

**IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO  
CIVIL DIVISION**

STATE <i>ex rel.</i> REV. GLENN	:	
SCHWERDTFEGER, as next friend of	:	
RACHEL SCHWERDTFEGER, a minor,	:	
<i>et al.</i> ,	:	
	:	
Plaintiffs/Relators,	:	
	:	Case No. 16CV-2346
v.	:	
	:	(Judge Richard A. Frye)
JON HUSTED, in his official capacity as	:	
the Secretary of State, etc.	:	
	:	
Defendant/Respondent.	:	

**OPINION**  
**GRANTING DECLARATORY RELIEF AND**  
**GRANTING A WRIT OF MANDAMUS**

**1. *Introduction.***

Nine individual plaintiffs filed this case on Tuesday March 8, 2016. All are alleged to be 17-year-old citizens of Ohio who will have their 18<sup>th</sup> birthday prior to the November 8, 2016 general election. All seek a court ruling that their choices for delegates to the Presidential nominating conventions be tabulated at the March 15 primary election.<sup>1</sup> The sole defendant is Ohio Secretary of State Jon Husted. The Secretary is the chief elections officer for the state.

Plaintiffs were permitted to add their parents as parties, pursuant to Civ. R. 17(A) and (B), since under Ohio law minors can only file suit in civil court through a parent, guardian or other representative.<sup>2</sup> Plaintiffs seek a ruling that a December 2015 revision to the *Ohio Election Official Manual* promulgated by the Secretary is legally incorrect, and misconstrues R.C. § 3503.011. Generally, that statute makes it possible for 17-year olds who will be legal electors at the time of the November 8, 2016 general election to

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<sup>1</sup> One plaintiff has already voted; the other eight have not yet done so. As explained later in this decision, it is unclear if early votes by 17-year olds can now be re-examined so that presidential primary choices are honored.

<sup>2</sup> For simplicity, parents and their 17-year old children are collectively referenced as “plaintiffs” in this Opinion.

participate in the March primary election. However, the Secretary ruled that 17-year old voters may have their ballots counted for nearly everything except Presidential convention delegates. In line with positions taken by previous Secretaries, defendant also has ruled that votes for state or county political party central committee seats and public questions or issues like school levies are not properly voted upon by 17-year olds. These restrictions are not challenged in this case.

Directly at issue is the determination by the Secretary that “[i]n presidential primary elections, a 17-year-old voter is not permitted to vote for presidential delegates, because delegates are elected not nominated.” *Manual* at page 7-6. Plaintiffs merely seek to assure that their choices in the March 15 primary will be counted in Ohio’s hotly contested Presidential selection process.

Following a hearing held March 10, plaintiffs added a claim for relief by way of a writ of mandamus. This is the customary remedy (rather than injunction) to address election law issues or other errors allegedly made by public officials in Ohio.

The record includes a number of affidavits and exhibits. All were stipulated by both sides at the March 10 hearing. No genuine issue of material fact remains, and the question presented is strictly a legal one. The court is grateful to have had the benefit of strong presentations from top-flight counsel on both sides.

As more fully explained below, the court holds that the Secretary abused his discretion in issuing his December 2015 legal interpretation in the *Manual* at page 7-6, and as a result otherwise qualified 17-year olds must have their choices for delegates to presidential nominating conventions counted in the March 15 primary election.

In response to this suit, the Secretary has argued that irrespective of possible merit to plaintiffs’ claim, their delay in filing suit (the equitable defense of laches) precludes relief under the circumstances presented here. To be sure, this case was filed very close to the March 15, 2016 primary election date. Early voting was already underway before this case was filed. On the other hand, we are dealing with a complicated rule that challenges easy understanding, and 17-year olds could hardly be expected to have anticipated it long in advance of the primary. Furthermore, after bringing suit plaintiffs and their counsel moved with great dispatch to present a factual record to the court, and thoroughly address the legal question. The court acknowledges defendant’s representation that some ballots voted early by 17-year olds around Ohio

apparently cannot now be tabulated for the presidential nominating race because early ballots from 17-year olds are already tabulated—without counting the presidential race—and have then literally been mixed-in with ballots of all other early voters age 18 and older. Boards of Election, the court is told, cannot now go back after the fact to locate 17-year olds' ballots and record their presidential nominating convention choice.

