

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

CHRISTOPHER J. BOEHM,)
)
 Plaintiff,)
)
 vs.) No. 2024-CH-5
)
 COUNTY OF SHELBY, SHELBY)
 COUNTY BOARD, and ROBERT)
 ORMAN, in his capacity)
 as Shelby County Board)
 Chairman,)
)
 Defendants.)

MOTION FOR TEMPORARY RESTRAINING ORDER

REPORT OF PROCEEDINGS of the hearing before CIRCUIT
JUDGE DOUGLAS L. JARMAN, on the 8th day of October,
2024.

APPEARANCES:

MR. JERROLD H. STOCKS, and
MR. EDWARD F. FLYNN,
Attorneys at Law,
for the Plaintiff;

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

MR. ROBERT T. HANLON,
Attorney at Law,
for Robert Orman.

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Official Court Reporter
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TRANSCRIPT OF PROCEEDINGS

THE COURT: 24-CH-5, Christopher Boehm and County of Shelby, Shelby County Board, and Robert Orman.

MR. HANLON: Good morning, Your Honor. Robert Hanlon on behalf of Robert Orman.

THE COURT: Good morning.

MS. WOOLERY: Good morning, Judge. Ruth Woolery on behalf of Shelby County.

THE COURT: Good morning, Ms. Woolery.

MR. STOCKS: Your Honor, Jerry Stocks and Ed Flynn on behalf of the plaintiff, Chris Boehm.

THE COURT: Okay. And are the parties here with you?

MR. STOCKS: No, Your Honor.

THE COURT: Okay. All right. Set today for hearing on your motion for TRO. And we've got some motions to address prior to that.

Probably should first start with, Mr. Hanlon, you filed a notice of removal.

MR. HANLON: Yes, Your Honor, I did.

THE COURT: And there's a motion to strike that notice.

MR. HANLON: Judge, I don't believe that the Court has jurisdiction to do that. If I may approach, Your

1 Honor, I have some authority on this point.

2 THE COURT: Thank you. The first problem, your
3 notice of removal doesn't have the attachments.

4 MR. HANLON: It doesn't have the attachment to the
5 U.S. District Court?

6 THE COURT: Right.

7 Unless you filed something today.

8 MR. HANLON: I did not file it today, Judge. I
9 thought that was attached as an exhibit to the notice.
10 I know that I provided copies electronically to
11 opposing counsel. Now that opposing counsel, on behalf
12 of Mr. Boehm, filed their appearance in the U.S.
13 District Court matter, also filed an emergency motion
14 to remand the matter from the district court. Because
15 the U.S. District Court, they've acquiesced the
16 jurisdiction of a court by filing that motion to remand
17 it. This Court doesn't have the jurisdiction to hear
18 the matter because of the effectiveness of the filing
19 becomes divested jurisdiction when it's filed in the
20 district court, not when it's filed here in the circuit
21 court.

22 THE COURT: Do you have a hearing set in federal
23 district court?

24 MR. HANLON: No, there's not a hearing set. It is

1 for -- there is a briefing schedule entered.

2 THE COURT: Okay. Counsel?

3 MR. STOCKS: Yes, Your Honor. The attack in
4 federal court and here in our motion to strike is that
5 Mr. Hanlon is not authorized to have made that filing.
6 It's called the nullity doctrine. So if a filing, be
7 whatever court it is in, is null, it is as if it never
8 existed. So if the federal pleading is a null act, it
9 does nothing to divest this Court of its subject matter
10 jurisdiction.

11 The issue of first impression is where is that
12 nullity to be adjudicated? We submit that it's to be
13 adjudicated here for this very reason. The Defendant
14 Orman is an official capacity defendant in his capacity
15 as county board chairman. Mr. Hanlon is an interloper
16 maintaining an action in federal court without lawful
17 authority. The county's code is very specific in that
18 he is not authorized to undertake any action. In fact,
19 not is -- is not even authorized to enter the
20 appearance he has made here today under the county code
21 without this Court first appointing him and authorizing
22 him to act on behalf of a county officer. So
23 everything that Mr. Hanlon has done is a nullity. If
24 it is a nullity, it hasn't occurred, it's as if it

1 never existed. So what we have ourselves trapped in is
2 gamesmanship where he intervenes without lawful
3 authority, makes a federal filing. We've attacked that
4 federal filing on the nullity doctrine, and then in the
5 alternative on other grounds as well. But it still
6 comes back to this Court is the only court that can
7 address whether his actions are null or not, because
8 it's this Court that has to appoint Mr. Hanlon or some
9 other attorney, after following all of the procedures
10 of the county's code to designate a special prosecutor
11 to defend the action against the county board chairman.
12 And none of that has occurred here. And the docket
13 sheet of this action establishes that.

