

IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

FILED
OCT 19 2020

IN RE: COVID-19 LITIGATION

Case No: 2020-MR-589

David Palagush
Clerk of the
Circuit Court 38

ORDER ON MOTION TO VACATE JULY 2, 2020 CLAY COUNTY ORDER

This matter comes on for hearing on the Governor's Motion to Vacate the July 2, 2020 Order for Lack of Jurisdiction in Darren Bailey's case in *Clay County, Case No: 2020-CH-6*. All parties were present by counsel, Mr. Bailey was present in person. Arguments of counsel were presented to the Court on October 14, 2020. The Court took the matter under advisement. After considering the pleadings, the record, and the arguments of counsel, the Court hereby FINDS:

It is undisputed that the Federal Court Order of Remand was entered on the Federal Court docket on June 29, 2020. The Governor argued that the Clay County Court did not have jurisdiction to hear the Motion for Summary Judgment on July 2, 2020 because the Order of Remand from the Federal Court was not received by the clerk of the circuit court until July 6, 2020. It is Mr. Bailey's position that the Clay County Court did have jurisdiction as the Federal Court lost jurisdiction as soon as the Order of Remand was entered.

If the reasoning in the *Hartlein v. Illinois Power Co.*¹ case is followed, the Clay County Court did not regain jurisdiction until July 6, 2020 when the actual physical copy of the Order of Remand was received by the circuit clerk. If the reasoning in *Eastern v. Canty*² is followed, the circuit court in Clay County did not have to wait for a technical order of remand to be received before proceeding and exercising jurisdiction to dispose of the case. Another Illinois Supreme Court case, *Van Dyke v. Illinois Commercial Men's Ass'n*³ held that upon remandment of the

¹ *Hartlein v. Illinois Power Co.*, 155 Ill. 2d 142 (1992)

² *Eastern v. Canty*, 75 Ill. 2d 566 (1979)

³ *Van Dyke v. Illinois Commercial Men's Ass'n*, 358 Ill 458 (1934)


case, the state court is reinvested with jurisdiction. The *Van Dyke* case derived its decision from the United States Supreme Court decisions which held that actions return to the state court upon remandment.

Considering the foregoing cases, along with the fact that it is well settled that public documents which are included in the records of other courts may be the subject of judicial notice, along with the fact the parties handed the Clay County Court a copy of the Order of Remand which was filed *instanter* on July 2, 2020, this Court finds that the Clay County Circuit Court did in fact have jurisdiction.

IT IS HEREBY ORDERED:

- A. The Governor's Motion To Vacate the July 2, 2020 Order for lack of jurisdiction is denied;
- B. If the Governor still wishes to have this Court reconsider the Clay County Order of July 2, 2020 granting summary judgment on counts II and III due to errors in applying existing law, any such motion shall be filed by October 30, 2020;
- C. Any response to the Motion to Reconsider the granting of summary judgment on counts II and III must be filed by November 12, 2020;
- D. Any Reply in Support of the Motion to Reconsider the granting of summary judgment on counts II and III should be filed by November 20, 2020;
- E. In order for the Court to consider all pleadings, any written pleading must be emailed to the Court by the prescribed deadlines, but no later than Monday, November 30, 2020.
- F. Oral arguments for the Motion to Reconsider the granting of summary judgment is set for **Monday, December 7, 2020 at 1:30 p.m.** All attorneys are to appear in person.

ENTERED: October 19, 2020


Raylene Grischow, Circuit Court Judge