

**IN THE FOURTH DISTRICT COURT OF APPEALS
ATHENS COUNTY, OHIO**

**STATE OF OHIO, ex rel. Jonathan R.
Flowers, *et al.*,**

Relators,

v.

City of Nelsonville, Ohio, *et al.*,

Respondents.

Case No. 26CA0003

Panel Not Yet Assigned

AFFIDAVIT OF DEVON TOLLIVER

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**EXHIBIT
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**STATE OF OHIO, ex rel. Jonathan R.
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Case No. 26CA0003

AFFIDAVIT OF DEVON TOLLIVER

STATE OF OHIO)
)
COUNTY OF ATHENS) ss.

Devon Tolliver, being first duly sworn, according to law, and states the following:

1. I am over the age of 18 and have personal knowledge of the matters contained within this affidavit.
2. I currently serve as Police Chief for the City of Nelsonville. I've been Police Chief for Nelsonville since January 2023, so just over 3 years. I take my duties very seriously and will, according to the best of my abilities, continue to fulfill my duties according to law.
3. I'm a named Respondent, in my official capacity, in this action, styled *State of Ohio ex rel. Jonathan R. Flowers, et al. vs. City of Nelsonville, Ohio, et al.*, Fourth District (Athens County) Case No. 26CA0003. As a sworn officer of the law, I have a legal duty as a respondent to this action to submit to the jurisdiction of this Court. So I gladly submit to this Court's jurisdiction. I believe my conduct as Police Chief reflects my commitment to the rule of law.
4. As Police Chief, I'm sworn to uphold and enforce the law. I take my oath and my duties to uphold and enforce the law very seriously. That means, for example, if/when my own personal views differ from what the law is or says, I must obey the law, not my personal views. That comes up sometimes in Nelsonville, where my own personal views may be different from what the law says. But like I said, my duties are to the law, not my personal

views of what the law should be instead. And I understand my duties to uphold and enforce the law means I may get criticized by others. What matters at the end of the day is fulfilling my duties, regardless of what others say or threaten to do to me.

5. While serving as Police Chief, I've also served, from time to time, as Acting City Manager, pursuant to Nelsonville City Charter Section 5.03. My most recent stint as Acting City Manager was from December 10, 2025 (when former City Manager Fred Holmes resigned) until on or about January 12, 2026 (when current City Manager Danette Miller was appointed, pursuant to Nelsonville City Charter Section 4.08(10)).
6. Fred Holmes was City Manager as of August 11, 2025, when Nelsonville City Council enacted Ordinance 54-25 to repeal Issue 23.
7. The first I recall hearing about Ordinance 54-25 was the day after Council passed it. That's because I didn't attend the August 11 Council meeting (as Police Chief, I'm only required to attend one of the two monthly Council meetings).
8. I found out about Ordinance 54-25 when Mr. Holmes told me about it. As I recall from our conversation, we discussed that both of us were caught off-guard by the repeal of Issue 23 and neither of us knew beforehand that that's what Council was planning to do. I do recall earlier in 2025 there was some discussion publicly about Council's authority and power to repeal Issue 23, but I didn't know anything about specific plans to do so until after Ordinance 54-25 was passed by Council.
9. I wasn't—and still aren't—on City Council. So I didn't—and don't—have a vote on passing or keeping Ordinance 54-25. I'm not a lawyer but I understand Council, as the City's legislative authority, has the authority and discretion to pass lawful legislation. That doesn't necessarily mean the legislation is a good idea, but whether it's a good idea isn't up to me. That decision is up to Council. My job is simply to follow and enforce the law.
10. So I wasn't Acting City Manager when Ordinance 54-25 was passed. Mr. Holmes was still City Manager.
11. But once Mr. Holmes resigned in December 2025, I became Acting City Manager and therefore had the duty to serve as "the chief executive and administrative officer of the City," "be responsible to the Council for the administration of all City affairs placed in [my] charge" by law, and "see that all laws, provisions of [the] Charter, and ordinances and resolutions of the Council, subject to enforcement by [me] or by officers subject to [my] direction and supervision, are faithfully executed" in an acting capacity while I served as Acting City Manager until January 2026.

