

Subcircuit Challenge Denied; State's Attorney Haine Believes County "Fought The Good Fight"

by Brian Brueggemann

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EDWARDSVILLE - Madison County State's Attorney Tom Haine announced today that the Illinois Supreme Court has rejected his request that they review the subcircuit law that was passed last January. Nonetheless, he said he was "honored" by the chance to challenge this law, and that the County "fought the good fight" in the lawsuit.

Haine also congratulated the four other plaintiffs against this law – Judge Chris Threlkeld, Judge Amy Sholar, Sen. Dan McConchie, and Chrissy Dutton Wiley – for their strong stand on principle over a period of many months.

“This subcircuit law chopped Madison County’s judiciary into subcircuits,” said Haine. “It outraged people from across the political spectrum. It resulted in a recent judicial election where two-thirds of the County voters had no vote for the first time in our history. The County Board called on us to fight this law, and we were honored to do so. The County Board can be proud that we fought the good fight. Though the Supreme Court has declined to hear this case, we won some significant victories along the way.”

Haine explained that the aggressive challenge to the subcircuit law resulted in an important appellate court decision that clarifies that voters across Madison County will have a say in the future retention votes for circuit judges. Circuit judges are elected to six-year terms.

At the end of his or her term, a judge can seek retention. In order to be retained for another six-year term, a circuit judge needs to receive “yes” votes from at least 60 percent of voters.

The subcircuit law removed language giving all voters in the circuit a right to vote on these retention elections, leading observers to fear that subcircuit judges could try to be retained only by the subcircuit voters, which would violate the Illinois Constitution. “One of our main concerns with this law was that it was possibly going to limit retention elections to the individual subcircuits,” Haine said.

“This would upend our Constitutional structure. Our appeal clarified that the Constitution is supreme over this law, so retention elections cannot be limited to the subcircuit alone. This opinion will be a bulwark against anyone attempting to limit subcircuit retention elections to individual subcircuits.”

Haine also believed the lawsuit represented an important example of a principled stand by Madison County’s government.

“We showed through this litigation that when extreme laws are passed by the General Assembly that undermine Madison County’s sense of good government and fair and equal rights, we will not go quietly into the night. We will fight back, like we did here, with every legal means at our disposal,” Haine said.

After the subcircuit law was signed into effect by Gov. J.B. Pritzker in January, the Madison County Board overwhelmingly passed a resolution – supported by both parties – urging Haine to consider a legal challenge. Haine thereafter filed for a Temporary

Restraining Order in Sangamon County Circuit Court, and on Jan. 25 the court granted the TRO, which halted the implementation of the subcircuits. But, the defendants in the case appealed that TRO to the Appellate Court, which overturned it.

And when requested, the Sangamon County Court declined to enter a preliminary injunction halting the law, and eventually upheld the law. All plaintiffs jointly appealed, and the Appellate Court took up the case in June, but when the opinion was issued in July, it upheld the subcircuit law.

All plaintiffs decided that an appeal to the Supreme Court was warranted, and so requested a Petition for Leave to Appeal (a procedural requirement in cases such as this). That request was finally denied by the Supreme Court on Nov. 30. In the Nov. 8 election – the first general election conducted under the subcircuit scheme – voters decided three races for circuit judgeships.

Only residents of Subcircuit 1, which covers a western portion of the county, could vote in the judicial races. Two of the litigants – Threlkeld and Sholar – won their races though they were forced to move to do so.

The third winning candidate was local attorney Tim Berkley. In an advisory referendum on the ballot in the November election, more than 87 percent of Madison County voters said they oppose having the county divided into geographic subcircuits. At November's Madison County Board meeting, the litigation was discussed in the aftermath of the election.

Madison County Board member Mike Babcock said some voters were “infuriated” when they got into the voting booth and didn't see judicial candidates on their ballots. He said some voters called him and asked, “Why was I not able to vote for a judge?”

County Board member Mike Walters also voted in favor of the board's resolution supporting a challenge to the law.

“We felt this was something we needed to do, to stand up for the people of Madison County, to say, ‘You have a right to vote for every judge,’” Walters said. “I would vote for this again and again and again because we represent all the people of Madison County.”