH.
SUE CRANDALL	7451 CLUB RD. SYLVANIA OH 43560

Nominating Petition

We, the undersigned, qualified electors of the State of Ohio, whose voting residence is in the county, city, village, or township set opposite our names, hereby nominate John H. Crandall as a candidate for election to the office of TRUSTEE in the township of SYLVANIA for the full term or unexpired term ending _____ to be voted for at the next general election, and certify said person is, in our opinion, well qualified to perform the duties of the office or position to which the person desires to be elected.
Name of Candidate Office Name of Township Unexpired Term Ending Date

Signatures on this petition must be from only one county and must be written in ink.

Signature	Voting Residence Street Number and Address	City, Village, or Township	County	Date of Signing
<u>[Signature]</u>	6023 Paesha	SYLVANIA	LUCAS	8/2/2021
<u>[Signature]</u>	6028 Paesha	SYLVANIA	LUCAS	8/2/21
<u>[Signature]</u>	5910 Paesha Rd	SYLVANIA	LUCAS	8/2/21

Signature	Voting Residence Street Number and Address	City, Village, or Township	County	Date of Signing
<i>[Signature]</i>	8737 State Ridge	Dunsmuir	Lucas	8-2-21
<i>[Signature]</i>	5837 Burgess	Sylvania City	Lucas	8-2-21
<i>[Signature]</i>	5237 Burgess	City	Lucas	8-2-21
<i>[Signature]</i>	5921 Walnut Springs	Sylvania Twp	Lucas	8-2-21
<i>[Signature]</i>	5724 Walnut	Coe Sylvania Township	Lucas	8-2-21
<i>[Signature]</i>	5724 Walnut	Coe Sylvania Township	Lucas	8-2-21

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

Circulator Statement

Must be completed and signed by the circulator.

I, SUSAN NOWAK, declare under penalty of election falsification that I reside at the address appearing below my signature; that I am the circulator of the foregoing petition containing 8 signatures; that I witnessed the affixing of every signature; that all signers were to the best of my knowledge and belief qualified to sign; and that every signature is to the best of my knowledge and belief the signature of the person whose signature it purports to be or of an attorney in fact acting pursuant to section 3501.382 of the Revised Code.

VALID SIGNATURE: _____
 INVALID SIGNATURE: _____
 TOTAL SIGNATURE: _____

Susan M Nowak
 Signature of Circulator
2017 Pansha Dr
 Permanent Residence Address
Sylvania Township OH 43560
 City or Village State Zip Code

Nominating Petition and Statement of Candidacy

LC. REC AUG 7 21 AM 9:45

For Township Office

To be filed with the Board of Elections not later than 4 p.m. of the 90th day before the general election.

R.C. 3501.38, 3513.253, 3513.261, 3513.283

Statement of Candidacy

NOTE - The candidate must fill in, sign and date this statement of candidacy before the signatures of electors are affixed.

I, JOHN H. CRANDALL the undersigned, hereby declare under penalty of election falsification that my voting residence address is 20 WINDING CREEK PL, SYLVANIA, OHIO 43560 and I am a qualified elector.

I further declare that I desire to be a candidate for election to the office of TRUSTEE in the Township of SYLVANIA for the: full term or unexpired term ending in LUCAS County, Ohio at the general election to be held on the 2 day of November, 2021

I further declare that I am an elector qualified to vote for the office I seek.