12. Part of my duties was to explain to the citizens the City's legal position and to implement the lawful directives and ordinances of Council.
13. That's why I arranged to appear on a popular local radio program on December 31, 2025 to explain the City's legal position as to the lawful form of government for the City in light of Council's lawful exercise of its authority in Ordinance 54-25. Specifically, I appeared on "Viewpoint" on WSEO 107.7/ WAIS 770 to deliver a statement on behalf of the City regarding Ordinance 54-25 and Issue 23. A true and accurate copy of the statement I delivered (and accompanying notes) is attached as **Attachment 1**. I gave the program host a copy of this after I appeared on the program.
14. After I left the program, Mr. Greg Smith (a well-known public figure in Nelsonville going back decades and father of Relator Andrea Thompson Hashman) later called into the same program after I read the statement on the program. Mr. Smith was highly critical of the statement I read. As I recall, he accused me of committing an election interference felony for stating the City's legal position, which was based (in part) on Judge Lang's ruling in Case No. 25CI0312, Athens County Common Pleas Court.
15. In December 2025, Judge Lang's ruling was a topic of much public discussion in Nelsonville. A true and accurate copy of Judge Lang's ruling is attached as **Attachment 2**. Judge Lang also made a ruling in a separate case, Case No. 25CI0386. A true and accurate copy of Judge Lang's ruling in that case is attached as **Attachment 3**. I discussed both of these rulings when I appeared on the Viewpoint program.
16. On December 31, 2025, Relator Andrea Thompson Hashman sent an email to the City Manager email. I responded to the email the next business day, January 2, 2026. A true and accurate copy of the email chains is attached as **Attachment 4**.
17. Also on the afternoon of December 31, 2025, an email was sent after 4 pm, from jonflowers123@gmail.com, to my police chief email via a request form on the City of Nelsonville's website. A true and accurate copy of the email is attached as **Attachment 5**. As I recall, that day I worked a shift that ended at 4 pm, at which time I went home. I've received emails from the address of jonflowers123@gmail.com and know the sender to be Relator Jonathan Flowers.
18. On the morning of January 1, 2026, an email was sent, again from jonflowers123@gmail.com, to my police chief email via a request form on the City of Nelsonville's website. A true and accurate copy of the email is attached as **Attachment 6**.

19. On January 1, 2026, I responded to both of Mr. Flowers's emails. A true and accurate copy of my email response is attached as **Attachment 7**.
20. Throughout January 4 through January 6, I had email correspondence with a local attorney who was apparently reaching out to me on behalf of Relator Andrea Thompson Hashman. I met Ms. Thompson Hashman and the attorney in person on January 5. I also met in person with the attorney separately on January 6, 2026. Both in person meetings were at City Hall. During my communications with the attorney, I reiterated what I understood the City's legal position to be in light of Ordinance 54-25 and I expressed a desire that there wouldn't be any conflicts or disruptions at Council meetings.
21. I may have more to testify to as this lawsuit develops. I appreciate the Court's care and attention it devotes to this important case because the rule of law matters and is the only way by which the people of Nelsonville can achieve certainty about the legal form of government for their City.

Further Affiant sayeth naught.



DEVON TOLLIVER

Sworn to before me and subscribed in my presence this 12th day of March, 2026.



NOTARY PUBLIC



Jonathan Edward Robe
Attorney At Law
Notary Public, State of Ohio
My commission has no expiration date
Sec. 147.03 R.C.

City of Nelsonville

211 Lake Hope Drive
Nelsonville, Ohio 45764

Telephone: (740) 753-1314

Statement from the City Manager,

The City of Nelsonville's official stance regarding the transition to a statutory form of government is that Ordinance 54-25, passed by Nelsonville City Council, abolished the transition. Therefore, there are no statutory seats to be filled for the Mayor, Auditor, Treasurer, or City Council. As such, no one will be permitted to assume any such position absent a court order.

I strongly encourage everyone to avoid coming to City Hall with the specific intent of creating conflict or causing a confrontation. That is not something this town needs during what is already a very confusing time. The path forward is through civil dialogue and adherence to the appropriate legal processes—not conflict between friends and neighbors who all have the city's best interests at heart.

