

STATE OF INDIANA)
) SS:
ST. JOSEPH COUNTY)

IN THE ST. JOSEPH CIRCUIT COURT
CAUSE NO. 71C01-2602-PL-000030

GRIFFIN NATE,)
 Plaintiff,)
)
v.)
)
ST. JOSEPH COUNTY ELECTION)
BOARD and DAN SCHAETZLE,)
 Defendants.)

FILED
March 5, 2026
ST. JOSEPH CIRCUIT & SUPERIOR COURT
RM

ORDER

A hearing was held in open court on the 2nd day of March, 2026 *solely* on the issue of Appellant-Plaintiff (hereinafter referred to as “Plaintiff”) Griffin Nate’s Verified Motion for Change of Venue from County and Supplemental Verified Motion for Change of Venue from County and Appellee-Defendant St. Joseph County Election Board and Appellee-Defendant Dan Schaetzle’s (hereinafter referred to as “Defendant Board” and “Defendant Schaetzle”) respective responses in opposition thereto. Plaintiff Nate appeared by counsel Sean M. Surrisi. Defendant Schaetzle appeared by counsel Peter J. Agostino. Defendant Board appeared by counsel Michael P. Smyth. The Court, after reviewing the parties written submissions and having considered the arguments of counsel presented at the March 2 hearing, now **FINDS** and **ORDERS** as follows:

1. First, the Court thanks all counsel of record for their substantive and high-quality briefs and arguments in support of their positions. Second, the brevity of the Court’s Order on this matter reflects the exigency of the matters pending before the Court.
2. This exact question of law before the Court appears to be one of first impression as all counsel and the Court searched diligently for a reported case that addresses this issue. The issue can be most succinctly stated as follows: Is this Court obligated to grant Plaintiff’s Motion for Change of Venue from the County pursuant to Indiana Trial Rule

76(A) because the St. Joseph County Board of Elections is the equivalent of “the county” and the Defendant Board is a necessary and proper party to this cause of action. Alternatively, Plaintiff further contends by way of its supplemental motion that a change of venue from the County is necessary and required because Plaintiff has established bias and prejudice such that no judicial officer in St. Joseph County is capable of presiding over this cause and providing Plaintiff with a fair trial.

3. Counsel for Defendant Board noted that Indiana Trial Rule 76(A) was recently modified and these modifications took effect on February 2, 2026 and that these modifications apply to the instant case.
4. In his written submissions and at the March 2 hearing on this matter, Plaintiff emphasized that the St. Joseph County Election Board is an agency of county government. Indiana Trial Rule 76(A) provides that if “the county where suit is pending is a party” there are grounds for change of venue to another county. Further, “[t]he court must grant the motion if it finds the grounds have been established.” At the hearing, Plaintiff argued that the Board bears the appellation “St. Joseph County Election Board”. Further, the Board receives funding to carry out its functions from the county through ordinary budgetary processes. Plaintiff maintains that one of the only reported cases that addresses on point this issue of whether a governmental entity is or is not controlled by the county for purposes of Trial Rule 76(A) and change of venue from the county supports Plaintiff’s position. See *Scott v. The Consolidated City of Indianapolis*, 833 N.E.2d 1094 (Ind. Ct. App. 2005) *trans. denied*. In the Scott case, the Court of Appeals undertook a detailed analysis of the Marion County Unigov statute and utilized several factors to employ a test as to whether the Consolidated City of Indianapolis is merely a defacto substitute for Marion County because of the

overlapping governmental structures. Plaintiff argued that while the Court of Appeals in *Scott* ultimately found that the Consolidated City of Indianapolis was not an agency of Marion County thus requiring a change of venue from the county, nonetheless the factors and test employed by the Court of Appeals should lead this Court to find that the St. Joseph County Election Board is the equivalent of the county for purposes of Trial Rule 76(A).

