

ORIGINAL

IN THE SUPREME COURT OF OHIO

The State, ex rel. Dick Flanagan

Relator,

v.

David M. Lucas

Respondent.

* Original Action in Quo Warranto
*
* Case No. 13-0239
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RELATOR'S MOTION FOR LEAVE TO AMEND COMPLAINT

Mark E. Landers (0026042)
2071 Aspen Ridge
Dayton, OH 45459
Phone: (937) 609-5783
Email: mark.landens.esq@gmail.com

Counsel for Relator Dick Flanagan

Christopher J. Gagin (0062820)
Of Counsel
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Counsel for Respondent, David M. Lucas

FILED
MAR 18 2013
CLERK OF COURT
SUPREME COURT OF OHIO

Pursuant to Civ.R. 15 and S.Ct.Prac.R. 3.13, Relator moves this Honorable Court for leave to amend the Complaint and to file and serve the Amended Complaint attached hereto as Exhibit A for the reasons set forth in the following Memorandum together with Exhibits 1-3.

Respectfully submitted,



Mark E. Landers (0026042)
2071 Aspen Ridge
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Phone: (937) 609-5783
E-mail: mark.landens.esq@gmail.com

Counsel for Relator, Dick Flanagan

MEMORANDUM IN SUPPORT

Attached to this Motion is an Amended Complaint which Relator seeks leave to file and serve in this action. The Amended Complaint does not change the cause of action set forth in this case or the issues to be determined at trial.

Essentially, the Amended Complaint contains the following changes:

1. An additional affidavit which provides further substantiation for lack of qualifications in reference to 311.01(B)(8) and (9) submitted as Exhibit 2; and
2. The actual qualifications submitted by Respondent to the Belmont County Board of Election submitted as Exhibit 3.

According to Civ.R. 15(A), leave of court to amend a complaint "shall be freely given when justice so requires." Relator's Amendment of the Complaint as requested herein should be granted as Exhibit 3 is Respondent's own documentation (admissions against interest) submitted to the Board of Election. The additional affidavit, together with Exhibit 3, does not prejudice Respondent or Respondent would have so alleged. Exhibit 2 and 3 further establish that Respondent is not qualified to hold office of Sheriff as Respondent performed no full-time police work since retirement nor did he act in a supervisory capacity in performing full-time police work.

Respectfully submitted,



Mark E. Landers (0026042)
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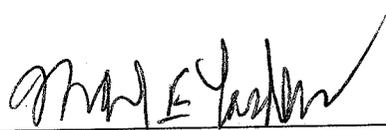
Counsel for Relator, Dick Flanagan

CERTIFICATE OF SERVICE

Service of the foregoing RELATOR'S MOTION FOR LEAVE TO AMEND COMPLAINT was had upon counsel for the Respondent by mailing a true and correct copy thereof by U. S. mail, postage prepaid, this 18 day of March, 2013, to:

Christopher J. Gagin (0062820)
Tracey Lancione Lloyd (0046702)
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Attorney for Respondent, David M. Lucas



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2071 Aspen Ridge
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Phone: (937) 609-5783
E-mail: mark.landlers.esq@gmail.com

Counsel for Relator, Dick Flanagan

Exhibit A

IN THE SUPREME COURT OF OHIO

The State, ex rel. Dick Flanagan	*	Original Action in Quo Warranto
	*	
Relator,	*	Case No. 13-0239
	*	
v.	*	
	*	
David M. Lucas	*	
	*	
Respondent.	*	
	*	

AMENDED COMPLAINT IN QUO WARRANTO

Mark E. Landers (0026042)
 2071 Aspen Ridge
 Dayton, OH 45459
 Phone: (937) 609-5783
 Email: mark.landlers.esq@gmail.com

Attorney for Relator Dick Flanagan

Christopher J. Gagin (0062820)
 Of Counsel
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 Bellaire, Ohio 43906
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 chris.gagin@gaginlegal.com
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Counsel for Respondent, David M. Lucas

NOW COMES Relator Dick Flanagan (“Relator”), by and through counsel, pursuant to Chapter 2733 of the Revised Code, and for his claim in quo warranto against Respondent David M. Lucas (“Respondent”), states as follows:

