



**Via Electronic Mail**

June 5, 2019

Edward Leonard, Director  
David Payne, Deputy Director  
Franklin County Board of Elections  
1700 Morse Road  
Columbus, Ohio 43229  
[Edward.Leonard@vote.franklincountyohio.gov](mailto:Edward.Leonard@vote.franklincountyohio.gov)  
[Drpayne@vote.franklincountyohio.gov](mailto:Drpayne@vote.franklincountyohio.gov)

Re: Tie Vote Regarding the Protest of the Candidacy and Petition of Stephanie Mingo

Dear Director Leonard and Deputy Director Payne:

At a hearing held on May 2, 2019, the Franklin County Board of Elections (“the board”) considered a protest against the nominating petition and candidacy of Judge Stephanie Mingo (“Judge Mingo”). Two motions were made at the conclusion of the hearing, and both resulted in a tie vote of the board. The first motion was to deny the protest. The second motion was to uphold the protest against the nominating petition of Stephanie Mingo on the grounds cited in the protest. Chairman Douglas Priebe and Board Member Bradley Sinnott voted to deny the protest and against upholding the protest to allow Judge Mingo to appear on the ballot as “Stephanie Mingo.” Board Members Kimberly Marinello and Michael Sexton voted against denying the protest and in favor of upholding it, prohibiting Judge Mingo’s name from appearing on the ballot as “Stephanie Mingo.” Pursuant to R.C. 3501.11(X)<sup>1</sup>, the board submitted both tie votes to the Secretary of State for a decision.

On February 6, 2019, Judge Mingo filed a nominating petition and statement of candidacy for the remainder of an unexpired term of Judge of the Franklin County Municipal Court, Environmental Division. Judge Mingo used the name “Stephanie Mingo” on the petition and statement of candidacy.<sup>2</sup> She did not list the name “Stephanie Mingo Miles” on the petition or statement of candidacy. A protest against her petition and candidacy was timely filed on February 22, 2019. In the written protest, the Protestor argued that Judge Mingo abandoned the sole use of her maiden name and that she was required to list both of her names on her petition due to her name change.

---

<sup>1</sup> R.C. 3501.11(X) provides that “[i]n all cases of a tie vote or a disagreement in the board, if no decision can be arrived at, the director or chairperson shall submit the matter in controversy... to the secretary of state, who shall summarily decide the question, and the secretary of state's decision shall be final.”

<sup>2</sup> R.C. 3513.261, which is the statute that prescribes the form of the nominating petition used by Judge Mingo, does not expressly require a candidate to use the candidate’s legal name on the petition.

Prior to her marriage in 2007, Judge Mingo’s only name was “Stephanie Mingo.” After she married Jason Miles in 2007, Judge Mingo adopted the name “Stephanie Mingo Miles.” Both in a sworn affidavit and testimony before the board, Judge Mingo stated that, despite adopting her married name of “Stephanie Mingo Miles,” she continued to use and to be known by the name “Stephanie Mingo” in the community. Judge Mingo also submitted 58 affidavits signed by individuals attesting to the fact that she has not abandoned use of the name “Stephanie Mingo.”

The Protestor did not testify at the hearing but, through counsel, presented documents and social media posts containing Judge Mingo’s married name, including documents prepared by third parties. Counsel for the Protestor also questioned Judge Mingo on her voter registration record. Although from June 2008 to January 2019, Judge Mingo was registered to vote under her married name, she updated her name to “Stephanie Mingo” with the Franklin County Board of Elections on January 10, 2019.<sup>3</sup>

The Ohio Supreme Court has never adopted a precise test or standard regarding the use of a maiden versus married name for a candidate or board of elections to follow. However, the Court has stated that a candidate who is known by two names is not required to list both names on a declaration of candidacy and petition.<sup>4</sup> In *State ex rel. Morrison v. Franklin County Board of Elections*, 63 Ohio St.2d 336, 410 N.E. 2d 764 (1980), the Court explained that “where a person signed a declaration of candidacy using a name which [they have] adopted and by which [they have] been generally known in the community for years, the fact that during the same time [they] had used another name on certain occasions did not make such signing a change of name and invalidate [their] petitions.” *Id.* at 338. Further, the “guiding principle” is that candidates must be prevented from changing their names to another name so as to “avoid an unfavorable result in the use of the abandoned name or to secure advantage by the use of such other name.” *State ex rel. Miller v. Cuyahoga County Board of Elections*, 103 Ohio St. 3d 477, 480, 2004-Ohio-5532, 817 N.E.2d 1. Thus, a board of elections may allow a candidate to file a declaration using a name that they are otherwise know by.

As provided for in *Morrison*, Judge Mingo has not changed her name. Like the candidate in *Pierce*, she uses and is known by two names. The Court in *Pierce* stated that “where a person is as well known by one name as by another, the use of either name is sufficient.” *Pierce v. Brushart*, 153 Ohio St. 372, 380, 92 N.E.2d 4 (1950). Judge Mingo uses and is known by two names: “Stephanie Mingo” and “Stephanie Mingo Miles,” therefore, she is not required to list both names on her petition.

---

<sup>3</sup> By the time she filed her nominating petition and statement of candidacy, the name on the petition matched the voter registration record. (Protestor’s Exhibits 14 and 19).