14 So we respectfully submit that the Supremacy
15 Clause is not invoked because everything that's
16 happened in federal court is null and void. We find
17 ourselves whipsawed between a make-believe action in
18 federal court to keep me out of the real action here in
19 state court. It's for that reason we insist on our
20 motion to strike his notice of removal, which facially
21 is defective, at least to the extent it's incomplete.
22 But, more importantly, he has no authority to be
23 standing here in this court right now because he has
24 not been appointed as special prosecutor. The State's

1 Attorney has indicated that she believes there is a
2 potential conflict, but it does not end with her filing
3 of that motion. In fact, as our second filing of this
4 morning would indicate, with all due respect to the
5 State's Attorney, we -- we believe that a conflict in
6 opinion as to what can be done or not be done is not an
7 actual conflict of interest. And in the case that
8 we've cited in our objections, that's the very point
9 that is made in that case, is that the State's Attorney
10 is the counsel for all of our defendants here. All
11 existing as the County of Shelby or under the umbrella
12 of the County of Shelby. And I guess in a more
13 specific sense, Orman and the county board probably are
14 surplus parties. But the resolution at issue expressly
15 attempts to delegate the authority to decide what bids
16 to accept or not accept to the county board chairman
17 that, out of abundance of caution, we included in the
18 injunctive relief. But if the County of Shelby
19 confesses the injunction, he would be bound by it
20 anyway in his official capacity.

21 So I'd like to say that this is a case that we
22 can find authority where the nullity doctrine would
23 preempt the attachment of federal jurisdiction and
24 therefore the Supremacy Clause; because if it's null,

1 it can't do that. So that's where we find ourselves is
2 -- and this Court's docket for this matter will show as
3 we've lined out that there's not been a hearing on the
4 motion of conflict. There's not been an appointment.
5 There's not been the exhaustion of other public
6 attorneys to act, and the county's code says that must
7 be strictly construed before an appointment is made.
8 And so that brings us to where we are on these
9 preliminary matters. And I wish I could find a case on
10 all fours. I recognize the significance of a notice of
11 removal, but here if we recognize that to have legal
12 effect, we have circumvented all of the statutory
13 procedures regarding replacing the elected or the
14 appointed legal authority of the county. And we are
15 giving the powerless, by law, the power to frustrate
16 proceedings in state court.

17 He stands here today, and I respectfully
18 submit that he should not be heard in this court today
19 because he does not have a lawful appointment to
20 represent this party. And in so doing, is he
21 committing the act of maintenance or is he in contempt
22 of court that he persists in representing a party, that
23 we know by statute, he has no lawful authority to do
24 so? And so as to that preliminary matter, that

1 exhausts my remarks, Your Honor.

2 THE COURT: Hold on just a second, Mr. Hanlon.

3 Ms. Woolery, do you want to address the
4 removal issue?

5 MS. WOOLERY: Your Honor, I would join in the
6 arguments of counsel for Mr. Boehm in this argument.

7 THE COURT: Okay. And, Mr. Hanlon, I'll let you
8 address the issue of whether or not you've got
9 authority to enter your appearance.

10 MR. HANLON: Yes, Judge --

11 THE COURT: Which I'll add also, you've not entered
12 your appearance.

13 MR. HANLON: Judge, I had my appearance here.
14 Because of the nature of having filed the notice of
15 removal, I prepared an appearance to file here today.

16 But with respect to the claim that my
17 appearance is improper, on October 3rd of this year,
18 Mr. Orman dispatched an e-mail to Ms. Woolery that due
19 to the conflict in the matter of Boehm TRO case, I --
20 that I am individually named in my capacity as a board
21 member, I've elected to retain my own counsel. In
22 response to that, Ms. Woolery has stated, You are free
23 to do that, however, I've already filed a motion
24 requesting the Court appoint you and the board separate

1 counsel. It's up to you on how you would like to
2 proceed.

3 If I may, Your Honor?

4 THE COURT: Sure.

5 MR. HANLON: There was a matter involving this
6 county that went up to the appellate court that
7 involved the law firm of Featherstun, Gaumer, Stocks,
8 Flynn and Eck, in which they were hired by the board.
9 In contrast to all these arguments that they're making
10 here today, went up to the appellate court. Appellate
11 court sided with Mr. Flynn's law firm, ordering the
12 county board to pay him money on an appointment for his
13 representation there. And so it seemed to me, Your
14 Honor, that they can't come to this court and having
15 acted and obtained judgment in the appellate court for
16 their own law firm to do the very thing they're now
17 complaining that I'm doing after the appellate court
18 has already ruled in that case.