Notes:

Issue 23 was specifically passed via the charter procedures thus council passed it as any normal ordinance of the city, this subject it to any council action of any normal ordinance, including repeal by the council. This was covered in one of the initial Appeals Court hearings where the city argued that the State Constitutional procedures should have been followed. However, it was determined that Issue 23 was passed under the charter procedures.

I think through civil discourse and more community effort the city could transition to a statutory form of government, but it needs to be built on a stronger base that includes clear steps for how the transition will occur. Including more realistic timelines and including clear authority for the council to effect these changes prior to someone else taking office.

Discuss key sections of both of Judge Langs recent rulings bring print offs with highlighted sections.

IN THE ATHENS COUNTY, OHIO COURT OF COMMON PLEAS

Andrea Nicole	:	
Thompson Hashman,	:	Case No. 25CI0312
	:	
Plaintiff,	:	Judge Patrick J. Lang
vs.	:	
	:	
City of Nelsonville, Ohio, et al.,	:	<u>DECISION GRANTING DEFENDANTS'</u>
	:	<u>MOTION FOR JUDGMENT ON THE</u>
Defendants.	:	<u>PLEADINGS; FINAL APPEALABLE</u>
	:	<u>ORDER</u>
	:	

This matter is before the Court on the City of Nelsonville's Motion for Judgment on the Pleadings filed on October 22, 2025. Plaintiff Andrea Nicole Thompson Hashman responded on November 4, 2025 and Defendants replied on November 17, 2025. The matter is fully briefed and ripe for decision.

The Court notes that the first two arguments regarding collateral estoppel and laches are no longer relevant due to the election having already occurred. Because all pre-election claims are moot, the Court need not address these arguments herein.

"Judgment on the pleadings is appropriate if, in construing all material allegations in the complaint in favor of the nonmoving party, together with all the inferences to be drawn therefrom, the court finds, beyond doubt, that the plaintiff can prove no set of facts in support of his claim that would entitle him to relief." *Dolan v. Glouster* 2007-Ohio-6275, ¶7 (4th Dist.).

This case turns on the very narrow issue of standing, and the Court agrees with Defendants that Plaintiff lacks proper standing to bring a declaratory judgment action on the constitutionality of Ordinance 54-25. In order to succeed in establishing standing in

a case, a plaintiff “must show that they suffered (1) an injury that is (2) fairly traceable to the defendant’s allegedly unlawful conduct, and (3) likely to be redressed by the requested relief.” *Logan v. Champaign County Board of Elections*, 2023-Ohio-4688, ¶25 (2nd Dist.), quoting *Moore v. Middletown*, 2012-Ohio3897, ¶22 (Emphasis added). In the case *sub judice*, Plaintiff cannot meet this standard.

On November 5, 2024, voters in the City of Nelsonville passed Issue 23. This issue purported to abolish the city charter and return Nelsonville to a statutory form of government. In the wake of Issue 23, Nelsonville City Council passed Ordinance 05-25, which placed a proposed charter amendment on the primary ballot, which if passed may have had the practical effect of negating Issue 23. However, at the May 6, 2025 primary election, voters defeated the proposed amendment. Thereafter, on August 11, 2025, acting under the Nelsonville City Charter, City Council enacted Ordinance 54-25 as an emergency measure to ensure that the Charter form of government remained in effect. Ordinance 54-25 invoked Article IV, Sections 4.09 through 4.11 of the Charter and R.C. 731.15 and 731.30 to suspend the two-reading rule, which allowed the Ordinance to pass on its first reading and take effect immediately, due to the proximity of the August 18, 2025 ballot certification deadline.

Despite the enactment of the Ordinance, the Athens County Board of Elections did not decertify or remove the statutory offices from the ballot. As a result, Plaintiff’s name did appear on the ballot for the office of City Auditor.

