

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ALISON (ALI) GRAEFF,

individually and as a
Candidate for Missouri State
Representative

Petitioner, *pro se*,

v.

CIVIL ACTION

NO.: 4:22-cv-00971 RLW

MISSOURI SECRETARY OF STATE

JOHN J. ASHCROFT

in his individual capacity
and in his official
capacity as Chief Elections Official

ST. CHARLES COUNTY MISSOURI

ELECTION AUTHORITY,

KURT BAHR, Director of Elections

Defendant(s)

**PLAINTIFFS STATEMENT TO THE COURT
ON DEFENDANTS' REMOVAL TO FEDERAL COURT**

As the presiding judge over Plaintiff's federal case, 4:22-cv-00682 RLW, Your Honor will notice similarities in the two claims. Defendants actually refer to them as materially indistinguishable. Defendants are correct; however, they are judicially very distinguishable under the law. An "Election Contest" is awarded to candidates that feel irregularities happened in their election. In fact, there are election laws that specifically govern the entire process. From start to finish. RSMo 115.526 through 115.601. While they may be materially similar, they are two very different cases.

Awarded to Plaintiff under RSMo 115.531, is the ability granted to a candidate to contest an election if candidate felt there was irregularities that occurred. Having familiarity with Plaintiff's

case 4:22-cv-00682, its clear Plaintiff strongly believes more than just irregularities occurred. Therefore, Plaintiff felt it was her civic duty to file to contest the Primary Election also. Any avenue Plaintiff is awarded under law to contest an illegal election, Plaintiff will utilize to its fullest extent. Therefore, this is how Plaintiff finds herself on this honorable court's docket again.

Since first filing this case in circuit court, Plaintiff has obtained a copy of a sworn statement made by St. Charles County Councilman, Joe Brazil, (as attached) after receiving notice of the Petition to Contest filed by Petitioner, Missouri Secretary of State Ashcroft stated directly to Councilman Brazil during a discussion regarding Petitioners contestation, "this will never see a courtroom."

This is a concerning statement coming from Missouri's Chief Election official. Especially when RSMo 115.531 specifically dictates any Candidate can contest an election and it **shall be filed, heard, and determined** in court. Why would Defendant Ashcroft say Plaintiff's case would never see a courtroom? This revelation highlights Defendants efforts to bury Plaintiff's case, since his unnecessary action of filing a Notice of Removal to Federal Court prevented this case from "seeing a courtroom" as it was scheduled for hearing at the circuit level on 09/19/2022. If Defendants support election integrity, acting above board, and being transparent as they have stated time and time again when pressed by Missouri voters, why are Defendants' evading this case playing out in a court of law and infringing on Plaintiff's right to Due Process?

Furthermore, this is an act of Obstruction of Justice by Defendant Ashcroft. The Obstruction of Justice began when Secretary of State Ashcroft withheld the posting of "Official Election Results" for ten (10) full days after receiving the results from the verification board. This has obstructed the timeframe of which the Missouri law mandates of this process.

RSMo 115.507 States that "**Not later than the second Tuesday after the election, the verification board shall issue a statement announcing the results of each election held within its jurisdiction and shall certify the returns to each political subdivision and special district submitting a candidate or question at the election.**" In this case that due date would be **August 16, 2022.**

RSMo 115.531 grants a candidate five (5) days after the Secretary of State posts “Official Election Results” to file to contest the election. In this case, **August 31, 2022** as Defendant Ashcroft posted official election results on **August 26, 2022**. Ten (10) full days after receiving the certified results from the verification boards.

By what authority, Missouri code, or statute allows the Secretary of State to hold onto verified election results for ten (10) days after receipt of the results from the verification board(s)?

Furthermore, *RSMo 115.535* “Election contest to have preference in order of hearing. The contested election shall have preference in the order of hearing to all other cases and shall be commenced at the date set and heard day to day, including evenings and weekends, if necessary, until determined. There shall be no continuances except by consent, **so that the case may be concluded not later than the tenth Tuesday prior to the general election.**”

The next general election is November 8, 2022, therefore in this case, the tenth Tuesday prior to the general election would be **August 30, 2022**.

