

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
SHELBY COUNTY, ILLINOIS

IN RE: INVESTIGATION)
)
) Nos. 2024-MX-51
) 2024-MX-52

MOTION TO QUASH SUBPOENA AND FOR SANCTIONS

REPORT OF PROCEEDINGS of the hearing before CIRCUIT
JUDGE MARTIN W. SIEMER, on the 26th day of August,
2024.

APPEARANCES:

MS. RUTH A. WOOLERY,
Shelby County State's Attorney,
for the Petitioners;

MR. ROBERT T. HANLON,
Attorney at Law,
for the Respondents.

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TRANSCRIPT OF PROCEEDINGS

THE COURT: Next up 2024-MX-51, in re:
administrative subpoena. And let me just inquire of
the State. Mr. Hanlon, you're appearing on that as
well?

MR. HANLON: Judge, I'm appearing on behalf of the
respondent. And I filed a motion to quash.

THE COURT: And is -- am I reading this correctly?
Can we call that and 24-MX-52 together and take those
up together?

MR. HANLON: Yes, Judge. I think that would be
appropriate. This is mostly on an identical basis,
except for one has an accounts privilege and one has a
conflict issue with the State's Attorney, but I'm sure
the Court could address them both at the same time.

THE COURT: All right. So we'll call both of those
matters, 24-MX-51 and 52, both regarding administrative
subpoenas. I do have the State present in the
courtroom and Mr. Hanlon appearing by Zoom. And just
to confirm here -- just a moment. In 24-MX-51, you're
appearing on behalf of the respondent, Robert Orman.
And in the other matter, 24-MX-52, you're appearing on
behalf of the named respondent under that subpoena,
that being Benford Brown & Associates; is that all

1 correct?

2 MR. HANLON: That is correct, Your Honor.

3 THE COURT: All right. And it looks like just
4 procedurally to note, there was a subpoena duces tecum
5 filed in each case on August 8, 2024. And motion to
6 quash and for sanctions was filed by the respective
7 respondents August 14 and noticed up for hearing today.

8 And let me inquire of the State as to how -- whether
9 the State is ready to proceed on that.

10 MS. WOOLERY: Your Honor, at this time the State
11 would move to withdraw those pending administrative
12 subpoenas.

13 MR. HANLON: May I respond to that, Your Honor?

14 THE COURT: You may.

15 MR. HANLON: Your Honor, I filed these motions back
16 on the 14th. And Ms. Woolery had every opportunity
17 between that point in time and today to save me the
18 time of having to spend here in this court. I spent
19 48 minutes waiting for this to be called, and all she
20 had to do was articulate that she was going to withdraw
21 that. And now that she has failed to do that, she's
22 now cost my client another hour worth of my time, which
23 is expensive. And, you know, I have the motion pending
24 for not only to quash, but also for sanctions. Ms.

1 Woolery misappropriated the power of the Court. And
2 then after she misappropriated the power of the Court,
3 she engages in this unethical issue of failing to
4 respond to me and letting me know that this is what she
5 intended to do.

6 THE COURT: Based on -- well, let me address it
7 this way. I do see -- and I had reviewed the files
8 prior to today's hearing -- the motion to quash
9 subpoena in each case. And, again, other than the
10 named respondent and a little bit on the reasoning,
11 they're essentially identical and asking for the same
12 relief; correct?

13 MR. HANLON: Yes, Judge.

14 THE COURT: And one part of that is to quash the
15 subpoenas that were issued, and then the remaining
16 portion of that has to do with sanctions and terms of
17 any potential sanctions. Is that fair to say as well?

18 MR. HANLON: Yes, I believe that's a fair
19 characterization, Judge.

20 THE COURT: As far as the portion of that
21 requesting that the subpoenas be quashed, with the
22 State moving to withdraw, subject to the reservation of
23 the other issues, do you have any objection to -- to
24 that effectively granting the request to quash the

1 subpoenas?

2 MR. HANLON: Yes, Judge. If the court order is
3 that the subpoenas are quashed because I don't want to
4 have to come back here again.

5 THE COURT: And I'm not sure -- I may have not
6 heard that correctly. It's -- you do not have an
7 objection to having those withdrawn and quashed?

8 MR. HANLON: Withdrawn and quashed is fine, as long
9 as the order reflects that they're quashed, Judge.

10 THE COURT: All right.

11 MR. HANLON: I don't want to be back here on res
12 judicata issue with a -- with gains to show.

13 THE COURT: And essentially -- and let me clarify
14 this with the State. Subject to the other issues
15 raised in the motion, once all issues are resolved, the
16 State's position would be this case would be dismissed
17 with no further settings.

18 MS. WOOLERY: That's correct, Judge. And the
19 reason behind withdrawing the subpoenas is simply that,
20 one of the individuals who was subpoenaed for these
21 documents actually published those to the public, so
22 there's no reason to move forward with that
23 investigative subpoena at this time.