Dated this 21 day of JULY, 2021 John H. Crandall
Day Month Year Signature of Candidate

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

I, JOHN H. CRANDALL hereby designate the persons named below as a committee to represent me:

Name	Residence
MARY S. CRANDALL	20 WINDING CREEK PKWY, SYLVANIA, OH 43560
ROBERT CRANDALL	7451 CLUB RD, SYLVANIA, OH 43560
DAVID SINKO	4620 GINGER TRAIL, TOWNSEND, OH.
KATHY SINKO	4620 GINGER TRAIL, TOWNSEND, OH.
SUE CRANDALL	7451 CLUB RD, SYLVANIA, OH 43560

Nominating Petition

We, the undersigned, qualified electors of the State of Ohio, whose voting residence is in the county, city, village, or township set opposite our names, hereby nominate JOHN H. CRANDALL as a candidate for election to the office of TRUSTEE in the township of SYLVANIA for the: full term or unexpired term ending _____, to be voted for at the next general election, and certify said person is, in our opinion, well qualified to perform the duties of the office or position to which the person desires to be elected.

Signatures on this petition must be from only one county and must be written in ink.

Signature	Voting Residence Street Number and Address	City, Village, or Township	County	Date of Signing
<u>Susan Noel</u>	<u>6017 Dursha</u>	<u>Sylvania OH</u>	<u>Lucas</u>	<u>July 25, 2021</u>
<u>Mary S. Crandall</u>	<u>20 Winding Creek</u>	<u>Sylvania</u>	<u>Lucas</u>	<u>July 26, 2021</u>
<u>Jerry Weber</u>	<u>4428 Woodwood</u>	<u>Syl.</u>	<u>Lucas</u>	<u>7-26-21</u>

2

BEB
GRANDMA
NG
SPENCER
HEBERT
KEN
THOMAS

Signature	Voting Residence Street Number and Address	City, Village, or Township	County	Date of Signing
<i>[Signature]</i>	7551 CLUB RA	Sylvania	LUCAS	7-26-21
Kevin Crandall	5750 Summit #112	Sylvania	LUCAS	7-27-21
Nancy Spenser	5178 Langham	Sylvania	LUCAS	7-28-21
W. Hebert	8330 Ledgestone	Sylvania	LUCAS	7-28-21
Amy Crandall	5015 Tullistown	Sylvania	LUCAS	7-28-21
<i>[Signature]</i>	5715 Roberts	Sylvania	LUCAS	7/28/21
Theresa Corina	8330 Ledgestone	Sylvania	LUCAS	7-28-21
Phillip Train	4 Wending Creek	Sylvania	LUCAS	7/28/21
Judy Nepp	4144 Robinhood Ln Tolon	43623		7/29/21
13.				
14.				
15.				
16.				
17.				
18.				
19.				
20.				

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

Circulator Statement

Must be completed and signed by the circulator.

I, John H. Crandall declare under penalty of election falsification that I reside at the address
Printed Name of Circulator
 appearing below my signature; that I am the circulator of the foregoing petition containing 12 signatures;
Number
 that I witnessed the affixing of every signature; that all signers were to the best of my knowledge and belief
 qualified to sign; and that every signature is to the best of my knowledge and belief the signature of the person
 whose signature it purports to be or of an attorney in fact acting pursuant to section 3501.382 of the Revised Code.

John Crandall
 Signature of Circulator
20 Wending Creek
 Permanent Residence Address
Sylvania OH 43560
City or Village State Zip Code

VALID SIGNATURES 11
 INVALID SIGNATURES _____
 NR _____ ILL _____ OC _____
 NRA _____ DUP _____ WD _____
 NA _____ P _____ CIR _____
 NG _____ ND _____ CAN _____
 TOTAL INVALID SIGNATURES _____
 TOTAL SIGNATURES 12

Nominating Petition and Statement of Candidacy

For Township Office

LC BOE AUG 3 21 09:45

To be filed with the Board of Elections not later than 4 p.m. of the 90th day before the general election.

R.C. 3501.38, 3513.253, 3513.267, 3513.269

Statement of Candidacy

NOTE - The candidate must fill in, sign and date this statement of candidacy before the signatures of electors are affixed.

I, JOHN H. CRANDALL the undersigned, hereby declare under penalty of election falsification that my voting residence address is 20 WINDING CREEK PL., SYLVANIA, OH 43560 and I am a qualified elector.

