

Supreme Court of Ohio

STATE EX. REL. KIMBERLY J. ONTKO	)	VERIFIED COMPLAINT FOR PEREMPTORY,
549 CR 157	)	ALTERNATIVE, AND FINAL WRITS OF
Fremont, OH 43420	)	PROHIBITION OR MANDAMUS IN
	)	EXPEDITED ELECTION CASE
relator,	)	
	)	
v.	)	Andrew R. Mayle (0075622)
	)	Benjamin G. Padanilam (0101508)
SANDUSKY COUNTY BOARD OF ELECTIONS	)	Nichole K. Papageorgiou (0101550)
2020 Countryside Drive	)	MAYLE LLC
Fremont, OH 43420	)	P.O. Box 263
	)	Perrysburg, Ohio 43552
respondent.	)	419.334.8377
	)	Fax: 419.355.9698
	)	<i>amayle@maylelaw.com</i>
	)	<i>bpadanilam@maylelaw.com</i>
	)	<i>npapageorgiou@maylelaw.com</i>
	)	Counsel for relator

1. Under its special constitutional powers, this court on August 19, 2026, suspended former Sandusky county common pleas court judge Jon Marshal Ickes from the practice of law for two years. It thus also immediately suspended him from judicial office:

This court, as the arbiter of this State's legal profession, has a duty to protect the public from judicial misconduct by establishing the sanctions judges will face for their misconduct. We have long recognized that judges are held to the highest possible standard of ethical conduct. Ickes failed to live up to that high standard. As a judge in a position of power and trust, he pervasively used vulgar language with colleagues, fostered an inappropriate and unprofessional workplace environment, and adjudicated criminal cases despite the appearance of impropriety. Consequently, Jon Marshal Ickes is suspended from the practice of law in Ohio for two years. It is further ordered that pursuant to Gov.Jud.R. III(7)(A), Ickes is immediately suspended from judicial office without pay for the duration of his disciplinary suspension.

Disciplinary Counsel v. Ickes, 2026-Ohio-3173, ¶68 (internal citations omitted).

2. Ickes will hopefully serve his suspension without incident, be reinstated to the practice of law, and resume his career as a lawyer. In the meantime, however, permitting his name to

appear on the ballot despite his undisputed ineligibility would undermine this court's imposition of a two-year suspension pursuant to Article IV, Section 2(B)(1)(g), while diluting the very public confidence in the judiciary that this court sought to protect by imposing the underlying discipline.

3. This case presents an immediate consequence of that decision: Ickes previously prevailed in an uncontested Republican primary and therefore is presently a nominal candidate for a successive term as judge of the Sandusky county court of common pleas beginning January 1, 2027, even though this court's two-year suspension makes it impossible for him to qualify for or assume that office when the new term begins.
4. In broad terms, then, this case requires the court to determine whether a person who is suspended from the practice of law and, as a consequence, immediately suspended from judicial office—and who is therefore presently legally disqualified from holding that office—may nevertheless remain a candidate for that office when the underlying disqualification cannot possibly be cured before the next term begins.
5. Ohio law supplies the answer: “a person is not eligible to be a candidate for elective office if he will not be qualified to assume that office if elected.” 2002 Ohio Atty.Gen.Ops. No. 2-88, citing *State ex rel. Flynn v. Board of Elections*, 164 Ohio St. 193, 200, 129 N.E.2d 623, 628 (1955) (“one who would be ineligible to hold a public office has no right to be a candidate for election thereto, since his election would be a nullity.”).
6. That rule squarely forecloses Ickes' candidacy.
7. Ickes' two-year suspension will extend well beyond January 1, 2027, making it impossible for him to be reinstated to the practice of law and legally qualified to assume the judicial office when the new term begins.

8. Unlike a suspension that could expire before the commencement of the term, Ickes' disqualification is neither speculative nor contingent; it necessarily persists beyond the date on which he would be required to qualify for and assume office. *Compare*, 2002 Ohio Atty.Gen.Ops. No. 2-127 ("a person who has been suspended from the practice of law is not precluded from being a candidate for the office of common pleas court judge, so long as his suspension will have expired and he is reinstated by the time he assumes office if elected thereto.")
9. A person suspended from the practice of law cannot satisfy the qualifications enumerated in R.C. 2301.01. *State ex rel. Green v. Tilton*, 1 Ohio St.3d 54, 56 (1982) ("Relator was indefinitely suspended from the practice of law in *Butler County Bar Assn. v. Green* (1982), 1 Ohio St.3d 48, 438 N.E.2d 406. No longer satisfying the requirements of R.C. 2301.01, he is thus precluded from holding judicial office.") In effect, this court's imposition of a two-year suspension invalidates Ickes' candidacy on both a retroactive and prospective basis: although his declaration of candidacy was perhaps valid when filed, the intervening disqualification renders that declaration legally ineffective and incapable of supporting his continued candidacy for the ensuing general election.
10. Accordingly, relator Kimberly J. Ontko, a Sandusky county elector and certified candidate for the same common pleas court term commencing on January 1, 2027, seeks a writ prohibiting respondent Sandusky county board of elections from placing Ickes' name on the November 3, 2026 general-election ballot for the office of common pleas court judge, an office he can no longer legally assume. Alternatively, if this case is decided after the ballots are physically printed, this court should issue a writ prohibiting respondent from (a) counting any votes cast for Ickes and (b) otherwise taking Ickes' ostensible "candidacy" into account when determining and declaring the winner of the general election.

