

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Ypsilanti Township Citizens for
Responsible Government,

Plaintiff,

Civil Case No. 22-10614

v.

Jocelyn Benson, in her official
capacity as Secretary of State of
Michigan, *et al.*,

Sean F. Cox
United States District Court Judge

Defendants.

_____ /

ORDER REGARDING PENDING MOTIONS

On March 22, 2022, Plaintiff Ypsilanti Township Citizens for Responsible Government, ballot question committee (“Plaintiff”) filed this action against Defendants Jocelyn Benson, in her official capacity as Secretary of State of Michigan, the Charter Township of Ypsilanti (“the Township”), and Heather Jarrell Roe (“Roe”), in her official capacity as the Ypsilanti Township Clerk. Plaintiff’s “Complaint For Declaratory And Injunctive Relief” (ECF No. 1) asserts one count, “Violation Of First And Fourteenth Amendments To The United States.”

Plaintiff’s complaint challenges the constitutionality of Mich. Comp. Laws § 125.3402(2), which requires a township resident who wants to submit a zoning ordinance to a vote by the township to file a petition with a required number of signatures. Plaintiff filed a notice of intent to file a petition and states that the number of signatures required here is 3,588 signatures. Plaintiff contends the statute is unconstitutional because, in practice, the signature requirement is nearly impossible to meet and, therefore, places a severe burden on Plaintiff’s

First and Fourteenth Amendment rights. Plaintiff seeks a declaration that the signature requirement is unconstitutional.

On March 23, 2022, Plaintiff filed an Ex Parte Motion for Preliminary Injunction & Temporary Restraining Order and an Ex Parte Motion to Expedite Consideration of Plaintiff's Motion for Preliminary Injunction & Temporary Restraining Order. (ECF Nos. 6 & 7). In these filings, Plaintiff asked this Court to issue a preliminary injunction or temporary restraining order in this case on an ex parte basis. That same day, this Court issued an order declining to issue injunctive relief on an ex parte basis.

This Court then held a Status Conference with counsel to discuss the pending Motion for Preliminary Injunction. At that conference, the parties advised the Court that Plaintiff's Motion for Preliminary Injunction is likely moot because, after filing this action and its motion, Plaintiff submitted a petition to the Township with more than 7,000 signatures. The parties agreed to postpone briefing on the Motion for Preliminary Injunction and that the Court would hold another status conference on April 11, 2022.

At the April 11th Status Conference, Plaintiff's counsel stated that Plaintiff is unsure if it intends to pursue preliminary injunctive relief in this case. Defense counsel advised that the Township and Roe intended to file a Motion to Dismiss this action and that motion was filed later that same day, on April 11, 2022.

The Court hereby **ORDERS** that Plaintiff's original Motion for Preliminary Injunction (ECF No. 6) is **DENIED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that, if Plaintiff wishes to pursue a preliminary injunction, she shall file a new Motion for Preliminary Injunction by April 18, 2022. That motion shall address all relevant facts that have occurred since March 23, 2022, shall specify the

injunctive relief that Plaintiff is seeking, and attach, as an exhibit, a proposed preliminary injunction. If Plaintiff files such a motion, Defendants' response briefs shall be filed by **April 28, 2022**, and any reply brief shall be filed by Plaintiff no later than **May 2, 2022**.¹

IT IS FURTHER ORDERED that Plaintiff's response to the Motion to Dismiss filed by the Township and Roe (ECF No. 18) shall be filed by **May 2, 2022**, and that any reply brief by the Township and Roe shall be filed by **May 16, 2022**.

IT IS SO ORDERED.

s/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: April 12, 2022

¹In light of that expedited briefing schedule, the Court is terminating ECF No. 7.