I further declare that I desire to be a candidate for election to the office of TRUSTEE in the Township of SYLVANIA for the: full term or unexpired term ending 2021 in LUCAS County, Ohio at the general election to be held on the 2 day of November, 2021

I further declare that I am an elector qualified to vote for the office I seek.

Dated this 21 day of July, 2021 John H. Crandall
Day Month Year Signature of Candidate

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

I, JOHN H. CRANDALL hereby designate the persons named below as a committee to represent me.

Name	Residence
MARY S. CRANDALL	20 WINDING CREEK PL., SYLVANIA OH. 43560
ROBERT CRANDALL	7451 CLUB RD., SYLVANIA OH. 43560
DAVID SIMKO	4620 GINGER TRAIL, TOLEDO OH.
KATHY SIMKO	4620 GINGER TRAIL, TOLEDO, OH.
SUZIE CRANDALL	7451 CLUB RD. SYLVANIA OH. 43562

Nominating Petition

We, the undersigned, qualified electors of the State of Ohio, whose voting residence is in the county, city, village, or township set opposite our names, hereby nominate JOHN H. CRANDALL as a candidate for election to the office of TRUSTEE in the township of SYLVANIA for the: full term or unexpired term ending 2021 to be voted for at the next general election, and certify said person is, in our opinion, well qualified to perform the duties of the office or position to which the person desires to be elected.

Signatures on this petition must be from only one county and must be written in ink.

Signature	Voting Residence Street Number and Address	City, Village, or Township	County	Date of Signing
<u>John H. Crandall</u>	<u>6001 Deepwood Ct Sylvania</u>	<u>Sylvania</u>	<u>Lucas</u>	<u>7/31/21</u>
<u>[Signature]</u>	<u>44 WINDING CR.</u>	<u>Sylvania</u>	<u>Lucas</u>	<u>7/31/21</u>
<u>[Signature]</u>	<u>7643 Club Rd Sylvania</u>	<u>Sylvania</u>	<u>Lucas</u>	<u>7/31/21</u>

BISCHOFF

Signature	Voting Residence Street Number and Address	City, Village, or Township	County	Date of Signing
<i>[Signature]</i>	5532 Harris Hawk Ln	Sylvania	LUCAS	7/31/21
<i>[Signature]</i>	5532 Harris Hawk Ln	Sylvania	LUCAS	7/31/2021
<i>[Signature]</i>	4815 NEW ELEANOR Lane	Sylvania	LUCAS	7/31/21
<i>[Signature]</i>	5519 Anchor Hill	Sylvania	LUCAS	7/31/21
<i>[Signature]</i>	6001 Deepwood Court	Sylvania	LUCAS	7/31/21
<i>[Signature]</i>	5015 TRELLIS	SYLVANIA	LUCAS	7/31/21
<i>[Signature]</i>	5919 ANCHOR HILL	SYLVANIA	LUCAS	7-31-21
<i>[Signature]</i>	6031 Sunnyslake	Sylvania	LUCAS	7-31-21
<i>[Signature]</i>	6031 Sunny Isle	Sylvania	LUCAS	7-31-21
<i>[Signature]</i>	9154 Wintergreen	SYLVANIA	LUCAS	7-31-21
<i>[Signature]</i>	6001 DEERWOOD	SYLVANIA	LUCAS	7/31/21
<i>[Signature]</i>	6122 Deepwood	Sylvania	LUCAS	7/31/21
<i>[Signature]</i>	6122 Deepwood	Sylvania	LUCAS	8/1/21
<i>[Signature]</i>	6122 Deepwood	Sylvania	LUCAS	8/1/21
<i>[Signature]</i>	5943 Summit St.	Sylvania	LUCAS	8/1/21
<i>[Signature]</i>	6122 Deepwood	Sylvania	LUCAS	8/1/21

SEAN
BRANTLEY
GILLEN
WATER
DAVID
DAN
CIRANDALL
GILLEN
WATER
MILLER
MARSIMIAN
MATT
CIRANDALL
ALL
HARRIZOTE

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

Circulator Statement

Must be completed and signed by the circulator.

