

ORIGINAL

IN THE SUPREME COURT OF OHIO

State of Ohio, ex rel.,  
 Cynthia Balas-Bratton, ) Case No. 2014-0374

Relator, ) Original Action in Prohibition

v. )

Hon. Jon Husted, ) Expedited election case under  
 Ohio Secretary of State, et al. ) S. Ct. Prac. R. 12.08

Respondents. )

**BRIEF OF AMICUS CURIAE,  
 BUCKEYE STATE SHERIFFS ASSOCIATION,  
 IN SUPPORT OF RESPONDENTS**

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**STATEMENT OF FACTS  
AND  
STATEMENT OF INTEREST OF  
AMICUS CURIAE, BUCKEYE STATE SHERIFFS ASSOCIATION**

*Amicus Curiae* Buckeye State Sheriffs Association (the Association) is a non-profit organization representing all sheriffs of the State of Ohio. One of the functions of the Association in promoting quality, professional law enforcement is monitoring legislation. In fact, the Association was actively involved in promoting enactment of Revised Code §311.01, the interpretation of which is the subject of this action, and therefore, the Association has a vested interest in the correct – and consistent – application of this statute.

In her Action in Prohibition, Relator sets forth two (2) grounds in support of Prohibition, namely that Respondent is not qualified to hold the office of sheriff in that he does not meet the qualification requirements of either R.C. 311.01 (B)(8) or 311.01 (B)(9).

As will be set forth herein, and more thoroughly in Respondent's brief, it is the position of the Association that Respondent is qualified and should continue serving as sheriff of Stark County, Ohio.

The Association submits that this Court should affirmatively decide that Respondent is qualified for the office he seeks so that this question of qualification will not be before the citizens of Stark County during the pending primary election.

For the reasons set forth herein, and to promote professional law enforcement in the State of Ohio, the Association urges this Court to deny Relator's Action in Prohibition.

*Amicus Curiae* concurs in the Statement of Facts as presented by Intevenor, George T. Maier.

## ARGUMENT

**PROPOSITION OF LAW:** Respondent clearly meets the requirements of Revised Code §311.01(B)(8) and 311.01 (B)(9) and should be permitted to serve the public as sheriff of Stark County, Ohio.

### Law Enforcement Experience

In discussing the qualifications that a person must meet to hold the office of sheriff in Ohio, R.C. 311.01 (B)(8) provides:

(8) The person meets at least one of the following conditions:

(a) Has obtained or held, within the four-year period ending immediately prior to the qualification date, a valid basic peace officer certificate of training issued by the Ohio peace officer training commission or has been issued a certificate of training pursuant to section 5503.05 of the Revised Code, and within the four-year period ending immediately prior to the qualification date, has been employed as an appointee pursuant to section 5503.01 of the Revised Code or as a full-time peace officer as defined in section 109.71 of the Revised Code performing duties related to the enforcement of statutes, ordinances, or codes;

(b) Has obtained or held, within the three-year period ending immediately prior to the qualification date, a valid basic peace officer certificate of training issued by the Ohio peace officer training commission and has been employed for at least the last three years prior to the qualification date as a full-time law enforcement officer, as defined in division (A)(11) of section 2901.01 of the Revised Code, performing duties related to the enforcement of statutes, ordinances, or codes.

This section could be termed the “law enforcement experience” qualification. The Association submits that Respondent clearly meets the qualification requirement of R.C. 311.01 (B)(8)(a).

There is no question, and Relator does not deny, that Respondent has held the necessary basic peace officer certificate of training. Beyond that, this section requires that Respondent “...has been employed...as a full-time peace officer as defined in section 109.71 of the Revised Code performing duties related to the enforcement of statutes, ordinances, or codes;”

This Court has previously found that Intevenor Maier was a “peace officer” as defined in R.C. 109.71 from July 24, 2008, until January 7, 2011, but went on to determine that he was not

a “full-time” peace officer during that period. *State ex rel. Swanson v. Maier*, 2013-Ohio-4767, 32 *et seq.* Since that time Maier has served as the “full-time” sheriff of Stark County, Ohio for at least three months, and an additional one month as a full time deputy sheriff in an adjoining county. Thus, the provisions of R.C. 311.01 (B)(8)(a) have now clearly been met.

The Association submits that Respondent possesses the necessary law enforcement experience to serve as a sheriff in the State of Ohio.

### Supervisory Experience

Relator next argues that Respondent does not meet the qualification requirements of R.C. 311.01 (B)(9) which provides:

(9) The person meets at least one of the following conditions:

(a) Has at least two years of supervisory experience as a peace officer at the rank of corporal or above, or has been appointed pursuant to section 5503.01 of the Revised Code and served at the rank of sergeant or above, in the five-year period ending immediately prior to the qualification date;

(b) Has completed satisfactorily at least two years of post-secondary education or the equivalent in semester or quarter hours in a college or university authorized to confer degrees by the Ohio board of regents or the comparable agency of another state in which the college or university is located or in a school that holds a certificate of registration issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code.

This section of the Code requires supervisory ability either through education or through positions held in a supervisory capacity. The Association submits that Intevenor Maier possesses the necessary supervisory experience required by R.C. 311.01 (B)(9)(a) to serve as Stark County Sheriff.

As discussed previously, as both Assistant and Interim Director of Public Safety Maier’s job description required that he supervise and direct various law enforcement agencies. Further,

while serving as Director of Safety and Service for the City of Massillon, Ohio, Maier's description provided that he was responsible for the overall safe, efficient, and economical operation of the Departments of Police, Fire, and Streets, Parks and Cemeteries. Further, Maier served as Sheriff of Stark County, Ohio for a period of three months, which is clearly service in a supervisory capacity. These are all supervisory positions and the Association submits that Respondent clearly meets the qualification requirements set forth in R.C. 311.01 (B)(9)(a).

Mr. Robert A. Cornwell, Executive Director of *Amicus* Buckeye State Sheriffs' Association, appeared before the Stark County Board of Elections at the Protest Hearing held on February 21, 2014. A transcript of his testimony is included as Exhibit G with the Evidence submitted by Relator, specifically pages 150 through 176 of said transcript. During his testimony, Mr. Cornwell testified that the primary function of the Association "is to perpetuate the office of the sheriff. We work with the legislature in developing laws that both determine what the sheriffs' duties will be and how those applications will be made." Tr. 151-152. As to the statute at issue, R.C. 311.01, Mr. Cornwell further testified that "I assisted in the drafting of the legislation back in 1987, along with Representative Ron Gerberry, who was the primary sponsor of the bill. We worked with the Legislative Service Commission, known as LSC. We also worked with the Senate side, as the bill progressed through the process." Tr. 153-154. Mr. Cornwell has also worked closely with the legislature on all subsequent amendments to the statute.

During his testimony, Mr. Cornwell stated his belief that Intevenor Maier meets the qualification requirements of R.C. 311.01 (B)(8)(a), (9)(a), and (9)(b).

**CONCLUSION**

*Amicus Curia* Buckeye State Sheriffs Association submits that Intevenor George T. Maier is clearly qualified to hold the office of sheriff of Stark County, Ohio, and this Court should deny Relator's complaint in Prohibition. Respectfully submitted,

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**PROOF OF SERVICE**

A copy of the foregoing was served on March 24, 2014, pursuant to Civ. R. 5(B)(2)(f), and S. Ct. R. 12.08(C) by e-mail as noted below, to:

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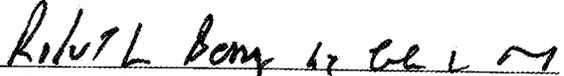
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