The Secretary argues in substance that since this court decision comes late in the primary election calendar that it should not be issued at all. For him, if some 17-year olds' ballots cannot now be counted, justice requires no 17-year old's ballot for presidential delegates be counted. This would be unjust. It would serve no good purpose to turn the fact that the court cannot grant complete statewide relief to every 17-year old voter into a disenfranchisement of all the 17-year olds yet able to vote. To the extent still reasonably possible, all 17-year old voters should have their choice on presidential convention delegates counted.<sup>3</sup>

Defendant also disregards the practical fact that, experience teaches, a majority of voters do not vote early. As most people still vote at a polling place on election day a sizeable portion of the 17-year old voting population can still benefit from a decision favoring plaintiffs.

The Secretary also argues that at this late date a decision favoring plaintiffs will be disruptive to the ongoing work of running the primary election. However, the affidavit of Caleb Faux from the Hamilton County Board of Elections contradicts that assertion. Mr. Faux states that if the court were to invalidate the Secretary's directive, “[w]e simply would remake ballots to exclude the other races 17-year olds are not allowed to vote in, but we would leave their presidential primary selection. Such a ruling would not add any administrative burden to our procedures. There would be no or very minimal additional cost associated with such change.” (Pltf. Ex. 15, at ¶ 5) The

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<sup>3</sup> Practically speaking, early voting involves some risk that a ballot will be wasted. Every early voter will miss 11<sup>th</sup> hour developments, which experience shows are not infrequent. For instance, 2016 Republican primary ballots being used in Ohio include the names of ten men plus one woman who have already withdrawn from the contest following lackluster showings in earlier state caucuses or elections. An early voter in Ohio who chose one of them is just out of luck; they retain no ability to vote a second time because their first choice withdrew. This situation is somewhat comparable. The fact that the law is clarified in Ohio for 17-year olds yet to vote while there are other 17-year olds who have voted early who do not get counted is simply an unintended feature of a very complex process.

court is confident that the dedicated men and women across Ohio who conduct Ohio's elections can make the small adjustment called for here, even on short notice.

In summary, the court finds and declares that:

1. As a matter of law, 17-year olds otherwise qualified to vote under R.C. 3503.011 are entitled to have their choices for convention delegates counted in the March 15, 2016 primary election;
2. The Secretary has a clear legal duty to promptly advise all 88 county Boards of Election to disregard his previous interpretation of § 3503.011, and to permit 17-year olds' choices for presidential convention delegates to be counted in the same fashion as voters age 18 and older, despite the current version of the *Ohio Election Official Manual* and any comparable directives he has previously issued;
3. The Secretary has a clear legal duty to promptly advise all 88 county Boards of Election to discontinue giving oral or written instructions to otherwise qualified 17-year old voters that their choice of presidential convention delegates will not be counted; and
4. The Secretary has a clear legal duty to promptly advise all 88 county Boards of Election that they must make a reasonable effort to attempt to determine and record choices for presidential convention delegates made by 17-year old "early" voters if such ballots remain identifiable and accessible, so that to the extent reasonably possible their choices are included in final vote totals for the March 15, 2016 primary election.

## **2. *The Ohio Election Official Manual.***

The Ohio election code is found in R.C. Title 35. As published by Page's legal publisher, it covers (with some indexing and case annotations) over 650 pages, much of which is single spaced. Given this large volume of legal rules, and recognizing that elections are primarily conducted by local Boards of Election across all 88 counties, R.C. § 3501.05 lists over 30 obligations of the Ohio Secretary of State. Among them are requirements that the Secretary "[i]ssue instructions by directives and advisories \*\*\* as to the proper methods of conducting elections" (R.C. 3501.05(B)) and "[p]repare rules and instructions for the conduct of elections." (R.C. 3501.05(C)) One way in which this

has been done is through publication of the Secretary's 596 page *Ohio Election Official Manual*.

