

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
LASALLE COUNTY, ILLINOIS

**FILED**  
13TH JUDICIAL CIRCUIT  
11/20/2020 7:53 AM  
SLW

*Gina Vaccaro*  
CLERK OF THE CIRCUIT COURT  
LASALLE COUNTY, ILLINOIS

LASALLE COUNTY REPUBLICAN  
CENTRAL COMMITTEE, by its  
Chairman, LARRY SMITH, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
LORI BONGARTZ, LaSalle County Clerk, )  
in her official capacity, )  
 )  
Defendant. )

Case # **2020MR000390**

EMERGENCY MOTION FOR EX PARTE TEMPORARY  
RESTRAINING ORDER AND PRELIMINARY INJUNCTION

Now comes the Plaintiff, the LaSalle County Republican Central Committee, by its Chairman, Larry Smith, by and through its attorney, William Hotopp, and respectfully requests that this Honorable Court issue an *Ex Parte* Temporary Restraining Order and Preliminary Injunction for its Emergency Motion for *Ex Parte* Temporary Restraining Order and Preliminary Injunction for the following reasons:

1. A general election was held on November 3, 2020.
2. Elections in the United States and States require they be conducted with accuracy and integrity, and Defendant's actions in the general election were neither accurate nor based upon integrity.
3. The Plaintiff, LaSalle County Republican Central Committee, by its Chairman, Larry Smith, is the official Republican political organization within LaSalle County performing all duties prescribed by law and doing all things necessary to carry on the Republican party platform.
4. The Defendant, Lori Bongartz, is the LaSalle County Clerk, having been elected to that position in 2018. Defendant, serving as LaSalle County Clerk, was on November 3, 2020, the sole election authority for LaSalle County.
5. Due to the global pandemic caused by the novel coronavirus (COVID-19), Illinois

legislators have adopted certain voting rules in the form of legislation regarding the processing of mail-in ballots.

6. As part of those newly-adopted rules and legislation, the election authority (Bongartz) was required to appoint a bipartisan panel of three election judges to verify voter signatures and the validity of the actual ballot.
7. On November 3, 2020, after all 119 precincts within LaSalle County were tallied, the votes for incumbent State's Attorney Karen Donnelly totaled 21,598 and the total votes for Attorney Todd Martin were 18,648, a difference of 2,950.
8. On November 3, 2020, after all 119 precincts within LaSalle County were tallied, the votes for Travis Breeden, running for State Representative for the 76th District, totaled 16,036, and the votes for incumbent Lance Yednock were 14,325.
9. Thereafter, on that same evening after the tally of all votes from the individual precincts, Bongartz submitted a flash drive allegedly containing all mail-in ballots processed by her office to be included into these totals.
10. The total number of mail in ballots processed by Bongartz exceeded 11,000.
11. After the addition of these mail in ballots, the numbers changed for both the State's Attorney's race and that for State Representative, with Todd Martin receiving an additional 8,302 votes for a total of 26,950, and Donnelly receiving 3,357 of these votes, or a total of 24,955.
12. After the addition of these mail in ballots, Travis Breeden had 18,365 and incumbent Lance Yednock now had 21,849.
13. The total votes on the flash drive processed by BONGARTZ suggests there were 11,659 additional mail-in votes.
14. On November 6, 2020, additional mail in ballots were processed by BONGARTZ and added to the figures, with Donnelly receiving an additional 458 ballots to

Martin's 755.

15. Due to the ongoing pandemic and as referenced above, the Election Code was amended on June 16, 2020 to provide as follows:

Notwithstanding any other provision of law to the contrary, within 2 days after a vote by mail ballot is received, but in all cases before the close of the period for counting provisional ballots, the election authority shall appoint a panel or panels of 3 election judges, of which no more than 2 shall be from the same political party, from the list of election judges submitted by the county parties for this specific purpose to compare the voter's signature on the certification envelope of the vote by mail ballot with the signature of the voter on file in the office of the election authority. The signature shall be presumed to match unless 3 out of 3 election judges determine that the 2 signatures do not match. By a vote of 3 of 3 election judges, a vote by mail ballot may only be rejected because the signature on the certification envelope and the signature used by the election authority for verification purposes do not match or the certification envelope contains a signature but not in the proper location. A vote by mail ballot may only be rejected by a majority vote of the election judges and only for the following reasons: (1) the certification envelope contains no signature; (2) the ballot envelope was delivered opened; (3) the voter has already cast a ballot; (4) if the voter voted in person on election day; or (5) the voter is not a duly registered voter in the precinct. If election judges determine the ballot should be rejected for any reasons stated in this subsection (c), the judges shall mark across the face of the certification envelope the word "rejected" and the date and names of the judges voting to reject the ballot. 10 ILCS 5/2B-20(c).