PARTIES AND JURISDICTION

1. This is an original action seeking a writ of quo warranto ordering the immediate removal of Respondent from the office of Belmont County Sheriff and a declaration that Relator is entitled to the immediate possession of that office.
2. This action revolves around the statutory mandate of R.C. §311.01, et al. that an individual must meet to occupy the office of sheriff in the State of Ohio.
3. In this case, Respondent was sworn into the office of sheriff on January 7, 2013 notwithstanding the fact that he does not meet the mandatory qualifications of R.C. §311.01, et al. The Belmont County Board of Election has been on notice of Respondent’s lack of qualification but nevertheless certified Respondent as duly elected sheriff of Belmont County. Relator, the only person meeting the statutory qualification of R.C. §311.01, et al. that appeared on the November 6, 2012 ballot, is therefore, the duly elected sheriff of Belmont County. Therefore, Relator, the lawfully elected sheriff of Belmont County, brings this action to remove Respondent from the position of sheriff of Belmont County and to be declared entitled to possession of that office.
4. Relator brings this action in quo warranto pursuant to R.C. §2733.06.
5. Relator has given security for costs as required under R.C. §2733.06.
6. The Supreme Court of Ohio has original jurisdiction over this action pursuant to R.C. §2733.03 and Ohio Constitution Articles IV § 2(B)(1)(a).

RELEVANT FACTS

7. The State of Ohio has adopted a mandatory qualification criteria to serve as sheriff in Ohio as stated in R.C. §311.01, et al.

8. R.C. §311.01(B)(8)(a) states in pertinent part the following mandatory language as a condition precedent to being a qualified candidate:

“...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;”

9. O.R.C §311.01(B)(9)(a) states the following requirement to become a sheriff in the State of Ohio:

“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;”

10. Five years prior to the qualification date for Respondent would be December 7, 2006. Respondent retired on October 31, 2007, he does not meet the supervisory requirement as mandatorily established by the statute.

11. Respondent has lived in Florida for substantial periods of time during the past five years but his application has no reference to any residence or domicile but St. Clairsville, Ohio. His application for sheriff is false. The board of Elections is required by O.R.C §3501.11(Q) to verify his residential status but has refused to date to perform its statutory obligation. (See Qualification Documents submitted to Board of Election as Exhibit 3.)

12. Previous sheriff of Belmont County, Fred Thompson, filed a protest on December 23, 2011 whereby Mr. Thompson specifically notified the Belmont County Board of Elections that Respondent did not meet the statutory qualification of R.C. §311.01(B)(8) and (B)(9). Additional filings in December, 2012 have been made with the Board of Elections asserting the same by Gary Landers and Relator but the Belmont county Board of Elections has ignored its statutory obligation as required by R.C. 3501.11(J) and (K) and has refused to investigate the qualifications of Respondent, David M. Lucas. (See Exhibits 1 and 2.)

13. Relator has asked the Belmont County Board of Election by letter on or about December 28, 2012 challenging Respondent's legal right to serve as sheriff and asked for the Board to institute an action in quo warranto. The Belmont County Board of Election has not instituted any such action and instead because of misfeasance, malfeasance and neglect has permitted Respondent to occupy the position of sheriff although illegally. (See Exhibits 1 and 2.)

14. On or about January 7, 2013, notwithstanding the protestations to the Belmont County Board of Election by Relator herein, Respondent was sworn in as sheriff in Belmont County. (See Exhibits 1 and 2.)

15. Relator, through his undersigned attorney, on December 27, 2012 specifically requested that the prosecuting attorney of Belmont County file an action in "Quo Warranto" to preclude the illegal expenditure of County funds which would occur once Respondent was sworn in as sheriff. Belmont County prosecuting attorney refused to institute said action and communicated same to the undersigned attorney on January 4, 2013. (See Exhibits 1 and 2.)

16. On or about December 28, 2012, Relator specifically requested the Secretary of State and the Belmont County Board of Election to take the following actions: (i) Mr. Lucas be disqualified as the duly elected candidate as he does not meet the mandatory statutory qualifications and therefore, not properly elected; (ii) The Belmont County Board of Elections forwards this protest immediately to Ohio Secretary of State, Mr. John Husted, and request any certification of David M. Lucas be declared invalid; and (iii) Richard Flanagan, the only authorized candidate meeting O.R.C §311 et. al in the foregone election, be certified as sheriff of Belmont County, Ohio. (See Exhibits 1 and 2.)

17. Relator specifically challenged the legal authority of Respondent with the Belmont County Board of Elections on or about December 28, 2012 by letter. Relator specifically asked the Board of Elections to perform an investigation of Respondent's qualifications pursuant to R.C. §3501.11(J) and (K) and declare Relator the winner of the office of Belmont County sheriff. Belmont County Board of Elections has not responded to date. (See Exhibits 1 and 2.)

