

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

**STATE *ex rel.*  
Andrea Nicole Thompson-Hashman  
312 Grosvenor Street  
Nelsonville, Ohio 45764**

**Relator,**

**v.**

**THE CITY OF NELSONVILLE  
211 Lake Hope Drive  
Nelsonville, OH 45764  
and  
Council Member Charlotte Beach  
211 Lake Hope Drive  
Nelsonville, OH 45764  
and  
Council Member McCray Powell  
211 Lake Hope Drive  
Nelsonville, OH 45764  
and  
Council Member Amy Hollenbaugh  
211 Lake Hope Drive  
Nelsonville, OH 45764  
and  
Council Member Cameron Peck  
211 Lake Hope Drive  
Nelsonville, OH 45764  
and  
Council Member Nancy Sonick  
211 Lake Hope Drive  
Nelsonville, OH 45764  
and  
Council Member Gregg Clement  
211 Lake Hope Drive  
Nelsonville, OH 45764  
and  
Council Member Nic Joseph Saul  
211 Lake Hope Drive  
Nelsonville, OH 45764  
and  
City Manager  
Dannette Miller  
211 Lake Hope Drive  
Nelsonville, OH 45764  
and**

**Original Action  
Mandamus  
And  
Alternatively  
Peremptory  
Writ  
Requested**

**Case No.**

Chief of Police  
Devon Tolliver  
211 Lake Hope Drive  
Nelsonville, OH 45764  
Respondents

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**VERIFIED PETITION FOR MANDAMUS, OR ALTERNATIVELY  
FOR PEREMPTORY WRITS**

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**PETITION IN MANDAMUS**

**THE PARTIES**

1. Relator Andrea Thompson-Hashman (“Auditor” or “Relator”) is a resident of Nelsonville, Ohio. At the time of the November 2025 election Nelsonville had an elected position of City Auditor. Relator was elected to the position of City Auditor during the municipality’s general election in November 2025. Relator is qualified for the position of City Auditor by her certificate of election from the Athens County Board of Elections (Relator Exhibit 1) and is otherwise qualified as required by law, having submitted her oath of office (Relator Exhibit 2) and meeting the residency requirements of the Office
2. The Respondent City of Nelsonville (“City”) is an Ohio municipal corporation subject to the laws of the State of Ohio. All Respondents are collectively referred to herein as “Respondent”. A dispute concerning the City’s current form of government remains at issue, i.e. Charter vs. Statutory. As a matter of common public knowledge, civil actions related to this dispute have been filed in the Athens County Court of Common Pleas, the Fourth District Court of Appeals and the Supreme Court of Ohio.
3. Respondent Council Member Charlotte Beach, Respondent Council Member McCray Powell, Respondent Council Member Amy Hollenbaugh, Respondent Council Member Cameron Peck, Respondent Council Member Nancy Sonick, Respondent Council Member

Gregg Clement and Respondent Council Member Nic Joseph Saul are purported members of the Nelsonville City Council ("Council") who act as officials of the City pursuant to the City Charter ("Charter"). Under the Charter form of government, Council appoints and removes the City Manager per §5.01.

4. Respondent Dannette Miller purports to act as the Nelsonville City Manager ("City Manager") under the Charter form of government. Pursuant to §6.06.05 of the Charter, the City Manager has the duty to appoint a person to the office of Auditor when a vacancy exists, subject to confirmation by a majority of the City Council.
5. Respondent Devon Tolliver is the Nelsonville Chief of Police ("Chief of Police"). Under §6.08.04 of the Charter, the City Manager has the duty to select the Chief of Police, subject to majority approval of Council. The Chief of Police is the head of the executive branch. Pursuant to §5.03 of the Charter, Council may also appoint the Chief of Police as the acting City Manager when a vacancy exists in that office.