Two days later, the City of Nelsonville filed an original action in mandamus and prohibition with the Supreme Court of Ohio, seeking to enforce Ordinance 54-25 and remove the names of the candidates seeking election under the statutory form of

government. Plaintiff successfully intervened in that case and the Supreme Court denied the City's request. Based on that decision, Plaintiff's name remained on the ballot. Both the City of Nelsonville and the Athens County Board of Elections sought reconsideration to obtain a ruling on the "properly framed constitutional issue," but the Supreme Court of Ohio declined to reconsider the matter. The election occurred with Plaintiff's name on the ballot, where she received the most votes for the statutory position of City Auditor.

In her Complaint, Plaintiff alleges that Ordinance 54-25 is unlawful under Article IV of the Nelsonville City Charter. In their Answer, Defendants deny those claims and argue that Article II, Section 1f of the Ohio Constitution does not apply to municipal charter ballot procedures. The Court agrees.

"The right to amend a municipal charter differs from the right of initiative to enact a municipal ordinance, and the two rights are addressed in separate articles of the Ohio Constitution." *State ex rel. Maxcy v. Saferin*, 2018-Ohio-4035, ¶9. Amendment of a municipal charter is governed by Article XVIII, Sections 8 and 9 of the Ohio Constitution. *Id.* This is based upon the principle that the specific provisions of those sections ought to take precedence over more general provisions. *Id.* at ¶10.

City Council passed Ordinance 54-25 pursuant to an "emergency measure" under R.C. 731.30 and Article IV, Sections 4.09 through 4.11 of the Nelsonville City Charter. Relying on Article IV Section 4.10, paragraph 7 reads:

7. Five (5) members of Council voting to dispense with the two readings of this Ordinance, the rules are hereby suspended for this Ordinance and this Ordinance is hereby enacted on the first reading, pursuant to O.R.C. 731.15, and Nelsonville City Charter Sections 4.09 through 4.11. This Ordinance is hereby passed as an emergency measure pursuant to O.R.C. 731.30 and Article IV,

Sections 4.09 through 4.11 of Nelsonville City Charter as an emergency in the operation of the City government as the Athens County Board of Elections deadline for certifying November 2025 ballots is August 18, 2025 and is near approaching and this Ordinance needs to be conveyed to the Athens County Board of Elections prior to the August 18 deadline and is necessary for the immediate preservation of the public peace, health, safety, morals or welfare of the City, and this Ordinance shall be in full force and effect upon its adoption.

Furthermore, Article IV, Section 4.10 states that, upon an emergency being declared, only one reading of an ordinance is required, and it is considered to be passed on the same day of the reading. Additionally, the final passage must be certified by the Mayor or Vice-Mayor and the Clerk of Council. Ordinance 54-25 appears to have been read in full, passed on the same day, and certified by the President of Nelsonville City Council and the Clerk of Council.

The Supreme Court chose not to address the constitutional issue raised by the parties, noting correctly that it does not have original jurisdiction to consider declaratory judgment actions. However, this Court, while possessing that jurisdiction, can only exercise such authority wherein a properly justiciable issue is brought before it by a party with standing to bring it. In the case *sub judice*, Plaintiff lacks standing. City Council passed Ordinance 54-25 as an emergency measure, and did so in compliance with the Nelsonville City Charter. Emergency measures are not subject to the multi-reading or publication requirements as cited by Defendant. Because Plaintiff cannot demonstrate a concrete and particularized injury that is fairly traceable to Defendants or likely to be redressed by declaratory relief, she lacks standing. Moreover, because Plaintiff has not been denied office, any challenge to her right to assume office is not ripe.

Defendants argue, and the Court agrees, that Plaintiff has pointed to no legal authority wherein a court has found standing in a fact pattern similar to the one at bar. Plaintiff's theory of standing essentially relies upon her status as an elector. The case argued by Plaintiff, *State ex rel. Martens v. Findlay Mun. Ct.*, 178 Ohio St.3d 533 (2024) is an election action brought in mandamus before the Supreme Court. The Court finds that in an action for declaratory judgment, a party's status as an elector, without more, is insufficient to establish standing. Plaintiff's other theories of standing are, at this point, speculative and similarly insufficient.

Accordingly, the Court grants Defendant's Motion for Judgment on the Pleadings and dismisses the action against the City of Nelsonville. With no viable claim being stated against the individual council members, the complaint is dismissed as to those Defendants as well. Costs to the Plaintiff.