18. Respondent, David M. Lucas, retired on October 31, 2007 and was appointed as a special deputy on the same day, October 31, 2007. On Respondent's Ohio Peace Officer Appointment History Form had the block for Appointment Status checked "special" and not the block "full-time" although offered on the form as to which Respondent signed under oath on November 7, 2007. (See Qualification Document submitted to Board of Election at Exhibit 3.)

19. Respondent has not performed the function of a full-time police officer at any time from October 31, 2007 through the qualification date (as described in R.C. §311.01(H)(1)) of December 7, 2011. (See Qualification Document submitted to Board of Election at Exhibit 3.)

20. R.C. §311.01(H)(1) states as follows:

“Qualification date” means the last day on which a candidate for the office of sheriff can file a declaration of candidacy, a statement of candidacy, or a declaration of intent to be a write-in candidate, as applicable, in the case of a primary election for the office of sheriff; the last day on which a person may be appointed to fill a vacancy in a party nomination for the office of sheriff under Chapter 3513. of the Revised Code, in the case of a vacancy in the office of sheriff; or a date thirty days after the day on which a vacancy in the office of sheriff occurs, in the case of an appointment to such a vacancy under section 305.02 of the Revised Code.

21. Qualification date for the election in issue is December 7, 2011.

22. Respondent did not perform the mandatory 16 hours required by the Belmont County sheriff to be a member of the reserve in the Belmont County Sheriff's office at any time from October 31, 2007 through December 7, 2011. (See Exhibits 1, 2 and 3.)

23. Respondent did not perform any full-time police work during the period of November 1, 2007 through December 7, 2008. (See Exhibits 1, 2 and 3.)

24. Respondent did not perform any full-time police work during the period of November 1, 2008 through December 7, 2009. (See Exhibits 1, 2 and 3.)

25. Respondent did not perform any full-time police work during the period of November 1, 2009 through December 7, 2010. (See Exhibits 1, 2 and 3.)

26. Respondent did not perform any full-time police work during the period of November 1, 2010 through December 7, 2011. (See Exhibits 1, 2 and 3.)

27. Respondent did not operate in a supervisory capacity as a police officer during the period of November 1, 2007 through December 7, 2008. (See Exhibits 1, 2 and 3.)

28. Respondent did not operate in a supervisory capacity as a police officer during the period of November 1, 2008 through December 7, 2009. (See Exhibits 1, 2 and 3.)

29. Respondent did not operate in a supervisory capacity as a police officer during the period of November 1, 2009 through December 7, 2010. (See Exhibits 1, 2 and 3.)

30. Respondent did not operate in a supervisory capacity as a police officer during the period of November 1, 2010 through December 7, 2011. (See Exhibits 1, 2 and 3.)

31. Respondent, in his qualification paperwork, after being duly sworn on September 1, 2011 asserted that the facts contained in the Application for Qualification as a candidate were true. Respondent did not list his address for his home in Florida. Additionally, in his application, Respondent asserted he worked as a reserve officer for Belmont County during the period of 2007 to present. (See Qualification Document submitted to Board of Election at Exhibit 3.)

32. Respondent lived in Florida throughout the period of October 31, 2007 through the qualification date of December 7, 2011 but Respondent did not list his Florida residence at 4673 Sines Lane, Charlotte County, Florida 33981. (See Qualification Document submitted to Board of Election at Exhibit 3.)

33. Respondent established domicile in the State of Florida during the October 31, 2007 through December 7, 2011 timeframe.

34. Respondent, David M. Lucas, based on information and belief, established a residency in Florida during the period from 2007 through 2011 and therefore, paid no Ohio State Income Tax during said period.

35. Respondent, David M. Lucas, has asserted that Judge Sargus approved his qualification for sheriff. (See Exhibit 1.)

36. Respondent, David M. Lucas, has no documentation nor has he provided the Belmont County Board of Election showing that Respondent worked as a full-time police officer

at any time subsequent to his retirement of October 31, 2007 through the qualification date of December 7, 2011. (See Qualification Document submitted to Board of Election at Exhibit 3.)

37. The Affidavits of Relator and the Qualification Document submitted to the Board of Election setting forth and supporting the facts set forth herein are attached hereto as Exhibits 1, 2 and 3.

CLAIM FOR RELIEF

38. Relator incorporates by reference the allegations contained in the preceding paragraphs as if fully rewritten herein.