5. In his Supplemental Verified Motion for Change of Venue from County, Plaintiff contends that a change of venue is required because Plaintiff has established that he “will be unlikely to receive a fair trial due to local prejudice or bias regarding a party or the claim or defense presented by a party.” *Indiana Trial Rule 76(A)(1)*. For this part of the argument, Plaintiff asserts the presence of a confluence of circumstances that can be summarized as follows: Various staff members with the county clerk’s office were inhospitable to Plaintiff’s counsel; a significant portion of Plaintiff’s claim focuses on the actions of the clerk’s office; at a prior Election Board hearing on the same day as the hearing which forms the basis of this cause of action, a county election clerk appeared to be a difficult witness and the actions of this same election clerk are at issue in this case; the county clerk is tasked by law with serving the Circuit, Probate, and Superior courts of St. Joseph County; Plaintiff is seeking time sensitive injunctive relief and he will be relying on the clerk for the prompt processing of filings, entries, and orders in this case; Plaintiff is the Secretary for the Indiana Republican Party Second District Central Committee while Defendant has been found to be not a “Republican in Good-Standing”; one of the three members of the Election Board is the former Judge of the St. Joseph Probate Court; that Plaintiff alleges Defendant supported the candidacy of the former Judge of the St. Joseph Probate Court and/or opposed the

candidacy of the current Judge of the St. Joseph Probate Court; that it is this alleged conduct by Defendant that lead to him being found to be not a Republican in Good-Standing; that the Judge of the St. Joseph Circuit Court and the Judges of the St. Joseph Superior Court were colleagues of the former Judge of the St. Joseph Probate Court and a current election board member; the Clerk of the Circuit Court posted Facebook comments and video content following the Board meeting involved in this case; and that Defendant Schaetzle by nature of his status as a sitting member of the St. Joseph County Council has jurisdiction over setting the salaries and the budgets of the various courts in St. Joseph County. Plaintiff argues that the totality of the above referenced facts and circumstances should result in venue being transferred to another county to avoid violating Rule 1.2 of the Indiana Code of Judicial Conduct entitled Promoting Confidence in the Judiciary because for any judicial officer in St. Joseph County to preside over this case would result in an appearance of impropriety. Further, Plaintiff asserts that the sum of the many factors discussed above establish grounds under Trial Rule 76(A)(1) that Plaintiff is “unlikely to receive a fair trial due to local prejudice or bias regarding a party or the claim or defense presented by a party.”

6. At the March 2nd hearing, while Defendant and the Board were seated at the same counsel table and were both arguing in opposition to Plaintiff’s Verified Motion for Change of Venue pursuant to Indiana Trial Rule 76(A), they articulated different reasons as to why this Court should deny the Motion for Change of Venue from the County.
7. Defendant Schaetzle argued that Plaintiff’s Verified Motion for Change of Venue should be denied because the St. Joseph County Election Board is not a proper party to this litigation. According to Defendant, this litigation is between Plaintiff Nate and

Defendant Schaetzle, and the Board was merely the tribunal that issued a ruling on the dispute between Plaintiff and Defendant. Defendant maintains that when a tribunal issues a ruling that is adverse to one of the parties, the tribunal does not then become a party to the parties' ongoing litigation. Defendant Schaetzle argues that the St. Joseph County Election Board should be dismissed from this lawsuit as an "improper party" pursuant to Indiana Trial Rules 12(B)(3), 12(B)(6) and that Plaintiff's Motion for Change of Venue should be denied pursuant to Indiana Trial Rules 75 and 76. Defendant Schaetzle argues that suing the Election Board is akin to suing the administrative law judge following an adverse ruling from the ALJ in a Worker's Compensation hearing. Defendant then proceeds to argue that St. Joseph County is the county of preferred venue under Indiana Trial Rule 75(A)(5). Defendant Schaetzle concludes his argument by emphasizing the need for each county's local control over its election processes and procedures and the outsourcing of such local election decisions to neighboring counties would only encourage strategic venue manipulation and destabilize local election administration.