16. For the period from September 30, 2020 to October 30, 2020, three election judges were present to process the mail-in ballots received by LaSalle County, with at least

- one judge from each political party.
17. On October 30, 2020, it was discovered that all election judges working with the processing of the mail-in ballots had contracted COVID-19 and they immediately ceased their operations.
  18. Thereafter, there were no election judges present to process the mail in ballots received by the County Clerk for the period of October 31 through and including November 3, nor was any member of Plaintiff committee advised of the absence of the election judges or the need to replace the absent judges.
  19. The statutory language of the Election Code is mandatory and not discretionary that there shall be election judges present from each party to process mail in ballots. However, by the County Clerk's own admission, there were no election judges present during this time and the mail-in ballots were processed by members of the Clerk's staff.
  20. Attached is an Affidavit from an election night worker at the office of the County Clerk on November 3, 2020, who witnessed an employee of the Clerk's office opening mail-in ballots at her desk without any requisite election judges being present. See Plaintiff's Exhibit "1" which is attached herto.
  21. Defendant had no authority to process these ballots without review by election judges duly appointed and sworn under oath.
  22. Neither Defendant nor any election officials verified the signatures of all absentee ballots before processing.
  23. Ballots were removed from their envelopes before proper processing.
  24. Unsecured mail in ballots were received without any chain of custody.
  25. Defendant instructed workers in her office to process the mail in ballots without the supervision or oversight of election judges.

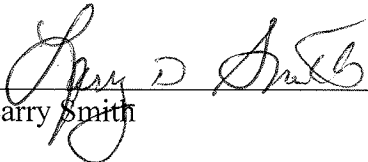
26. Defendant's above actions were in violation of the Illinois Election Code.
27. Defendant's actions are a continuing violation of the Plaintiff's constitutional rights thereby causing Plaintiff irreparable harm.
28. Defendant's actions give Plaintiff no adequate remedy because the harm cannot be compensated by monetary damages.
29. There is reasonable likelihood Plaintiff will succeed on the merits of this litigation because Defendant's actions did not conform to the law.
30. For the reasons stated herein and the attached Affidavit, a protective order is necessary in this case. Defendant should be ordered to preserve and protect all evidence relevant to this case. This protective order should include all "documents" and "computer records," including but not limited to every type of paper, writing, data, record, graphic, drawing, photograph, audio and video recordings, as well as all files, records and data contained in any computer system, computer component and/or computer storage (e.g., hard drive, disc, magnetic tape, backup systems, etc.), event logs (local and network events), election officials computers, tabulation computers, adjudication computers, and all routers.
31. For the above reasons, Defendant should be immediately enjoined from certifying LaSalle County's November 2020 election results.
32. Given the serious constitutional and statutory violations in this case, notice to Defendant should not be required. Moreover, there is concern that Defendant may destroy or conceal evidence unless a protective order is immediately entered. Any delay in the issuance of a temporary restraining order until a hearing on a preliminary injunction will result in immediate and irreparable harm to Plaintiff. The certification of LaSalle County's November 3, 2020 election, replete with dishonesty and illegalities, undermines election accuracy and integrity and deprives Plaintiff and

other similarly situated voters in LaSalle County the constitutional right of equal protection so essential to the right to vote.

WHEREFORE, the Plaintiff respectfully requests that this Court enter an Order as follows:

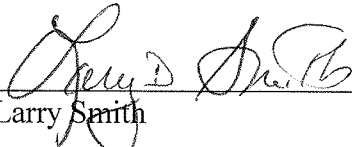
- A. That Defendant be immediately enjoined and restrained, both directly and indirectly, whether alone or in concert with others, including any officer, agent, employee, and/or representative of her office, until further order of this Court, from continuing to count and process mail in ballots and from certifying the 2020 LaSalle County election results.
- B. That Defendant be ordered to maintain the status quo until this matter can be heard by this Court.
- C. That Plaintiff be granted leave to commence discovery immediately.
- D. That this Order remain in full force and effect until this Court specifically orders otherwise.
- E. That a protective order be issued as requested herein.
- F. Entry of a Declaratory Judgment that Defendant acted outside the scope of her authority when she processed the mail in ballots without the proper oversight of the election judges.
- G. For such other and further relief as this Court deems just and equitable.