39. From on or about January 7, 2013, Respondent, well knowing the true, lawful, and rightful occupant of the office of Belmont County sheriff to be Relator, has unlawfully usurped the office, and entered into the exercise of all the powers and duties of the office. By this unlawful usurpation, Respondent possesses the office, and the emoluments, immunities, and privileges appertaining to the office, contrary to the laws of the State of Ohio, and against the right of Relator.

40. Relator claims entitlement to the office of Belmont County sheriff, him being the only qualified candidate appearing on its November 6, 2012 general election. At all times relevant, Relator is, and was, competent and qualified to hold said office.

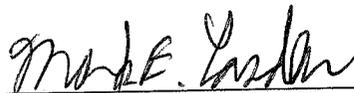
41. Relator is entitled to a writ of quo warranto removing Respondent from the office of Belmont County sheriff and declaring Relator to be entitled to possession of that office.

42. Relator is entitled to a writ of quo warranto removing Respondent from the office of Belmont County sheriff and declaring Relator to be entitled to possession of that office.

WHEREFORE, Relator respectfully requests:

- a. That a peremptory writ in quo warranto be issued ousting Respondent from the office of sheriff, Belmont County, and that Relator be declared entitled to possession of that office;
- b. Alternatively, an alternative writ should be issued;
- c. An award of costs of this suit, including attorney fees; and
- d. Such other and further relief as the Court deems just, equitable or in accordance with law to include, but not limited to, requiring Respondent to pay back any compensation received since January 7, 2013.

Respectfully submitted,



Mark E. Landers (0026042)
2071 Aspen Ridge
Dayton, OH 45459
Phone: (937) 609-5783
Email: mark.land.esq@gmail.com

Attorney for Relator Dick Flanagan

CERTIFICATE OF SERVICE

Service of the foregoing RELATOR'S AMENDED COMPLAINT IN QUO WARRANTO was had upon counsel for the Respondent by mailing a true and correct copy thereof by U. S. mail, postage prepaid, this 18 day of March, 2013, to:

Christopher J. Gagin (0062820)
Tracey Lancione Lloyd (0046702)
Lancione, Lloyd & Hoffman Law Office Co., L.P.A.
3800 Jefferson Street, Suite 101
Bellaire, Ohio 43906
Phone: (740) 676-2034
Fax: (740) 676-3931
E-mail: chris.gagin@gaginlegal.com
traceylloyd@comcast.net

Attorney for Respondent, David M. Lucas



Mark E. Landers (0026042)
2071 Aspen Ridge
Dayton, Ohio 45459
Phone: (937) 609-5783
E-mail: mark.landlers.esq@gmail.com

Counsel for Relator, Dick Flanagan

Exhibit 1

IN THE OHIO SUPREME COURT

STATE, EX REL. DICK FLANAGAN
62769 Riggs Road
Bellaire, Ohio 43906,

Relator,

v.

DAVID M. LUCAS
69396 Williams Road
St. Clairesville, Ohio 43950,

Respondent.

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CASE NO.

AFFIDAVIT OF DICK FLANAGAN

Mark E. Landers (0026042)
2071 Aspen Ridge
Dayton, OH 45459
Phone: (937) 609-5783
Email: mark.landlers.esq@gmail.com

Attorney for Relator Dick Flanagan

STATE OF OHIO)
)
COUNTY OF BELMONT) SS:

NOW COMES Dick Flanagan, being duly sworn according to law, and hereby states as follows:

1. I am the Relator and qualified candidate for sheriff appearing on the ballot on November 6, 2012 and at all times meet the qualifications of O.R.C. §311.01, et al.

2. I have personal knowledge of the facts stated in this Affidavit and I am competent to testify if called as a witness.

3. The State of Ohio has adopted mandatory qualifications to serve as sheriff in the State of Ohio as a condition precedent to occupying said office as sheriff and said qualifications are contained in O.R.C. §311.01, et al.

4. On November 6, 2012, David M. Lucas was elected in the general election and certified by Belmont County Board of Elections.

5. On or about December 23, 2011, the original protest of David M. Lucas not meeting mandatory qualification criteria of O.R.C. §311.01(B)(8) and (B)(9) was filed by outgoing sheriff Fred Thompson. Subsequent filings protesting and challenging the qualifications of Respondent David M. Lucas with the Belmont County Board of Elections by Relator and Gary Landers, an elector of Belmont County, has occurred. The Belmont County Board of Elections refused to conduct any investigation as required by O.R.C. §3501.11(J) and (K) and have publicly so admitted.

