

IN THE SUPREME COURT OF OHIO

State ex rel. Ohioans for Fair Districts, et al.,:

Relators,

vs.

Hon. Jon Husted  
Ohio Secretary of State, et al.,

Respondents.

Case No. 11-1646

Original Action in Mandamus

RESPONSE OF INTERVENOR-RESPONDENTS THE OHIO GENERAL ASSEMBLY, SPEAKER WILLIAM G. BATCHELDER, AND SENATE PRESIDENT THOMAS E. NIEHAUS IN OPPOSITION TO MOTION OF RELATORS FOR RECONSIDERATION

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**RESPONSE OF INTERVENOR-RESPONDENTS THE OHIO GENERAL  
ASSEMBLY, SPEAKER WILLIAM G. BATCHELDER, AND SENATE  
PRESIDENT THOMAS E. NIEHAUS IN OPPOSITION TO MOTION OF  
RELATORS FOR RECONSIDERATION**

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Relators request the Court reconsider its decision denying their request to grant an extension of the 90 day period in which they can submit a referendum petition on S.H.B. 319 to the Secretary of State. Under S.Ct. Pract. R. 11.2, this Court is authorized to “correct decisions which, upon reflection, are deemed to have been made in error.” *State ex rel. Rust v. Lucas County Bd. of Elections*, 101 Ohio St.3d 63, 2004-Ohio-9, 800 N.E.2d 1162, at ¶3, quoting *Buckeye Community Hope Found. v. Cuyahoga Falls* (1998), 82 Ohio St.3d 539, 541, 697 N.E.2d 181. But, “[a] motion for reconsideration shall not constitute a reargument of the case.” S.Ct. Pract. R. 11.2(B). Relators have failed to demonstrate how the Court’s prior decision was made in error and have only reargued their case.

Relators seek an extension of the 90 day period for submitting the referendum petition to the Secretary of State and request that such time not begin to run until the date of this Court’s decision granting their request for mandamus on October 14, 2011. Relators requested this same relief in their mandamus complaint and in their merit brief, but this Court denied such request. In its October 14, 2011 opinion, this Court specifically stated that “[u]nless a valid referendum petition is timely filed with the secretary of state, these sections of H.B. 319 will become effective 90 days from the September 26, 2011 date the bill was

filed by the governor in the office of the secretary of state.” *State ex rel. Ohioans for Fair Dists. v. Husted*, Slip Opinion No. 2011-Ohio-5333, at ¶1. Relators have not identified how this decision was in error.

In this case, Relators have a meaningful opportunity to collect signatures within the 90 day timeframe. While Relators state that they are “unable to circulate a referendum petition until the Attorney General and Secretary of State have fulfilled their duties in accordance with Ohio Rev. Code 3519.01,” (see Motion for Reconsideration at 3), the Secretary of State accepted and the Attorney General certified the language for the petition for the referendum in a timely fashion after the Court’s ruling on October 21, 2011. Thus, Relators have over two months in which to obtain the necessary signatures and have not demonstrated how they have been denied a meaningful opportunity to circulate a referendum petition. Finally, expanding the circulation time would only increase the uncertainty for the election process and would further hamper congressional and presidential delegate candidates in collecting the signatures they need to seek office.

Relators already requested a stay of the 90 day period, which this Court denied. Relators have presented no argument demonstrating any error by this Court, but have merely attempted to reargue points made in their merit brief. Their motion for reconsideration should be denied.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served upon the following  
this 26th day of October, 2011 by electronic mail:

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