

**IN THE CIRCUIT COURT OF COOK COUNTY  
COUNTY DEPARTMENT – COUNTY DIVISION**

	)	
<b>STEVEN DANIEL ANDERSON,</b>	)	
<b>CHARLES J. HOLLEY,</b>	)	
<b>JACK L. HICKMAN,</b>	)	
<b>RALPH E. CINTRON, and</b>	)	
<b>DARRYL P. BAKER,</b>	)	
	)	<b>No. 2024COEL000013</b>
<b>Petitioners-Objectors,</b>	)	<b>Hon. Tracie R. Porter</b>
	)	<b>Calendar 9 – Courtroom 1704</b>
<b>v.</b>	)	
	)	
<b>DONALD J. TRUMP, the ILLINOIS</b>	)	
<b>STATE BOARD OF ELECTIONS sitting as</b>	)	
<b>the State Officers Electoral Board, and its</b>	)	
<b>Members, <i>et al.</i>,</b>	)	
	)	
<b>Respondent-Candidate.</b>	)	

**ORDER**

This matter comes before the Court for Judicial Review of Petitioners-Objectors Steven Daniel Anderson, *et al.*'s ("Objectors") Amended Motion for Expedited Consideration of Petition for Judicial Review ("Amended Motion to Expedite") and Respondent-Candidate Donald J. Trump's ("Candidate") Motion to Stay Pending U.S. Supreme Court Decision in *Trump v. Anderson*, No. 23-719 (U.S. Jan. 5, 2024) ("Motion to Stay") (Objectors and Candidate, hereinafter collectively referred to as the "Parties"), and that both Parties are represented by Counsel. This Court having considered the oral arguments on February 7, 2024, reviewed the motions, accompanied exhibits and other relevant pleadings presented by the Parties, finds as follows:

**I. STATEMENT OF FACTS**

1. On January 4, 2024, the Candidate filed nomination papers, with the Illinois State Board of Elections (the "State Electoral Board") to appear on the ballot at the March 19, 2024, General Primary Election, as a candidate for the Republican Nomination for the Office of the President of the United States. (Petition for Judicial Review filed on January 30, 2024 ("Petition") with the Circuit Court of Cook County, Illinois (the "Court Record")).

2. On January 4, 2024, Objectors filed with State Electoral Board their petition objecting to the validity of the Candidate’s nomination papers. The basis for their objection is “that Candidate is disqualified from holding the Office of the President of the United States under Section 3 of the Fourteenth Amendment of the United States for having ‘engaged in insurrection or rebellion against the [United States Constitution], or given aid or comfort to the enemies thereof after having sworn an oath to the Constitution.’” (Objectors’ Amended Motion to Expedite, ¶2).

3. On January 30, 2024, the State Electoral Board convened to consider the recommendations of the Hearing Officer and the General Counsel of the State Electoral Board and Objectors’ Petition filed on January 4, 2024 (“Petition”). The State Electoral Board voted unanimously denying Objectors’ Motion for Summary Judgment, granting in part the Candidate’s Motion to Dismiss, and overruled the Objectors’ Petition. (24 SOEB GP 517, State Electoral Board Decision, January 30, 2024, ¶10).

4. On January 30, 2024, after the State Electoral Board’s decision was served on the Candidate and/or his Counsels, Objectors timely filed a Petition for Judicial Review with the Circuit Court of Cook County, Illinois. Objectors timely served their Petition on the State Electoral Board, the Candidate and filed the required statutory Proof of Service of the Petition for Judicial Review. (Court Record, January 31, 2024).

5. On January 30, 2024, Objectors filed a Motion for Expedited Consideration of Petition for Judicial Review (“Motion to Expedite”) before the Circuit Court. (Court Record, January 30, 2024). The Motion to Expedite requested a schedule in which Parties would file responsive briefs by February 2, 2024, and set a hearing on the Objectors’ Petition by February 5, 2024. (Court Record, Motion for Expedited Consideration of Petition for Judicial Review, filed January 30, 2024). The matter was randomly assigned by the Clerk of the Circuit Court of Cook County to be heard before Judge Marcia O’Brien Conway in the County Division, Calendar 6.

6. On January 31, 2024, Objectors filed a Motion to Substitute Judge, as a matter of right. That same day, the Acting Presiding Judge of the County Division randomly reassigned the matter to Judge Mary S. Trew in the County Division, Calendar 12, and Judge Trew scheduled Objectors’ Amended Motion to Expedite for hearing on February 2, 2023 at 9:30 a.m. (Court Record, January 31, 2024).

7. On February 2, 2024, the Candidate filed a Motion for Substitution of Judge, as a matter of right, which motion was granted. The Acting Presiding Judge of the County Division

again reassigned the case that same day from Judge Mary S. Trew to Judge Tracie R. Porter in the County Division, Calendar 9. The case was heard before Judge Porter at 11:15 a.m. that same day.