#### **JURISDICTION AND VENUE**

6. This Court has jurisdiction pursuant to Ohio Revised Code Chapter 2731 to order the Respondent to install the Relator as the *de facto* official because she holds the *prima facie* title of City Auditor, a position to which she was elected, pursuant to the holding in *State ex rel. Keyser v. Babst* 101 Ohio St. 275; 128 N.E. 140; 1920 Ohio LEXIS 149. Unlike the cause of action of Quo Warranto, which this Court held in 26CA3 at ¶36 required the Relators therein to show the respondents held the office unlawfully, it is not necessary that the instant Relator in mandamus show that anyone holds the office unlawfully, only that the Relator is one who holds the certificate of election to the office, has qualified as required by law, and has no other adequate remedy at law. The certificate entitles the

recipient to exercise the office until the regular constitutional authority shall determine who is the *de jure* officer. [See *Keyser*, *supra*]. This also makes moot the requirement of this Court having jurisdiction over rendering a declaratory judgment (as prohibited in *State ex rel. City of East Cleveland v. Dailey*, 2020-Ohio-3079) in order to grant the Relator the relief she seeks.

7. Venue is proper in this court because the office in question is located in Nelsonville, Athens County, Ohio.

#### **NATURE OF THE ACTION**

8. This is an action in mandamus brought pursuant to Ohio Revised Code Chapter 2731 to order the Respondent to install the Relator as the *de facto* Auditor because she holds the *prima facie* elected position of City Auditor pursuant to the holding in *State ex rel. Keyser v. Babst*, 101 Ohio St. 275; 128 N.E. 140; 1920 Ohio LEXIS 149. Respondents have refused to appoint the Relator or to allow her to enter her elected position as Auditor. Relator has no other remedy at law other than to seek an Order from this Court requiring the Respondent to appoint the Auditor to her lawful elected position within the City.

#### **LEGAL AUTHORITY FOR ISSUANCE OF THE WRIT**

9. Relator was duly elected to the position of Nelsonville City Auditor regardless of the form of government under which the City operates.
10. In *State ex rel. Keyser v. Babst* 101 Ohio St. 275; 128 N.E. 140; 1920 Ohio LEXIS 149 the Court addressed the issue of the qualifications to maintain a position as a *de facto* official.

"One who retains an office after the expiration of his term, claiming that he is re-elected, but without color of authority, is not a *de facto* officer, as against one who holds the certificate of election to the office and has qualified as required by law. The certificate entitles the recipient to exercise the office until the regular constitutional authority shall determine who is the *de jure* officer. The rights of the *de jure* officer attach when he is

elected, though the result is unknown until it is declared by the proper constitutional authority.” *Id.* 278.

"One who has been declared by the proper canvassing board to have been elected to an office, and has received the proper certificate of election, and has duly qualified, has the *prima facie* right to the office and is entitled to possession thereof, when his term begins, as against everyone except a *de facto* officer in possession under color of authority. The case is also authority for the principle that an incumbent retaining possession of an office, but without other color of authority, is not a *de facto* officer against one who holds a certificate of election, and that mandamus is an appropriate remedy to enforce the right of the person having the *prima facie* title to the office. *Id.* 279.

“The cases cited in this opinion, together with the case of *State, ex rel. Clendenning, v. Rose et al.*, 93 Ohio St., 284, are authority for the legal principle that **the proper method of procedure in a case of this character is by mandamus rather than *quo warranto*.** [emphasis added] Here the relator has color of title and is claiming possession; whatever claim the respondent may have had to be recognized as a *de facto* officer falls before the concession of the relator's *prima facie* title, disclosed by his certificate of election; both of the contending parties are parties to the suit”. *Keyser* at 281.

