

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT  
ST. CLAIR COUNTY, ILLINOIS

BRAD WEISENSTEIN, DAWN ELLIOT, *and*  
KENNY COOK,

Plaintiffs,

v.

KWAME RAOUL, *in his official capacity*  
*as Illinois Attorney General,*

Defendant.

Case No. 23CH0061

**Complaint for Declaratory and  
Injunctive Relief**

**INTRODUCTION**

1. Article VI, Section 9 of the Illinois Constitution gives the Circuit Courts of this state jurisdiction over “all justiciable matters” except those reserved to the Illinois Supreme Court.

2. But the Illinois General Assembly has attempted to strip all Circuit Courts but two of the power to hear constitutional challenges to state laws, rules, and orders.

3. Under House Bill 3062 (2023), citizens may now only bring such cases in either Sangamon County or Cook County.

4. This lawsuit challenges HB 3062 because it is unconstitutional in several respects.

5. First, HB 3062 unconstitutionally strips all but two of the state’s 25 Circuit Courts of the subject-matter jurisdiction that Article VI, Section 9 of the Illinois Constitution grants them. The Illinois General Assembly has no constitutional authority to limit the venue of lawsuits based on their claims’ substance.

6. Second, HB 3062 denies residents of counties other than Sangamon County and Cook County the equal protection of the laws: residents of Sangamon County and Cook County may bring their constitutional claims in their local circuit courts, but residents of any of the other 100 counties cannot.

7. HB 3062 also violates the equal protection of the law by disenfranchising voters in counties outside of Sangamon County and Cook County by forcing them to present their constitutional claims to judges in other jurisdictions, whom they were not permitted to vote for or against.

8. Plaintiffs—who are residents of St. Clair County—ask this Court to declare HB 3062 unconstitutional and enjoin the Attorney General from enforcing it.

### **PARTIES**

9. Plaintiff Brad Weisenstein is a resident of St. Clair County, pays income taxes to the State of Illinois, and is a registered voter.

10. Plaintiff Dawn Elliot is a resident of St. Clair County, pays income taxes to the State of Illinois, and is a registered voter.

11. Plaintiff Kenny Cook is a resident of St. Clair County, pays income taxes to the State of Illinois, and is a registered voter.

12. Defendant Kwame Raoul is the Attorney General of the State of Illinois and is sued in his official capacity as the representative of the State of Illinois charged with the enforcement of state laws, including the provisions challenged in this case.

### **JURISDICTION AND VENUE**

13. This Court has subject-matter jurisdiction over this matter, which challenges an Illinois statute as violating the Illinois Constitution. HB 3062 would deprive this

Court of jurisdiction over this case because it presents a constitutional challenge to a state law, but, as set forth below, that statute is unconstitutional and should be of no effect.

14. This Court has personal jurisdiction over Defendants because this lawsuit arises from their activity in the State of Illinois.

15. Venue is proper in St. Clair County because the facts giving rise to this action occurred, in part, in St. Clair County. HB 3062 would bar venue in this Court because this case presents a constitutional challenge to a state law, but, as set forth below, that statute is unconstitutional and should be of no effect.

#### **STATEMENT OF FACTS**

16. The Illinois General Assembly has enacted a statute, HB 3062, that would bar all Circuit Courts in this state, except those in Sangamon County and Cook County, from hearing constitutional challenges to state laws, rules, and orders brought against the State or its agents—even though the Illinois Constitution grants all Circuit Courts in this state jurisdiction over “all justiciable matters.”

17. The Illinois Code of Civil Procedure, 735 ILCS 5/2-101, allows plaintiffs to bring a lawsuit in either (1) in the county of residence of any defendant who is joined in good faith and with probable cause for the purpose of obtaining a judgment against him or her and not solely for the purpose of fixing venue in that county, or (2) in the county in which the transaction or some part thereof occurred out of which the cause of action arose.

18. Under that provision, a plaintiff alleging that a state statute, rule, or order violates his or her constitutional rights would be permitted to file that action in his

or her county of residence because a violation of plaintiff's constitutional rights would be "in the county in which the transaction or some part thereof occurred out of which the cause of action arose."

19. House Bill 3062, however, changes that.

20. HB 3062 was introduced and passed by the 103rd General Assembly of Illinois and signed by Governor Pritzker on June 6, 2023.

21. HB 3062 amended the Illinois Code of Civil Procedure, 735 ILCS 5, by adding Section 2-101.5, which requires that constitutional challenges to a state statute, rule, or executive order brought against the State or its agents (hereafter referred to as a "constitutional claim"), be filed only in Sangamon County or Cook County. It states:

Sec. 2-101.5. Venue in actions asserting constitutional claims against the State.

