

ORIGINAL

IN THE SUPREME COURT OF OHIO

State of Ohio, ex rel. Timothy A. Swanson, et al.,	:	Case No. 2013-1822
	:	
	:	
Relators,	:	
	:	
v.	:	
	:	
Stark County Democratic Central Committee, et al.,	:	Original Action in Mandamus
	:	
	:	
Respondents.	:	

RESPONDENTS' MOTION TO STRIKE DOCUMENT ENTITLED
"MOTION TO EXPEDITE WRIT OF MANDAMUS"

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SUPREME COURT OF OHIO

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RESPONDENTS' MOTION TO STRIKE DOCUMENT ENTITLED
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The relators have filed a document entitled "Motion to Expedite Writ of Mandamus." The substance of the document clearly constitutes a reply to the respondents' response to the motion for ancillary injunctive relief. Therefore, the relators' document is an improper reply in violation of S.Ct.Prac.R. 4.01(B)(2), and should be stricken.

S.Ct.Prac.R. 4.01(B)(2) states: "A reply to a response to a motion shall not be filed by the moving party. The Clerk of the Supreme Court shall refuse to file a reply to a response to a motion, and motions to waive this rule are prohibited and shall not be filed."

The relators cite S.Ct.Prac.R. 4.01(C) as the purported authority for the "Motion to Expedite." However, R. 4.01(C) neither applies nor authorizes the relators' document. S.Ct.Prac.R. 4.01(C) states as follows: "The Supreme Court may act upon a motion before the deadline for filing a response to the motion, if the interests of justice warrant immediate consideration by the Supreme Court." This rule is triggered only if a party has filed a motion, but the deadline for filing a response has not yet passed. Even before the deadline has run, the Supreme Court has discretion to act on the pending motion "if the interests of justice warrant immediate consideration."

In the case at bar, there is no pending motion for which a deadline has not yet passed. As of Monday, December 9, 2013, the only motion pending is the relators' motion for ancillary injunctive relief, which was filed on Friday, November 22, 2013. Under S.Ct.Prac.R. 4.01(B)(1), the deadline for the response was 10 days later, on Monday, December 2, 2013. On that date, the respondents timely filed their response to the motion.

Accordingly, there is no motion in this case for which the deadline for filing a response has not yet run. Therefore, S.Ct.Prac.R. 4.01(C) does not apply and provides no authority for the relators' "Motion to Expedite."

It should also be noted that the respondents are still within the 21 day period in which they must file an answer to the complaint or a motion to dismiss under S.Ct.Prac.R. 12.04(A)(1). The respondents' answer or motion is due on or before December 13, 2013.

For the above reasons, the respondents respectfully move the Court to strike the relators' document entitled "Motion to Expedite Writ of Mandamus" or to summarily overrule the motion.

Respectfully submitted,



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CERTIFICATE OF SERVICE

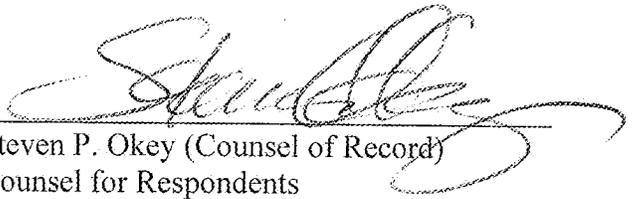
Pursuant to S.Ct. Prac.R. 3.11, a copy of the foregoing was served by:

- Personal Service
- Delivery Service
- Mail
- E-mail
- Facsimile Transmission

on December 9, 2013, to:

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