11. The Relator herein has been issued a certificate of election and has properly taken the oath of office, *supra*. No other official now acting in the capacity of the City Auditor for Nelsonville, other than the Relator, is possessed of a current certificate of election in the capacity of the City Auditor for Nelsonville.
12. When City Auditor Taylor Sappington resigned as City Auditor in late 2025, Taylor Sappington's duties were assumed by Nicholas Smith. Smith ran for City Auditor in November 2025 but was defeated by the Relator. Smith had been appointed to the Auditor's position on September 1, 2025, confirmed by City Council on September 8, 2025 and served until December 31, 2025. Smith was not appointed City Auditor after December 31, 2025.
13. On January 1, 2026, the unelected incumbent city council and officials refused to vacate their positions to the persons elected to the terms to commence January 1, 2026 on the November 2025 ballot. The incumbent city council and City Auditor, excepting McCray

Anthony Powell and Nicole A. Joseph Saul, were not issued, nor do they possess, election certificates for the terms commencing January 1, 2026.

14. On January 5, 2026, Relator appeared at the City Offices to assume her official duties as Nelsonville's Auditor. Acting City Manager and Police Chief Devon Tolliver, in uniform, refused to allow Relator access to her office, thereby, preventing her from filling, occupying and otherwise performing her duties as the elected City Auditor. As a result, Relator has been deprived of her elected office, salary and benefits.
15. On February 5, 2026, Relator filed an original action in Case 26CA3 with this Court, as one of the Relators therein, seeking the judicial remedy of Quo Warranto for the Office of Auditor. On June 10, 2026 this Court dismissed the Quo Warranto action for lack of jurisdiction ( 26CA3 at {¶¶37-38}). Importantly, this Court also opined dispositively “[T]he official election results from the November 2025 election, the subsequent certificates of elections issued by the board of Elections, and the official oaths of office *all establish beyond doubt that the relators are entitled to hold their respective public offices.* [emphasis added not in the original]” at {¶35}. This case is currently on appeal to the Supreme Court of Ohio filed July 22, 2026 in Case No. 2026-0947.
16. On April 13, 2026, the newly hired City Manager, Respondent Dannette Miller appointed Brian Elkins to the vacant office of City Auditor, confirmed unanimously by Respondent Council Members on April 13, 2026 (Exhibit 3 at <https://www.youtube.com/watch?v=T35DZFE7a4Q> (1:11:45/1:12:02) ) The Auditor’s office had been vacant since January 1, 2026.
17. Brian Elkins was not a candidate for the Office of City Auditor, did not appear on the November 2025 ballot for City Auditor and possesses no certificate of election for the

Office of City Auditor.<sup>1</sup> Brian Elkins did not maintain possession of an office for the Respondent City on or after December 1, 2025. Brian Elkins was never an incumbent of the office of City Auditor prior to his appointment on April 13, 2026.

18. Brian Elkins holds no color of authority to occupy the office as a *de facto* City Auditor of Nelsonville.

19. Brian Elkins has no “other color of authority, [and] is not a *de facto* officer against one who holds a certificate of election, and that mandamus is an appropriate remedy to enforce the right of the person having the prima facie title to the office.” *Keyser* at 279.

20. Because here the instant Relator has color of title and is claiming possession, whatever claim the respondent for Brian Elkins to be recognized as a *de facto* officer falls before the concession of the relator's *prima facie* title, disclosed by her certificate of election.

21. Applicable to the instant Relator, “Such certificate gave the relator a colorable and *prima facie* title to the office, the possession of which he was entitled to until the final determination of the *de jure* title should be ascertained by a valid contest provided by the statutes of this state.” *Keyser* at 278.

22. The instant Relator has an even better claim and argument because unlike in *Keyser*, the person occupying the office presently has never been an elected incumbent.

### **COUNT ONE WRIT OF MANDAMUS**

23. Relator incorporates, by reference, each of the 22 preceding paragraphs allegations as if fully rewritten herein.

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<sup>1</sup> Elkins received 85 votes as a write in for City Treasurer. Elkins subsequently chose to be appointed City Auditor rather than occupy the Office of Treasurer.