8. As previously stated, the Defendant Election Board likewise opposes Plaintiff's Verified Motion for Change of Venue. The Board filed response briefs in opposition to Plaintiff's original Verified Motion for Change of Venue from the County and also to Plaintiff's Supplemental Verified Motion for Change of Venue from the County. In its original response brief, the Board emphasized that the Election Board is not an agency of county government and therefore the county itself is not a party to this proceeding as defined in Trial Rule 76(A). In support of this position, the Board contends that the St. Joseph County Election Board, like all county election boards, is a creature of statute created to administer elections in the county. The Board asserts that while it receives

funding from the county, the county has no control over its actions and does not supervise, discipline, or terminate members of the Board. While the Board may hire deputies, the county has no role whatsoever in the hiring or firing of these deputies. Further, the county has no appointing power as it relates to the composition of the Board. In fact, under I.C. 3-6-5-5, the county chairs of the two major political parties each appoint one member of the Board, and those members serve at the pleasure of the respective county chairs of the two parties. The third member of the Board is the Clerk of the St. Joseph Circuit Court who pursuant to I.C. 3-6-5-2 is a member of the Board ex officio by nature of her position as a duly elected constitutional officer. This latter point is important, argued the Board's counsel, because this too connotes the Board's independence from the county government. In its Response, the Board cites the case of *State ex rel. McClure v. Marion Superior Ct., Room No. 1*, 158 N.E.2d 264, 268 (ind. 1959) wherein the Indiana Supreme Court stated "[i]t is thus clear that the judge of the circuit court is not a county officer but is an officer of a judicial circuit. It is also established that the clerk is an officer of the circuit court. All the clerks within a judicial circuit are officers of that circuit court." *State ex rel. McClure*, at 268. The Board argues that this Supreme Court case, while not on point factually with the present case, is important as it highlights the Board's contention that when the clerk is serving on the local election board, she is serving in her capacity as a constitutional office holder and not as an agent, appointee, or employee of the county.

9. In its initial Response, the Board also stressed that pursuant to I.C. 3-6-5-14, county election boards are responsible for conducting elections and administering election laws within the county, preparing all ballots except those prepared by the Election Division of the Secretary of State's Office, and distributing all ballots to all precincts

in the county.” The Board maintains that its authority is entirely statutory and state-created and that it performs administrative and quasi-judicial functions but that its powers flow from its state powers and neither the county executive nor the fiscal branch can curtail or expand those powers. The Board’s initial Response cites the case of *Board of Com’rs of Washington County v. Menaugh*, 41 N.E. 605, 13 Ind. App. 311 (Ind. Ct. App. 1895). While the case is quite old, it has not been overturned or questioned and serves to highlight the independence of local election boards.

10. The Board then cited a long line of cases wherein a host of local election disputes were decided in the county where the decision was issued. According to the Board, because I.C. 3-6-5-34 expressly provides that appeals from the county election board are to be filed in the circuit or superior of the county in which the board operates, this language manifests the legislature’s intent for venue to rest in the county of the local election board issuing the decision. The Board’s attorney argues that if the legislature saw an inherent conflict and inability for local judicial officers to hear such disputes emanating from the local election board, the legislature could have addressed this issue in the appeals provision of I.C. 3-6-5-34 where the forum for appeals from the Board is addressed.

11. The Board’s subsequent Response addressed similar issues to those set out above, but it also addressed Plaintiff’s new argument which focused on the need for a change of venue due to the presence of local prejudice or bias. The Board argues that none of the various facts asserted by Plaintiff give rise to judicial bias or establishes that Plaintiff cannot receive a fair trial in this county. Indiana law presumes judicial impartiality. The Board contends that “Indiana courts credit judges with the ability to remain objective notwithstanding their having been exposed to information which might tend to

prejudice lay persons.” *L.G. v. S.L.*, 88 N.E.3d 1069, 1073 (Ind. 2018). According to the Board, Plaintiff has offered no evidence that would suggest that Plaintiff cannot receive a fair trial in St. Joseph County.

12. In rebuttal at the March 2nd hearing, Plaintiff’s counsel argued against several points made by opposing counsel. Namely, Plaintiff’s counsel argued that the mere fact that a bevy of reported cases of appeals from local election boards were heard in the county where the board decision was made is not dispositive of the pending matter. In none of those cases cited by the Board is it apparent that any party sought a change of venue pursuant to Trial Rule 76(A). Plaintiff’s counsel did note, however, that the large number of reported local election law decisions where the local election board appears as a party to the case, cuts against Defendant Schaetzle’s argument that the Board is not a proper party to this litigation. Lastly, Plaintiff’s counsel argued in opposition to the Board’s contention that the legislature could have addressed the specific issue of venue in I.C. 3-6-5-34 on appeals. Plaintiff’s counsel cited to a Zoning statute wherein the legislature expressly stated that an appellant may not seek a change of venue from the county. The legislature chose not to take such a step in the statute creating the local election board which, according to Plaintiff, is telling.