11. The Sandusky county board of elections' June 17, 2026 meeting minutes reflect the board's certification of Ontko's candidacy.
12. Ontko has exercised the utmost diligence in prosecuting this matter.
13. On August 20, 2026, Ontko personally delivered a letter, a true and accurate copy of which is attached hereto, to the board and its counsel, county prosecutor Beth Tischler.¹
14. Thereafter, the board of elections gave public notice of a meeting to be held at 1 p.m. on August 24, 2026, for purposes of addressing relator's protest. The meeting was posted on respondent's [website](#) as follows:

The following Meetings are scheduled for the Board of Elections:

* Emergency Meeting: Monday, August 24, 2026 – 1:00 p.m. – to discuss candidate protest filed to remove Jon Ickes' name from November 2026 ballot *

15. This meeting resulted in the board orally voting to deny relator's protest without conducting a hearing after board members Ben Decker and Sandra Wise read aloud previous emails sent by prosecutor Tischler to the board² recommending that relator's protest "should be DENIED" (all caps in original), and thereby allow Ickes' name to remain on the ballot. One of prosecutor Tischler's emails stated that, "The issue of the named ballot holders [sic] professional license was a potential issue at the time of the primary. A ballot protest could have been filed then." However, this court did not suspend Ickes from the practice of law

¹ On August 24, 2026, the undersigned e-mailed prosecutor Tischler a time-stamped copy of this complaint upon its filing and, previously, on August 19, 2026, gave her advance notice that this action may be forthcoming depending upon how the local board of elections proceeded on Ontko's protest.

² One of relator's attorneys, Nichole Kanios Papageorgiou, attended the August 24, 2026 board meeting and immediately requested the board to produce the Tischler emails under the Public Records Act. The board timely produced them. The advice in Tischler's emails was the sole reason the board cited for the denial of relator's protest.

until August 19, 2026, and thus, axiomatically, the present ground for objection **did not exist** “at the time of the primary.”

16. Shortly after the board’s August 24, 2026 meeting, relator filed this original action, which falls within this court’s original jurisdiction under Ohio Constitution Article IV, Section 2(B)(1)(b) & (d).
17. Relatedly, this case uniquely implicates this court’s special constitutional authority over the legal profession. Article IV, Section 2(B)(1)(g) of the Ohio Constitution broadly vests this court with original jurisdiction over the “discipline of persons” admitted to the practice of law and “all other matters relating to the practice of law.” It is pursuant to that constitutional authority that this court itself has rendered Ickes legally unable to practice law—and therefore unable to qualify for judicial office—through a date well beyond the commencement of the term he purportedly seeks.
18. With less than ninety days until the general election scheduled on November 3, 2026, this matter is governed by S.Ct.Prac.R. 12.08.
19. Respondent board of elections’ consideration and denial of the protest involved a legal determination of a judicial or quasi-judicial nature and thus amounted to an exercise of judicial or quasi-judicial power.
20. The board’s decision to leave Ickes’ name on the ballot is an unauthorized act: Ickes is ineligible to hold the underlying judicial office precisely because the suspension imposed by this court under its independent constitutional authority extends beyond the January 1, 2027 commencement date of the new term. This court imposed this extended suspension due to its “duty to protect the public from judicial misconduct.” *Disciplinary Counsel v. Ickes*, supra, ¶68.