Plaintiff’s hearing was scheduled on Judge Alessi’s docket for September 19, 2022- Nineteen (19) days from Petitioner’s date of filing as #11 on the docket, then placed on 2nd call. Not only did Petitioner’s hearing not take preference in the order of hearing to all other cases, the hearing did not commence on the date it was set. It hasn’t commenced AT ALL and has been postponed or “continued” to federal court without my consent. I ask, what are Plaintiff’s rights under the RSMo? What are the guidelines that govern Plaintiff’s Election Contestation that she can refer to in this process, since the laws *RSMo 115.531* and *RSMo 115.535* are no longer applicable due to Secretary of State Ashcroft’s ten (10) day delay to post “Official Election Results”? What are the rules governing Plaintiff’s Election Contest? How long will Secretary of State be allowed to drag out his delays? The Plaintiff is pro se and can even see the law clearly requires election contests to be heard and concluded in a specific amount of time.

The statues are extremely specific on dates and timeframes for the due process of a candidate that files an Election Contest. How can a candidate possibly file the petition, have it heard, determined, and concluded, prior to **August 30, 2022, the tenth Tuesday prior to the general election**. That timeframe does not even cover the five (5) day period permitting a candidate to submit the contest. Due to Defendant Secretary of State holding the verified results for an extended period after receiving them from the verification boards resulted in an encroachment on

Plaintiff's Due Process rights under Missouri's Election and Suffrage laws. Petitioners' justice has been completely obstructed under the rights awarded to her under statute of *RSMo 115.535*.

Furthermore, Judge Alessi on the day of Petitioners hearing, stated to Petitioner "aside from the Notice to Federal Court, she would have to recuse herself due to conflicts of interest regarding her friendship with St. Charles Co Election Director Kurt Bahr", a named Respondent in the case. She stated further conflicts with her personal participation in the St. Charles Co August 2, 2022 Primary Election.

These "conflicts of interest", significant enough for her to recuse herself, are obvious material facts of Petitioner's contestation that Judge Alessi would have known on September 1st, 2022. Why did Judge Alessi wait till the day of Petitioner's scheduled hearing to put her conflicts on the record and not have recused herself on September 1st, 2022? At what point did Judge Alessi know that Petitioner would not be having a hearing on the 19th of September?

Furthermore, Judge Alessi allowed Michael Mueth, a St. Charles County Associate Counselor who had not entered an appearance to Petitioner's case and is not an Attorney of Record to Petitioner's case, to proceed to the bench with Petitioner. Petitioner inquired to the judge who was this person standing beside her at the judges' bench, as Petitioner was not aware of any counsel appearances other than counsel for Respondent Ashcroft. Mr. Mueth stated to the judge he filed an Entry of Appearance for Respondent Bahr with the federal court for the Motion to Remove Petitioners Contestation however, Mr. Mueth has never filed an Entry of Appearance on behalf of Respondent Bahr in Petitioner's Circuit Court case. By what authority does Mr. Mueth possess which allowed him to hear the intimate details of Petitioner's case without a proper Entry of Appearance? Mr. Mueth did this while representing his client, a Respondent on Petitioner's case, in federal court.

This has the appearance of a collaborated effort between the respondents and the circuit court to obstruct Petitioners right to Due Process and an apparent obstruction of justice.

(Obstructing justice - Impeding or obstructing those who seek justice in a court. The act by which one or more persons attempt to prevent, or do prevent, the execution of lawful process)
Black v. Bockenkamp (A.), 607 S.W.2d 176.

Plaintiff reminds the court, she is a self- representing litigant or pro se, by necessity not choice. Plaintiff has sought representation for weeks without success. Many stating ethical conflicts, many just refuse to take on election cases. Plaintiff has demonstrated to Your Honor and this Court that Plaintiff remains undaunted in her quest to seek redress for the violations of her rights.

Since all parties are in agreement that this honorable court has jurisdiction, Plaintiff respectfully requests Your Honor to immediately schedule Plaintiff's hearing to contest St. Charles County Primary Election, congruent to her rights awarded to her under **RSMo 115.535**.

September 21, 2022

Respectfully submitted by,

/s/ Alison (Ali) Graeff

pro se litigant

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