

Case No. _____

**Supreme Court
of the State of Ohio**

**STATE OF OHIO *ex rel.*
THOMAS E. BRINKMAN, JR.,**

Relator,

v.

MAUREEN O'CONNOR, Chief Justice, Ohio Supreme Court, *et al.*,

Respondents.

Original Action in Mandamus

VERIFIED COMPLAINT FOR WRIT OF MANDAMUS

Curt C. Hartman (0064242)
The Law Firm of Curt C. Hartman
7394 Ridgepoint Drive, Suite 8
Cincinnati, Ohio 45230
(513) 379-2923
hartmanlawfirm@fuse.net

Christopher P. Finney (0038998)
Brian C. Shrive (0088980)
Finney Law Firm LLC
4270 Ivy Point Blvd., Suite
225 Cincinnati, OH 45245
(513) 3943-6655
chris@finneylawfirm.com
brian@finneylawfirm.com

Counsel for
Relator Thomas E. Brinkman, Jr.

**SUPREME COURT
OF THE STATE OF OHIO**

**STATE OF OHIO *ex rel.*
THOMAS E. BRINKMAN, JR.
3215 Hardisty Avenue
Cincinnati, OH 45208,**

Relator,

v.

**MAUREEN O’CONNOR,
Chief Justice, Ohio Supreme Court
Ohio Supreme Court
65 South Front Street
Columbus, OH 43215-3431,**

and

**PATRICK F. FISCHER
Justice, Ohio Supreme Court
Ohio Supreme Court
65 South Front Street
Columbus, OH 43215-3431,**

and

**MICHAEL P. DONNELLY
Justice, Ohio Supreme Court
Ohio Supreme Court
65 South Front Street
Columbus, OH 43215-3431,**

and

**MEOLODY J. STEWART
Justice, Ohio Supreme Court
Ohio Supreme Court
65 South Front Street
Columbus, OH 43215-3431,**

Respondents.

Case No. _____

**VERIFIED COMPLAINT FOR
WRIT OF MANDAMUS**

Comes now the STATE OF OHIO, by and on relation to Relator THOMAS E. BRINKMAN, JR., and, in support of its claim for the issuance of a writ of mandamus, alleges as follows:

1. This is an action for a writ of mandamus to compel Respondents, sitting in their official capacity as justices of the Ohio Supreme Court, to comply with the clear and explicit legal obligations imposed upon them by Article IV, Section 2(C) of the Ohio Constitution which mandates (with emphasis added) that “[t]he decisions in all cases in the Supreme Court shall be reported, ***together with the reasons therefor.***”

2. This Court possesses subject matter jurisdiction over this original action pursuant to Article IV, Section 2(B)(1)(b) of the Ohio Constitution.

3. Relator THOMAS E. BRINKMAN, JR., is a taxpayer and resident of the State of Ohio.

4. Respondent MAUREEN O’CONNOR is the chief justice of the Ohio Supreme Court and is one of the seven judges constituting the Ohio Supreme Court pursuant to Article IV, Section 1 of the Ohio Constitution.

5. Respondent PATRICK F. FISCHER is a justice of the Ohio Supreme Court and is one of the seven judges constituting the Ohio Supreme Court pursuant to Article IV, Section 1 of the Ohio Constitution.

6. Respondent MICHAEL P. DONNELLY is a justice of the Ohio Supreme Court and is one of the seven judges constituting the Ohio Supreme Court pursuant to Article IV, Section 1 of the Ohio Constitution.

7. Respondent MELODY J. STEWART is a justice of the Ohio Supreme Court and is one of the seven judges constituting the Ohio Supreme Court pursuant to Article IV, Section 1 of the Ohio Constitution.

8. The remaining three justices of the Ohio Supreme Court, *viz.*, Sharon L. Kennedy, Judith L. French and R. Patrick DeWine, are not named as respondents herein as they did not participate in the case before the Ohio Supreme Court which gives rise to the legal duties which the named Respondents are failing to perform and for which the writ of mandamus is requested.

Factual and Legal Allegations

9. On March 16, 2020, a verified complaint was filed on behalf of Corey Speweik in the Ohio Supreme Court against the Wood County Board of Elections and Ohio Secretary of State Frank LaRose. This case was styled as *State ex rel. Speweik v. Wood County Board of Elections*, and was assigned case no. 2020-0382 in the Ohio Supreme Court. This case shall be referred herein to as “the *Speweik Original Action*”.

