

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

Edward "Eddie" Acevedo, Andrea A. Raila, )  
Robert Shaw, Todd Stroger, Elizabeth Joyce, )  
Toni Williams, and Rene Avila )

Plaintiffs )

v. )

Case No:

The Cook County Officers Electoral Board; )  
David Orr, in his official capacity as Cook County )  
Clerk and Chairman of the Cook County Officers )  
Electoral Board; Dorothy Brown, in her official capacity )  
as Member of the Cook County Officers Electoral Board; )  
Kimberly Foxx, in her official capacity as Member of the )  
Cook County Officers Electoral Board; The Chicago )  
Board of Election Commissioners; Marisel Hernandez, )  
William Kresse, and Jonathan Swain in their official )  
capacities as members of the Chicago Board of Election )  
Commissioners; The Illinois State Board of Elections; )  
William Cadigan (chairman), John Keith (vice chairman), )  
William McGuffage, Ian Linnabary, Katherine O'Brien, )  
Andrew Carruthers, Casandra Watson, and Charles Scholz )  
in their official capacities as members of the Illinois State )  
Board of Elections )

Defendants

**PLAINTIFFS' COMPLAINT  
FOR DECLARATORY JUDGMENT  
AND INJUNCTIVE RELIEF**

1. This Civil Rights case challenges as unconstitutional the Illinois Election Code's ballot access requirement that 2018 Democratic Primary Candidates for Countywide offices in the Cook County submit 8,236 valid signatures per 10 ILCS 5/7-10(d)(1) and that Candidates for Commissioner of the Metropolitan Water Reclamation District of Greater Chicago submit 8,075 valid signatures per 10 ILCS 5/7-10(g), while Democratic Primary candidates for Illinois Statewide office such as Governor only need to submit 5,000 signatures for access to the ballot.

2. An immediate injunction prohibiting enforcement of any Cook County or Metropolitan Water Reclamation District of Greater Chicago signature requirement above the statewide requirement of 5,000 for the March 20, 2018 Democratic Party Primary is necessary or else Plaintiff Edward “Eddie” Acevedo will not be a candidate for the 2018 Democratic Primary for Cook County Sheriff and Plaintiffs Robert Shaw, Todd Stroger, Elizabeth Joyce, Toni Williams, and Rene Avila will not be candidates for the 2018 Democratic Primary for Commissioner of the Metropolitan Water Reclamation District of Greater Chicago. This would happen despite the facts that (1) all of the above candidates have submitted a quantity of voter signatures far in excess of the minimum signature requirement currently required under the Illinois Election Code and (2) signatures records examinations conducted by the Cook County Clerk have shown that all of the above candidates have submitted in excess of 5,000 valid signatures of registered voters in Cook County. That means that the signatures submitted by these candidates for local office – in excess of 5,000 valid signatures from voters in Cook County, Illinois – would have been sufficient to place them on the Democratic Party Primary ballot for Governor of Illinois. The signature records examination for Plaintiff Andrea A. Raila, a Democratic candidate for Cook County Assessor found that she submitted an amount of valid signatures well in excess of 8,236 – however, proceedings continue for her petitions for other claims.

3. All Plaintiffs are women and/or minorities. Their removal from the ballot despite their having submitted signatures that would qualify them for the ballot for Governor of Illinois would mean that, contrary to the public interest, the elections for Cook County Sheriff and the two-year term for Commissioner of the Metropolitan Water Reclamation District of Greater Chicago would be uncontested, one-candidate races.

4. Plaintiffs seek a temporary restraining order, preliminary injunction, and permanent injunction that prohibits Defendants from removing Plaintiffs from the ballot for the March 20, 2018 Democratic Party Primary Election and orders Defendants to print the names of Plaintiffs on said Primary Ballot. Plaintiffs further seek a declaration that the Illinois Election Code is unconstitutional to the extent that it requires partisan candidates for local offices to submit more signatures than those required for statewide offices.

### **JURISDICTION AND VENUE**

5. Plaintiff brings this action under 42 U.S.C. §§ 1983 and 1988 to redress the deprivation under color of state law of rights secured by the United States Constitution.