IT IS SO ORDERED.



Judge Patrick J. Lang

TO THE CLERK:

This is a judgment or final order, which may be appealed. The Clerk, pursuant to Civ.R. 58(B), shall serve notice of the judgment and its date of entry upon the journal on all parties who are not in default for failure to appear. Within three (3) days after journalization of this entry, the clerk if required to serve notice of the judgment pursuant to Civ.R. 5(B) and shall note the service in the appearance docket.

IN THE ATHENS COUNTY, OHIO COURT OF COMMON PLEAS

FILED

ATHENS COUNTY, OHIO

25 Citizens of the City of Nelsonville,
Ohio, Cory W. Taylor, et al.,

Case No. 25CI0386

DEC 19 2025

Plaintiffs,

Judge Patrick J. Lang

Candy S. Russell, CLERK
OF COMMON PLEAS COURT

vs.

Statutory Govt Candidates for the City
Of Nelsonville, Ohio Rep Jonathan R.
Flowers, et al.,**ENTRY OF DISMISSAL; FINAL
APPEALABLE ORDER**

Defendants.

This matter is before the Court on Plaintiffs' Complaint (hereinafter "the Complaint") filed December 8, 2025. Simply put, the document is so defective on its face that, for the reasons explained below, it requires dismissal.

THE COMPLAINT

As an initial matter, the Complaint is not titled as a complaint, but rather as a motion. It was originally filed in Athens County Court of Common Pleas Case No. 25CI0312, *Andrea Nicole Thompson Hashman v. City of Nelsonville, Ohio, et al.* The Court entered judgment in that case on December 10, 2025. On December 11, the Court ordered the Complaint in the present case to be stricken from the record in 25CI0312 and re-filed under a new case number.

The Complaint is captioned, "25 Citizens of the City of Nelsonville, Ohio, Cory W. Taylor, et al., Plaintiffs v. Statutory Govt. Candidates for the City of Nelsonville, Ohio Rep Jonathan R. Flowers, et al., Defendants." The Complaint is titled, "Plaintiff's Motion

to Strike the Statutory Govt. Candidates Slated for Office in the City of Nelsonville, Ohio Effective January 1, 2026.” After the prayer for relief and a short memorandum in support, the Complaint is signed by Cory W. Taylor. Attached to the Complaint is a letter to the undersigned Judge, accompanied by the signatures of 25 citizens of Nelsonville, and two “acknowledgement certificates” bearing the signatures of Cory W. Taylor and Gregory J. Clement. Each of the two signatures are notarized. The 25 persons listed on the petition are the same as those labeled “Plaintiffs” in the caption.

FACTUAL BACKGROUND

Before addressing the specific deficiencies of the Complaint, some factual background is warranted. On November 5, 2024, voters in the City of Nelsonville passed Issue 23. This issue purported to abolish the city charter and return Nelsonville to a statutory form of government. In the wake of Issue 23, Nelsonville City Council passed Ordinance 05-25, which placed a proposed charter amendment on the primary ballot, which if passed may have had the practical effect of negating Issue 23. However, at the May 6, 2025 primary election, voters defeated the proposed amendment. Thereafter, on August 11, 2025, City Council enacted Ordinance 54-25 as an emergency measure to ensure that the charter form of government remained in effect. This ordinance remains in effect today.

Despite the enactment of Ordinance 54-25, the Athens County Board of Elections allowed the names of the statutory candidates to remain on the general election ballot.

Two days later, the City of Nelsonville filed an original action in mandamus and

prohibition with the Supreme Court of Ohio, seeking to enforce Ordinance 54-25 and remove the names of the candidates seeking election under the statutory form of government. The Supreme Court denied the City's request, without addressing the enforceability of the ordinance. Both the City of Nelsonville and the Athens County Board of Elections sought reconsideration from the Supreme Court to obtain a ruling. Their request for reconsideration was denied.

The decision by the Board of Elections, coupled with the Ohio Supreme Court's refusal to intervene, led to the absurd situation in which Nelsonville now finds itself. Namely, there are two sets of elected officials slated to take office in January – one slate under the charter, and one slate under the statutory form of government.