10. Generally speaking, the *Speweik Original Action* was an original action filed in the Ohio Supreme Court and seeking to compel the respondents named therein to comply with their legal duties to comply with Ohio’s elections law so as to conduct the primary election mandated by state law to be held on March 17, 2020.

11. Pursuant to Article IV, Section 2(B)(1)(b) of the Ohio Constitution, the Ohio Supreme Court had original jurisdiction over the *Speweik Original Action*.

12. On March 16, 2020, the Ohio Supreme Court *sua sponte* issued a scheduling order wherein it directed the respondents therein to file an answer to the complaint; the Ohio Supreme

Court then declared the case “will be decided on the complaint and answer.” *03/16/2020 Case Announcement #2, 2020-Ohio-996.*

13. In response to the filing of the verified complaint in the *Speweik Original Action*, Ohio Secretary of State Frank LaRose filed a motion to dismiss the complaint (even though the *03/16/2020 Case Announcement #2, 2020-Ohio-996*, did not authorized the filing of such a motion).

14. Due to the timing of consideration of the *Speweik Original Action*, Corey Speweik was precluded or unable to file any response to the arguments made by Ohio Secretary of State Frank LaRose in the motion to dismiss.

15. Additionally, though, in response to the filing of the verified complaint in the *Speweik Original Action*, Ohio Secretary of State Frank LaRose also filed an answer.

16. On March 17, 2020, the Respondents, in their official capacity as justices of the Ohio Supreme Court, dismissed the *Speweik Original Action*. The disposition of the *Speweik Original Action* is reported by the Ohio Supreme Court at *03/17/2020 Case Announcements, 2020-Ohio-997*, under the category of cases disposed of as “Merit Decisions Without Opinions.”

17. Thus, Respondents, in their official capacity as justices of the Ohio Supreme Court, failed to provide any reasons for the disposition on the merits of the *Speweik Original Action*.

Writ of Mandamus to Compel Compliance With Constitutional Duty

18. “Mandamus contemplates the performance of an act which is incumbent upon the respondent by clear legal order or statutory or constitutional obligation to perform.” *State ex rel. Mansfield Motors Ports Speedway, LLC v. Dropsey, 2012-Ohio-968 ¶40* (5th Dist.).

19. Article IV, Section 2(C) of the Ohio Constitution mandates (with emphasis added) that “[t]he decisions in all cases in the Supreme Court shall be reported, together with the reasons therefor.”

20. “The Constitution of Ohio, as amended in 1912, wisely provided that ‘The decisions in all cases in the supreme court shall be reported, together with the reasons therefor.’ Prior to that time[,] the majority of the cases, often the big and most embarrassing ones, were decided without any opinion, or without any ‘reasons therefor.’ The people of Ohio realized that the best test of reasonable judgments was sound ‘reasons therefor.’” *State ex rel. Durbin v. Smith*, 102 Ohio St. 591, 133 N.E. 457 (1921)(Wannamaker, J., dissenting).

21. Thus, pursuant to Article IV, Section 2(C) of the Ohio Constitution, the Respondents, in their official capacity as justices of the Ohio Supreme Court, have the legal duty and obligation to report and publish the reasons for the dismissal of the *Speweik Original Action*.

22. In dismissing the *Speweik Original Action* without opinion, the Respondents, in their official capacity as justices of the Ohio Supreme Court, have violated the legal duty imposed upon them by Article IV, Section 2(C) of the Ohio Constitution to report and publish the reasons for the decision or disposition on the merits of the *Speweik Original Action*.

23. Relator THOMAS E. BRINKMAN, JR., as a citizen and voter in the State of Ohio, has the clear legal right, consistent with Article IV, Section 2(C) of the Ohio Constitution, to have the reasons for the decision or disposition on the merits of all cases by the Ohio Supreme Court, including the *Speweik Original Action*, reported and published by the Respondents in their official capacity as justices of the Ohio Supreme. *See State, ex rel. Nimon v. Village of Springdale*, 6 Ohio St.2d 1, 4, 215 N.E.2d 592 (1966)(“where the question is one of public right and the object of the mandamus is to procure the enforcement of public duty, the people are

regarded as the real party and the relator need not show that he has any ... special interest in the result, since it is sufficient that he is interested as a citizen or taxpayer in having the laws executed and the duty in question enforced”).