19 THE COURT: Ms. Woolery?

20 MS. WOOLERY: Thank you, Your Honor.

21 Your Honor, my only response would be this.
22 While I do believe that -- obviously I believe there is
23 a conflict, which is why I filed my motion in this
24 matter to have counsel appointed for both Mr. Orman and

1 the Shelby County Board. The law is clear that there
2 is a procedure for doing that, which is why I informed
3 Mr. Orman that the motion had already been filed.
4 Essentially what my response was, that if he felt the
5 need to hire private counsel at his own expense, he was
6 free to do so. I do not believe that this is a
7 situation where Mr. Hanlon would be appointed. I
8 believe that there is -- there are other conflicts at
9 issue with his prior governmental position in this
10 office and now representing someone -- an individual
11 member of the county board. Again, the implication was
12 that if he wanted to privately hire him at his own
13 cost, he was free to do so; however, I had already
14 filed that motion requesting the Court to appoint a
15 special prosecutor in this case.

16 THE COURT: Mr. Stock, did you want to respond?

17 MR. STOCKS: Your Honor, the prior circumstances
18 referenced, I would have to see the case, but as I
19 understand -- Mr. Flynn can speak directly because he
20 was involved -- occurred or arose in an entirely
21 different circumstance where the board and the State's
22 Attorney hired on a private civil matter with board and
23 court approval. So what we're lacking here is none of
24 that. And I don't know that every claim was official

1 capacity where he -- were you representing the County
2 of Shelby in that?

3 MR. FLYNN: Your Honor, if I may --

4 THE COURT: Mr. Flynn, sure.

5 MR. FLYNN: The case that Mr. Hanlon is referring
6 to was a case in which I was hired to handle some labor
7 matters for the county. Those actually went to an
8 arbitration. We had a two-day trial, and then the
9 treasurer refused to pay my fee. So consequently --
10 and I didn't know that for about six months -- my
11 services had been completed. I filed a complaint; and
12 then on a motion for summary judgment, my complaint and
13 my fee was granted. It did go up on appeal. It did
14 not go up on appeal that -- that Mr. Hanlon referenced
15 to this Court. It went up on appeal simply on the
16 merits of the case, and the appellate court summarily
17 dismissed the appeal and my fee was paid.

18 THE COURT: Okay.

19 MR. HANLON: If I may address that last point?

20 THE COURT: Just that one point.

21 MR. HANLON: First of all, Mr. Flynn has testified
22 as to the facts of something. He's a witness and he
23 can't serve as counsel in a matter. But the matter
24 that was -- appeared with respect to the appellate

1 court in Ms. Woolery's claim that I have some kind of
2 conflict, at no point in time did I represent Mr.
3 Christopher J. Boehm, who would be the opposition party
4 to my representation. And the analogy to the said
5 circumstances for which Mr. Flynn's firm was hired are
6 analogous to this because there was no appointment by
7 the Court, and it was exactly the same thing in the
8 defense in that case was the lack of exhausting all of
9 those remedies.

10 And notwithstanding that, Judge, to make a
11 decision at this point, given the fact that they
12 acquiesce to the jurisdiction of the federal court by
13 filing a motion in the federal court, they can't ask
14 this Court then to circumvent their motion practice in
15 the federal court.

16 THE COURT: Well, several problems here. First of
17 all, as I -- as I mentioned, you did not attach the
18 notice to the federal court with your notice. So that
19 was incomplete. But I agree with Mr. Stock that you
20 didn't have the authority to file that. You were not
21 -- not appointed to represent any of the parties in
22 this case. And the procedure does have to be followed
23 in order for that to be done. I suspect we'll get to
24 that, but not today. But that's not been done yet so

1 you don't have the authority to enter your appearance.
2 Again, which you have not done.

3 So I'm going to -- and I think maybe more
4 important, I think you're going to need to get all of
5 the parties to acquiesce to the removal. And that's
6 not been done, and doesn't sound like that's going to
7 be done. So I'm going to strike the notice of removal,
8 and we'll proceed with the hearing on the TRO. And,
9 Mr. Hanlon, you're welcome to sit there, but I won't be
10 expecting any participation.

11 Okay. Mr. Stock?

12 MR. STOCKS: Yes, Your Honor. It's my
13 understanding that the County of Shelby was prepared to
14 confess the TRO pending preliminary hearing to preserve
15 the status quo.

16 THE COURT: Ms. Woolery?

17 MS. WOOLERY: Yes, Judge. That is the county's
18 position.

19 MR. STOCKS: And we have a proposed order for that,
20 Judge.

21 THE COURT: So, just so that I'm clear, what
22 specific remedy are you asking for in the TRO?

23 MR. STOCKS: In the TRO is that the County of
24 Shelby, County Board Chairman Robert Orman, and the

1 County Board of Shelby and the respective officers,
2 agencies, boards, bodies, agents, representatives, and
3 employees, being 11-101, are prohibited from opening
4 any bids submitted with respect to the sale of the
5 County Farm from any act or transaction related to
6 contracting to sell, selling, or otherwise conveying
7 any portion of the County Farm until further order of
8 Court after hearing on preliminary or a permanent
9 injunction.