6. On or about January 7, 2013, notwithstanding the protestations by me and others with the Belmont County Board of Elections, Mr. Lucas was sworn in as sheriff. This act is objected to by me as Relator and the duly elected sheriff of Belmont County.

7. No further action has been taken by the Belmont County Board of Elections or the Ohio Secretary of State notwithstanding requests to prevent the illegal occupation of the sheriff position by Respondent Dave M. Lucas. Additionally, the Prosecutor of Belmont County was asked to file a Writ of "Quo Warranto" to remove Respondent David M. Lucas from his illegal occupation of office.

8. Each day since January 7, 2013, Respondent David M. Lucas has occupied the office of sheriff of Belmont County and has purported to exercise the rights and duties of that office although illegally. The paperwork submitted by Respondent David M. Lucas shows unequivocally that he has not been a full-time paid officer within four years of the qualification date (December 6, 2011) nor has he performed in a supervisory capacity in two of the last five years of the qualification date. The aforementioned establishes that Respondent David M. Lucas is occupying the office of sheriff illegally as Respondent does not meet the qualifications of O.R.C. §311.01(B)(8) and (B)(9).

9. Respondent David M. Lucas misrepresented his status as a full-time police officer during the period of October 31, 2007 through September 1, 2011 as he performed no full-time police responsibilities with the Belmont County Sheriff's office during said period of time.

10. Respondent David M. Lucas wrote on his Qualification Documents that he served as a reserve officer with the Belmont County Sheriff's office during the period of October 31, 2007 through September 1, 2011 but there exists no documentation to substantiate Respondent David M. Lucas's work as a reserve officer.

11. Respondent David M. Lucas has been repeatedly asked since December, 2012 to answer the question of whether he performed full-time police work and acted as a supervisor as required by O.R.C. §311.01(B)(8) and (B)(9) but he has refused to answer said question from

members of the media.

12. Respondent David M. Lucas has provided a statement that Administrative Judge Sargus certified his qualifications. Judge Sargus, according to Ohio law, does not certify any qualifications of a candidate for sheriff as Judge Sargus acts in a ministerial capacity.

13. Respondent David M. Lucas, based on information and belief, has lived in Florida for a significant period of time from October 31, 2007 through present as evident by virtue of his personal residence at 4673 Sines Lane, Charlotte County, Florida, 33981. Respondent David M. Lucas's wife is presently residing in Florida at their Florida resident.

14. Respondent David M. Lucas did not list any residence in Florida on his qualifications paperwork notwithstanding the requirement to list all home addresses six years prior to qualification date.

FURTHER AFFIANT SAYETH NAUGHT.


Dick Flanagan

Sworn to before me and subscribed in my presence this 2 day of February, 2013.


Notary Public



MARK EDWARD LANDERS, Attorney at Law
Notary Public, State of Ohio
His Commission has no expiration date.
Section 147.03 O. R. C.

EXHIBIT 2

IN THE OHIO SUPREME COURT

STATE, EX REL. DICK FLANAGAN
62769 Riggs Road
Bellaire, Ohio 43906,

Relator,

v.

DAVID M. LUCAS
69396 Williams Road
St. Clairesville, Ohio 43950,

Respondent.

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CASE NO. 13-0239

AFFIDAVIT OF DICK FLANAGAN

Mark E. Landers (0026042)
2071 Aspen Ridge
Dayton, OH 45459
Phone: (937) 609-5783
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Counsel for Relator Dick Flanagan

Christopher J. Gagin (0062820)
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chris.gagin@gaginlegal.com
traceylloyd@comcast.net

Counsel for Respondent, David M. Lucas

STATE OF OHIO)
)
COUNTY OF BELMONT) SS:

NOW COMES Dick Flanagan, being duly sworn according to law, and hereby states as follows:

1. I never saw the complaint filed by former Sheriff Fred Thompson until on or about the first week of December 2012 after the receipt of documents obtained from the Belmont County Board of Elections in response to an open records request. Sheriff Thompson's protest and other documents were produced as the documents related to the alleged qualifications of Dave Lucas.

2. I and others began a prompt protest to the Belmont County Board of Elections and to the Ohio Secretary of State concerning qualifications of Dave Lucas, Respondent herein. I specifically requested that the Board of Elections perform their statutory responsibilities pursuant to R.C 3501.11 (J) and (K) but to date they have done nothing.