(a) Notwithstanding any other provisions of this Code, if an action is brought against the State or any of its officers, employees, or agents acting in an official capacity on or after the effective date of this amendatory Act of the 103<sup>rd</sup> General Assembly seeking declaratory or injunctive relief against any State statute, rule, or executive order based on an alleged violation of the Constitution of the State of Illinois or the Constitution of the United States, venue in that action is proper only in the County of Sangamon and the County of Cook.

(b) The doctrine of forum non conveniens does not apply to actions subject to this Section.

(c) As used in this Section, "State" has the meaning given to that term in Section 1 of the State Employee Indemnification Act.

(d) The provisions of this Section do not apply to claims arising out of collective bargaining disputes between the State of Illinois and the representatives of its employees.

22. HB 3062 states that the Act takes effect upon becoming law. HB 3062, Section 2-101.5 of the Illinois Code of Civil Procedure, became effective on June 6, 2023.

23. Under HB 3062, residents of Cook and Sangamon Counties may file constitutional claims in their local Circuit Court, just as they could any other legal action in that court under Section 2-101 of the Code of Civil Procedure.

24. In contrast, residents of Illinois' other one hundred counties may *not* file constitutional claims in their local Circuit Court. Instead, HB 3062 requires them to file those claims in the Circuit Court of Sangamon County or Cook County.

25. Thus, HB 3062 deprives Illinoisians in 100 of Illinois's 102 counties of their ability to file constitutional claims in their respective local Circuit Courts—and deprives the Circuit Courts with jurisdiction over those 100 counties of the ability to hear such cases.

26. Unlike Section 2-101 of the Code of Civil Procedure, which limits the venue in which a case may be heard based on the residence of a defendant or the location where the underlying transaction occurred, Section 2-101.5 limits the jurisdiction of the circuit courts based on the content of the underlying claim alleged by the plaintiff—and thus effectively deprives all Circuit Courts except those in Sangamon County and Cook County of jurisdiction over such claims.

27. Section 2-101.5 of the Code of Civil Procedure thus discriminates against residents of Illinois who do not reside in Sangamon County or Cook County in favor of residents that do.

28. Further, residents of Sangamon County or Cook County may vote for or against the Circuit Court judges and district Appellate Court justices<sup>1</sup> who will hear constitutional claims, while residents of other Illinois counties may no longer do so.

**HB 3062 injures Plaintiffs.**

29. Plaintiffs are St. Clair County, Illinois residents and registered voters who pay income taxes, among other taxes, to the state.

30. Plaintiffs are injured because HB 3062 purports to prohibit them from bringing constitutional claims in their local Circuit Court, while permitting residents of Sangamon County and Cook County to bring constitutional claims in their local Circuit Courts.

31. Plaintiffs are injured as voters because HB 3062 disenfranchises them by permitting only residents in Sangamon County and Cook County to vote for or against Circuit Court judges and district Appellate Court justices who may hear constitutional claims, while Plaintiffs and residents of the other one hundred counties may only vote for Circuit Court judges and district Appellate Court justices who cannot hear constitutional claims.

32. Plaintiffs are additionally injured when the state uses its general revenue funds—i.e., Plaintiffs' tax money—for an unconstitutional purpose.

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<sup>1</sup> It is true that residents in counties covered by the Fourth District Appellate Court may vote for or against district Appellate Court justices who will hear constitutional claims even though they cannot vote for or against Circuit Court judges who will hear such claims. But residents in counties covered by the Second, Third, and Fifth District Appellate Courts, including plaintiffs, may neither vote for or against Circuit Court judges nor district Appellate Court justices who will hear constitutional claims. Thus, only residents from Cook and Sangamon counties may vote for or against Circuit Court judges, district Appellate Court justices, and Supreme Court justices who will hear constitutional claims.

33. As set forth below, Plaintiffs allege that HB 3062 violates the Illinois Constitution.

34. Thus, Plaintiffs will suffer injury if the state uses their tax money to enforce HB 3062.

## COUNT I

### **HB 3062 strips circuit courts of subject matter jurisdiction in violation of the Illinois Constitution.**

35. Plaintiffs repeat and reallege the allegations of the foregoing paragraphs as if fully set forth herein.

36. Section 2-101.5 of the Illinois Code of Civil Procedure requires that any constitutional challenge to a state statute, rule, or executive order be filed only in Sangamon County or Cook County, thus limiting the subject-matter jurisdiction of every circuit court that does not cover Sangamon County or Cook County.