IS THE COMPLAINT A 12(F) MOTION TO STRIKE A PLEADING, AN INADVERTENT UNAUTHORIZED PRACTICE OF LAW, AN ATTEMPTED ELECTION CONTEST, OR SOMETHING ELSE?

1. IS IT A 12(F) MOTION?

As filed, the Complaint asks the Court to strike the statutory government candidates pursuant to Rule 12(F) of the Ohio Rules of Civil Procedure. The rule reads, in its entirety:

Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion made by a party within twenty-eight days after the service of the pleadings upon him or upon the court's own initiative at any time, the court may order stricken from *any pleading* any sufficient claim or defense or

any redundant, immaterial, impertinent, or scandalous matter. (Emphasis added).

Simply put, the purpose of Civ.R. 12(F) is to strike *pleadings* and not *people*. Because the requested relief by the Plaintiff is not directed to a “pleading,” Civ.R. 12(F) it is inapplicable as a matter of law. Moreover, it is unclear precisely what the statutory candidates are to be stricken *from*? The statutory form of government was overturned by Ordinance 54-25, which remains in effect as of the date of this Entry.

In sum, the remedy being sought by the Plaintiffs cannot be granted under Civ.R. 12(F). This case could be dismissed on that basis alone.

2. IS IT AN INADVERTENT UNAUTHORIZED PRACTICE OF LAW?

The Complaint itself contains 25 Plaintiffs, yet is signed solely by Cory W. Taylor. It has not been represented to the Court that Mr. Taylor holds a license to practice law in the State of Ohio. The Court extends Mr. Taylor the benefit of the doubt that this was not his intent, and that this was likely an innocent mistake made by a layperson. However, the Court must also address this deficiency in the Complaint as yet another reason requiring dismissal.

“[A] trial judge has the ethical duty to prevent unauthorized practice of law[.]” *State v. Kielar*, 1996 WL 200612 (2nd Dist. Apr. 19, 1996), *quoting State v. Harding*, 1993 WL 312905 (3rd Dist. Aug. 19, 1993). “The unauthorized practice of law occurs when a person who is not admitted to the Ohio bar or otherwise certified to practice law by the Supreme Court provides legal services to another person in this state.” *Lorain Cty. Bar Assn. v. Zubaidah*, 2014-Ohio-4060, ¶ 44, *citing* Gov.Bar.R. VII(2)(A). This

includes the preparation of pleadings for an action that would go before the judges and courts. *Disciplinary Counsel v. Brown*, 2015-Ohio-1819, ¶12. The appropriate remedy in that particular case is to strike the filing and view the filing as a legal nullity. *State v. Hancock*, 2016-Ohio-7096 (2nd Dist. Sept. 30, 2016), *citing State v. Block*, 2007-Ohio-1979, *Union Sav. Assn. v. Home Owners Aid, Inc.*, 23 Ohio St.2d 60 (1970), and *Kessler v. Totus Tuus, L.L.C.*, 2009-Ohio-1147 (11th Dist.).

Because Mr. Taylor has not only filed the Complaint on behalf of himself, but also twenty-four other Plaintiffs, the Court finds the pleading at issue to be a legal nullity. The case could be dismissed on that basis alone.

3. IS IT AN ELECTION CONTEST?

The Court questions whether the Plaintiffs intended to file this action as an election contest pursuant to Title 35 of the Ohio Revised Code. If that is indeed the case, the Complaint is insufficient to initiate it.

It appears that Plaintiffs understood, pursuant to R.C. 3515.09, that the filing shall be “signed by at least twenty-five voters who voted in the last election for or against a candidate for the office or for or against the issue being contested[.]” and that the pleading “shall be verified by the oath of at least two such petitioners[.]” R.C. 3515.09. The petition contains twenty-five signatures, and both Cory W. Taylor and Gregory J. Clement provided an “acknowledgement certificate,” sworn before a notary public.

If this was indeed Plaintiffs' intent, the document must still be dismissed due to the failure to comply with the requirements of R.C. 3515.09. Specifically, that section states that "[s]aid petition shall be accompanied by a bond with surety to be approved by the clerk of the appropriate court in a sum sufficient, as determined by [her], to pay all the costs of the contest." The Court has verified that no such bond was posted at the time of the filing.

