

Congress of the United States
Washington, DC 20515

September 18, 2020

The Honorable Frank LaRose
Secretary Of State
22 North Fourth Street, 16th Floor
Columbus, Ohio 43215

Dear Secretary LaRose,

We urge you comply with the Franklin County Court of Common Pleas' ruling directing you to allow multiple secure ballot drop boxes in each county.¹ Drop boxes are a critical tool in aiding voter enfranchisement. With Election Day less than two months away and crucial voting deadlines around the corner, we are at a moment pivotal to ensuring that all Ohioans can access the ballot box. Ohio's chief elections officer should be laser focused on ensuring all Ohioans can vote safely.

For months, you and your office have told anyone that asked that you supported secure ballot drop boxes, and would support their increased usage if only Ohio's laws didn't tie your hands. When asked about the availability of multiple drop boxes by one Ohioan, you replied "I have been 100% clear on this I want more drop boxes! I would love to see more drop boxes! ... To me it's clear though I have no legal authority to do that and it will just result in litigation and confusion."² As Ohio's Secretary of State, you even told a federal court that "if the Ohio courts determine that additional drop boxes are required.... 'we would absolutely implement that.'"³

In our August 17th letter we expressed that:

"[c]ontrary to your assertions, the Ohio code permits more than one secured drop box per county.^{4,5} Nothing in the code speaks to the availability of secure drop boxes for the general election⁶, and the Secretary of State is clearly empowered by the Ohio code to "issue instructions.... [on] proper methods of conducting elections."⁷ Furthermore, nothing in the statute could be explicitly or contextually inferred to prohibit additional drop boxes.⁸ It is clearly within your authority to allow boards of elections to install secure drop boxes at additional locations."

¹ *Ohio Democratic Party vs. Frank LaRose*, Case No. 20CV-5634 (Franklin County Court of Common Pleas, September 15, 2020).

² Tierney Sneed, *Why Has Ohio's Top Election Official Changed His Tune On Ballot Dropboxes?*, Talking Points Memo, September 16, 2020, <https://talkingpointsmemo.com/news/why-has-ohios-top-election-official-changed-his-tune-on-ballot-dropboxes> (last visited Sep 17, 2020).

³ *Ohio Democratic Party vs. Frank LaRose*, Case No. 20CV-5634 (Franklin County Court of Common Pleas, September 15, 2020).

⁴ <http://innovationohio.org/wp-content/uploads/2020/07/LaRose-Report.pdf>

⁵ Secretary of State's Directive 2020-16.

⁶ H.B. 197, Section 32(E)(1).

⁷ Ohio Rev. Code § 3501.05 (B-C).

⁸ See *Barnhart v. Peabody Coal Co.*, 537 U.S. 149, 168 (2003) (quoting *United States v. Vonn*, 535 U.S. 55, 65 (2002)) on the application of *expressio unius*.

Then, this week, the Franklin County Court of Common Pleas affirmed that interpretation of Ohio law. Judge Richard Frye said it's not only within your authority to allow boards of election to put multiple drop boxes in each county, but that to prohibit boards from doing so would be "arbitrary and unreasonable".⁹

As elected officials equally committed to helping Ohioans vote, we saw this decision and expected it to clear the way for more drop boxes. Instead, we were saddened to see opponents of this ruling attack the integrity of a sitting judge, at the same time you announced you wouldn't comply with the court's order. The comments made by the Ohio Republican Party about the Judge were so outrageous that they prompted condemnation by Ohio Supreme Court Chief Justice Maureen O'Connor.¹⁰

Time and again, failures to use your authority to make it easier for people to vote have put Ohioans at risk, including your refusal to prepay postage on ballots or allow multiple drop boxes in each county. It is your responsibility to exercise your authority to make it easier for Ohioans to vote safely. That is why we urge you to follow the Franklin County Common Pleas Court ruling and not waste taxpayer resources in mounting an appeal. Doing so will help ensure that the basic responsibilities of your office, which are essential to the functioning of our democracy, are fulfilled. Thank you for your prompt consideration of our request.

Sincerely,



Sherrod Brown
United States Senator



Marcy Kaptur
Member of Congress



Marcia L. Fudge
Member of Congress



Tim Ryan
Member of Congress



Joyce Beatty
Member of Congress

⁹ *Ohio Democratic Party vs. Frank LaRose*, Case No. 20CV-5634 (Franklin County Court of Common Pleas, September 15, 2020).

¹⁰ Laura Hancock, *Ohio Chief Justice Maureen O'Connor blasts her party, Ohio GOP, for 'irresponsible' criticism of judge*, Cleveland.com, September 16, 2020, <https://www.cleveland.com/open/2020/09/ohio-chief-justice-maureen-oconnor-blasts-her-party-ohio-gop-for-irresponsible-criticism-of-judge.html> (last visited Sep 17, 2020).