6. Jurisdiction over the federal claims is conferred on this Court by 28 U.S.C. §1331 and §1343(a)(3) and (a)(4). Jurisdiction to grant the declaratory relief requested is provided under 28 U.S.C. § 2201. Venue is proper under 28 U.S.C. § 1391.

### **PARTIES**

7. Plaintiff Edward “Eddie” Acevedo is a resident of Cook County, Illinois. He is a former Illinois State Representative and former Assistant Majority Leader of the Illinois House of Representatives. On December 4, 2017 he submitted far in excess of 8,236 signatures to the Cook County Clerk in support of his candidacy for Cook County Sheriff. A signature records examination conducted by the Cook County Clerk pursuant to an objection filed by Edward Carik found that Plaintiff Acevedo’s petitions contained far in excess of 5,000 valid signatures of Cook County voters registered at the address listed opposite their names on the petition sheets, yet fewer than 8,236 said signatures.

8. Plaintiff Robert Shaw is a resident of Cook County, Illinois. He is a former Chicago Alderman and former Commissioner of the Cook County Board of Review. On December 4, 2017 he submitted far in excess of 8,075 signatures to the Cook County Clerk in support of his candidacy for full six-year term Commissioner of the Metropolitan Water Reclamation District of Greater Chicago. A signature records examination conducted by the Cook County Clerk pursuant to an objection filed by Caroline Soodek, Davia Stagger, Joseph Bertrand, Jr., and Lisa Newman found that Plaintiff Shaw's petitions contained far in excess of 5,000 valid signatures of Cook County voters registered at the address listed opposite their names on the petition sheets, yet fewer than 8,075 said signatures.

9. Plaintiff Todd Stroger is a resident of Cook County, Illinois. He is a former State Representative, former Chicago Alderman, and former President of the Cook County Board of Commissioners. On December 4, 2017 he submitted far in excess of 8,075 signatures to the Cook County Clerk in support of his candidacy for the unexpired two-year term Commissioner of the Metropolitan Water Reclamation District of Greater Chicago. He ran for this office as part of a slate along with Plaintiffs Elizabeth Joyce, Toni Williams, and Rene Avila – also all residents of Cook County, Illinois, who are running for the three six-year term Commissioners of the Metropolitan Water Reclamation District of Greater Chicago. A signature records examination conducted by the Cook County Clerk pursuant to an objection filed by Caroline Soodek, Davia Stagger, Joseph Bertrand, Jr., and Lisa Newman found that Plaintiffs Stroger, Joyce, Williams, and Avila's petitions contained far in excess of 5,000 valid signatures of Cook County voters registered at the address listed opposite their names on the petition sheets, yet fewer than 8,075 said signatures.

10. Plaintiff Andrea A. Raila is a resident of Cook County, Illinois. On December 4, 2017 she submitted far in excess of 8,236 signatures to the Cook County Clerk in support of his candidacy for Cook County Assessor. A signature records examination conducted by the Chicago Board of Election Commissioners pursuant to an objection filed by Shana Renee East and David Temkin found that Plaintiff Raila's petitions contained far in excess of 5,000 valid signatures of Cook County voters registered at the address listed opposite their names on the petition sheets. To wit, the records examination found that her petitions contained far in excess of 8,236 valid signatures, yet the objection proceedings continue as the objectors have made various allegations concerning circulators and notaries.

11. Defendant Cook County Officers Electoral Board is the Electoral Board statutorily tasked with hearing and ruling upon objections to nomination petitions of candidates for Cook County Sheriff, Cook County Assessor, and Commissioner of the Metropolitan Water Reclamation District of Chicago, among other offices. It is composed of Defendant David Orr, Cook County Clerk; Defendant Dorothy Brown, Clerk of the Circuit Court of Cook County; and Defendant Kimberly Foxx, Cook County State's Attorney. Defendant David Orr, in his official role as Cook County Clerk is the chief election official of suburban Cook County.

12. Defendant Chicago Board of Election Commissioners, composed of members Marisel Hernandez, William Kresse, and Jonathan Swain, is the chief election official in the City of Chicago.