21. Because this case implicates this court’s special constitutional powers and duties, it is unlike situations in which a candidate for a nonjudicial office becomes ineligible to assume office after a primary but before a general election for the nonjudicial office at issue.
22. Thus, any precedent suggesting that a candidate cannot be removed from the ballot after a primary election but before a general election does not extend to the unique circumstances of an intervening suspension from the practice of law imposed after a primary election but before the general election.
23. This court’s precedent contemplates certain non-dilatory, post-primary challenges to common pleas candidacies. *State ex rel. Peirce v. Bd. of Elections of Stark Cnty.*, 168 Ohio St. 249, 250 (1958) (denying writ of prohibition—not on the merits but on “dilatoriness” grounds—when basis for candidate’s alleged ineligibility, i.e., insufficient time practicing law, was known prior to primary, with three dissenting justices opining at page 250 as follows:
- Although this case can be concluded on the ground of laches, **it seems futile to deny the writ of prohibition and allow the name of the candidate to remain on the ballot** when it is conceded that he will not have been admitted to practice as an attorney at law in this state for a period of at least six years immediately preceding the commencement of the term, as provided by Section 2301.01, Revised Code. (emphasis added).
24. By denying relator’s protest—thereby maintaining Ickes’ name on the ballot—respondent abused its discretion and clearly disregarded the law.
25. Relator Ontko has no adequate remedy in the ordinary course of law. Nor would she have any conceivable remedy in quo warranto should Ickes “win” the election. “Only the attorney general, a county prosecutor, or a person making a good-faith claim that he is entitled to the office may bring an action in quo warranto.” *State ex rel. Jennewine v. Puffenberger*, 2025-Ohio-3041, ¶12.

26. The State of Ohio has a strong interest in ensuring that its ballots do not present judicial candidates who are indisputably ineligible to assume the offices they purportedly seek due to suspensions from the practice of law imposed by the highest court in this state.
27. Relator, in each of her capacities as elector and candidate, has a clear legal right to have her protest granted because a candidate for judicial office who is not eligible to assume the office sought has no right of ballot access.
28. The respondent has a corresponding clear legal duty to grant relator's protest.
29. Due to the proximity of the election, relator has no adequate remedy in the ordinary course of law.
30. Thus, this court may issue a writ of mandamus compelling the board of elections to grant relator's protest.
31. ***Therefore***, this court should issue a peremptory, alternative, and/or final writ prohibiting respondent from placing Ickes' name on the ballot for the November 3, 2026 general election for the common pleas court term commencing on January 1, 2027. Alternatively, this court should prohibit respondent from taking Ickes' supposed "candidacy" into account when determining and declaring the winner of that election. Alternatively, this court should grant a peremptory, alternative, and/or final writ of mandamus compelling respondent to grant relator's protest. This court should grant any necessary or appropriate ancillary relief and award costs to relator.

/s/ Andrew R. Mayle (0075622)

To the clerk: Please serve the respondent via your default method of service in expedited election actions. I have also served respondent's statutory counsel by email at BTischler@sanduskycountyoh.gov on August 24, 2026.

/s/ Andrew R. Mayle (0075622)

In the Supreme Court of Ohio

Sandusky County

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State of Ohio

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Verification affidavit

1. My name is Kimberly J. Ontko, I am of sound mind, am competent to give this testimony, have been admitted to practice law in the State of Ohio since November 5, 2012, and am employed as a magistrate at the Sandusky county court of common pleas.
2. I am also an elector and resident of Sandusky county, and a certified candidate for judge of the common pleas court for the term commencing on January 1, 2027.
3. I have read my complaint and verify that it is true and accurate based upon my own personal knowledge.
4. Almost immediately after this court imposed a two-year suspension from the practice of law upon Jon Marshal Ickes, I retained counsel experienced in both election law and original actions. I then, on August 20, 2026, filed a protest with the Sandusky county board of elections. A true and accurate copy of my protest letter is attached to my complaint.
5. Over this past weekend, I learned that the respondent board of elections scheduled an "emergency meeting" on August 24, 2026 at 1 p.m. regarding my protest. I attended that meeting. Without holding a hearing, the board orally voted to deny my protest. I filed my complaint in this case the same day, August 24, 2026, to allow this court as much time as reasonably possible to decide the matter. I have therefore exercised extreme diligence and promptness throughout the relevant timeframe. I also previously instructed my counsel, Andy Mayle, to notify the Sandusky county prosecutor that this action may be forthcoming. Attorney Mayle therefore timely notified the county prosecutor of the possibility of this action on August 19, 2026. This way, if the board denied my protest, it would not be prejudiced by the election calendar because the board's statutory counsel would have the maximum possible time to anticipate and research possible defenses.


Kimberly J. Ontko

The affiant personally appeared before me on August 24, 2026, and signed this affidavit under oath after first being duly sworn.