24. As the Ohio Supreme Court is the highest court in the State and the legal obligations arise from purely from state law, *i.e.*, a state constitution as opposed to federal law, there is no other avenue or venue for review or appeal from the failure of the Respondents, in their official capacity as justices of the Ohio Supreme Court, to comply with their legal obligations and duty under Article IV, Section 2(C) of the Ohio Constitution. *See* 28 U.S.C. § 1257 (jurisdiction of United States Supreme Court over appeals from the highest court of a state is limited to decisions “where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States”); *Illinois v. Gates*, 462 U.S. 213, 218 (1983)(“[w]e held early on that § 25 of the Judiciary Act of 1789 furnished us with no jurisdiction unless a federal question had been both raised and decided in the state court below”).

25. Thus, Relator has no plain and adequate remedy in the ordinary course of the law to have Respondents, in their official capacity as justices of the Ohio Supreme Court, comply with their legal obligations and duty under Article IV, Section 2(C) of the Ohio Constitution to report and publish the reasons for the dismissal of the *Speweik Original Action*.

26. Relator, as a citizen of the State of Ohio seeking the enforcement of a public duty and the public right in having state laws executed and the duty in question enforced, has no plain

and adequate remedy in the ordinary course of the law to have Respondents, in their official capacity as justices of the Ohio Supreme Court, to comply with their clear legal obligations and duty under Article IV, Section 2(C) of the Ohio Constitution to report and publish the reasons for the dismissal of the *Speweik Original Action*.

WHEREFORE, Relator THOMAS E. BRINKMAN, JR., on relation to and on behalf of the STATE OF OHIO, hereby applies to this Court for the issuance of a peremptory writ of mandamus or, alternatively, an alternative writ of mandamus, compelling the Respondents, in their official capacity as justices of the Ohio Supreme Court, to comply with their legal obligations and duty under Article IV, Section 2(C) of the Ohio Constitution to have the reasons for the decision or disposition on the merits of the *Speweik Original Action* published by the Respondents.

Respectfully submitted,

/s/ Curt C. Hartman
Curt C. Hartman (0064242)
The Law Firm of Curt C. Hartman
7394 Ridgepoint Drive, Suite 8
Cincinnati, OH 45230
(513) 752-8800
hartmanlawfirm@fuse.net

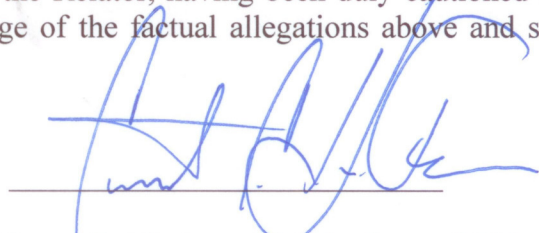
Christopher P. Finney (0038998)
Brian Shrive (0088980)
Finney Law Firm LLC
4270 Ivy Point Blvd., Suite 225
Cincinnati, OH 45245
(513) 3943-6655
chris@finneylawfirm.com
brian@finneylawfirm.com

Attorneys for
Relator Thomas E. Brinkman, Jr.

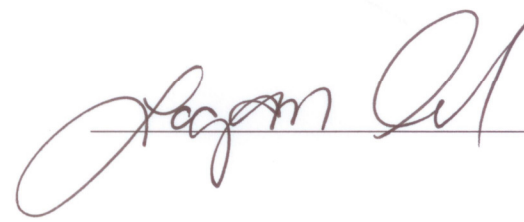
VERIFICATION

State of Ohio, County of Clermont) ss:

Comes now, Curt C. Hartman, counsel for the Relator, having been duly cautioned and sworn, and declares that he has personal knowledge of the factual allegations above and such allegations are true and accurate.



Sworn to and subscribed before me, a Notary Public in and for the State of Ohio, on this the 17th day of March 2020.



LOGAN ARD
Notary Public, State of Ohio
My Commission Expires
September 30, 2023