13. Defendant Illinois State Board of Elections, composed of members William Cadigan, John Keith, William McGuffage, Ian Linnabary, Katherine O'Brien, Andrew Carruthers, Casandra Watson, and Charles Scholz, serves as the central authority for all election law, information, and procedures in Illinois.

## FACTS

14. The Illinois Election Code per 10 ILCS 5/7-10(a) states that candidates for Statewide Office such as Governor of Illinois need a minimum of 5,000 signatures to run for office. These signatures can be obtained from anywhere in Illinois, and could all be obtained within Cook County. Therefore, 5,000 signatures from registered voters in Cook County would be sufficient to place a candidate for Governor of Illinois on the ballot for the Democratic Party nomination in the March 20, 2018 primary election.

15. The Illinois Election Code per 10 ILCS 5/7-10(d)(1) states that

If a candidate seeks to run for countywide office in Cook County, then the candidate's petition for nomination must contain at least the number of signatures equal to 0.5% of the qualified electors of his or her party who cast votes at the last preceding general election in Cook County.

The definition of primary electors of the Democratic Party used here is the number of votes received by the Democratic candidate who received the most votes in Cook County in the November 2016 General Election. That candidate was Karen Yarbrough for Cook County Recorder of Deeds, who received 1,647,174 votes. 0.5% of that number is 8,236, the signature requirement for Cook County Sheriff and Assessor for the March 20, 2018 Democratic Primary.

16. The Illinois Election Code per 10 ILCS 5/7-10(g) states that:

If a candidate seeks to run for trustee of a sanitary district in which trustees are not elected from wards, then the candidate's petition for nomination must contain at least the number of signatures equal to 0.5% of the primary electors of his or her party from the sanitary district.

The definition of primary electors of the Democratic Party used here is the number of votes received by the Democratic candidate who received the most votes within the Metropolitan Water Reclamation District of Greater Chicago in the November 2016 General Election. That candidate was Karen Yarbrough for Cook County Recorder of Deeds, who received 1,615,043

votes within the territory of the Metropolitan Water Reclamation District of Greater Chicago – which covers the vast majority of Cook County, but is not coterminous with it. 0.5% of that number is 8,075, which is the signature requirement for Commissioner of the Metropolitan Water Reclamation District of Greater Chicago for March 20, 2018 Democratic Primary. There are to be four Democrats nominated for Commissioner in the Primary – 3 for full six-year terms, and one for the unexpired two-year term of Cynthia Santos.

17. Cook County is entirely within the State of Illinois. It has a smaller population and territory than the State of Illinois. It is but one of 102 counties that compose the territory of the State of Illinois. Likewise, the Metropolitan Water Reclamation District of Greater Chicago is located entirely within Cook County and therefore is also entirely within the State of Illinois. The Metropolitan Water Reclamation District of Greater Chicago has a smaller population and territory than the State of Illinois.

18. Governor of Illinois is a more powerful, important, and significant office than Cook County Assessor or Cook County Sheriff. Governor of Illinois is a more powerful, important, and significant office than Commissioner of the Metropolitan Water Reclamation District of Greater Chicago. In fact, if there is a vacancy in office for one of the nine Commissioners of the Metropolitan Water Reclamation District of Greater Chicago, the Governor (without State Senate confirmation) makes the appointment to fill said vacancy.

19. Despite the fact that Governor of Illinois is a more powerful, important, and significant office than Cook County Sheriff or Assessor, 5,000 valid signatures from Cook County voters would be sufficient to put a candidate for Governor on the March 2018 Democratic Primary ballot for Governor, but those same signatures would not be enough to put that candidate on the ballot for Cook County Sheriff or Assessor.

20. Despite the fact that Governor of Illinois is a more powerful, important, and significant office than Commissioner of the Metropolitan Water Reclamation District of Greater Chicago, 5,000 valid signatures from voters within the Metropolitan Water Reclamation District of Greater Chicago would be sufficient to put a candidate for Governor on the March 2018 Democratic Primary ballot for Governor, but those same signatures would not be enough to put that candidate on the ballot for Commissioner of the Metropolitan Water Reclamation District of Greater Chicago.