In mid-December 2015, the Secretary amended the *Manual* relative to 17-year olds ability to vote in primary elections. (See, *Ohio Election Official Manual*, Cover Page) The Secretary did so after offering a public comment period in August and September on his web site. (Damschroder Affidavit, ¶ 15.) A lawyer from the "Fair Election Legal Network" commented negatively about the change in question last September, stating it was "more restrictive than the relevant statutory language." (*Id.* and Attachment "E") That comment apparently resulted in no change by the Secretary to his plan to alter the *Manual*, so far as the record before this court discloses.

The pertinent provision in the *Manual* now states (on page 7-6) under the subheading "17-Year-Old Voter" that:

Ohio law allows a 17-year-old voter who will be 18 years of age on or before the date of the next general election to vote in the primary election *solely* on the *nomination* of candidates.<sup>6</sup> This is because the 17-year-old voter will be eligible to vote for the nominees at the November general election.

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In presidential primary elections, a 17-year-old voter is not permitted to vote for presidential delegates, because delegates are elected and not nominated.<sup>7</sup>

(emphasis in original). Two footnotes were included by the Secretary to this provision. Footnote 6 to the first noted sentence in the *Manual* sets out the legal basis as R.C. §§ 3503.01, 3503.011, and 3503.07, along with the decision in *State ex rel. Webber v. Felton*, 77 Ohio St. 554 (1908). Footnote 7 refers to the reader to R.C. §§ 3513.12 and 3513.121.

Interestingly, another part of the *Manual* is similarly entitled "Seventeen-Year Old Voters (Primary Election Only)." (Page 4-6) It says "[v]oters who are 17 years old as of the date of the primary election are not permitted to vote on any Questions and Issues.<sup>10</sup>" It does not mention presidential convention delegates. The text thereafter prescribes the Form of Ballot for Optical Scan (17-Year Old Voter). It says that the ballot can contain "only the offices with candidates to be nominated (i.e. without the state and

central committee contests [in the appropriate years] and without the questions and issues) \*\*\* .” There again, no reference is even made to presidential convention delegates, although the same 1908 Ohio Supreme Court decision and R.C. §§ 3503.01, 3503.011, and 3503.07 are cited as authority under footnote 10.

**3. § 3503.011, and related statutory and constitutional provisions.**

Article V, § 7 of the Ohio Constitution was adopted in 1976. It authorizes “Primary Elections.” In pertinent part, that provision states that “[a]ll delegates from this state to the national conventions of political parties *shall be chosen by direct vote of the electors in a manner provided by law*. Each candidate for such delegate shall state his first and second choices for the presidency, but the name of no candidate for the presidency shall be so used without his written authority.” (emphasis added).

Defendant argues that the key to this case is use of the word “electors.” That word first appears in the Ohio Constitution at Article V, § 1. Much like the 26<sup>th</sup> Amendment to the United States Constitution, § 1 provides, in relevant part, that “[e]very citizen of the United States, of the age of eighteen years \*\*\* is entitled to vote at all [Ohio] elections.” The 26<sup>th</sup> Amendment has been interpreted to provide that the age of 18 is not a minimum age for voters. Nothing precludes a state from extending the right to vote to persons younger than eighteen. *Wesley v. Collins*, 605 F. Supp. 8021, 813 (M.D. Tenn 1985, *aff'd* 791 F.2d 1255 (6th Cir.1986)). Read in that same way, Article V, § 1 clearly permitted the General Assembly to provide for some voting by 17-year olds. No case holds otherwise. Placing reliance on the word “electors” as requiring someone to be age 18 before they can choose nominating delegates for President is a strained reading.

