

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

TRACIE M. HUNTER	:	CASE NO. 1:16-cv-00962
	:	
Plaintiff,	:	JUDGE BARRETT
	:	
v.	:	NOTICE OF VOLUNTARY
	:	DISMISSAL OF OHIO
HAMILTON COUNTY	:	SECRETARY OF STATE
BOARD OF ELECTIONS, et al.	:	JON HUSTED
	:	
Defendants	:	

Defendant Ohio Secretary of State Jon Husted has filed a motion to dismiss Plaintiff's claim against him pursuant to Fed. R. Civ. P. 12(b)(6) (Doc. 12). The Secretary argues in essence that Plaintiff is not really seeking relief against him, because she relies on the Secretary's own published interpretation of O.R.C. 2961.01 in support of her claim. Quoting the same publications cited by Plaintiff, the Secretary acknowledges that these publications "set forth his interpretation and instruction on convicted felons being qualified electors." (Doc. 12, p. 7.)

Plaintiff named the Secretary as a defendant because the Defendant Hamilton County Board of Elections is bound to act in accordance with the Secretary's directives. If the Board of Elections could be found to have done so in its challenged actions toward Judge Hunter, then Plaintiff's challenge would be not merely to the Board's action, but to the statute itself. If interpreted to exclude Judge Hunter from voting, ORC 2961.01(A) would be itself be unconstitutional as denying equal protection of the laws.

Based on the Secretary's representations in his Motion to Dismiss, Plaintiff now perceives the Secretary's interpretation of O.R.C. 2961.01 to be consistent with

Plaintiff's understanding and not with the Board of Elections' conduct in this case. Accordingly, pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i), Plaintiff hereby dismisses her claim against Defendant Husted without prejudice.

Respectfully submitted,

/s/ David A. Singleton
David A. Singleton #0074556
Trial Attorney for Plaintiff
Ohio Justice & Policy Center
215 E. 9th Street, Suite 601
Cincinnati, OH 45202
(513) 421-1108; (513) 562-3200 – fax
dsingleton@ohiojpc.org

CERTIFICATE OF SERVICE

I certify the foregoing Notice of Voluntary Dismissal of Ohio Secretary of State John Husted was filed electronically through the Court's electronic filing system on September 30, 2016. All parties will receive a copy of the foregoing through that system.

/s/ David A. Singleton
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