<sup>4</sup> *Pierce v. Brushart*, 153 Ohio St. 372, 92 N.E.2d 4 (1950). The Court explained that the “clear purpose of the statute [requiring one to list their former name if it had changed within ten years] is to prevent a candidate from changing their name to avoid an unfavorable result in the use of an abandoned name or to secure an advantage by the use of such other name.” *Id.* at 380-81.

The Protestor also argues that Judge Mingo changed her name to Stephanie Mingo for political advantage. Judge Mingo acknowledged that the Mingo name is a well-known name in Franklin County. (Transcript 53:9-14). She shares the name with her brother, who recently lost re-election as Franklin County Auditor. The fact that the name is well-known was part of her decision to use it for election. (Transcript 53:9-19). However, there is no evidence in the record before me that suggests that Judge Mingo sought to use her maiden name so as to secure advantage in a way that violates Ohio law or in a fraudulent manner.

The Ohio Supreme Court has *not* determined that a candidate with two names must pick the least popular name; rather, the candidate cannot deceive the public by using an abandoned name—or run under a new name such was the case with the candidate in *Miller*. *Miller*, 103 Ohio St. 3d at 480. Here, Judge Mingo is known by Stephanie Mingo *and* Stephanie Mingo Miles—a situation not uncommon for a professional married women in the year 2019. She should not be at a *disadvantage* because she chose to *also* take her spouse’s name upon marriage (and share a common name with their children<sup>5</sup>).

Counsel for the Protestor relies heavily on two Eighth District Court of Appeals decisions where a candidate was not permitted to appear on the ballot using her maiden name: *McLaughlin v. Cuyahoga County Bd. of Elections*, 156 Ohio App. 3d 98, 2004-Ohio-492, 804 N.E.2d 1004 (8<sup>th</sup> Dist.), and *State ex rel. Martinez v. Cuyahoga Cty. Bd. of Elections*, No. 87880, 2006 Ohio App. LEXIS 1556 (8<sup>th</sup> Dist. Mar. 27, 2006). These two cases are not binding upon a protest originating in Franklin County. However, even if these decisions were binding outside of the Eighth Appellate District, both cases are distinguishable from the facts at-hand. The candidate in *McLaughlin* was not able to “think of any circles in which she uses [her maiden name] exclusively.” *McLaughlin*, 156 Ohio App. 3d at 100. The candidate in *Martinez* did not update her voter registration to reflect the use of her maiden name prior to filing her declaration of candidacy and petition. *Martinez*, 2006-Ohio-1665 at ¶ 16. Conversely, Judge Mingo presented unrefuted evidence (including 58 affidavits) that she uses only her maiden name in certain circles of her life, and, unlike the candidate in *Martinez*, she updated her voter registration prior to filing her petition. (Protestor’s Exhibit 14 and 19).<sup>6</sup>

---

<sup>5</sup> (See Protestor’s Exhibit 20).

<sup>6</sup> The Protestor also cites to *State ex rel. Miller v. Cuyahoga County Board of Elections*, 103 Ohio St. 3d 477, 2004-Ohio-5532, 817 N.E.2d 1. In *Miller*, a candidate failed to win election multiple times, and subsequently (by common law) changed his middle name. The candidate wanted to appear on the ballot using the name “Russo”—not because it was a maiden name, a family name, or a name ever used by the candidate, but because “Russo” was a popular ballot name. Citing *McLaughlin* and *Pierce*, the *Miller* Court outlined that in election cases the “guiding principle” is that candidates must be prevented from changing their names to another name so as to “avoid an unfavorable result in the use of the abandoned name or to secure advantage by the use of such other name.” *Miller* at 480. Importantly, the *Miller* Court did not state that the *McLaughlin* decision meant that one cannot use a maiden name if she has abandoned “sole use of” that name. Rather, the *Miller* Court was focused on mere abandonment of a name or using a name that the person never used to secure an advantage.

Moreover, I am not convinced that the Protestor met her burden to prove by clear and convincing evidence that Judge Mingo's statement of candidacy and petition were invalid. *See State ex rel. Richards v. Stark County Bd. of Elections*, 145 Ohio St. 3d 211, 2015-Ohio-3658, 48 N.E.3d 507. "Clear and convincing" evidence is that measure of proof which will produce in the mind of the trier of facts a firm conviction of the allegations sought to be established. *Cross v. Ledford*, 161 Ohio St. 469, 120 N.E.2d 118 (1954). The Protester relied solely on documents containing the name Stephanie Mingo Miles and did not refute Judge Mingo's sworn testimony or the affidavits.

Accordingly, I am deciding to support access to the ballot. The public policy favoring free, competitive, and accessible elections outweighs the rejection of Judge Mingo's candidacy. The voters of Franklin County are free to express their opinion at the November 2019 General Election.

Based on the facts and the record presented to me, I conclude that Judge Mingo is not prohibited by law from appearing on the ballot using her maiden name of "Stephanie Mingo." Accordingly, I break the tie votes in favor of denying the protest and against upholding it.

Yours in service,



Frank LaRose  
Ohio Secretary of State

cc: Douglas Priebe, Chairman, Franklin County Board of Elections  
Kimberly Marinello, Member, Franklin County Board of Elections  
Michael Sexton, Member, Franklin County Board of Elections  
Bradley Sinnott, Member, Franklin County Board of Elections