R.C. § 3503.01(A) parrots the comparable provision in the Ohio Constitution. It is the primary statutory statement of how one is normally determined to be an Ohio “elector.”

(A) Every citizen of the United States who is of the age of eighteen years or over and who has been a resident of the state thirty days immediately preceding the election at which the citizen offers to vote, is a resident of the county and precinct in which the citizen offers to vote, and has been registered to vote for thirty days, has the qualifications of an elector and may vote at all elections in the precinct in which the citizen resides.

The next statute following in sequence is R.C. 3503.011. It is squarely before the court in this case and was adopted in 1981. It allows voting by 17-year olds if they will be a fully qualified “elector” by the next general election. That statute reads in full:

At a primary election every qualified elector who is or will be on the day of the next general election eighteen or more years of age, and who is a member of or is affiliated with the political party whose primary election **ballot** he desires to vote, shall be entitled to **vote such ballot** at the primary election.

(emphasis added). The meaning of the word “elector” in this statute is generic, just as it is in the balance of the election code. It justifies no distinction between 17-year olds choosing presidential convention delegates as opposed to voting to “nominate” others.

*State ex rel. Colvin v. Brunner*, 120 Ohio St.3d 110, 2008-Ohio-5041 at ¶ 43 recognized that in construing provisions in the Constitution and the state election code one “must ‘read words and phrases in context according to the rules of grammar and common usage.’” (additional citations omitted). Accordingly, the statute’s repetitive use of the word “ballot” must be addressed.

#### **4. The Meaning of “Ballot” in the Election Code.**

R.C. § 3503.011 refers to the “primary election ballot he desires to vote” and provides that eligible 17-year olds “shall be entitled to vote such ballot at the primary election.” Although the statute speaks of “electors,” the most pertinent part of this law is the reference to the “primary election *ballot* he desires to vote” and that the 17-year old who otherwise qualifies “shall be entitled to vote such *ballot* at the primary election.” (emphasis added). The statute clearly does not say that a 17-year old voter is only entitled to vote a part of the “ballot.” It speaks to voting the whole ballot.

The word “ballot” is defined by the General Assembly. R.C. § 3506.01(B). It “means the official election presentation of offices and candidates, including write-in candidates, and of questions and issues, and the means by which votes are recorded.”

This statutory definition in the election code is consistent with standard English usage. Thus, “ballot” is today usually used as a noun, and defined as “[a]n instrument, such as a paper or ball, used for casting a vote.” *Black’s Law Dictionary* (9<sup>th</sup> Ed.2009) at p.163. An earlier definition defined ballot as either the “act of voting” or the “piece of paper on which the voter gives expression to his choice.” *Black’s Law Dictionary* (Rev’d

4<sup>th</sup> Ed.1968) at p.182. *State ex rel. Weinberger v. Miller*, 87 Ohio St. 12, 42 (1912) held that the word “ballot” as used in our constitution must be construed to mean a written or printed ballot. “[I]t is a printed or written expression of the voter’s choice upon some material capable of receiving and reasonably retaining it, prepared or adopted by each individual voter and passing by the act of voting from his exclusive control into that of the election officers, to be by them accepted as the expression of his choice.” *Id.* (additional citation omitted).

The statute employs the word “ballot.” This does not mean “a part of the ballot.” Defendant’s argument would essentially amend R.C. § 3503.011 to allow 17-year olds to vote only parts of the primary election ballot. The Secretary has been given no authority by the General Assembly to alter the broad words used in the statute.

##### **5. *Statutory Interpretation in Election Cases.***

Ohio law as applied in election law cases recognizes that the “paramount concern is the legislative intent” in enacting a statute, and that to discern such intent courts “must ‘read words and phrases in context according to the rules of grammar and common usage.’” *State ex rel. Knowlton v. Noble County Bd. of Elections*, 126 Ohio St.3d 483, 2010-Ohio-4450, ¶ 49 and cases cited; *see also, State ex rel. Ernst v. Brunner*, 145 Ohio Misc.2d 73, 2007-Ohio-7265, 882 N.E.2d 990 (C.P.), ¶¶ 17–18 and cases cited. If plain meaning does not suffice, Ohio courts regularly consider correlative provisions in the Revised Code together with any administrative construction when given a complicated statute or group of statutes in order to arrive at a sensible meaning.