8. On February 2, 2024, the Parties appeared before this Court. The Court set a briefing schedule on Objectors' Amended Motion to Expedite filed on January 31, 2024. The Court also set a simultaneous briefing schedule on Candidate's Motion to Stay which was to be filed, and was actually filed, on February 2, 2024. (Court Record, Briefs on both Parties' Motions filed on February 2, 2024 and February 5, 2024).

9. On February 5, 2024, the State Electoral Board filed a Common Law Record of the election proceedings in this matter, which consisted of twelve volumes of filings, consisting of more than 6,000 pages of the proceedings. (Court Record, February 5, 2024).

10. The Court set a hearing on February 7, 2024, at 1:00 p.m. for both Parties to argue their respective motions.

11. On February 7, 2024, the Objectors' Counsel delivered an external drive to the Court consisting of trial video exhibits considered by and presented before the Colorado Supreme Court in the matter of *Anderson v. Griswold*, 2023 CO 63 (Colo., Dec. 19, 2023), although these exhibits had not been filed in the Court Record as of the date of this Order.

## II. COURT'S DETERMINATION

### I. Objectors' Amended Motion for Expedited Hearing

First, the Objectors argue in their Amended Motion to Expedite that February 2, 2024, was the deadline for election authorities to have sufficient ballots printed and available to mail to military and overseas voters, pursuant to 10 ILCS 5/7-16, 5/16-5.01. (Amended Motion to Expedite, ¶9).

Second, the Objectors bring forth that February 8, 2024 is the first day for an election authority to mail a ballot to vote-by-mail voters, and the first day for early voting at the office of the election authority, pursuant to 10 ILCS 5/19-4, 5/19A-15. (Amended Motion to Expedite, ¶10).

Therefore, the Objectors are requesting the Court to schedule an expedited hearing sooner than the 30 day-period mandated by the Illinois Election Code, ("Election Code") under 10 ILCS 5/10-10.1 because doing so would avoid "any prejudice to Objectors and minimize disruption of the election process for Illinois election authorities and Illinois voters." (Amended Motion to

Expedite, ¶10). The Objectors have not provided the Court with any legal authority or statutory provisions to support a more expedited process than is already codified under Section 10-10.1 of the Election Code.

In enacting 10 ILCS 5/10-10.1, the legislature already set forth the deadlines for all filings on an expedited basis within a 30-day window. The Election Code as it exists contemplates that the courts will have to make decisions about who are and are not qualified to be on the ballot. While this Court may set forth an expedited schedule sooner than contemplated under Section 10-10.1, it is not required to follow a proposed expedited schedule suggested by one party, such as the Objectors suggest in their motion.

In addition, the courts in Illinois have dealt with ballots that have been printed with a candidate's name on it after it issued a ruling that disqualified the candidate's name from being on the ballot. *See Ruffin v. Feller*, 2022 IL App (1st) 220692, ¶ 11 (allowing the candidate's name to stay on the ballot, but directing that no votes cast on her behalf shall be counted by the County Clerk). During oral arguments on February 7, 2024, Counsel for the Objectors proposed that the Election Board could take various means to suppress the vote of a candidate that is found disqualified by the courts, such as placing signs at the polling place, issuing mailings, or other measures.

Finally, it was not possible to set the specific briefing schedule and hearing date on the Objectors' Amended Motion to Expedite, especially given the motion practice that both the Objectors and Candidate have engaged in, which has caused some delay in setting a briefing schedule and a hearing date on Objectors' Petition for Judicial Review. In fact, Objectors' Counsel at the hearing on February 7, 2024, stated that her Motion to Grant Petition for Judicial Review was really not a motion but Objectors' brief in support of the Petition for Judicial Review filed on January 30, 2024. Labeling such brief as a motion could have further prolonged the expeditious process contemplated under Section 10-10.1 of the Election Code.

This Court finds that the time period provided under Section 10-10.1 of the Election Code allows sufficient and reasonable time for the Parties to file briefs on the merits of the Petition for Judicial Review and for the court to set a hearing date, which the Court set on February 7, 2024, so as to avoid further delay in this matter.

The Court also could not proceed until the State Electoral Board filed its Record of Proceedings which it filed in twelve volumes on February 5, 2024. Additionally, the Objectors

only just delivered the video exhibits to the Court on February 7, 2024, and the Candidate has yet to submit their digital and/or video exhibits as of February 7, 2024. Thus, the Court could not proceed with a briefing schedule or hearing until all relevant pleadings had been submitted to the Court.