I, ROBERT H. CANNON declare under penalty of election falsification that I reside at the address
Printed Name of Circulator
 appearing below my signature; that I am the circulator of the foregoing petition containing 19 signatures;
Number
 that I witnessed the affixing of every signature; that all signers were to the best of my knowledge and belief
 qualified to sign; and that every signature is to the best of my knowledge and belief the signature of the person
 whose signature it purports to be or of an attorney in fact acting pursuant to section 3501.382 of the Revised Code.

[Signature]
 Signature of Circulator

7551 CLUIS RD
Permanent Residence Address
SYLVANIA OH 43360
City or Village State Zip Code

VALID SIGNATURES 15
 INVALID SIGNATURES 4
 NR 3 ILL 1 OC 1
 NFA 3 DUP 1 WD 1
 NA 1 P 1 CIR 1
 NG 1 ND 1 CAN 1
 TOTAL INVALID SIGNATURES 4
 TOTAL SIGNATURES 19

ROBERT
CANNON

Nominating Petition and Statement of Candidacy

FILED AUG 3 21 09:45

For Township Office

To be filed with the Board of Elections not later than 4 p.m. of the 90th day before the general election.

R.C. 3501.30, 3513.263, 3513.261, 3513.263

Statement of Candidacy

NOTE - The candidate must fill in, sign and date this statement of candidacy before the signatures of electors are affixed.

I, JOHN H. GRANDALL, the undersigned, hereby declare under penalty of election falsification that my voting residence address is 20 WINDING CREEK PL., SYLVANIA, OHIO 43560 and I am a qualified elector.

I further declare that I desire to be a candidate for election to the office of TRUSTEE in the Township of SYLVANIA for the full term or unexpired term ending 2021 in LUCAS County, Ohio at the general election to be held on the 2 day of November, 2021.

I further declare that I am an elector qualified to vote for the office I seek.

Dated this 21 day of JULY, 2021 John H. Grandall
Signature of Candidate

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

I, JOHN H. GRANDALL, hereby designate the persons named below as a committee to represent me:

Name	Residence
MARY S. GRANDALL	20 WINDING CREEK PL. SYLV. OH 43560
ROBERT GRANDALL	7451 CLUB RD. SYLVANIA, OH 43560
DAVID SIMKO	4620 GINGER TRAIL, TOLEDO OH.
KATHY GRANDALL	4620 GINGER TRAIL, TOLEDO OH.
SUE GRANDALL	7451 CLUB RD. SYLVANIA, OH 43560

Nominating Petition

We, the undersigned, qualified electors of the State of Ohio, whose voting residence is in the county, city, village, or township set opposite our names, hereby nominate JOHN H. GRANDALL as a candidate for election to the office of TRUSTEE in the township of SYLVANIA for the full term or unexpired term ending 2021 to be voted for at the next general election, and certify said person is, in our opinion, well qualified to perform the duties of the office or position to which the person desires to be elected.

Signatures on this petition must be from only one county and must be written in ink.

Signature	Voting Residence Street Number and Address	City, Village, or Township	County	Date of Signing
<u>Daryl Grass</u>	<u>7813 Edge View Way</u>	<u>Sylvania</u>	<u>Lucas</u>	<u>7/27/21</u>
<u>Garry Beddoe</u>	<u>4202 Shamley Green</u>	<u>Sylv TWP</u>	<u>LUCAS</u>	<u>7/27/21</u>
<u>Caren Beddoe</u>	<u>4202 Shamley Green</u>	<u>Toledo</u>	<u>Lucas</u>	<u>7/27/21</u>