The Secretary makes a strained argument. He contends that the foregoing provisions of the Constitution and the election statutes draw some meaningful distinction between “nominating” a candidate on the primary ballot and actually “electing” them. In the Secretary’s view, delegates to national presidential conventions are being “elected,” when 17-year olds are only entitled to “nominate” people. Contrary to the Secretary’s position, § 3503.011 draws no distinction between “nominating” a candidate on the primary ballot and actually electing them. As explained above, reasonably read, it simply says 17-year old primary voters get to vote the entire “ballot.” Moreover, Ohio law contains many references to how national convention delegates are “chosen,” which is not necessarily the same as “elected.” *See, e.g.*, R.C. 3513.12.

At this point it is useful to point out the Affidavit of William P. DeMora. (Pltf. Ex. 12) He is the Director of Delegate Selection for the Ohio Democratic Party. (*Id.* at ¶ 3) In his view, national convention delegates do not hold public office, as their only responsibility is to attend the convention and vote for their pledged candidates. (*Id.* at ¶ 4) Moreover, at least for the Democratic Party, “[t]he vote during the presidential primary election does not actually elect anyone specific. It only tells us the proportion of people who support one candidate versus another that the Ohio Democratic Party will send to the national convention. \*\*\* The selection of district-based delegates who will go to the convention to represent the various candidates happens separately, at a caucus.” (*Id.* at ¶ 5) Hence, “[m]any delegates of the Ohio Democratic Party are not identified at all before the March 15, 2016 primary.” (*Id.* at ¶ 6) It is difficult to see how the Secretary sensibly claims that 17-year olds would be “electing” specific convention delegates, as opposed to simply “choosing” them in this somewhat open-ended system. “Choosing” is the word used in the statutes and is not necessarily the same as “electing.” The distinction argued by the Secretary is, in short, a “metaphysical subtlety which may make anything mean everything or nothing, at pleasure.” Thomas Jefferson letter to William Johnson, *Works of Thomas Jefferson* 7:297 (1854), quoted in Shapiro, *Oxford Dictionary of American Legal Quotations* 388 (1993).

National convention delegates are addressed in R.C. § 3513.12. This statute says that “delegates and alternates to the national conventions of the different major political parties shall be *chosen by direct vote* of the electors as provided in this chapter. Candidates for delegate and alternate shall be qualified and the *election shall be conducted in the manner prescribed in this chapter* \*\*\*.” (emphasis added). Again, the words “chosen by direct vote of the electors” do not necessarily equate to “elected,” given the open-ended process described by Mr. DeMora.

“There is no common law of elections; they are governed by statutes.” *State ex rel. Ruehlmann v. Luken*, 65 Ohio St.3d 1, 3 (1992). Here, we are left with the single most relevant statute referring to 17-year olds being “entitled to vote such ballot at the primary election” and not merely a statute that says they can vote only part of the ballot. Beyond that, Ohio has a national convention delegate selection provision in Article V, § 7 of the Constitution and in R.C. § 3513.12 speaking to how delegates are “chosen by

“direct vote” as opposed to simply being “elected.” Everyone concedes the absence of an Ohio statute saying that “17-year olds may not vote for national convention delegates.”