24. To be entitled to a writ of mandamus, relator must establish (1) a clear legal right to the requested relief; (2) a clear legal duty on the part of the respondent to provide it; and (3) the lack of an adequate remedy in the ordinary course of law. *State ex rel. City of Maumee v. Lucas Cty. Bd. of Elections.*, 2025-Ohio-2516, ¶ 33.
25. Relator has established by her certificate of election and oath of office: 1) a clear legal right to the requested relief, a *prima facie* right to the office and is entitled to possession thereof, when her term began. *Keyser* at 279; 2) a clear legal duty on the part of the Respondents to provide it. Respondent City Council Members have a duty to appoint Relator to the office because “[T]he certificate entitles the recipient to exercise the office until the regular constitutional authority shall determine who is the *de jure* officer. The rights of the *de jure* officer attach when he is elected, though the result is unknown until it is declared by the proper constitutional authority” *Keyser* at 278; 3) [T]he lack of an adequate remedy in the ordinary course of law. “[M]andamus is an appropriate remedy to enforce the right of the person having the *prima facie* title to the office.” *Id.* 279.
26. Having met all the requirements for mandamus herein set forth, the Relator is entitled to a writ of mandamus: 1) Ordering the Respondents to act to revoke or otherwise terminate the appointment of Brian Elkins or directed to whomever may be the City Auditor at the time of the issuance of the writ; 2) appointing the Relator to the office or otherwise not preventing the Relator from assuming the occupancy of her office until the final determination of the *de jure* title should be ascertained by a valid contest provided by the statutes of this state.
27. Relator is entitled to mandamus.

**COUNT TWO**  
**WRIT OF MANDAMUS – REQUEST FOR PEREMPTORY WRIT**

28. Relator incorporates, by reference, each of the 27 preceding paragraphs allegations as if fully rewritten herein.
29. The Court may issue a peremptory writ of mandamus after the filing of the Answer “When the right to require the performance of an act is clear and it apparent that no valid excuse can be given for not doing it, a court, in the first instance, may allow a peremptory mandamus....” R.C. 2731.06.
30. Here the relator’s right to require the performance of an act is clear and it is apparent that no valid excuse can be given for not doing it. Relator possesses a *prima facie* title to the office by virtue of her election certificate. She has also taken and submitted the oath of office. Further, Respondents have no *prima facie* claim to fill the office with anyone other than the Relator because Brian Elkins possesses no certificate of election or any other item serving as color of law that supersedes the relator’s *prima facie* entitlement to the Office of Auditor. Brian Elkins is not elected to the office nor is he an incumbent successor to the office.
31. Relator is entitled to a peremptory writ of mandamus.

#### **PRAYER FOR RELIEF**

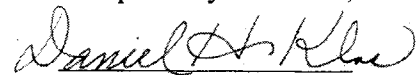
Wherefore, Relator respectfully prays for the court to grant the following relief:

1. Issue a peremptory writ of mandamus or writ of mandamus ordering Respondent City and City Manager to revoke or reverse the appointment, or otherwise remove Brian Elkins from the position of Auditor for the City of Nelsonville;
2. Issue a peremptory writ of mandamus or writ of mandamus ordering Respondent City, Council, City Manager and Chief of Police to permit Relator access to the Auditor's Office at the City Building and access to all records and equipment required to assume her official

duties, including but not limited to keys to the building and office, documents, records, payroll records, computer hardware, accounting systems, computer software, software passwords, city email, etc.

3. Issue a peremptory writ of mandamus or writ of mandamus ordering Respondent Council Members to confirm the actions of the Respondent City Manager removing Brian Elkins and installing the Relator to the office of City Auditor;
4. Issue a peremptory writ of mandamus or writ of mandamus ordering Respondents to take no further action against Relator's occupancy of the office and assumption of duties of Auditor for the City of Nelsonville based on the legal sufficiency for occupation of the office Auditor of the City of Nelsonville until the final determination of the *de jure* title should be ascertained by a valid contest provided by the statutes of this state;
5. If judgment in this proceeding for a writ of mandamus is rendered for the plaintiff, pursuant to R.C. 2731.11, award the Relator the damages, from the Respondents, which she has sustained in the form of lost wages, benefits, costs for obtaining a bond and other damages to be determined, to be ascertained in a separate hearing by the court or a jury, or by a referee or master, as in a civil action, and costs;
6. Order such other relief as may be appropriate.