24 THE COURT: All right. So I think I understand the

1 positions on that. That leaves the issues of sanctions
2 in each case. Mr. Hanlon, would you like to be heard
3 on that?

4 MR. HANLON: Yes, Judge. Judge, first and
5 foremost, as I articulated within the scope of the body
6 of the motion, these subpoenas were issued not
7 returnable to the Court. And when you get served an
8 administrative subpoena duces tecum, the only check or
9 balance on the State's Attorney is when they're
10 returned to the Court. And by attempting to circumvent
11 that return to the Court, that deprives the people, you
12 know, of the power to regulate what the State is doing.
13 And that was one of the principal reasons for filing
14 the motion to quash is because what it's doing is
15 taking the power of the Court via a subpoena issued by
16 the Court, and then having that go outside the scope of
17 the Court and having it returned directly to her. That
18 is, you know, patently improper by a State's Attorney.
19 And she clearly should know that -- that circumventing
20 that review process.

21 And there are individuals who get subpoenas
22 from the State's Attorney's office that might not have
23 the luxury of having the ability to hire counsel to
24 respond to these sorts of things. And that

1 misappropriation, you know, is a -- it's a departure
2 from the basic rules that govern and create check and
3 balance in our society. And as I articulated within
4 the scope of the motion, what -- by not returning them
5 to the Court in this particular case, what Attorney
6 Woolery has done is she's in essence hijacked the power
7 of the people to review and control their conduct. And
8 that's important and antithetical to the principles of
9 the check and balance on any elected official, much
10 less a State's Attorney, who wields, you know,
11 significant power. And so it's because of that that
12 the obligation that she has in her oath of office as
13 the State's Attorney's -- constitutional rights of the
14 accused as much as any other citizen. And what she's
15 done here is she's sacrificed her oath in order to
16 circumvent the entire judicial process by having those
17 returned to her directly. And, Judge, that's why I'm
18 seeking sanctions in this particular case. That's why
19 I'm asking that the Court issue an audit of the MX
20 cases since May 10 to see if there's been any other
21 parties who have had their rights deprived because
22 she's failed to comply. And here it wasn't that she
23 just issued one subpoena returnable to herself, there
24 was two. That creates that we have an inference that

1 there was a pattern of conduct; and that should also go
2 with it the -- the eyes of the Court to ensure that she
3 doesn't misappropriate the rights of the people who she
4 has a legal obligation to protect.

5 THE COURT: As far as the request as to sanctions,
6 what specifically is being requested?

7 MR. HANLON: One, I'm asking the Court to issue a
8 rule to show cause why she should not be held in
9 contempt for a substantial failure to comply with the
10 rules of practice.

11 Two, I'm asking that the State's Attorney
12 individually be sanctioned for misappropriating the
13 power of the Court for improper purposes.

14 I'm also asking the Court enter an order to
15 audit the MX cases since she took office on May 10,
16 '24, to ensure that any and all subpoenas that were
17 issued by the State didn't -- did not in fact
18 circumvent the power of the Court to review the
19 subpoenas and the returns on those subpoenas.

20 THE COURT: So three parts to what's being
21 requested there. As far as the monetary sanctions
22 being requested, is there any specific being sought?

23 MR. HANLON: Yes, Judge. I spent an hour here so
24 far in this courtroom. And I think that with respect

1 to that particular hour, since Ms. Woolery was fully in
2 a position to have avoided wasting my client's money
3 and forcing me to appear today, when all she had to do
4 was send out an e-mail saying, hey, I'm withdrawing
5 these subpoenas because you raised these probable
6 points. That likely would have satisfied me as opposed
7 to having to come here today to address these issues
8 when, you know, had she done that, the likelihood is I
9 would have withdrawn my motion seeking sanctions as
10 well. But now she's cost my client another hour of my
11 time. And, Judge, you know, my clients are paying me a
12 healthy amount of time and money to be here.

13 THE COURT: You are seeking a sanction in that
14 amount. What amount are you seeking?

15 MR. HANLON: \$650 is my standard hourly rate,
16 Judge.

17 And if the Court is a little concerned, I'm
18 happy to supplement that with a petition if the Court
19 would like.

20 THE COURT: At this point, let me hear argument on
21 behalf of the State.

22 MS. WOOLERY: Thank you, Your Honor. Your Honor,
23 the only point that counsel raises in support of his
24 request for sanctions is that these subpoenas were not