10 And two is movant is excused from posting bond
11 as the Court finds that the public interest is served
12 by the issuance of the TRO.

13 THE COURT: And securing the bids?

14 MR. STOCKS: Opening.

15 THE COURT: Your -- the order prohibits the bids
16 from being opened.

17 MR. STOCKS: Right. And the reason for that, Your
18 Honor, is that we are concerned that that could
19 corrupt, as this is a preliminary proceeding. Let's
20 assume we even prevail at permanent, this does not
21 enjoin the legislative actions of the county board.
22 It's the execution of the legislative action, so they
23 may reconvene and through a different resolution with
24 different procedures compliant with the law. We -- our

1 concern is that if those bids are opened now, it would
2 prejudice those bidders as they come in the next round
3 of bidding because they would lose their anonymity
4 competitively if this is to come in a new procedure
5 down the road.

6 THE COURT: Well, I want to make sure we maintain
7 the status quo and --

8 MR. STOCKS: They haven't been opened is my
9 understanding. They weren't to be open until Thursday.

10 THE COURT: But they were -- they've all been
11 received. The deadline for receiving them has passed.

12 MS. WOOLERY: Correct, Judge.

13 THE COURT: So they need to be secured.

14 MR. STOCKS: Yes.

15 MS. WOOLERY: Yes, Judge.

16 THE COURT: Until such time as they are opened.
17 But I will enter the order prohibiting them from being
18 opened, and I'll excuse posting of bond.

19 Ms. Woolery, anything else or any questions?

20 MS. WOOLERY: No, Your Honor. It was my intent
21 today simply again to maintain that status quo until
22 counsel can be heard.

23 THE COURT: And then hearing on the injunction.

24 MR. STOCKS: Your Honor, what my concern would be

1 is that if there's going to be the process for the
2 appointment of counsel, that that probably first must
3 be exhausted. And then when we know who that counsel
4 is, we determine a hearing date.

5 THE COURT: And, Ms. Woolery, have you done any of
6 the preliminary steps? Contacted AG? Special
7 prosecutor?

8 MS. WOOLERY: I have not, Your Honor. I know that
9 previously this Court, in a similar conflict situation,
10 had appointed counsel from Fayette and Effingham. I
11 knew that they were available. I was hoping for the
12 Court's guidance as to whether or not you'd like me to
13 reach out to the appellate prosecutor or the AG's
14 office prior to contacting those attorneys.

15 THE COURT: I would.

16 MS. WOOLERY: Okay.

17 THE COURT: And, Mr. Stock, you don't have any
18 objection to Ms. Woolery --

19 MR. STOCKS: No, Your Honor --

20 THE COURT: -- contacting --

21 MR. STOCKS: No objection.

22 THE COURT: And, of course, the purpose behind that
23 is they would be representing the county without cost.

24 MR. FLYNN: Uh-huh.

1 MS. WOOLERY: Yes, Judge.

2 THE COURT: The county board and board chairman.

3 MS. WOOLERY: Yes, Judge.

4 THE COURT: Okay. So that is going to take a
5 little bit of time, but shouldn't take an extended
6 period of time.

7 You want to do a status in maybe a week?

8 MS. WOOLERY: I think that would be appropriate.

9 MR. STOCKS: That's appropriate, Your Honor.

10 THE COURT: Yeah. And we can do that remotely if
11 you'd like.

12 MR. STOCKS: Great.

13 THE CLERK: We could do October 17 at 9, 10 or 11.

14 MR. STOCKS: We'll make ourselves available. Put
15 whatever time.

16 THE CLERK: You said it's just a status?

17 THE COURT: Yeah, status.

18 THE CLERK: We could do 9:00. October 17 at 9:00.

19 THE COURT: October 17, 9:00, for a status on
20 appointing counsel.

21 MR. FLYNN: Your Honor, will that be by Zoom or
22 would you like a personal appearance?

23 THE COURT: No, we can do that by Zoom.

24 MR. FLYNN: Okay.

1 THE COURT: Either one. That's your option.

2 MR. FLYNN: All right.

3 THE COURT: You can appear in person or by Zoom,
4 either one.

5 MR. FLYNN: Thank you.

6 THE COURT: All right. Thank you.

7 MR. STOCKS: Thank you, Your Honor.

8 MS. WOOLERY: Thank you, Judge.

9 (End of proceedings.)

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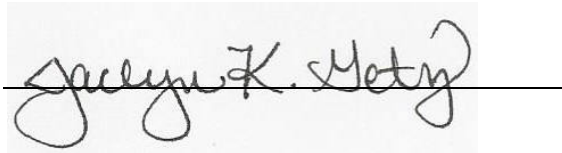
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IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
SHELBY COUNTY, ILLINOIS

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 enclosed in a light gray rectangular box.

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