Signature	Voting Residence Street Number and Address	City, Village, or Township	County	Date of Signing
<i>Frank E. Bell</i>	4202 Shamley Green Pkwy	Sylv Township	Lucas	7/27/2021
<i>Janice Sattler</i>	4738 Country Walk Lane	Sylvania	Lucas	7/27/2021
<i>Steve Schaff</i>	4738 Country Walk Lane	Sylvania	Lucas	7/27/2021
<i>Emily Hiest</i>	5020 Green Pine Ct Sylvania OH 43580	Sylvania	Lucas	7/27/2021
<i>[Signature]</i>	5020 Green Pine Ct Sylvania OH 43580	Sylvania	Lucas	7/27/2021
<i>Gregory H. Mahony</i>	4203 Shamley Green Toledo Ohio 43623	Sylvania Township	Lucas	7/27/2021
<i>Emily Mahoney</i>	4203 Shamley Green Toledo, Ohio 43623	Sylvania Township	Lucas	7/27/2021
<i>Samy W. [Signature]</i>	4215 Shamley Green Toledo OH 43623	Sylvania Township	Lucas	7/28/2021
<i>Janice [Signature]</i>	4215 Shamley Green Toledo, OH 43623	Sylvania Township	Lucas	7/28/2021
<i>Stacey LaPointe</i>	4038 Nantucket H	Sylvania Twp	Lucas	7/28/21
<i>Jason Wampler</i>	4742 BURNING TREE TEXEDO OH 43623	SYLVANIA TWP	LUCAS	7/28/21
<i>Matthew Mahoney</i>	4203 Shamley Green Dr. Toledo	Sylvania Twp	Lucas	7/28/21
17.				
18.				
19.				
20.				

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

Circulator Statement

Must be completed and signed by the circulator.

I, NEAL MAHONEY, declare under penalty of election falsification that I reside at the address appearing below my signature; that I am the circulator of the foregoing petition containing 16 signatures; that I witnessed the affixing of every signature, that all signers were to the best of my knowledge and belief qualified to sign; and that every signature is to the best of my knowledge and belief the signature of the person whose signature it purports to be or of an attorney in fact acting pursuant to section 3501.382 of the Revised Code.

VALID SIGNATURES 16
 INVALID SIGNATURES 0
 MPT _____ ILL. _____ OC _____
 NRA _____ DUP _____ WD _____
 NA _____ P _____ CIR _____
 _____ ND _____ CAN _____
 INVALID SIGNATURES 0
 _____ TURES 16

[Signature]
 Signature of Circulator
4203 Shamley Green
 Permanent Residence Address
Toledo OH 43623
 City or Village State Zip Code

5

Form No. 3-R Prescribed by the Ohio Secretary of State (09-17)

Nominating Petition and Statement of Candidacy

For Township Office

To be filed with the Board of Elections not later than 4 p.m. of the 90th day before the general election.

R.C. 3501.38, 3513.253, 3513.261, 3513.263

Statement of Candidacy

NOTE - The candidate must fill in, sign and date this statement of candidacy before the signatures of electors are affixed.

I, JOHN H. CRANDALL the undersigned, hereby declare under penalty of election falsification that my voting residence address is 20 WINDING CREEK PL., SYLVANIA, Ohio 43560 and I am a qualified elector.

I further declare that I desire to be a candidate for election to the office of TRUSTEE in the Township of SYLVANIA for the full term or unexpired term ending in Lucas County, Ohio at the general election to be held on the 2 day of November, 2021.

I further declare that I am an elector qualified to vote for the office I seek.

Dated this 21 day of July, 2021. [Signature]

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

I, JOHN H. CRANDALL hereby designate the persons named below as a committee to represent me:

Table with 2 columns: Name, Residence. Lists names and addresses of designated persons like MARY S. CRANDALL, ROBERT CRANDALL, etc.

Nominating Petition

We, the undersigned, qualified electors of the State of Ohio, whose voting residence is in the county, city, village, or township set opposite our names, hereby nominate JOHN H. CRANDALL as a candidate for election to the office of TRUSTEE in the township of SYLVANIA for the full term or unexpired term ending...