3. The prosecuting attorney was asked to investigate and file an action in Quo Warranto but said Prosecutor refused both requests. I asked for the Secretary of State to intervene but to date said office has done nothing to my knowledge.

4. Open records requests were filed with the Belmont County sheriff's office to ascertain any and all documents that established any full time police work that Respondent Dave Lucas performed from the period of his retirement, October 31, 2007 through December 7, 2011. Said records were produced on or about February 3, 2013 which indicated no documentation of full time police work or any documentation of working as a sergeant or above as required by R.C. 311.01(B)(8) and (B)(9) respectively.

5. I am not a classified employee nor is my salary paid through federal dollars. The Hatch Act and R.C.124.57 have been complied with in all relevant areas.

6. The auditor of Belmont County has certified and stated that Respondent Dave Lucas was not paid any money for any service subsequent to Respondent's retirement on October 31, 2007. Any range training or certification was performed in a volunteer capacity as evident by lack of payment thereof.

7. Sheriff Fred Thompson has stated that Respondent Dave Lucas performed no functions as a reserve officer at any time from his retirement from October 31, 2007 through December 7, 2011.

8. Respondent Dave Lucas relatives, Sheriff Fred Thompson and other persons of knowledge informed Relator Dick Flanagan of the non-listed house owned by Dave Lucas in Florida which he now admits he did not list on his paperwork for sheriff.

9. Respondent Dave Lucas does not get to use his prior status as a Major because at all times he continued in a retirement status until recently occupying the position of sheriff.

10. I became a full time police officer in 1995 and served with the Bridgeport and the Martins Ferry Police Departments until I became a full time police officer with Bellaire on April 1, 2000.

11. I have continuously served with the Bellaire Police Department since I was promoted to Lieutenant on November 28, 2005 and have continuously served in said supervisory position to date.

12. I meet all requirements of R.C 311.01 et al to include the full time law enforcement requirement and supervisory experience requirement as mandated by R C.311.01 B(8) and (9) respectively.

FURTHER AFFIANT SAYETH NAUGHT.


Dick Flanagan

Sworn to before me and subscribed in my presence this 6 day of MARCH, 2013.


Notary Public
GREG HARRIS, Notary Public
State of OH
My Commission Expires 9/13/2016

*Exhibit 3 Contents of Qualification & Protest as provided
BY BELMONT COUNTY Board of Elections*

Sheriff Fred A. Thompson

DISPATCHER
(740) 695-2212
(740) 695-7933
Fax: (740) 695-9662

68137 HAMMOND ROAD
ST. CLAIRSVILLE, OH 43950-8755



BELMONT COUNTY, OHIO

EMERGENCY: 911

CIVIL OFFICE
(740) 695-2121 ext. 109
(740) 425-1118 ext. 109
(740) 795-4030 ext. 109

JAIL
(740) 695-5124
Fax: (740) 695-4781

October 6, 2011

Honorable Judge Jennifer Sargus
Common Pleas Court
101 West Main Street
St. Clairsville, Ohio 43950

Re: Certification of David M. Lucas

Dear Judge Sargus,

This letter is to verify the work history of Dave Lucas. He served as a Part Time Police Officer with the Barnesville Police Department from October of 1978 to February of 1981. He then became a Full Time Deputy with the Belmont County Sheriff's Office on August 12, 1981. He was promoted to Sergeant in January of 1985 with his last promotion as Major on August 5, 2007. He retired as a Full Time Deputy on October 31, 2007 and currently remains as a Commissioned Special Deputy.

I have also attached a copy of his Ohio Peace Officer Training Academy paperwork to verify his appointment history.

Thank you for your time and attention in this matter. Should you have questions please do not hesitate to contact me at 740-695-7933 extension 116.

Sincerely,

A handwritten signature in cursive script that reads 'Jill Kernik'.
Jill Kernik
Administrative Secretary

W/Enclosures

IN THE COURT OF COMMON PLEAS OF BELMONT COUNTY, OHIO

IN THE MATTER OF THE
CANDIDACY OF

JOURNAL ENTRY
RE: APPLICATION FOR CANDIDACY
OF SHERIFF OF BELMONT COUNTY,
OHIO

David M. Lucas
(APPLICANT'S NAME)

A verified application has been filed by David M. Lucas,
a prospective candidate for the Office of Sheriff of Belmont County, Ohio.
The Court, for purposes of carrying out its duties pursuant to R.C. 311.01
makes the following orders.

