

Secretary of State files lawsuit against Otero County Commission

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Lawsuit concerns illegal actions to disenfranchise 2022 primary election voters and harm primary candidates

SANTA FE – Secretary of State Maggie Toulouse Oliver filed a writ of mandamus with the New Mexico Supreme Court on June 14 seeking to compel the Otero County Commission to certify the 2022 Primary Election results after the commission illegally refused to certify the results, potentially disenfranchising every Otero County voter who legally and securely cast a ballot and harming candidates seeking to have their names on the General Election ballot.

“New Mexico’s 2022 Primary Election was conducted with the highest standards of election administration by dedicated county clerks and civil servants across our state,” Toulouse Oliver, New Mexico’s chief elections officer, said. “The post-election canvassing process is a key component of how we maintain our high levels of election integrity in New Mexico and the Otero County Commission is flaunting that process by appealing unfounded conspiracy theories and potentially nullifying the votes of every Otero County voter who participated in the Primary.”

The 2022 Primary Election took place on June 7, and county canvassing boards have 10 days from the election to certify the results (NMSA 1-13-13). As of June 14, 16 New Mexico counties had already certified the results of the Primary Election.

Under state law, county canvassing boards must certify the results of the election unless there

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is proof of discrepancies in the election returns (NMSA 1-13-5). The Otero County commission's stated reason for not certifying the 2022 Primary Election results is that they do not trust the vote tabulators used in the election, though they offered no evidence to prove any problems with the vote tabulators or election returns.

New Mexico's vote tabulator systems undergo a bi-partisan certification process by the voting system certification committee following every presidential election and this process was most recently completed in 2021.

The Otero County commission took their vote on June 13 over the objection of their county clerk, who provided the commission with findings about the Primary Election proving it was conducted legally and securely and election returns were accurate.

The Secretary of State's office filed the writ on June 14 to ensure state law is being followed and to ensure that the voices of every legal voter in Otero County are heard. This most recent action by the Otero County Commission is part of a disturbing trend across the nation motivated by conspiracy theories about the 2020 election that have been debunked time and time again (most notably in the failure of over 60 lawsuits filed in the wake of 2020).

All county officials take an oath to uphold the constitution and laws of New Mexico. The Otero County commission has now, in the last two weeks, taken two votes in willful violation of the New Mexico Election Code – their vote on June 13 to not certify the 2022 Primary Election and a vote the week before about discontinuing the use of secured, monitored ballot drop boxes and the state's voting machines, even though they were informed by the county attorney they had no legal authority to pursue those actions.

Because of these violations of their oaths, the Secretary of State's office is also preparing a criminal referral to the New Mexico Attorney General related to these willful violations of the Election Code by county officers and their willful failure or refusal to perform their duties under the Election Code.

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