Signatures on this petition must be from only one county and must be written in ink.

Table with 5 columns: Signature, Voting Residence Street Number and Address, City, Village, or Township, County, Date of Signing. Contains signatures of Kelly J. Fike, John D. Carnie, and Barry A. Logan.

Signature	Voting Residence Street Number and Address	City, Village, or Township	County	Date of Signing
[Signature]	5653 Red Hawk	Sylvania	Lucas	7-26-21
[Signature]	2376 Oak Creek	Sylvania	Lucas	7/26/21
[Signature]	6727 ERUE	Sylvania	Lucas	7/26/21
[Signature]	6107 Rockdale Lane	Sylvania	Lucas	7/26/21
[Signature]	4653 GINGER TR	Sylvania	Lucas	7/29/21
[Signature]	4650 Crystal	Sylvania	Lucas	7/29/21
[Signature]	4601 GINGER TR	Sylvania	Lucas	7/30/21
[Signature]	4601 GINGER TR	Sylvania	Lucas	7/30/21
[Signature]	4537 GINGER TRAIL	Sylvania	Lucas	7/30/21
[Signature]	4537 GINGER TRAIL	Sylvania	Lucas	7/30/21
[Signature]	4625 GINGER TR	Sylvania	Lucas	7-31-21
[Signature]	5604 Plantation	Sylvania	Lucas	7/31/21
[Signature]	5601 Mountain	Sylvania	Lucas	7/31/21
[Signature]	4605 GINGER HILL	Sylvania Township	Lucas	7/31/21
[Signature]	4605 GINGER HILL	Sylv. Township	Lucas	7/31/21
[Signature]	4605 GINGER HILL	Sylv. Township	Lucas	7/31/21
[Signature]	4650 GINGER TRAIL	Sylv Township	Lucas	7/31/21

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE

Circulator Statement

Must be completed and signed by the circulator.

I, DAVID J. SIMKO declare under penalty of election falsification that I reside at the address appearing below my signature; that I am the circulator of the foregoing petition containing 20 signatures; that I witnessed the affixing of every signature; that all signers were to the best of my knowledge and belief qualified to sign; and that every signature is to the best of my knowledge and belief the signature of the person whose signature it purports to be or of an attorney in fact acting pursuant to section 3501.362 of the Revised Code.

[Signature]
Signature of Circulator

4620 GINGER TRAIL
Permanent Residence Address

TOLEDO OH. 43623
City or Village State Zip Code

VALID SIGNATURES 20
INVALID SIGNATURES 0
NR ILL OC
NRA DUP WD
NA P CIR
NG ND CAN
TOTAL INVALID SIGNATURES 0
TOTAL SIGNATURES 20

(20)

**Sylvania Township Trustee
Candidate Petition Checklist**

01/04/2021

Some political subdivisions have their own charter, therefore we suggest that you review said charter(s) before circulating and filing your petitions with our office.

It is the responsibility of the candidate to properly complete the petition process. It is also the candidate's responsibility to stay informed of all election law requirements.

THE BOARD OF ELECTIONS STAFF CANNOT PROVIDE LEGAL ADVICE. LEGAL QUESTIONS SHOULD BE FORWARDED TO BOARD OF ELECTIONS COUNSEL, KEVIN PITUCH, AT THE LUCAS COUNTY PROSECUTOR'S OFFICE. Kpituch@co.lucas.oh.us

This checklist should only be used as an aid in completing the petition process.
Please print your name and address in the candidates' book.