1 returnable to the Circuit Clerk and were instead
2 returnable to my office. I admit that that is
3 completely my fault for using a form left in my office
4 by my predecessor. There was no -- nothing nefarious
5 here. There was no attempt to circumvent the rules of
6 the Court. As this Court knows and as Mr. Hanlon
7 knows, I am new to this office, taking office May 10.
8 And it is common practice to rely on forms in any
9 practice of law, whether that's civil practice or
10 criminal practice. So I admit that that is absolutely
11 my fault for using a form left by my predecessor,
12 however, I would state to this Court that these
13 sanctions requested are not -- the error in my subpoena
14 do not reflect the request for sanction by Mr. Hanlon.
15 And, again, I would just request that -- make the
16 request that that be denied at this time. Again, there
17 was nothing nefarious here. As I previously stated
18 that the requested documents should have been provided
19 to my office previously, however, I had to seek those
20 by subpoena and then they were released to the public.
21 So, again, that's why I'd move to withdraw this
22 subpoena; and then I would request that no sanctions be
23 ordered at this time.

24 MR. HANLON: May I reply, Your Honor?

1 THE COURT: You may.

2 MR. HANLON: My learned colleague here indicated to
3 this Court erroneously that the motion to quash was
4 directed solely upon having been returnable, you know,
5 to her. I just ask the Court to review the documents
6 that I'd filed, in particular to paragraph three, and
7 respective subsections. Those subsections show that
8 the subpoena wasn't issued by the correct court.

9 Number 2, the subpoena was returnable to her.
10 And so she got that part right with respect to the
11 motion.

12 That the subpoena seeks privileged material
13 under the accountant's privilege. Now whether or not
14 she used a form or not that was left purportedly by me,
15 what I think she fails to recognize is that she's got
16 an obligation to look at the law before she issues a
17 subpoena. And so issuing a subpoena to an accountant,
18 the accountant's privilege is a well-known privilege
19 within the State of Illinois. It has received quite a
20 lot of review.

21 In addition to seeking privileged material
22 from the accountant, she's also seeking information
23 from her own client. That's, you know, a violation of
24 the rules of professional conduct.

1 The subpoena also, you know, sought draft
2 information. Also not remotely related potentially to
3 that criminal investigation. Because a draft is a
4 draft, Judge. It doesn't -- it wouldn't be dispositive
5 of anything.

6 Then if she didn't bear the mandatory legend
7 as required by the rules of practice 7-4(e) and didn't
8 bear the seal of the court. Now one of the things that
9 -- any time I get asked about a subpoena from a client,
10 I ask them, well, do you feel the seal, you know, on
11 the document? And if the seal is not on the document,
12 that means that the State's Attorney retained the copy
13 that the seal was on. She doesn't deny that she sent
14 out a photostatic copy of something, and I recognize
15 the Court issued it. The whole reason for placing that
16 seal upon the document is so that the recipient knows
17 that it's a lawful subpoena and not just something
18 that's created by somebody without the power of the
19 Court.

20 Then the -- to come in here in this court and
21 say that my argument was limited solely to her failure
22 to have it returnable even to the Court, it's
23 completely erroneous position relative to the express
24 line, which is used within my motion. And so, Judge,

1 these are all things that add up and warrant towards
2 the need to have a sanction. And I understand wholly
3 that courts are reluctant to sanction attorneys in, you
4 know, situations and that I don't ask for them lightly.
5 I'm asking them at this particular time, because even
6 though Ms. Woolery had the full knowledge, she is going
7 to come appear in court today and say, I'm going to
8 withdraw those subpoenas. She could have done that.
9 She could have saved my client at least the last hour
10 and 15 minutes now.

11 THE COURT: All right. Just a moment. A couple
12 things I want to look at, and then I will address the
13 request being made here today. It will be just a
14 moment.

15 MR. HANLON: Your Honor, may I address one last
16 item that I failed to address in reply?

17 THE COURT: You may.

18 MR. HANLON: During the course of Ms. Woolery's
19 commentary, she indicated that my client had released
20 these documents to the public. That is incorrect.
21 What I believe that she is referring to is the fact
22 they were published with Illinois Leaks when they came
23 to get a Freedom of Information Act request from the
24 Treasurer. And not from my clients.

1 THE COURT: All right. So noted. Any further
2 response for the State?

3 MS. WOOLERY: Your Honor, my only response would be
4 this. Based upon Mr. Hanlon's statements previously,
5 it would appear to me that the only reason for moving
6 forward with a request for sanctions is that he had to
7 appear today on a motion that he filed. If that is --
8 he has said more than once that had I just sent an
9 e-mail, he wouldn't be moving forward with sanctions.
10 That alone, I do not believe, is grounds to order
11 sanctions again for this subpoena that has not been
12 withdrawn.

13 THE COURT: All right. Thank you both.

14 All right. I have reviewed, as I indicated
15 earlier, the files, the motion, the subpoenas. I've
16 considered the arguments that have been presented.
17 I've been reviewing certain files and Supreme Court
18 rules as well. And I am ready to rule on the
19 respondent's request in each case for sanctions.