13. This Court **FINDS** the Board’s position to be most persuasive in this instance. This Court is struck by reading through the entirety of the statute establishing the local election board in each county at how the legislature went to great lengths to establish the independence of the election board. This independence starts with the membership of the local election board. It provides no appointing or removal authority to any entity of county government. Instead, the statute provides that the county chair of each major political party in the county may nominate persons for appointment to the county

election board and the Clerk of the Circuit Court shall appoint the nominees to the Board. As noted by counsel for the Board, the third member of the board is “the circuit court clerk, who is ex officio a member of the board.” *I.C. 3-6-5-2*. Further highlighting the Board’s independence is that the statute provides that the county executive **shall** furnish office space to the county election board. *I.C. 3-6-5-10*. The legislature also chose to provide local election boards with the authority to appoint and, at its pleasure, “remove clerks, custodians, and other employees that are necessary in the execution of its powers. The county election board may determine the duties, rank, and salaries of its appointees.” *I.C. 3-6-5-23*. Nowhere is the board obligated to seek the approval of the county to exercise these important functions.

14. The case of *Board of Commissioners of Washington County v. Menaugh*, 41 N.E. 604, 13 Ind. App. 311 (ind. Ct. App. 1895), which remains good law, provides further evidence of the local election board’s longstanding independence from the county. In summary, the Washington County Board of Commissioners refused to pay a claim for \$94.03 stemming from a purchase made at the request of the board of election commissioners for board tickets, cards of instruction, and sample ballots for the general election of 1894. The Board of Commissioners for Washington County refused the claim and sought appeal to the Washington Circuit Court arguing that the county commissioners had the power to contract for such supplies and that the county is not liable for any supplies furnished on the order of the board of election commissioners. Washington Circuit Court Judge Voyles found that the board of election commissioners acted within the scope of their statutory authority and ordered the commissioners to pay the bill. The appellate court interpreted the election law provisions enacted by the legislature in 1875 and 1894 and the state constitution and affirmed the trial court.

Importantly, the appellate court took up the county commissioners' argument that the board of election commissioners is a county officer. Interestingly, the election statutes from 1875 and 1894 referenced in this opinion from 1895 bear great similarity to the present-day local election board. The statute at that time provided that "the clerk of the circuit court and two persons of opposite political parties, appointed by him, shall constitute the county board of election commissioners." Section 6214, 3 Rev. St. 1894. The appellate court concluded by stating that "[t]he county board of election commissioners is not a county officer, within the purview of the constitution or of the act of 1875." *Id.* at 606.

15. In reading the statute and the scant appellate court case law on this subject, this Court **FINDS** that the election board and the Clerk of the Circuit Court acting in her ex officio capacity as a member of the election board are not county officers and further they are not agents or appendages of the county. Thus, Plaintiff's Motion for Change of Venue premised on the county being a party to this dispute is **DENIED**.
16. The Court also **DENIES** Plaintiff's Supplemental Verified Motion for Change of Venue based on the contention that Plaintiff cannot receive a fair trial in St. Joseph County due to local bias or prejudice. In this instance, the Court is persuaded by the Board's citation to a number of reported election law cases where judicial officers from the county in which the dispute arose presided over the disputes. Further, the sort of grudges or past history of being on different sides of past election contests referenced by Plaintiff is not tantamount to establishing the bias of a judicial officer and is not grounds for a change of venue from the county. The litigants themselves in an election dispute almost always have a history and the judicial officer may know of or have a professional relationship with one or more the litigants, but that does not rise to the

level of depriving a litigant of a fair trial under Indiana Trial Rule 76(A)(1). Thus, Plaintiff's Motion for Change of Venue based on the assertion that Plaintiff is unlikely to receive a fair trial in St. Joseph County is also **DENIED**.

For the above and foregoing reasons, Plaintiff's Verified Motion for Change of Venue pursuant to Indiana Trial Rule 76(A) is **DENIED**.

SO ORDERED this 5th day of March, 2026.


RM
Hon. John E. Broden
Judge, St. Joseph Circuit Court


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