Office:	<u>Sylvania Township Trustee</u>	Filing Fee:	<u>\$30</u>
		Number to be Elected:	<u>2</u>
Filing Deadline:	<u>Wednesday, August 4, 2021</u>	Valid Signatures Needed:	<u>25</u>
Term Type:	<u>Full</u>	Number of Signatures Not to Exceed:	<u>75</u>
Term Commencing:	<u>Saturday, January 1, 2022</u>	Primary Election Date:	<u>N/A</u>
Petition Type:	<u>3R</u>	General Election Date:	<u>November 2, 2021</u>

Before filing your petition(s), please take the time to verify that these important items are correct, and place a checkmark next to each item as you review them.

Statement of Candidacy

- 1. The Statement of Candidate/Candidacy must be filled out completely and signed with your legal signature **BEFORE** you circulate the petition. An ORIGINAL petition with the Candidate's ORIGINAL signature in ink must be filed at the same time as all part-petitions are filed.
- 2. Your proper voting address must be used.
- 3. The proper boxes for full or unexpired terms must be completed.

Petition for Candidate or Nominating Petition

- 1. The Petition for Candidate or Nominating Petition section must be filled out completely before circulating the petition, (if applicable)
- 2. Signers must include their complete street address (PO Boxes are not acceptable).
- 3. Signers must sign their own name in ink. Do not let someone sign for another person. For example, a husband cannot sign for his wife or vice versa. Power of Attorney does not apply to a signature on a petition (only previously filed Attorney in Fact may sign a petition for another person). If the circulator knowingly allows someone to sign another's name, the entire part-petition may be ruled invalid.
- 4. If signatures are not legible, and you recognize them, we would appreciate it if you would pencil in the voter's name. We cannot verify what we cannot read. Computer terminals are available at the Board of Elections to check signatures prior to filing. Computer usage is based upon availability.
- 5. Candidates cannot sign their own petition, as an elector.
- 6. Signers must be registered where they are currently legally living and must reside in the political subdivision for which the candidate is seeking election. If the signer's name or address has changed, he or she must put their new address or name on the petition and change their registration by the date the petition is filed or their signature will NOT be valid.
- 7. A signer may make their own mark, in lieu of a signature, only if the person is illiterate or physically unable to sign. Another person must witness that mark.
- 8. We strongly urge you to file more than the minimum number of signatures. Dependent upon the office you are seeking, there is a maximum number of signatures that can be submitted. Please ensure that your petition(s) do not exceed this number.

PLEASE TURN OVER PAGE AND CONTINUE

Sylvania Township Trustee
Candidate Petition Checklist

01/04/2021

Circulator Statement

- 1. The Circulator Statement must be filled out completely in ink including the correct number of signatures on the part petition. If the number of signatures is not completed, or if it indicates less than the actual number of uncrossed-out signatures, the part-petition will be ruled invalid.
- 2. The circulator must sign and provide their address.
- 3. A candidate may circulate their own petition.
- 4. Circulators must witness the signing of each signature.
- 5. Each part-petition shall be circulated by one person only.
- 6. The circulator statement and signature may need to be notarized. (if applicable)

Filing the petition(s)

We strongly urge you to file more than the minimum number of signatures. Dependent upon the office you are seeking there may be a maximum number of signatures that can be submitted.

Someone other than the candidate may file the petitions; however, they must sign our form acknowledging that he/she will provide the receipt and other materials given to them by our office to the candidate.

A petition is considered filed when you receive a receipt for your filing fee and the petitions are time stamped. Check the petition carefully BEFORE filing it with the Board of Elections. No part-petitions may be submitted or altered after the initial filing.

At the time of filing, the candidate MUST have the exact amount of the filing fee in cash or a check made out to "Lucas County Treasurer".

Candidate's Name on Ballot -- MUST BE COMPLETED AT TIME OF FILING, OTHERWISE NAME AS REGISTERED WILL BE PLACED ON BALLOT.

<u>JOHN H. CRANDALL</u> Print your name as you would like it to appear on the ballot	<u>(419) 250-8535</u> Phone Number <u>CEW</u>
_____ Phonetic spelling of you name (for audio ballot)	

I, JOHN H. CRANDALL do attest that the Lucas County Board of Elections has explained the above checklist to me on 8-3-2021

[Signature] ^{Date}
Candidate's Signature or Designee Board of Elections Employee's Signature

Email: cradog@peoplepc.