Furthermore, Plaintiffs' Praecipe for Service requested that the Clerk serve the Motion to Strike upon each of the Defendants named by Regular U.S. Mail. Pursuant to R.C. 3515.10, the "petition" must be served in the same manner as a summons in a civil action, which requires certified mail, with a return receipt requested to ensure that service was properly completed against the defendants. Because Plaintiffs cannot perfect appropriate service upon the Defendants, the Complaint must be dismissed.

Furthermore, it would not appear that an election contest is *necessarily* the Plaintiffs' true intent, at least insofar as such a contest is contemplated by R.C. 3515.09, *et seq.* The Plaintiffs do not appear to be contesting the election of the charter candidates. Rather, they seem to be seeking an order from the Court that the statutory candidates be "stricken." As a purely factual matter, the Court observes that, 1) Ordinance 54-25 was passed by Nelsonville City Council on August 11, 2025; 2) the ordinance purports to maintain the charter form of government; and, 3) the ordinance has not been repealed, nor has any court enjoined its enforcement.

The Court cannot grant advisory opinions as to the legal ramifications which logically follow from those facts.

As previously noted, this Court need not determine if it was the Plaintiffs' intent to treat this Complaint as an election contest, as it has not been correctly filed as such. However, if the Court were to construe the filing as an election contest, the petition would still require dismissal based on the non-compliance with Chapter 35 of the Ohio Revised Code.

CIV.R. 12(B)(6) DISMISSAL

The Ohio Supreme Court has noted that “[t]he Rules of Civil Procedure neither expressly permit nor forbid courts to *sua sponte* dismiss complaints.” See *State ex rel. Edwards v. Toledo City School Dist.* (1995), 72 Ohio St.3d 106, 108, 647 N.E.2d 799.

It has been further observed that “[a] court may *sua sponte* dismiss a complaint without notice and an opportunity to respond, pursuant to Civ.R. 12(B)(6), if ‘the complaint is frivolous or the claimant obviously cannot prevail on the facts alleged in the complaint.’” *Ogle v. Greco*, 4th Dist. No. 15CA2, 2015-Ohio-4841, *citing State ex rel. Fogle v. Steiner* (1995), 74 Ohio St.3d 158, 161, 656 N.E.2d 1288. The Court herein so finds.

Additionally, on December 18, 2025, one of the named Defendants, Andrea Nicole Thompson Hashman, filed an Answer in which she moved (in the alternative) to dismiss the case because, “Plaintiffs’ action is fatally defective...” *December 18, 2025 Answer of Defendant Andrea Nicole Thompson Hashman*. While the Court makes no ruling on the rationales for dismissal contained within the Answer, the Court

nevertheless agrees that the Complaint is fatally defective. Accordingly, the case is hereby ordered dismissed, with costs to the Plaintiffs.

CONCLUSION

The Complaint before the Court, while fatally flawed, is an entirely understandable attempt by several well-meaning citizens of Nelsonville to obtain clarity over what has become an absurd situation. That said, the Complaint must be dismissed pursuant to Civ.R. 12(B)(6) because it fails to state a claim for which relief can be granted.

Moreover, as a purely factual matter, the Court observes that Ordinance 54-25 was passed by the Nelsonville City Council and remains in effect as of the date of this Entry. While the City of Nelsonville is not a party to this action, the Court directs the Clerk to provide a courtesy copy of this Entry to the Nelsonville Law Director.

IT IS SO ORDERED.



Judge Patrick J. Lang

cc: Mr. Jonathan Robe, Esq., Nelsonville City Law Director

TO THE CLERK:

This is a judgment or final order, which may be appealed. The Clerk, pursuant to Civ.R. 58(B), shall serve notice of the judgment and its date of entry upon the journal on all parties who are not in default for failure to appear. Within three (3) days after journalization of this entry, the clerk if required to serve notice of the judgment pursuant to Civ.R. 5(B) and shall note the service in the appearance docket.