20 Based on that review, I am going to deny the
21 request for sanctions for the following reasons:

22 First of all, one of the main sources for
23 sanctions is by Supreme Court rule, we have Supreme
24 Court Rule 137. It permits the Court to impose

1 sanctions if a pleading, motion, or other document is
2 signed in violation of that rule. The rule generally
3 recall -- or pardon me -- calls for a certification
4 from the attorney presenting the document that to the
5 best of the attorney's knowledge, information, and
6 belief after reasonable inquiry, it's well grounded in
7 fact and warranted by existing law or good-faith
8 argument for the extension, modification, or reversal
9 of the existing law. Also a certification that it's
10 not interposed for any improper purpose, such as to
11 harass or cause unnecessary delay or needless increase
12 in the cost of litigation.

13 Again, the Court has discretion to impose
14 sanctions if a pleading is signed in violation of that
15 rule and that required certification here. It's bit of
16 an unusual situation. It's a administrative subpoena
17 case that was opened upon the presentation of a
18 subpoena for issuance.

19 There is nothing in either file that bears the
20 signature of the State's Attorney. And under Supreme
21 Court Rule 137, sanctions are imposed if something is
22 signed in violation of the rule. So on the very face
23 of that rule, sanctions would not be appropriate.

24 I do understand and appreciate that the power

1 of the Court to sanction does go beyond Supreme Court
2 Rule 137. There's broad discretion for the Court, but
3 I believe this highlights the fact that here, again,
4 it's a bit of an unusual type of case. And it's a
5 process where there are multiple steps in the issuance
6 of a subpoena. Disputes often arise based on subpoenas
7 for this reason. Here, ultimately I would say, the
8 process worked. Problems or concerns were brought to
9 the Court's attention and ultimately resolved.

10 Even beyond all of that, sanctions can be
11 imposed when things are being done for an improper
12 purpose or with malice. Here, I don't see this as a
13 sanctionable offense. Even getting past the procedural
14 issues, I do recognize that mistakes do happen. I'm
15 not inclined to sanction every instance where an
16 improper pleading or other action is taken. Especially
17 when based on the totality of everything that's been
18 presented in my review of the records, to me, it does
19 not indicate that malice was underlying this.

20 I would note as well the complaint regarding
21 the State not sending an e-mail regarding intent to
22 withdraw the subpoena. I would point out that
23 communication almost always goes both ways. This is a
24 situation that also could have been -- could have been

1 avoided and resolved if -- instead of the immediate
2 filing of a motion to quash, there had been an e-mail
3 or a phone call to the State pointing out the problems
4 and issues. Not to say that it would have to be the
5 burden of the party receiving the subpoena; but, again,
6 it highlights that good communication goes both ways.
7 And discussion of this issue on either party could have
8 avoided all of this as well.

9 I would point out as well that in my review
10 here, I did go back to court records and looked at the
11 MX files that had been initiated since the time current
12 administration took office. These were the only two
13 administrative subpoenas that I noted in those records.
14 And, again, that does not show a pattern of abuse. I
15 believe it's a limited mistake that involved these two
16 related cases.

17 For all of these reasons, I am going to deny
18 the request for sanctions. With the prior withdrawal
19 of the request for the subpoenas, those subpoenas will
20 be quashed, and this matter will be concluded.

21 Ms. Woolery, any request for clarification as
22 to the Court's ruling here today?

23 MS. WOOLERY: No, Your Honor.

24 THE COURT: Mr. Hanlon, any request for

1 clarification as to the Court's ruling here today?

2 MR. HANLON: No, Your Honor.

3 THE COURT: All right. Thank you both for your
4 time and your arguments; always appreciated. And that
5 will be all for today. Thank you both.

6 (End of proceedings.)

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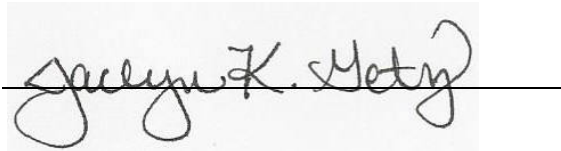
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IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
SHELBY COUNTY, ILLINOIS

CERTIFICATE OF REPORTER

I, Jaclyn K. Getz, an Official Court Reporter for the Fourth Judicial Circuit of Illinois, do hereby certify that the foregoing Report of Proceedings was reported in machine shorthand by me and is a true, correct, and complete transcript of my machine shorthand notes so taken at the time and place hereinabove set forth to the best of my ability.

A handwritten signature in cursive script, reading "Jaclyn K. Getz", is written over a horizontal line. The signature is contained within a light gray rectangular box.

Jaclyn K. Getz
Official Court Reporter
IL License No. 084-004781

DATED this 30th day of August, 2024.