Candidates may request a Voter Walking list for the jurisdiction in which they wish to be a candidate. Walking lists are \$.10 per page or may be emailed at no cost.

Turner, Oliver

From: Turner, Oliver
Sent: Tuesday, August 13, 2024 1:07 PM
To: Simko, David
Subject: Resolution
Attachments: Trustee Appointment Resolution - Committee - Approved.docx

Good Afternoon Dave,

Please see attached if you and Kathy would sign on Page 2. Thanks!

Oliver K Turner
Township Administrator
Sylvania Township
oturner@sylvaniatownship.com
(419) 882-0031
<https://www.facebook.com/sylvaniatownship/>

**A MAJORITY OF THE PERSONS DESIGNATED
AS THE COMMITTEE OF FIVE ON THE LAST-FILED
NOMINATING PETITION OF FORMER SYLVANIA TOWNSHIP
TRUSTEE JOHN CRANDALL**

RESOLUTION 24-001

**A Resolution Appointing Jill Johnson
To the Office of Sylvania Township Trustee**

WHEREAS, former Sylvania Township Trustee John Crandall previously submitted a letter of resignation advising his last day as a Sylvania Township Trustee would be June 30, 2024; and

WHEREAS, a vacancy in the Office of Sylvania Township Trustee was created on July 1, 2024, due to the resignation by former Sylvania Township Trustee John Crandall; and

WHEREAS, Fiscal Officer David J. Simko caused notice to be provided to the Lucas County Board of Elections on July 8, 2024, regarding the vacancy in accordance with Ohio Revised Code Section 507.051; and

WHEREAS, Sylvania Township received seventeen (17) applications for appointment to the Office of Sylvania Township Trustees with interviews subsequently being held; and

WHEREAS, no appointment was made by the Sylvania Township Board of Trustees within thirty (30) days after the occurrence of the vacancy; and

WHEREAS, Ohio Revised Code Section 503.24 states, "If a township is without a board or if no appointment is made within thirty days after the occurrence of a vacancy, a majority of the persons designated as the committee of five on the last-filed nominating petition of the township officer whose vacancy is to be filled who are residents of the township shall appoint a person having the qualifications of an elector to fill the vacancy for the unexpired term or until a successor is elected"; and

WHEREAS, a majority of the persons designated as the committee of five on the last-filed nominating petition of former Sylvania Township Trustee John Crandall who are residents of the township have convened with the authority to appoint a person having the qualifications of an elector to fill the vacancy for the unexpired term;

NOW, THEREFORE, BE IT RESOLVED by a majority of the persons designated as the committee of five on the last-filed nominating petition of former Sylvania Township Trustee John Crandall (whose residency within Sylvania Township is confirmed) that Jill Johnson be appointed to the Office of Sylvania Township Trustee in accordance with Ohio Revised Code Section 503.24 for the remainder of the term to which former Sylvania Township Trustee John Crandall had been elected, through December 31, 2025.

INTRODUCTION AND VOTE RECORD

Motion: David Simko

Second: Kathy Simko

Adopted at a Special Meeting of A Majority of the Persons Designated at the Committee of Five on the Last-Filed Nominating Petition of Former Sylvania Township Trustee John Crandall on August 8, 2024

David Simko

Yes

Kathy Simko

Yes

Robert Crandall

Abstain

**A MAJORITY OF THE PERSONS DESIGNATED
AS THE COMMITTEE OF FIVE ON THE LAST-FILED
NOMINATING PETITION OF FORMER SYLVANIA TOWNSHIP
TRUSTEE JOHN CRANDALL**

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David Simko

Yes



Kathy Simko

Yes

Robert Crandall

Abstain