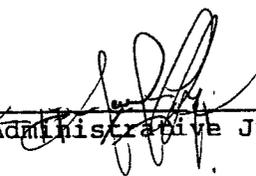
IT IS ORDERED THAT:

- (1) David M. Lucas shall present himself or herself to the Identification Bureau of the Belmont County Sheriff's Department to be fingerprinted in accordance with R.C. 311.01, during regular business hours on a date and time determined by the Sheriff's Department, but in no event later than five (5) business days after this Order.
- (2) The Identification Bureau of the Belmont County Sheriff's Department shall take three (3) sets of fingerprints of the prospective candidate as follows:
 - (a) One (1) set of fingerprints shall be taken on an Ohio Bureau of Criminal Identification and Investigation Applicant Card (BCI card), which shall be clearly marked "LAW ENFORCEMENT APPLICANT".
 - (b) One (1) set of fingerprints shall be taken on a Federal Bureau of Investigation Applicant Card (FBI card) which shall be clearly marked "LAW ENFORCEMENT APPLICANT".
 - (c) One (1) set of fingerprints shall be taken on a local law enforcement fingerprint card as recognized and utilized by the Belmont County Sheriff's Department (BCSD card) and shall be clearly marked "LAW ENFORCEMENT APPLICANT".

- (3) Upon completion of the fingerprinting, the BCI card and the FBI card shall be delivered by the officer taking said fingerprints to the Administrative Judge of the Common Pleas Court of Belmont County for forwarding to the appropriate agencies and the BCSD card shall be retained by the Belmont County Sheriff's Department for purposes of a record check of all local law enforcement agencies, which shall be conducted forthwith.

- (4) Upon completion of the local records check the Sheriff or his designee shall deliver the results of the local record check to the Administrative Judge of the Common Pleas Court of Belmont County, Ohio.

DATED:



Administrative Judge

IN THE COURT OF COMMON PLEAS OF BELMONT COUNTY, OHIO

IN THE MATTER OF THE
CANDIDACY OF :

David M. Lucas
(APPLICANT'S NAME)

:
:

JOURNAL ENTRY
RE: APPLICATION FOR CANDIDACY
OF SHERIFF OF BELMONT COUNTY,
OHIO

Pursuant to R.C. 311.01, the Court makes the following findings regarding the applicant's eligibility as a candidate for the Office of Sheriff of Belmont County, Ohio:

- (1) Applicant is a United States citizen;
- (2) Applicant has been a resident of Belmont County, Ohio for not less than one (1) year prior to the qualification date for this election;
- (3) Applicant is qualified as an elector of Belmont County, Ohio pursuant to R.C. 3503.01;
- (4) Applicant has attained a high school diploma or a recognized equivalent;
- (5) Applicant has not been convicted of or pleaded guilty to a felony or any offense involving moral turpitude under the laws of this state or any other state or the United States, and has not been convicted of or pleaded guilty to an offense that is a misdemeanor of the first degree under the laws of this state or an offense under the laws of this state or an offense under the laws of any other state or the United States that carries a penalty that is substantially equivalent to the penalty for a misdemeanor of the first degree under the laws of this State;
- (6) Applicant has the law enforcement experience required pursuant to the R.C. 311.01(9).

IT IS THEREFORE THE FINDING that David M. Lucas is eligible to be a candidate for the Office of Sheriff of Belmont County, Ohio.

It is therefore ORDERED that the Clerk forward a certified copy of these findings and the verified application, to the Board of Elections of Belmont County, Ohio forthwith.

ATTACHMENT NOT SCANNED

APPLICATION FOR CANDIDACY

RESIDENCE HISTORY:

List every home address you have had in the six (6) years prior to the qualification date. (Attach additional sheets on 8 1/2 x 11 white paper if necessary.)

Address	Period of Residence
<u>69396 Williams Rd., St. Clairsville, Ohio</u>	From <u>1998</u> to <u>Present</u>
<u>116 Franklin St., St. Clairsville, Ohio</u>	From <u>1991</u> to <u>1998</u>
_____	From _____ to _____
_____	From _____ to _____
_____	From _____ to _____

EMPLOYMENT HISTORY:

State the name and address of each employer and the period of time employed by that employer for a period of six (6) years immediately preceding the qualification date. (Attach additional sheets on 8 1/2 x 11 white paper if necessary.)

