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How Ohio stacks the system against independent and minor-party candidates: Mark R. Brown

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Podcaster Terpsehore “Tore” Maras, left, exits a hearing protesting her independent candidacy for Ohio secretary of state with other witnesses on Thursday, Aug. 25, 2022, in Columbus, Ohio. The Secretary of State’s Office says the conservative podcaster Maras, who embraces former President Donald Trump’s discredited claims of a stolen 2020 election, isn’t eligible to run this November as an independent candidate vying to challenge Ohio’s Republican elections chief. (AP Photo/Julie Carr Smyth)AP

By

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COLUMBUS, Ohio -- Ohio's Republican Secretary of State (Frank LaRose) last week [removed Terpsehore Maras, a Donald Trump supporter running as an independent candidate, from the Secretary of State ballot](#). Because Maras threatened to draw Trump supporters from LaRose's re-election bid, LaRose's action comes as no surprise.

LaRose used Ohio's voter "protest" law, which allows voters to protest candidates, to do his dirty work. Maras needed 5,000 signatures, and had collected no less than 5,010, according to local election boards. She was accordingly [certified to the ballot last month](#).

Ohio's GOP then protested her candidacy, claiming through its lawyers from Bricker & Eckler that dozens of her signatures should be ruled invalid. Because Ohio law requires strict compliance with signature-collection rules, finding a dozen to throw out is not hard. Especially with a sympathetic hearing officer, who in Maras' case, happened to be a retired Republican Supreme Court justice. Any small mistake can suffice. Using a county rather than a city to identify one's residence, for example, is a common reason to throw out a signature. So is providing an incorrect date, or using a new or differing address from what is on file with elections officials. Signatures that match file copies so perfectly they would be accepted by any bank can be thrown out for just about any reason by the hearing officer. Ask Maras. She knows.

Worse yet, Ohio's protest system is biased against minor candidates in an even more fundamental way. Major-party protesters are allowed to contest each and every previously validated signature, but minor candidates are afforded no opportunity to prove that previously invalidated signatures are

legitimate. Maras' attempt to submit proof that two or three dozen of her supporters' signatures were incorrectly rejected by local election boards was dismissed out of hand by the hearing officer (with LaRose's blessing). So much for impartial justice.

Perhaps Maras can take solace in the fact that she is not alone. Ohio's biased protest process has produced a number of minor party victims over the last few years. Ralph Nader in 2004 was successfully protested by Ohio Democrats using lawyers from the Washington, D.C., law firm of [Kirkland & Ellis](#) along with dozens of local operatives. Democrats fanned out across Ohio to threaten voters [who signed Nader's presidential petition](#), and made spurious legal arguments that were later ruled [unconstitutional](#) by a federal court.

Ohio's GOP [did the same thing in 2014 to Libertarian candidates](#) for governor (Charlie Earl) and attorney general (Steve Linnabary) in Ohio. Republicans enjoyed the assistance of a Republican secretary of state (Jon Husted) and a Republican hearing officer to remove the Libertarians. They even went so far as to [dupe](#) a Libertarian into fronting their protest and lying about the GOP's involvement. It turned out that, unbeknown to the duped Libertarian, the GOP supplied his lawyers [and paid them](#) close to \$600,000 for their efforts. Subsequent [sanctions](#) imposed by a federal court on the lawyers for their antics was little solace to the Libertarian Party, which had lost its top-of-the-ticket candidates.





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Whatever one thinks of Maras, her exclusion from Ohio's ballot reeks of political gamesmanship. Local election boards ruled that she had collected enough signatures. Even if some were false-positives, that is to be expected with thousands of signatures. False-negatives, meaning legitimate signatures that are incorrectly ruled invalid, are also to be expected. If there is to be a second look, as Ohio insists, a candidate must be allowed to prove that signatures were wrongly invalidated. Denying a candidate that opportunity is inconsistent with common notions of due process.

The time has come to abandon Ohio's antiquated protest system. It is inherently biased against minor candidates. It allows bullies to throw enormous resources at underdogs. It perpetuates Ohio's continuing political duopoly. It denies candidates due process. Maras' exclusion is another unfortunate example.

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