37. Article VI, Section 9 of the Illinois Constitution provides:

Circuit Courts shall have original jurisdiction of *all justiciable matters* except when the Supreme Court has original and exclusive jurisdiction relating to redistricting of the General Assembly and to the ability of the Governor to serve or resume office. Circuit Courts shall have such power to review administrative action as provided by law.

(Emphasis added.)

38. The Illinois General Assembly does not have the authority to limit the subject-matter jurisdiction of the Circuit Courts in contradiction of the Illinois Constitution.

39. The Illinois General Assembly lacks the authority to limit the venue of claims to select Circuit Courts based on the claims' subject matter.

40. HB 3062 therefore violates Article VI, Section 9 of the Illinois Constitution.

WHEREFORE, Plaintiffs respectfully request that this Court grant the following relief:

- A. Enter a judgment declaring that HB 3062 violates Article VI, Section 9 of the Illinois Constitution because the Illinois General Assembly does not have the constitutional authority to enact venue rules that limit the subject-matter jurisdiction of some Circuit Courts in favor of others;
- B. Permanently enjoin the Attorney General from enforcing HB 3062;
- C. Award Plaintiffs their reasonable costs, expenses, and attorneys' fees pursuant to any applicable law; and
- D. Award Plaintiffs any additional relief the Court deems just and proper.

## COUNT II

### **HB 3062 violates Plaintiffs' equal protection rights under Article I, Section 2 of the Illinois Constitution.**

41. Plaintiffs repeat and reallege the allegations of the foregoing paragraphs as if fully set forth herein.

42. Article I, Section 2 of the Illinois Constitution provides that:

No person shall be deprived of life, liberty or property without due process of law nor be denied the equal protection of the laws.

43. The Equal Protection Clause of the Illinois Constitution "prohibit[s] the government from according different treatment to persons who have been placed by a statute into different classes on the basis of criteria wholly unrelated to the



purpose of the legislation.” *Jacobson v. Department of Pub. Aid*, 171 Ill. 2d 314, 322 (1996).

44. Section 2-101.5 of the Code of Civil Procedure discriminates against residents of Illinois who do not reside in Sangamon County or Cook County, and in favor of residents who do live in those counties, in two ways.

45. First, residents of Sangamon County or Cook County may file claims against the state or its agents alleging that a state statute, rule, or executive order is unconstitutional, in their local Circuit Courts, while residents of the other one hundred Illinois counties may not file such claims in their local Circuit Courts.

46. Second, residents of Sangamon County or Cook County may vote for or against Circuit Court judges and district Appellate Court justices<sup>2</sup> who will hear claims against the state or its agents alleging that a state law, rule, or executive order is unconstitutional, while residents of other Illinois counties may not.

47. HB 3062 denies Plaintiffs the equal protection of the laws because it forces them to file their constitutional claims outside of their local Circuit Court while permitting residents of Sangamon County and Cook County to file constitutional claims in their local Circuit Courts.

48. Further, HB 3062 denies Plaintiffs the equal protection of the law by denying them the ability to vote for or against Circuit Court judges and district Appellate Court justices who will decide constitutional claims while allowing residents of Sangamon County and Cook County to do so.

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<sup>2</sup> See footnote 1.

49. Strict scrutiny applies to a statute challenged on equal protection grounds if the classification adversely impacts a fundamental right protected by the Illinois Constitution. *Jacobson*, 171 Ill. 2d at 323.

50. In this case, HB 3062 always adversely impacts a fundamental right protected by the Illinois Constitution because it applies to all constitutional claims. Therefore, strict scrutiny applies.

51. The State does not have a compelling governmental interest in limiting all constitutional claims against the state to courts in Sangamon County and Cook County.

52. Even if it did have a compelling interest, the government's limitation on where plaintiffs may bring constitutional claims against it is not narrowly tailored to further that interest.

53. HB 3062 therefore violates the equal protection of the law provided by Article I, Section 2 of the Illinois Constitution.

WHEREFORE, Plaintiffs respectfully request that this Court grant the following relief:

- A. Enter a judgment declaring that HB 3062 violates Plaintiffs' equal protection rights under Article I, Section 2 of the Illinois Constitution;
- B. Permanently enjoin the Attorney General from enforcing HB 3062;
- C. Award Plaintiffs their reasonable costs, expenses, and attorneys' fees pursuant to any applicable law; and
- D. Award Plaintiffs any additional relief the Court deems just and proper.

Dated: August 29, 2023

Respectfully submitted,

Brad Weisenstein, Dawn Elliot,  
and Kenny Cook

By: /s/ Jeffrey M. Schwab  
One of their Attorneys

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