SHARON L. LAGROU
Notary Public, State of Ohio
My Commission Expires
September 30, 2028


Notary Public

SANDUSKY COUNTY
BOARD OF ELECTIONS

2026 AUG 20 PM 3: 01

Kimberly J. Ontko
549 CR 157
Fremont, Ohio 43420

FILED

August 20, 2026

Via Hand Delivery

Sandusky County Board of Elections
2020 Countryside Drive
Fremont, Ohio 43420

Re: Election protest regarding Jon Marshal Ickes

Dear Board Members:

As you know, I am a Sandusky county elector and candidate for the office of judge of the Sandusky county common pleas court for the term commencing January 1, 2027. This office was most recently occupied by Jon Marshal Ickes. Because Ickes ran for reelection unopposed in the 2026 Republican primary, his name was scheduled to appear on the general election ballot. Yesterday, however, the Supreme Court of Ohio suspended him from the practice of law for two years, effective immediately. *Disciplinary Counsel v. Ickes*, Slip Opinion No. 2026-Ohio-3173, ¶68 (“As a judge in a position of power and trust, he pervasively used vulgar language with colleagues, fostered an inappropriate and unprofessional workplace environment, and adjudicated criminal cases despite the appearance of impropriety. Consequently, Jon Marshal Ickes is suspended from the practice of law in Ohio for two years. It is further ordered that pursuant to Gov.Jud.R. III(7)(A), Ickes is immediately suspended from judicial office without pay...”)

Because this disqualification cannot possibly be cured by January 1, 2027—indeed, Ickes cannot possibly be reinstated to the practice of law until August 2028 at the earliest—Ickes will be legally ineligible to hold the office of common pleas court judge when the next term commences and thus cannot take the judicial oath of office or assume that office. His disqualification is therefore neither speculative nor contingent; it necessarily extends beyond the commencement of the next term. Accordingly, Ickes’ name should not appear on the general election ballot for a term that he cannot possibly assume. *See* 2002 Ohio Atty.Gen.Ops. No. 2-88 (“We note first, that a person is not eligible to be a

candidate for elective office if he will not be qualified to assume that office if elected.”), citing *State ex rel. Flynn v. Board of Elections*, 164 Ohio St. 193, 200, 129 N.E.2d 623, 628 (1955) (“one who would be ineligible to hold a public office has no right to be a candidate for election thereto, since his election would be a nullity.”). Indeed, “there is no fundamental right to run for public office,” particularly when the putative candidate would not be eligible to hold the office. *State ex rel. Keefe v. Eyrich*, 22 Ohio St.3d 164, 165 (1986) (Wright, J., concurring) (per curiam decision holding that judicial candidate who attained the age of seventy years was ineligible to hold office and thus had no right to have his name appear on the ballot). Just as the age-related disqualification in *Keefe* could not be cured, Ickes cannot cure the disqualification resulting from the suspension imposed by the Supreme Court of Ohio under its special constitutional power to discipline members of the legal profession.

Because of the persistent nature of Ickes’ disqualification—materially distinguishing his suspension from one that could expire before the next term commences¹—I hereby protest Ickes’ candidacy and request that your board take swift action to ensure that his name does not appear on the upcoming general election ballot. While this protest comes after the primary election, the relevant circumstances did not arise until yesterday.

The timing here is like that in *State ex rel. Trumbull Cnty. Republican Cent. Committee v. Trumbull Cnty. Bd. of Elections*, 2022-Ohio-3268, wherein the Supreme Court of Ohio approved a late-August denial of ballot access to a putative common pleas court candidate who was appointed by the county Republican central committee to fill a ballot vacancy in violation of Ohio’s so-called “sore loser” statute, R.C. 3513.04. Just as members of the Trumbull county board of elections and the secretary of state reasoned in that case that the putative nominee may not appear on the ballot because she was disqualified from the relevant office, your board should conclude that Ickes’ name should not appear on the ballot because he is now indisputably disqualified from holding the underlying judicial office—not by a policy against allowing a party primary’s “sore

¹ *See, e.g.*, 2002 Ohio Atty.Gen.Ops. No. 2-127 (“a person who has been suspended from the practice of law is not precluded from being a candidate for the office of common pleas court judge, so long as his suspension will have expired and he is reinstated by the time he assumes office if elected thereto.”)

loser” to seek another office in the same election cycle, but by a Supreme Court order that does not even permit him to practice law until 2028.

To discuss this matter further, you may call me at 419.989.0089 or email me at kjlawoffice@gmail.com. You may also contact my counsel Andy Mayle at 419.559.9647 or amayle@maylelaw.com.

We kindly ask that you promptly give us advance notice of any hearings, meetings, or board votes concerning this protest.

Thank you for your consideration of this important matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Kimberly J. Ontko', with a long horizontal line extending to the right.

Kimberly J. Ontko