Where statutes appear unclear or ambiguous, secondary rules of construction come into play. Ohio law seeks to “avoid unduly technical interpretations that impede the public policy favoring free, competitive elections.” *State ex rel. Myles v. Brunner*, 120 Ohio St.3d 328, 2008-Ohio-5097, ¶ 22 and cases cited. Ohio will “liberally construe election laws in favor of the right to vote.” *Id.* at ¶ 26, quoting *State ex rel. Colvin* at ¶ 62, and cases cited, followed by *State ex rel. Skaggs v. Brunner*, 120 Ohio St.3d 506, 2008-Ohio-6333, ¶ 50. Furthermore, the *Colvin* decision notes that “statutes written in broad, sweeping language should be given broad, sweeping application.” *Id.* at ¶ 26 (additional citation omitted).

In considering the proper meaning of these election-related statutes, the general deference that the Secretary enjoys from courts in election matters is not unlimited. Ohio courts “need not defer to the secretary of state’s interpretation [if] it is unreasonable and fails to apply the plain language of” the relevant statute and fails to be an interpretation that favors the right to vote. *State ex rel. Myles* at ¶ 26.

In considering any apparent ambiguity in the language of any statute, the General Assembly has provided by law that a court should consider the “object sought to be attained” and the “consequences of a particular construction.” R.C. § 1.49(A) & (E). Did not this particular law seek to encourage 17-year olds to get involved in the democratic process? America has a strong interest in encouraging 17-year olds—who will be 18 in the fall and fully qualified to help pick the next President—to become informed in advance. Depriving them of an opportunity to vote the entire ballot in the March 2016 primary election sends a contradictory message. Inferentially, it tells 17-year olds to ignore the televised debates and town hall meetings; the myriad of daily television, cable, and other programming about Presidential candidates; and the actual visits to our state by candidates seeking the Presidency. This is irrational. It flies in the face of the object sought to be obtained by the General Assembly when it enacted R.C. § 3503.011.

## 6. *The Secretary's Other Proffered Explanations*

Numerous Affidavits have been filed for the record explaining how different Secretaries of State have handled primary elections since § 3503.011 was adopted in 1981. One undisputed fact is crucial: between 1981 and 2012, **no** Ohio Secretary of State ever adopted the reading of § 3503.011 challenged here. That is, it was not until 2012, when the current Secretary discovered this new limitation on 17-year old voting, that anyone holding the office publicly said that selection of Presidential convention delegates was off-limits for 17-year olds.

It is of course true that R.C. § 1.49(F) teaches that in evaluating statutes that courts may consider the “administrative construction of the statute” in resolving ambiguities about the intention of the legislature. In the 1980’s, shortly after the 17-year old voting statute first came into effect, Secretary of State Sherrod Brown informally but publicly communicated that 17-year olds could vote for “all party candidates on the Primary Election ballot.” (Pltf. Ex. 17 “McTigue Affidavit” at Attachment “A”) Given that indication of the original understanding of the law, defendant’s own administrative construction of it is surely counterbalanced. The next sensible step is to examine more closely the explanations the Secretary has for his position.

The Secretary relies upon two sentences in a 1908 decision of the Ohio Supreme Court to justify his argument that “nominations” are different from “elections” and jumps from that to the conclusion that this century-old decision controls the meaning given to § 3503.011. The decision was *State ex rel. Webber v. Felton*, 77 Ohio St. 554 (1908). The law in question in that 1908 decision merely allowed political parties to notice a primary election and to have such an election held with the assistance of public election supervisors and inspectors under provisions of a new 1904 law. This process was novel at that point. Indeed, the dissenting opinion saw the use of state resources to assist with primary elections as a waste of public money—“public plunder”—not serving the public interest. *Id.* at 581 (Davis, J. dissenting). Only a few years later the same court pointed out that although primary elections were the focus of *State ex rel. Webber v. Felton*, the decision was limited in scope: “It was in nowise the purpose of the statute involved in the *Felton* case to prescribe and enforce a method, but merely to furnish the facilities to assist recognized and organized portions of the citizenship to have their own

method accomplished in keeping with decency and the good order of the community.” *Fitzgerald v. Cleveland*, 88 Ohio St. 338, 355–56 (1913).