From: Andrea Nicole andreanicole79@gmail.com
Subject: Fwd:
Date: January 2, 2026 at 11:59 AM
To: Daniel Klos klosdhesq@aol.com

Sent from my iPhone

Begin forwarded message:

From: Fred Holmes <citymanager@cityofnelsonville.com>
Date: January 2, 2026 at 10:13:55AM EST
To: Andrea Thompson <andreanicole79@gmail.com>, Nick Smith <nick.smith@cityofnelsonville.com>, Michael Milane <mike.milane@cityofnelsonville.com>, Fred Holmes <citymanager@cityofnelsonville.com>
Subject: Re:

Good morning Andrea,

Thanks for your email, I will not be turning over any keys for the city building. Again, the city recognizes that ordinance 54-25 abolished the transition and there are no statutory seats available to be taken. And the City has not appointed you to the position of Auditor.

Currently no court as affirmatively repealed ordinance 54-25 and the Athens County Common Pleas Court has affirmed that the ordinance is still in effect. Until such a time the City receives an order to do so, I will not transfer any city property to any individual. If such order does exist the city will gladly comply.

I appreciate you reaching out during this situation and I ask that you please follow the proper legal process so this matter can be effectively resolved.

Devon Tolliver
Chief of Police/Acting City Manager
Nelsonville Police Department
Phone - (740)753-1736
Fax - (740)753-4422

From: Andrea Thompson <andreanicole79@gmail.com>
Sent: Wednesday, December 31, 2025 3:11 PM
To: Nick Smith <nick.smith@cityofnelsonville.com>; Michael Milane

<mike.milane@cityofnelsonville.com>; Fred Holmes <citymanager@cityofnelsonville.com>

Subject:

Good afternoon,

Would you please be so kind as to provide me with the keys to the Auditor's office after securing it at the end of business today. As the new elected Auditor I am responsible for the security and access to the office and will be opening the office for business this coming Monday.

I have attached my election Certificate, Oath of Office and bond to this email as well. The bonding company has advised that they have mailed the original copy of the bond to the auditor's office; however, since Federal law does allow for electronic submission of documents, I am attaching them here for the current auditor and treasurer's records.

Kind regards,

Andrea Thompson-Hashman



City of Nelsonville: Keys to the building

From info <info@cityofnelsonville.com>

Date Wed 12/31/2025 4:10 PM

To Devon Tolliver <policechief@cityofnelsonville.com>

This is an enquiry email via <https://cityofnelsonville.com/> from:

Mayor Jonathan Flowers jonflowers123@gmail.com

Chief Tolliver and interm city manager.

As of tomorrow I would like you to turn the keys to all doors over to me before the end of the business day, January 1st.

Mayor Jonathan R. Flowers



City of Nelsonville: Keys to the building

From info <info@cityofnelsonville.com>

Date Thu 1/1/2026 10:16 AM

To Devon Tolliver <policechief@cityofnelsonville.com>

This is an enquiry email via <https://cityofnelsonville.com/> from:
Mayor Jonathan Flowers jonflowers123@gmail.com

Today before business closes. I know you're not working. You can contact me and I'll meet you at the police station for the keys to All door locks.

If this is ignored, I will deal with this as a disciplinary action. I am certified by the Secretary of State and Board of Election, Mayor of Nelsonville, January 1st 2026.

MAYOR Jonathan R. Flowers



Keys

From Devon Tolliver <policechief@cityofnelsonville.com>

Date Thu 1/1/2026 12:54 PM

To jonflowers123@gmail.com <jonflowers123@gmail.com>

Mr. Flowers,

Thanks for your email, I will not be turning over any keys for the city building. Again, the city recognizes that ordinance 54-25 abolished the transition and there are no statutory seats available to be taken. This includes the position of Mayor.

Currently no court has affirmatively repealed ordinance 54-25 and the Athens County Common Pleas Court has affirmed that the ordinance is still in effect. Until such a time the City receives an order to do so, I will not transfer any city property to any individual. If such order does exist the city will gladly comply.

I appreciate you reaching out during this situation and I ask that you please follow the proper legal process so this matter can be effectively resolved.

Devon Tolliver
Chief of Police/Acting City Manager
Nelsonville Police Department