

STATE OF INDIANA) IN THE MARSHALL CIRCUIT COURT
) SS:
COUNTY OF MARSHALL) CAUSE NO.:50C01-2210-PL-000031

THOMAS DIXON, in his capacity as the)
Republican Member of the St. Joseph)
County Election Board,)

INDIANA REPUBLICAN STATE)
COMMITTEE, INC.,)

ST. JOSEPH COUNTY REPUBLICAN)
PARTY,)

Plaintiffs,)

v.)

RITA GLENN, in her official capacity as)
Clerk of the St. Joseph County Circuit)
Court and Secretary of the St. Joseph)
County Election Board, and)

CHARLES LEONE, in his official)
capacity as the Chair of the St. Joseph)
County Election Board (Democrat),)

Defendants.)

**VERIFIED MOTION TO RECONSIDER COURT’S DENIAL OF TEMPORARY
RESTRAINING ORDER**

COME NOW Plaintiffs Thomas Dixon, in his capacity as Member of the St. Joseph County Election Board (“Dixon”), Indiana Republican State Committee, Inc. (“IRSC”), and St. Joseph County Republican Party (“SJCRP”), and for their Motion to Reconsider the Court’s Denial of their Motion for Temporary Restraining Order, state as follows:

1. Plaintiffs filed their Complaint for Injunctive and Declaratory Relief, Verified Motion for Temporary Restraining Order, and Motion for Immediate Hearing Date for Preliminary Injunction on Monday, October 10, 2022.

2. This Court denied the Verified Motion for Temporary Restraining Order on October 12, 2022, finding that Plaintiffs did not meet their burden under Indiana Trial Rule 65(B).

3. Indiana Trial Rule 65(B) states:

(B) Temporary restraining order--Notice--Hearing--Duration. A temporary restraining order may be granted without written or oral notice to the adverse party or his attorney only if:

(1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or his attorney can be heard in opposition; and

(2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give notice and the reasons supporting his claim that notice should not be required.

Every temporary restraining order granted without notice shall be indorsed with the date and hour of issuance; shall be filed forthwith in the clerk's office and entered of record; shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after entry, not to exceed ten [10] days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the whereabouts of the party against whom the order is granted is unknown and cannot be determined by reasonable diligence or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be entered of record. In case a temporary restraining order is granted without notice, the motion for a preliminary injunction shall be set down for hearing at the earliest possible time and takes precedence of all matters except older matters of the same character; and when the motion comes on for hearing the party who obtained the temporary restraining order shall proceed with the application for a preliminary injunction and, if he does not do so, the court shall dissolve the temporary restraining order. On two (2) days' notice to the

party who obtained the temporary restraining order without notice or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its dissolution or modification and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

4. Plaintiffs did meet their burden under Indiana Trial Rule 65(B).

Included in the Plaintiffs Verified Motion for Temporary Restraining Order, Plaintiffs included the following certification:

CERTIFICATION UNDER T.R. 65(B)(2)

The undersigned hereby certifies that he intends to effect service on Rita Glenn and Charles Leone by personal service of all documents filed contemporaneously herewith at their place of employment on October 11, 2022.

On the date and time of filing of said items, each will be immediately served by e-mail to the following addresses: Charles Leone (cleone@halpinslagh.com) and Rita Glenn (rglenn@sjcindiana.com). Mr. Leone is an Indiana attorney and his email address is that which is listed with the Indiana Roll of Attorneys.

Notice in this instance should not be required as this is an urgent matter affecting voting rights and a temporary restraining order does nothing except restore the status quo for the applicable law to be followed.

/s/ Andrew B. Jones
Andrew B. Jones (#29686-71)

5. Within minutes of filing the Complaint for Injunctive and Declaratory Relief, Verified Motion for Temporary Restraining Order, and Motion for Immediate Hearing Date for Preliminary Injunction via the IEFIS on Monday, October 10, 2022, Counsel for Plaintiffs emailed all pleadings filed in this case to each of the Defendants.

6. Counsel for Plaintiffs then served both of the Defendants at their places of business on the morning of October 11, 2022.

7. Plaintiffs have no adequate remedy at law except declaratory and injunctive relief. There is no amount of damages, nor is there a civil damages enforcement mechanism, to correct the improper delegation of election board member duties.

8. Early and absentee voting started this week in St. Joseph County. The actions of Defendants and the enforcement of the Resolution will cause irreparable harm in that they violate the requirements of I.C. § 3-11.5-4-5 and I.C. § 3-11-10-10 and as such, all absentee ballots certified pursuant to the Resolution at issue may be invalidated, disenfranchising countless voters.

9. There is no threatened harm to Defendants should they be unable to enforce the Resolution as it would only return the duties under I.C. § 3-11.5-4-5 and I.C. § 3-11-10-10 to the rightful election board member(s).

10. For the same reasons provided above, the grant of injunctive relief would not dissolve or harm the public interest.

11. No bond need issue under these facts.

12. As it stands, there are absentee ballots Glenn may access and approve without the statutorily required oversight of Dixon and so immediate and irreparable injury, loss, or damage will result before the adverse party or his or her attorney can be heard in opposition. Ind. Trial Rule 65(B)(1).

WHEREFORE. Plaintiffs ask the court to immediately enter an *ex parte* Temporary Restraining Order, without bond, restraining Defendants from adopting and enforcing the Resolution, holding the Resolution violates no less than two Indiana statutes and has no statutory authority to be made.

VERIFICATION

By my signature below, I verify that the foregoing factual allegations are true under pain and penalty of perjury.

/s/ Thomas M. Dixon

Thomas M. Dixon, Esq.

CERTIFICATION UNDER T.R. 65(B)(2)

The undersigned hereby certifies that he effected service on Rita Glenn and Charles Leone by email and personal service as stated above.

/s/ Andrew B. Jones

Andrew B. Jones (#29686-71)

Respectfully Submitted,

JONES LAW OFFICE LLC

/s/ Andrew B. Jones

Andrew B. Jones (#29686-71)

Attorney for Plaintiffs

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a copy of the above and foregoing pleading was served upon all counsel of record via the IEFS on October 12, 2022.

/s/ Andrew B. Jones

Andrew B. Jones (#29686-71)