*State ex rel. Webber v. Felton* is not a landmark in Ohio law or helpful here. It is a relic of a bygone era when primary elections were a novelty, and all women along with men under age 21 could not vote. The decision does not address a comparable situation, such as voting by 20-year olds who would turn 21 by the fall elections. *Felton* neither offers guidance to the proper understanding of Article V, § 7 on primary elections (adopted in 1976) nor the 17-year old voting statute (adopted in 1981). Unfortunately, the *Manual* points to no other case law as authority.

## 7. ***Mandamus Relief.***

A writ of mandamus is used when an action seeks to compel a public official to take certain action, rather than prevent action. An injunction is used to stop ongoing action. Here, plaintiffs seek some of both: to prevent the Secretary from enforcing the specific provision in his *Manual* but more fundamentally to compel the Secretary to take steps so that their choices for Presidential convention delegates will be counted by local Boards of Election. The court grants relief using the Writ of Mandamus but recognizes in the alternative that the criteria for a preliminary injunction have been proven justifying relief of that nature (and that no bond should be required given the nature of the legal rights at issue).

“To be entitled to the requested writ, relators must establish a clear legal right to the requested relief, a corresponding clear legal duty on the part of the secretary of state to provide it, and the lack of an adequate remedy in the ordinary course of the law. Given the proximity of the November 6 election, relators have established that they lack an adequate remedy in the ordinary course of law.” *State ex rel. Heffelfinger v. Brunner*, 116 Ohio St. 3d 172, 2007-Ohio-5838 ¶ 13, citing *State ex rel. Evans v. Blackwell*, 111 Ohio St.3d 437, 2006-Ohio-5439, ¶ 18 and *State ex rel. Duncan v. Portage Cty. Bd. of Elections*, 115 Ohio St.3d 405, 2007-Ohio-5346, ¶ 8. This standard is fully met by plaintiffs here.

A focus of many mandamus cases is whether a public official has abused their discretion in discharging their public duty. If an administrative officer’s interpretation of a statue was not “reasonable” and “within the contemplation of the statute” then an

abuse of discretion may be found. *State ex rel. Ernst* at ¶ 12, quoting *Strongsville Bd. of Edn. v. Zaino*, 92 Ohio St.3d 488, 490 (2001).

**8. Conclusion.**

The Ohio General Assembly acted within its Constitutional authority under Article V, § 7 to “provide by law” for choosing delegates to the national presidential nominating conventions. Such “law” includes R.C. § 3503.011 allowing 17-year olds who will be eighteen by the next general election and who wish to affiliate with a specific political party to “vote such ballot at the primary election.” Plaintiffs are entitled to a Judgment that the Secretary abused his discretion when he revised the *Manual* and instructed the 88 county Boards of Election otherwise.

By separate order a Writ of Mandamus is being **GRANTED** in favor of plaintiffs and potentially thousands of other 17-year old voters still eager to participate at next week’s primary election.

**IT IS SO ORDERED.**

Franklin County Court of Common Pleas

**Date:** 03-11-2016

**Case Title:** RACHEL SCHWERDTFEGER -VS- OHIO STATE SECRETARY

**Case Number:** 16CV002346

**Type:** DECISION

It Is So Ordered.

A handwritten signature "Richard A. Frye" is written over a circular seal. The seal contains the text "FRANKLIN COUNTY OHIO" around the perimeter, with "COMMON PLEAS COURT" at the top and "WITNESS ALL THINGS ARE" at the bottom.

/s/ Judge Richard A. Frye

Court Disposition

Case Number: 16CV002346

Case Style: RACHEL SCHWERDTFEGER -VS- OHIO STATE  
SECRETARY

Motion Tie Off Information:

1. Motion CMS Document Id: 16CV0023462016-03-0899850000

Document Title: 03-08-2016-MOTION FOR TEMPORARY  
RESTRANING ORDER - DEFENDANT: OHIO STATE SECRETARY

Disposition: MOTION GRANTED