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MACON COUNTY ILLINOIS
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LOIS A. DURBIN
CLERK OF THE CIRCUIT COURT

IN THE SIXTH JUDICIAL CIRCUIT MACON COUNTY, ILLINOIS

Petitioner.) Case No. 2018MR1027	
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v.)	
TONY "CHUBBY" BROWN, as a candidate) for Sheriff of Macon County; and JOSH)	
TANNER, as Macon County Clerk) Honorable	
constituting the Election Authority for Macon)	
County, for the General Election held on)	
November 6, 2018.	
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Respondents.	
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VERIFIED ELECTION CONTEST PETITION

PETITIONER Jim Root, individually and by and through his attorneys, hereby complains as follows:

- 1. On November 6, 2018, a General Election was held throughout Macon County and the State of Illinois. The office of the Macon County Clerk conducted that election in Macon County, as the election authority for Macon County.
- 2. On November 20, 2018, the Respondent Macon County Clerk performed the official count of the ballots and rendered a final proclamation of the results for the November 6, 2018 General Election, including the election for the office of Sheriff of Macon County. The Election Code of the State of Illinois vests the Macon County Clerk with the authority to proclaim the results of the election for that office.
- 3. Petitioner Jim Root and Respondent Tony "Chubby" Brown were the only candidates for election to the office of Sheriff of Macon County at this election.
- 4. Petitioner Jim Root, a duly qualified elector in Macon County, voted in this election and, as set forth more fully and specifically below, in good faith based on reasonable inquiry which continues, alleges that mistakes and fraud have been committed in the casting and counting of ballots for the office of Sheriff of Macon County at this election.

5. On November 20, 2018, the County Clerk of Macon County proclaimed the results of the November 6, 2018 General Election for the office of Sheriff of Macon County to be:

Candidate	Total
Tony "Chubby" Brown	19,655
Jim Root	19,654

The two candidates are thus 1 vote apart according to the canvass proclamation. A true copy of the Statement of Votes for the office of Sheriff of Macon County issued by the Macon County Clerk is attached hereto, and incorporated herein by reference as <u>Appendix</u> A.

As set forth more fully and specifically below, the Macon County Clerk's count of the election totals for the race for Sheriff of Macon County was performed in derogation of the Macon County Clerk's statutory duties in that it proclaims a result in which numerous invalid ballots were wrongly counted, numerous valid ballots wrongly not counted, numerous duly qualified voters in Macon County were wrongly denied their right to vote in the election, and numerous individuals who were not qualified to vote wrongly voted.

Based on the facts alleged herein developed in the Petition for Discovery conducted by the Macon County Clerk following the General Election, and in other investigations, a correct and lawful count of the votes which were properly cast and which should have been properly counted in Macon County shows a result different from that reported by the judges of election and proclaimed by the Macon County Clerk. To Wit: that Jim Root was elected Sheriff of Macon County at the General Election on November 6, 2018.

- 6. As to Hickory Point Township, Precinct 7, the judges of election reported and the Macon County Clerk proclaimed that 438 ballots [Election Day] were allegedly properly cast, 434 ballots [Election Day] were allegedly properly cast of the office of Sheriff and that the results of the allegedly proper count were 222 votes for Jim Root and 212 votes for Tony "Chubby" Brown. Such report, proclamation and vote count results are erroneous as follows in that:
 - 1. At least one optical scan ballot was erroneously not counted in Jim Root's total where the voter of that ballot placed an "X" to the right of the name of the person for whom he or she wished to vote, rather than darkening the box to the left of each name, but nonetheless conveying a clear intent to vote for each individual by marking "X" next to their name. A true and correct photograph of said ballot was taken at the Discovery Recount, and is attached hereto and made part hereof as Exhibit A.
 - 2. At least one additional optical scan ballot initially recorded by the optical scan as an undervote was captured as a vote for Root in the manual redundant discovery count. The manual redundant discovery count resulted in a count of 224 votes for Jim Root and 212 votes for Tony "Chubby" Brown in this precinct.

3. At least two optical scan ballots were erroneously counted in Tony "Chubby" Brown's total wherein neither of those ballots were initialed by any election judge as required by the Election Code.

After correcting, as required by law, for the mistakes and fraud in the casting and counting of ballots in Hickory Point Precinct 7 detailed above, the true results in the casting and counting of ballots should be and are that 438 ballots [Election Day] were cast, 434 ballots [Election Day] were cast for the office of Sheriff and, adding 2 undervoted ballots for Jim Root and subtracting 2 improperly counted ballots for Tony "Chubby" Brown, the proper results are 224 votes for Jim Root and 210 votes for Tony "Chubby" Brown.

- 7. As to Hickory Point Township, Precinct 1, the judges of election reported and the Macon County Clerk proclaimed that 1044 ballots [Election Day] were allegedly properly cast, 1035 ballots [Election Day] were allegedly properly cast of the office of Sheriff and that the results of the allegedly proper count were 660 votes for Jim Root and 375 votes for Tony "Chubby" Brown. Such report, proclamation and vote count results are erroneous as follows in that:
 - It was observed and established during the Discovery Recount that two (2) properly cast ballots in this precinct were wrongfully not counted and included in the vote totals reported by the election judges and County Clerk. These two ballots were the subject of the Petitioner's demand for retabulation pursuant to 10 ILCS 5/24B-13, made on December 2, 2018. Both of these ballots contained a vote for Jim Root for Sheriff of Macon County.

