

## Unsuccessful Challenge to Ohio's Changed Primary-Election Procedures During the Covid-19 Pandemic

*League of Women Voters of Ohio v. LaRose*  
(Michael H. Watson, S.D. Ohio 2:20-cv-1638)

A district judge found that Ohio's primary-election accommodations for the Covid-19 pandemic in 2020 did not result in unconstitutionally cumbersome voting.

*Subject:* Registration procedures. *Topics:* Covid-19; registration procedures; absentee ballots; National Voter Registration Act; primary election; intervention.

Two voting-rights organizations and four voters filed a federal complaint in the Southern District of Ohio on March 30, 2020, seeking an expansion of the voter-registration period and easier vote-by-mail procedures during the Covid-19 infectious pandemic in 2020.<sup>1</sup> On March 16, Ohio's secretary of state postponed the state's March 16 primary election and forbade election officials from similarly extending the deadline for voter registrations.<sup>2</sup> The proscription was included in a statute enacted on March 27 that set the election for April 28 and created what plaintiffs described as unduly cumbersome procedures for voting by mail.<sup>3</sup> On March 31, the plaintiffs filed an amended complaint<sup>4</sup> and a motion for a temporary restraining order.<sup>5</sup>

Judge Michael H. Watson held a telephonic conference on March 31 and learned that the secretary was working to alleviate some of the plaintiffs' concerns.<sup>6</sup> Judge Watson ordered a response to the pending motion by 3:00 p.m. on April 2 and a reply by 3:00 p.m. on April 3.<sup>7</sup>

Presiding over a time-sensitive case with changing facts is a challenge, and Judge Watson met the challenge by maintaining engagement with the parties and keeping up with the most current information.<sup>8</sup>

He allowed Ohio's attorney general to intervene to defend the constitutionality of its statute.<sup>9</sup> He also allowed the state's Democratic and Republican

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1. Complaint, *League of Women Voters of Ohio v. LaRose*, No. 2:20-cv-1638 (S.D. Ohio Mar. 30, 2020), D.E. 1; see Rick Rouan & Darrel Rowland, *Voting Rights Groups Sue Over Extended Primary*, *Cincinnati Enquirer*, Apr. 1, 2020, at A7.

2. Opinion at 2–3, *League of Women Voters of Ohio*, No. 2:20-cv-1638 (S.D. Ohio Apr. 3, 2020), D.E. 57, 2020 WL 6115006.

3. *Id.* at 3–8; Complaint, *supra* note 1, at 10–13.

4. Amended Complaint, *League of Women Voters of Ohio*, No. 2:20-cv-1638 (S.D. Ohio Mar. 31, 2020), D.E. 5.

5. Temporary-Restraining-Order Motion, *id.* (Mar. 31, 2020), D.E. 4.

6. Order, *id.* (Mar. 31, 2020), D.E. 14 [hereinafter Mar. 31, 2020, Order].

Tim Reagan interviewed Judge Watson for this report by telephone on August 26, 2020.

7. Mar. 31, 2020, Order, *supra* note 6.

8. Interview with Hon. Michael H. Watson, Aug. 26, 2020.

9. Order, *League of Women Voters of Ohio*, No. 2:20-cv-1638 (S.D. Ohio Apr. 1, 2020),

Parties to intervene as defendants, and he allowed the state’s Libertarian Party to intervene as a plaintiff.<sup>10</sup>

He agreed with the secretary that Ohio had not changed the date of the election; it had merely forbidden in-person voting and extended the deadline for absentee voting; ballots already cast remained cast.<sup>11</sup> Although he recognized that the vote-by-mail procedures may or may not have been the best plan, Judge Watson concluded that they were not unconstitutional.<sup>12</sup>

On April 20, the plaintiffs stipulated dismissal of the case.<sup>13</sup>

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D.E. 24; *see* Intervention Motion, *id.* (Apr. 1, 2020), D.E. 21.

10. Order, *id.* (Apr. 2, 2020), D.E. 38; *see* Intervention Motion, *id.* (Apr. 2, 2020), D.E. 32 (Ohio Republican Party); Intervention Motion, *id.* (Apr. 1, 2020), D.E. 29 (Libertarian Party of Ohio); Intervention Motion, *id.* (Apr. 1, 2020), D.E. 25 (Ohio Democratic Party); *see also* Intervention Complaint, *id.* (Apr. 2, 2020), D.E. 49.

11. Opinion, *supra* note 2, at 8–12.

“Voters with disabilities, such as visual impairment, and those who are unable to receive mail may cast ballots in person at their county voting center—typically the board of elections—on April 28.” Rick Rouan, *Ohio’s Extended Primary Explained*, Columbus Dispatch, Mar. 27, 2020, at 1B.

12. Opinion, *supra* note 2, at 13–27; *see* Rick Rouan, *Judge Denies Voter Advocates’ Lawsuit to Change Ohio Primary*, Cincinnati Enquirer, Apr. 7, 2020, at B9.

13. Stipulation, *League of Women Voters of Ohio*, No. 2:20-cv-1638 (S.D. Ohio Apr. 20, 2020), D.E. 64.