LASALLE COUNTY REPUBLICAN CENTRAL  
COMMITTEE, by its Chairman, LARRY SMITH,  
Plaintiff

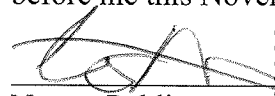
  
\_\_\_\_\_  
Larry Smith

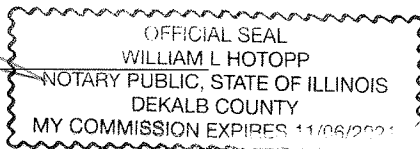
STATE OF ILLINOIS        )  
                                  )  
COUNTY OF LASALLE      )      SS.

The undersigned, being first duly sworn on oath, deposes and states that the undersigned signed the foregoing, and that said act was a free and voluntary act, without duress. Under penalties of provided by law pursuant to 735 ILCS 5/109, the undersigned certifies that the statements set forth are true and correct, except as to matters therein stated to be on information and belief and as to matters the undersigned certifies as aforesaid that the undersigned verily believes the same to be true.

  
\_\_\_\_\_  
Larry Smith

SUBSCRIBED AND SWORN to  
before me this November 18, 2020.

  
\_\_\_\_\_  
Notary Public



**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
LASALLE COUNTY, ILLINOIS**

LASALLE COUNTY REPUBLICAN )  
CENTRAL COMMITTEE, by its )  
Chairman, LARRY SMITH, )

Plaintiff, )

vs. )

LORI BONGARTZ, LaSalle County Clerk, )  
in her official capacity, )

Defendant. )

NO. 20-MR-

STATE OF ILLINOIS )  
 ) ss.  
COUNTY OF LASALLE )

**AFFIDAVIT**

Now comes the Affiant, LORA LANDRUM, being first duly sworn on oath, depose and state as follows:

1. I am an adult and under no legal disability.
2. On November 3, I was working as a paid election worker at the Office of the LaSalle County Clerk.
3. I was working with Margie Kreier and two other women that evening.
4. We were "sworn" in around 6:30 p.m. on November 3, 2020 by the County Clerk.
5. One of the four workers was tasked with going out to the vehicles and collecting the ballots, tabs, and sometimes memory cards. This particular worker would bring in these items to me and I would then check certain requirements by looking in what appeared to be an accordion folder to make sure everything was there with another worker. Once everything was checked off, the worker would take a form out to the driver and passenger for their signatures verifying everything was in order.
6. Once this worker went outside, I would take these items to Margie Kreier who was sitting behind an employee behind an employee of the Clerk's office who sat in a cubicle in the middle area of the Clerk's office. The woman seated there was heavier set with dishwater

/



blonde hair. She had a limp and may have been wearing a boot or special shoe. I observed she had a letter size box on her desk containing mail in ballots.

7. This employee would take the envelopes out of the box and was opening them with a letter opener, taking out the ballot and then trying to make the ballot as flat as possible and then placing them in a neat pile. I am not certain what she did with the envelopes they came in. There was no one else present to watch this woman as she opened the envelopes.

8. The only other people in the room was Margie Kreier, myself, and one other worker who was running to and from cars. I am not certain where the fourth worker was at.

9. The County Clerk was back in her office and did not come out very often.

10. I was very concerned that no one was watching this employee open the envelopes, and she appeared to be flustered and under pressure opening all the ballots. This employee was upset because she was the only one there and the phones were very busy.

11. I observed a stack of ballots in front of this employee.

12. When the four workers left around 10:00 p.m., that employee had opened "quite a few" of the envelopes.

FURTHER, AFFIANT SAYETH NOT.

November 18, 2020

Lora Landrum  
LORA LANDRUM, AFFIANT

SUBSCRIBED AND SWORN TO

before me this 18 day of November, 2020.

Cynthia A Ingold  
Notary Public