21. Records Examinations conducted pursuant to petition challenges have established that Plaintiffs have all submitted in excess of 5,000 valid signatures. The signatures collected by each and every one of the Plaintiffs would be sufficient for them to be placed on the Democratic Primary ballot for Governor of Illinois. However, even though Edward “Eddie” Acevedo, Robert Shaw, and Todd Stroger are former elected officials, they could not satisfy the 8,000+ signature requirements for their local offices – a requirement over 60% higher than that for Governor.

22. Despite this, the Cook County Officers Electoral Board is set to vote on January 16, 2018, to remove Edward “Eddie” Acevedo from the Democratic ballot for the office of Cook County Sheriff. In the coming days, the Cook County Officers Electoral Board will vote to remove Robert Shaw, Todd Stroger, Elizabeth Joyce, Toni Williams, and Rene Avila from the ballot for Commissioner of the Metropolitan Water Reclamation District of Greater Chicago.

23. If Edward “Eddie” Acevedo – a Hispanic – were removed from the ballot for Cook County Sheriff – the only remaining candidate will be the incumbent, Tom Dart – a white male, who would win the nomination unopposed, without giving the voters any choice.

24. If Todd Stroger – a black man – were removed from the ballot for the two-year term for Commissioner of the Metropolitan Water Reclamation District of Greater Chicago, the only other candidate will be Kimberly DuBuclet – who would win the nomination unopposed, not giving the voters any choice.

25. If Robert Shaw, Elizabeth Joyce, Toni Williams, and Rene Avila – all minorities and/or women – were removed from the ballot for the full six-year term for Commissioner of the Metropolitan Water Reclamation District of Greater Chicago, then voters would only be able to choose from four remaining candidates for the three nominations.

26. If Andrea Raila – a woman – were removed from the ballot for Assessor, the voters would only be able to choose from the two men running for Cook County Assessor.

#### **COUNT I – DENAL OF EQUAL PROTECTION**

27. Plaintiffs re-allege and incorporate all prior allegations made in this Complaint into this Count as if fully restated herein.

28. The United States Constitution’s Equal Protection Clause, U.S. Const. amend. XIV, § 1, provides that no State shall “deny to any person within its jurisdiction the equal protection of the laws.”

29. The United States Supreme Court held in *Illinois State Board of Elections v. Socialist Workers Party* that is was a violation of Equal Protection rights for the Illinois Election Code to require that a candidate for local office be required to submit more signatures than a candidate for statewide office. 440 U.S. 173, 187 (1979).

30. While the facts in *Socialist Workers Party* concerned Independent candidates and third parties, the 7<sup>th</sup> Circuit Court of Appeals held that the equal protection analysis equally

applies to candidates running in established party primaries, such as those in the present case. *Gjersten v. Board of Election Com'rs for City of Chicago*, 791 F.2d 472, 475-476 (C.A.7 (Ill.), 1986).

31. Ballot access is a fundamental right and strict scrutiny must be applied. Restrictions on ballot access must be narrowly tailored to advance a compelling state interest. In this case, following the analysis from *Socialist Workers Party* and *Gjersten*, the restriction that a candidate must obtain more than 8,000 signatures for the local offices Plaintiffs seek is not narrowly tailored to advance any state interest. Whatever interest the state may have in setting a signature requirement – preventing ballot clutter, showing a modicum of support – would be satisfied for the office of Governor of Illinois by that candidate submitting 5,000 signatures from Cook County. Therefore, per *Socialist Workers Party* and *Gjersten*, it is a violation of Plaintiff's equal protection rights to require that they submit more than 5,000 signatures for their local offices – since the State has declared that 5,000 Cook County signatures would satisfy all its compelling interests for Governor, requiring more than 60% more signatures for a local office is clearly not narrowly tailored.

32. If Defendants did not allow Plaintiffs access to the March 20, 2018 primary for the offices they respectively seek, despite their all having in excess of 5,000 valid signatures on each of their respective nomination petitions, Defendants would be violating Plaintiffs' civil rights under the Equal Protection Clause of the Constitution.

## **COUNT II – DENIAL OF FIRST AND FOURTEENTH AMENDMENT**

### **RIGHT OF ASSOCIATION AND RIGHT TO VOTE**

33. Plaintiffs re-allege and incorporate all prior allegations made in this Complaint into this Count as if fully restated herein.