Therefore, the Court denies Objectors' Amended Motion to Expedite for the following reasons:

a. One of the issues involved in this Petition for Judicial Review involves constitutional issues under federal law, which has been raised by both Parties. The constitutional issues cannot fairly and justly be considered by this Court in the expedited proceeding as suggested by the Objectors.

b. On February 5, 2024, the State Electoral Board filed the record of proceedings before the hearing officer and its decision ("Board Record"). The Board Record is voluminous, with twelve volumes filed into the Court Record, and an estimated 6,000 pages, excluding video exhibits provided to the Court by the Objectors and to be provided by the Candidate. Given the volume of the Board Record, the pleadings and briefs of the Parties, and the video exhibits in this case, the Court needs adequate time to review the documentation and video exhibits, as presented by the Parties to support their positions, in order for the Court to make a fair and just determination of the issues presented for judicial review.

c. The Illinois Election Code under 10 ILCS 5/10-10.1 ("Election Code") has set forth a time frame for judicial review for election cases, with a hearing held within a 30-day time frame and the court's decision to issue promptly after such hearing. The Court finds no legal or compelling reasons set forth by the Parties to deviate from the time frame set by the Election Code, especially given that the issues involve both federal constitutional and state law considerations, which a decision of this Court is likely to be appealed.

d. The Parties, respectively, exercised their right to file motions, including two motions for Substitution of Judge, the Objectors' Amended Motion to Expedite, and the Candidate's Motion to Stay. In doing so, those motions caused delay in setting a briefing schedule and subsequent hearing date on the substantive issues before the Court in the Objectors' Petition for Judicial Review.

e. On February 7, 2024, the Court set the Petition for Judicial Review for a hearing on February 16, 2024, therefore, the Objectors' request to expedite this matter is moot.

## **II. Candidate's Motion to Stay Pending United States Supreme Court Decision**

Candidate requests that this Court enter a brief stay until the United States Supreme Court renders a decision in the case of *Trump v. Anderson*, No. 23-719 (U.S. Jan. 5, 2024), in which the United States Supreme Court considered oral arguments on February 8, 2024, because the issue before the United States Supreme Court will resolve the federal constitutional issue before this Court in Illinois. (Candidate's Motion to Stay, pp. 2-3).

In the alternative, the Candidate is willing to have a more expedited hearing within the 30 days set forth in Section 10-10.1 of the Election Code, and proposes that the Court delay a hearing until February 29, 2024. (Candidate's Motion to Stay, p. 7).

As to the constitutional issue, the Candidate states that the issue before the United States Supreme Court is "Did the Colorado Supreme Court err in ordering President Trump excluded from the 2024 presidential primary ballot?" which requires a consideration on federal constitutional issues under the Fourteenth Amendment, Section 3. (Candidate's Motion to Stay, p. 3).

However, before this Court is the issue raised by the Objectors in the State Electoral Board decision of whether the Candidate "knowingly lied" in his Statement of Candidacy, which may impose a new scienter requirement not set forth in the text of 10 ILCS 5/7-10 of the Election Code. (Objectors' Response in Opposition to Respondent's Motion to Stay, pp. 7-8; 24 SOEB GP 517, State Electoral Board Decision, January 30, 2024, ¶10-C).

Taking in consideration the issues from the State Electoral Board under judicial review by this Court, the Court denies Candidate's Motion to Stay, for the following reasons:

a. The Illinois Election Code gives this Court jurisdiction over this matter, and requires the Court to schedule a hearing within 30 days of the filing of the Petition for Judicial Review and to make an expeditious decision thereafter, which this Court is capable of doing on issues presented in the Objectors' Petition for Judicial Review.

b. While the constitutional issue presented in this matter may be resolved by the United States Supreme Court, until a decision is rendered by the highest court of the land, this Court finds no reason to delay its determination, or to stall any right of appeal of the Parties to the highest court of this state.

c. In addition to the constitutional issue before this Court, there is a state statutory interpretation issue that may not be resolved by the United States Supreme Court's decision on the federal constitutional issue.

d. While the Court may stay a proceeding in favor of another proceeding, the court is not required to do so, especially when the statutory law is clear as to how the court is to proceed in election cases. See 10 ILCS 5/10-10.1. Given the impact of a decision by this Court, or a higher court, related to the State Electoral Board's facilitation of the March 19, 2024, General Primary Election, any further delay by the Parties in this matter impedes upon the public's confidence in a fair and just election process.

### III. Conclusion

Therefore, the rulings of this Court are as follows:

- a. The Objectors' Amended Motion to Expedite is denied.
- b. The Candidate's Motion to Stay is denied.
- c. This Order is a final and appealable order.

So Ordered.

Dated: February 8, 2024

ENTERED:



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Judge Tracie R. Porter