Name and Address of Employer or Business	Period of Employment
<u>Belmont County Sheriff's Office (Full Time)</u>	From <u>1981</u> to <u>2007</u>
<u>Belmont County Sheriff's Office (Reserve)</u>	<u>2007</u> Present
<u>Pyrotechnics by Presutti, Inc.</u>	From <u>2000</u> to <u>Present</u>
_____	From _____ to _____

VERIFICATION

STATE OF OHIO)
)
COUNTY OF BELMONT)

I, David M. Lucas, an applicant for qualification as candidate for the Office of Sheriff of Belmont County, Ohio, being first duly sworn, says that the facts contained in the above application are true and the answers are complete to the best of my knowledge and belief.

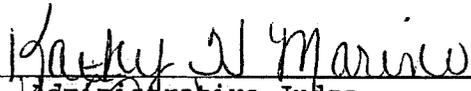


Signature of Applicant

Sworn to and subscribed in my presence this 1st day of September, 2011.



Kathy H. Marino
Notary Public, State of Ohio
My commission expires April 14, 2014



Administrative Judge
Belmont County Court of Common Pleas

PEACE OFFICER APPOINTMENT AND OATH OF OFFICE*

If first appointment: SCHOOL NAME _____

SCHOOL # _____

I. TO BE COMPLETED BY APPOINTEE AND APPOINTING AUTHORITY:

On this date, you are hereby appointed as a peace officer to serve as a DEPUTY SHERIFF
for the BELMONT COUNTY SHERIFF'S OFFICE pursuant to 311.04
department name position/title ORC Section

As such, you shall swear or affirm the following:

I, DAVID M. LUCAS, do solemnly swear or affirm that I will support the
appointee's printed name

Constitution and Laws of the United States of America, the Constitution and Laws of the State of Ohio,
and the Laws and Ordinances of Belmont and to the
political subdivision

best of my ability will discharge the duties of the office of DEPUTY SHERIFF
position/title

David M. Lucas
Signature of Appointee

10/31/2007
Date of Appointment (mm/dd/yyyy)

II. TO BE COMPLETED BY APPOINTING AUTHORITY:

By signing below, I hereby swear or affirm that the above named individual is appointed to the
above position pursuant to the authority vested in me by 311.04, and
ORC Section

that the individual has personally appeared before me and signed this oath in my presence.

Fred A. Thompson
Signature of Appointing Authority

FRED A. THOMPSON, SHERIFF
Typed/Printed Name of Appointing Authority and Title

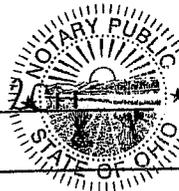
NOTARY:

Sworn to and subscribed before me this 17th day of November, 2007

in the county of Belmont and the state of Ohio.

Jill A. Kerber
Signature of Notary/Attorney/Clerk of Courts

My commission expires 1-8-2011



Affix seal here
JILL A. KERBER
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES
8 DAY OF Nov, 2011

* If you submit a department oath of office, the document must include the officer's name, date of appointment, ORC section under which you are appointed and the signature and title of the appointing authority (mayor, safety director, chief of police, etc.) as listed in the ORC section under which you are appointed.

ATTACHMENT NOT SCANNED

ATTACHMENT NOT SCANNED

COPY & PRINT DEPOT™

FAX SERVICES

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CUSTOMER SIGNATURE (REQUIRED): Mark Landers

THANK YOU FOR USING OFFICE DEPOT'S CUSTOMER FAX SERVICES

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Additional
Long Distance Fax



833-091

Additional
International Fax



833-201

IN THE COMMON PLEAS COURT OF GREENE COUNTY, OHIO

STATE OF OHIO

Plaintiff,

v.

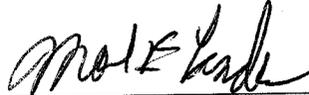
BENJAMIN A. BARKER
542 South Street
Fairborn, OH 45324

Defendant.

* CASE NO. 2013 CR 0047
* JUDGE MICHAEL A. BUCKWALTER
*
*
*
*
* PLEA OF SELF DEFENSE
*
*
*

NOW COMES Defendant, by and through counsel, and hereby enters an affirmative defense of self defense in defense of another herein. This affirmative defense was previously made at Defendant's arraignment where he entered a Plea of not guilty

Respectfully submitted,



Mark E. Landers (0026042)
Attorney for Benjamin A. Barker
2071 Aspen Ridge
Dayton, OH 45459
(937) 609-5783

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served upon Greene County Prosecutor, 61 Greene Street, Suite 200, Xenia, OH 45385 this 12 day of March, 2013.



Mark E. Landers (0026042)
Attorney for Benjamin A. Barker