34. The First Amendment of the United States Constitution protects the Freedom of Association, and this right has been extended to State actions by the Fourteenth Amendment.

35. The US Supreme Court has said that Restrictions on access to the ballot burden two distinct and fundamental rights, "the right of individuals to associate for the advancement of political beliefs, and the right of qualified voters, regardless of their political persuasion, to cast their votes effectively." *Socialist Workers Party*, 440 U.S. at 184, quoting *Williams v. Rhodes*, 393 U.S. 23, 30 (1968).

36. In *Norman v. Reed*, the U.S. Supreme Court re-affirmed *Socialist Worker Party* and ruled again that the Illinois Election Code was unconstitutional where it required candidates for Cook County office to collect more signatures than candidates for statewide office. 502 U.S. 279, 293-294 (1992). While the *Socialist Workers Party* ruling was made using Equal Protection rationales, *Norman* was decided on an analysis of the First and Fourteenth Amendments, as explained in footnote 8:

8. As in *Anderson v. Celebrezze*, 460 U.S. 780, 103 S.Ct. 1564, 75 L.Ed.2d 547 (1983), "[w]e base our conclusions directly on the First and Fourteenth Amendments and do not engage in a separate Equal Protection Clause analysis. We rely, however, on the analysis in a number of our prior election cases resting on the Equal Protection Clause of the Fourteenth Amendment." *Id.*, at 786-787, n. 7, 103 S.Ct. at 1568-1569, n. 7.

37. Since ballot access affects fundamental right, strict scrutiny must be applied. Restrictions on ballot access must be narrowly tailored to advance a compelling state interest. In this case, following the analysis from *Socialist Workers Party* and *Gjersten*, the restriction that a candidate must obtain more than 8,000 signatures for the local offices Plaintiffs seek is not narrowly tailored to advance any state interest. Whatever interest the state may have in setting a signature requirement – preventing ballot clutter, showing a modicum of support – would be satisfied for the office of Governor of Illinois by that candidate submitting 5,000 signatures from

Cook County. Therefore, per *Socialist Workers Party* and *Gjersten*, it is a violation of Plaintiff's equal protection rights to require that they submit more than 5,000 signatures for their local offices – since the State has declared that 5,000 Cook County signatures would satisfy all its compelling interests for Governor, requiring more than 60% more signatures for a local office is clearly not narrowly tailored.

38. If Defendants did not allow Plaintiffs access to the March 20, 2018 primary for the offices they respectively seek, despite their all having in excess of 5,000 valid signatures on each of their respective nomination petitions, Defendants would be violating Plaintiffs' civil rights under the First and Fourteenth Amendments of the Constitution.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs request that this Court:

39. Declare that the Illinois Election Code is unconstitutional to the extent that it requires Candidates for local office to submit more signatures than candidates for statewide office, in flagrant and willful disobedience of the *Socialist Workers Party* and *Norman U.S. Supreme Court* decisions.

40. Issue a temporary restraining order, followed by preliminary and permanent injunctions, against Defendants and all those acting in concert enjoining Defendants from removing Plaintiffs from the March 20, 2018 Democratic Party Ballot and from enforcing any signature requirement greater than 5,000 for Cook County Sheriff, Cook County Assessor, and Commissioner of the Metropolitan Water Reclamation District of Greater Chicago, and further ordering that Defendants print the names of Plaintiffs on the March 20, 2018 Democratic Party Ballot for their respective offices as they have all submitted greater than 5,000 valid signatures.

41. Award to Plaintiffs reasonable costs, expenses, and attorney fees.
42. Award such other and further relief as this Court shall deem just and reasonable.

Dated: January 16, 2018.

Respectfully Submitted,

Plaintiffs

/s/ Frank Avila  
Attorney for Plaintiffs

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**CERTIFICATE OF ATTORNEY AND NOTICE OF ELECTRONIC FILING**

The undersigned certifies that:

1. On January 16, 2018, the foregoing document was electronically filed with the District Court Clerk via CM/ECF filing system; sending service to:

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