Respectfully submitted,



Daniel H. Klos (0031294)

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Lancaster, Ohio 43130

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Fax 1-614-262-5732

Email klosdhesq@aol.com

Attorney for Relator

Form No. 156. Prescribed by the Secretary of State. (11/2024)

## Certificate of Election

R.C. 3505.38

Relator  
Exhibit 1

THE STATE OF OHIO, Athens COUNTY, ss.

We, the undersigned, BOARD OF ELECTIONS, having canvassed all the returns and declared the result of the  
General Election held on Tuesday, the 4th day of November, 2025,  
(Primary or General)

within and for Nelsonville City  
(County, City, District, etc.)

DO HEREBY CERTIFY THAT Andrea Nicole Thompson-Hashman WAS DULY ELECTED  
(Name)

Auditor

(Office)

for the Full term January 1, 2026  
(full or unexpired) (beginning or ending)

as appears by the returns of the election and the abstract of votes now on file in the office of the Board of Elections.

In Witness Whereof, we have hereunto subscribed our names and caused our official

seal to be affixed at Athens, Ohio, this 21st

day of November 2025

Andrea L. Carpenter-Colvin  
Chair  
[Signature]  
[Signature]  
[Signature]

Board of Elections

Attest:

Jonas Z. Brooker II  
Director

# **NOTICE**

**State officers, county officers, judges of courts of record and county judges are ineligible to perform the duties of office until they receive a commission from the Governor. (Section 107.05, Revised Code.)**

**The commission is obtained after the board of elections forwards this certificate of election to the Secretary of State.**

**The Secretary of State will issue the commission signed by the Governor and return it to the Clerk of Courts who will deliver it to the officer. (Section 107.07, Revised Code.)**

**Members of the General Assembly do not receive commissions but should present this certificate in their respective houses on the day they organize. (Section 101.01 and 101.11, Revised Code.)**

**Term "beginning" is for a full term.**

**Term "ending" is for filling a vacancy for the unexpired term.**

Oath of Office

STATE OF OHIO     }  
                              } ss.  
ATHENS COUNTY    }

I, ANDREA NICOLE THOMPSON HASHMAN DO HEREBY SOLEMNLY  
SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES  
OF AMERICA AND THE CONSTITUTION OF THE STATE OF OHIO AND THAT I  
WILL FAITHFULLY DISCHARGE THE DUTIES OF NELSONVILLE AUDITOR  
TO WHICH I HAVE BEEN ELECTED.

Andrea Nicole Thompson Hashman  
SIGNATURE

SWORN TO, AND SUBSCRIBED BEFORE ME THIS 9<sup>th</sup> DAY OF  
NOVEMBER, 2025.

James D. McLaughlin  
NOTARY PUBLIC

# PETITION VERIFICATION AFFIDAVIT

STATE OF OHIO :

:  
: SS.  
:

COUNTY OF ATHENS :

1. After being duly sworn, I, Andrea Nicole Thompson Hashman, state I am over 21 years of age and competent to give testimony in a court of law;
2. I am the Relator in the above captioned petition case;
3. I have read the petition consisting of 10 pages and I have personal knowledge of all the allegations of fact made in the petition;
4. All of the factual allegations are true and correct.

Andrea Nicole Thompson Hashman

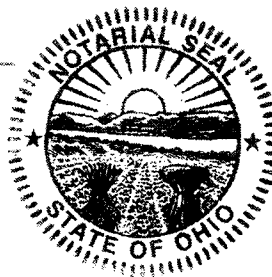
Andrea Nicole Thompson Hashman, Relator-Affiant

Sworn to and subscribed in my presence this 26<sup>th</sup> day of August, 2026

Tori M. Williams

Notary Public

1



Tori M Williams  
Notary Public, State of Ohio  
My Commission Expires  
November 14, 2028