



**Via Electronic Mail**

January 27, 2024

Jeff Rezabek, Director  
Russ Joseph, Deputy Director  
Montgomery County Board of Elections  
451 W. Third St.  
Dayton, OH 45422

Re: Tie Vote Regarding the Protest of the Candidacy of Mary McDonald for  
Montgomery County Commissioner

Dear Director Rezabek and Deputy Director Joseph,

A protest was timely filed with the Montgomery County Board of Elections regarding the candidacy of Mary McDonald for the office of Montgomery County Commissioner in the March 19, 2024 Republican Primary Election. On January 16, 2024, the Board met to conduct a protest hearing regarding her candidacy. The protest alleges that Mary McDonald is not a member of the Republican Party and did not file a Declaration of Intent to run as a Republican pursuant to R.C. 3513.191. At the conclusion of the hearing, the Board vote resulted in a (2-2) tie. Chairperson McLin and Member Gorman voted in favor of the protest, which would result in removing Mary McDonald from the ballot. Member Routsong and Member Blaine voted against the protest, which would result in Mary McDonald remaining on the ballot.

On January 22, 2024, the Board submitted this tie vote to me for consideration in accordance with Ohio Revised Code 3501.11(X).<sup>1</sup> On that date, the Board also submitted to my office the position statements, supporting evidence, and a copy of the minutes from the January 16, 2024 meeting. This tie vote is properly before me, and it is therefore my statutory obligation to resolve it.<sup>2</sup>

After consideration of the arguments and evidence, I am breaking the tie against the protest. While Mary McDonald recently held two elected positions (Mayor of the City of

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<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. 3501.11(X)

Trotwood and central committee member), both of the offices are “elective office[s] other than one for which candidates are nominated at a party primary.” Therefore, Mary McDonald’s voting record is irrelevant as R.C. 3513.191(B) permits her to be a candidate for nomination of any political party at a party primary since she held elective office other than one for which candidates are nominated at a party primary.

Similarly, the filing requirements set forth in R.C. 3513.191(C) do not apply because Mary McDonald is not a person who holds an elective office for which candidates are nominated at a party primary.

As such, neither R.C. 3513.191(A) nor R.C. 3513.191(C) prohibit Mary McDonald from appearing on the ballot for Montgomery County Commissioner in the March 19, 2024 Republican Primary Election. To the contrary, the law permits Mary McDonald’s name to appear on the ballot as she has not held elective office that is nominated at a primary election.<sup>3</sup>

With my vote, the protest is rejected (3-2). Accordingly, Mary McDonald will appear on the March 19, 2024 Republican Primary Election Ballot for the office of Montgomery County Commissioner.

If you have any questions regarding this decision, please contact Paul Disantis, Chief Legal Counsel at the Secretary of State’s Office, at [pdisantis@ohiosos.gov](mailto:pdisantis@ohiosos.gov).

Yours in service,



Frank LaRose  
Ohio Secretary of State

cc: Rhine McLin, Chair, Montgomery County Board of Elections  
Erik Blaine, Board Member  
Barbara P. Gorman, Board Member  
Thomas A. Routsong, Board Member

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<sup>3</sup> R.C. 3513.191(B)(2).