After correcting, as required by law, for the mistakes and fraud in the casting and counting of ballots in Hickory Point Township, Precinct 1 detailed above, the true results in the casting and counting of ballots should be and are that 1046 ballots [Election Day] were cast, 1037 ballots [Election Day] were cast for the office of Sheriff and, adding the two (2) ballots containing votes for Jim Root results in the proper total of 662 votes for Jim Root and 375 votes for Tony "Chubby" Brown.

- 8. The Discovery Recount and additional information provided by the Macon County Clerk's Office have revealed mistakes and fraud in the casting and counting of ballots for the office of Sheriff of Macon County resulting in a decrease in the number of votes for Tony "Chubby" Brown, the purported winner, by a net two (2) votes, and an increase in votes for Jim Root of four (4) votes, resulting in a new total of 19,658 votes for Jim Root and 19,653 votes for Tony "Chubby" Brown. Based on these facts there appears a reasonable likelihood that the addition of the 2 votes from Hickory Point 1 to the certified count (to result in an amended certified count) and/or a full manual recount of Hickory Point 7 will change the results of the election.
- 9. The investigations continue and the results thereof will be used to amend the above with additional facts and greater specificity from time to time during the pendency of this proceeding.

WHEREFORE, Petitioner Jim Root prays that this Court:

- A. Order the addition of the two (2) valid ballots from Hickory Point 1 to the certified results from Hickory Point 1, for the amendment of the certified results from Hickory Point 1, for a full manual recount of the Election Day ballots from Hickory Point 7 cast in Hickory Point Township, Precinct 7 during the November 6, 2018 General Election to determine the validity of the proclamation issued by the Macon County Clerk, such recount to include, but not be limited to, an examination of the relevant voting devices, optical ballots, provisional ballots, ballot applications, binder cards, affidavits and other materials from said precincts;
- B. Enter an order declaring Petitioner Jim Root elected to the office of Sheriff of Macon County at the November 6, 2018 General Election; and
- C. Grant such other relief the Court deems fair and just.

/s/ John Fogarty, Jr.

John Fogarty, Jr. Attorney for the Petitioner, Jim Root

Verification by Certification

Under the penalties provided by law pursuant to §1-109 of the Code of Civil Procedure (735 ILCS 5/1-109), the undersigned, Jim Root, certifies that he has read the above Verified Election Contest Petition and that the statements set forth in said Petition are true and correct, except as to matters which are stated to be upon information and belief and, as to such matters, the undersigned certifies as aforesaid that he believes the same to be true.

Petitioner, Jim Root

Prepared by: John Fogarty, Jr. Clark Hill, PLC 130 East Randolph, Suite 3900 Chicago, Illinois 60601 (773) 680-4962 fogartyjr@gmail.com ARDC No. 6257898

EXHIBIT A

CERTIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifles that the digital image of the ballot attached is a true and accurate depiction of a ballot cast in Hickory Point 7 Precinct, Macon County, IL on Election Day observed and examined on both November 30, 2018 and December 16, 2018 in the process of the discovery examination process.

Dated this 19th day of December, 2018

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OFFICIAL BALLOT

GENERAL ELECTION

TUESDAY, NOVEMBER 6, 2018



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APPENDIX A

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Statement of Votes Cast
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MACON COUNTY, ILLINOIS
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	Provisional	Early Voting	HICKORY PT. 11	Provisional	Early Voting	Normal	HICKORY PT. 10	Provisional	Early Voting	Normal	HICKORY PT. 9	Provisional	Early Voting	Normal	HICKORY PT. 8	Projectional	Normal	HICKORY PT. 7	Provisional	Early Voting	Normal	HICKORY PT. 6	Provisional	Early Voting	Normal	HICKORY PT. 5	Provisional	Early Voting	Normal	HICKORY PT. 4	Provisional	Early Voting	Normal	HICKORY PT. 3	Provisional	Early Voting	Normal	HICKORY PT. 2		
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	Provisional	Early Voting	Normal	LONG CREEK 8	Provisional	Early Voting	Normal	LONG CREEK 7	Provisional	Early Voting	Nomal	LONG CREEK 5	Provisional	Early Voling	Normal	LONG CREEK 5	Provisional	Early Voting	Normal	LONG CREEK 4	Provisional	Early Voting	Normal	LONG CREEK 3	Provisional	Early Voting	Normal	LONG CREEK 2	Provisional	Early Voting	Normal	LONG CREEK 1	Provisional	Early Voting	Normal	FN	Provisional	Early Voting	Normal	HICKORY PT. 12			
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	Provisional	Early Viction	SOUTH WHEATLAND 2	Provisional	Early Voting	Normal	SOUTH WHEATLAND 1	Provisional	Early Voting	Nomal	SOUTH MACON	Provisional	Early Voting	Nomal	PLEASANT VIEW	Provisional	Early Voting	Normal	OAKLEY	Provisional	Early Voting	Normal	NIANTIC	Provisional	Early Voting	Normal	MT. ZION 3	Provisional	Early Voting	Normal	MT. ZION 2	Provisional	Early Voling	Normal	MT. ZION 1	Provisional	Early Voting	Today (Latina	Normal	1100		
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Date: 11/20/2018 Time: 4:09:26 PM CST

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