

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

PATRICK HARLAN and CRAWFORD
COUNTY REPUBLICAN CENTRAL
COMMITTEE,

Plaintiffs-Appellees,

v.

CHARLES W. SCHOLZ, Chairman of the
Illinois State Board of Elections; ERNEST
L. GOWEN, Vice-Chairman of the Illinois
State Board of Elections; BETTY J.
COFFRIN, CASSANDRA B. WATSON,
WILLIAM M. McGUFFAGE, JOHN R.
KEITH, ANDREW K. CARRUTHERS,
and WILLIAM J. CADIGAN, Members of
the Illinois State Board of Elections,

Defendants-Appellants,

and

DAVID ORR, Cook County Clerk,

Intervening Defendant-Appellant.

Case Nos. 16-3547 & 16-3597

APPEAL FROM THE UNITED
STATES COURT FOR THE
NORTHERN DISTRICT OF
ILLINOIS, EASTERN DIV.
16-cv-07832

Hon. Samuel Der-Yeghiayan

OPENING BRIEF OF INTERVENING DEFENDANT-APPELLANT DAVID ORR
AND SHORT APPENDIX

DONALD PECHOUS
Deputy State's Attorney
Chief, Civil Actions Bureau

KENT S. RAY
MARIE D. SPICUZZA
Assistant State's Attorneys
Of Counsel

ANITA ALVAREZ
State's Attorney of Cook County
500 Richard J. Daley Center
Chicago, Illinois 60602

Attorney for Defendant-Appellants

ORAL ARGUMENT REQUESTED

Table of Contents	i
Table of Authorities	ii
Statement of Jurisdiction	1
Issues Presented for Review	2
Statement of the Case	2
Summary of Argument	2
Argument	2
Conclusion	2
Certificate of Compliance with Rule 32(a)	4
Proof of Service	5

TABLE OF AUTHORITIES

Clerk Orr adopts and incorporates the State Board of Election Defendants' Table of Authorities in their opening brief, ECF No. 16, as Clerk Orr's Table of Authorities.

Statement of Jurisdiction

Jurisdiction in the district and circuit court is based upon a claim alleging that the Illinois election day voter registration law infringes upon the equal protection rights of voters in Illinois counties with a population of less than 100,000 in violation of the Due Process Clause of the Fourteenth Amendment. Plaintiffs Patrick Harlan and the Crawford County Republican Central Committee (“Plaintiffs”) brought their claim against the Chairman and Board Members of the Illinois State Board of Elections (“State Board of Elections Defendants”) under 42 U.S.C. §§ 1983 and 1988. Accordingly, jurisdiction has been established under 28 U.S.C. §§ 1331.

On September 27, 2016, the district court granted Plaintiffs’ motion for preliminary injunction, barring the State Board of Election Defendants from enforcing or implementing election day voter registration at precinct polling places.

This Court has jurisdiction under 28 U.S.C. § 1292(a)(1) to hear this appeal from the district court’s September 27, 2016, order granting a preliminary injunction. On October 4, 2016, Intervening Defendant-Appellant David Orr, Cook County Clerk (“Clerk Orr”) filed a timely notice of appeal challenging the district court’s entry of a preliminary injunction under Fed. R. App. P. 4(a)(1)(A). (The State Board of Election defendants filed their timely notice of appeal on September 27, 2016, in case number 16-3547.) On October 7, 2016, this Court consolidated this appeal, No. 16-3597, with appeal No. 16-3547.

Issue Presented for Review

Clerk Orr adopts and incorporates the State Board of Election Defendants' Issue Presented for Review in their opening brief, ECF No. 16, as Clerk Orr's Issue Presented for Review.

Statement of the Case

Clerk Orr adopts and incorporates the State Board of Election Defendants' Statement of the Case, both the "Factual Background" and "District Court Proceedings" sections, in their opening brief, ECF No. 16, as Clerk Orr's Statement of the Case.

Summary of Argument

Clerk Orr adopts and incorporates the State Board of Election Defendants' Summary of Argument in their opening brief, ECF No. 16, as Clerk Orr's Summary of Argument.

Argument

Clerk Orr adopts and incorporates the State Board of Election Defendants' Argument in their opening brief, ECF No. 16, as Clerk Orr's Argument.

Conclusion

For the reasons set forth in the State Board of Election Defendants' opening brief, ECF No. 16, and adopted and incorporated into Clerk Orr's brief, this Court should reverse and vacate the district court's order of September 27, 2016, granting a preliminary injunction.

Dated: November 10, 2016

Respectfully submitted,

ANITA ALVAREZ
State's Attorney of Cook County

By: /s/ Kent S. Ray

Kent S. Ray
Marie D. Spicuzza
Assistant State's Attorneys
500 Richard J. Daley Center
Chicago, IL 60602
(312) 603-6934
kent.ray@cookcountyil.gov
marie.spicuzza@cookcountyil.gov

CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(a)(7)(C) and Seventh Circuit Rule 32, I certify that the attached Appellant's Opening Brief is proportionately spaced in 12 Century typeface and contains 439 words (as calculated by Microsoft Word), excluding the caption page, Table of Contents, Table of Authorities and this Certificate of Compliance.

Dated: November 10, 2016

By: /s/ *Kent S. Ray*
Kent S. Ray

CERTIFICATE OF SERVICE

I hereby certify that on November 10, 2016, I electronically filed the foregoing with the Clerk of the United States Court of Appeals for the Seventh Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

By: /s/ Marie D. Spicuzza
Marie D. Spicuzza

CIRCUIT RULE 32(d) CERTIFICATION

Pursuant to Circuit Rule 30(d), I certify that all material required by Circuit Rule 30(a) and (b) are included in the State Board of Elections Defendants' Appendix, which Clerk Orr is adopting and incorporating as his appendix.

By: /s/ Kent S. Ray

Kent S. Ray

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

PATRICK HARLAN and CRAWFORD
COUNTY REPUBLICAN CENTRAL
COMMITTEE,

Plaintiffs-Appellees,

v.

CHARLES W. SCHOLZ, Chairman of the
Illinois State Board of Elections; ERNEST
L. GOWEN, Vice-Chairman of the Illinois
State Board of Elections; BETTY J.
COFFRIN, CASSANDRA B. WATSON,
WILLIAM M. McGUFFAGE, JOHN R.
KEITH, ANDREW K. CARRUTHERS,
and WILLIAM J. CADIGAN, Members of
the Illinois State Board of Elections,

Defendants-Appellants,

and

DAVID ORR, Cook County Clerk,

Intervening Defendant-Appellant.

Case Nos. 16-3547 & 16-3597

APPEAL FROM THE UNITED
STATES COURT FOR THE
NORTHERN DISTRICT OF
ILLINOIS, EASTERN DIV.
16-cv-07832

Hon. Samuel Der-Yeghiayan

APPELLANT DAVID ORR'S SHORT APPENDIX

DONALD PECHOUS
Deputy State's Attorney
Chief, Civil Actions Bureau

KENT S. RAY
MARIE D. SPICUZZA
Assistant State's Attorneys

Of Counsel

ANITA ALVAREZ
State's Attorney of Cook County
500 Richard J. Daley Center
Chicago, Illinois 60602

Attorney for Defendant-Appellants

Clerk Orr adopts and incorporates the State Board of Election Defendants' Short Appendix that is submitted with their opening brief, ECF No. 16, as Clerk Orr's Appendix.