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MICHAEL D. BYRNE
Plaintiff,

v.
**CHRISTOPHER J. DURKIN IN
HIS OFFICIAL CAPACITY AS
ESSEX COUNTY CLERK**
Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ESSEX COUNTY

DOCKET NO.: ESX-L-5190-23

CIVIL ACTION

**CERTIFICATION OF
MICHAEL D. BYRNE**

I, Michael D. Byrne, hereby certify as follows:

1. I am the plaintiff in the above captioned matter.
2. I reside at 142 Gordonhurst Avenue in Montclair, County of Essex, where I have resided and have been registered to vote since turning eighteen (18) years old.
3. I am the duly elected chairman of the Montclair Republican County Committee, Inc. constituted under *N.J.S.A.* 19:5-2 and 5-3.
4. On Monday, August 13, 2023 an emergency hearing was held before the Honorable Robert H. Gardner, J.S.C. relating to an order to show cause seeking injunctive relief. The relief sought was to restrain defendants from conducting the 2023 general election ballot drawing set to take place at 3 PM on August 13, 2023.
5. I attended this hearing with my attorney, Giancarlo Ghione.

6. Judge Gardner denied my request for an injunction seeking a more transparent ballot drawing process.

7. Judge Gardner did state, however, I was welcome to submit any additional evidence after witnessing the 2023 ballot drawing later that day.

8. Prior to the ballot drawing, defendant Durkin stated to another candidate present as well as to my attorney and I, “I think you’ll be happy with the process.”

9. At 3 PM on August 14, 2023, I witnessed the drawing for ballot position for the Democrat and Republican parties and took a video of the entire process.

10. Defendant Durkin’s hand was and can be seen reaching into the box at 1:51 to choose one of two capsules. Defendant Durkin’s hand is seen emerging from the box ten seconds later at 2:01 after finding the capsule that would make us “happy with the process.” A true and accurate recording of the video I took on my iPad of the ballot drawing can be viewed at the link below.¹

11. Prior to filing my complaint in this action, it was my belief that the capsules used by Defendants are manipulated to distinguish them from each other.

12. As a result of the 2023 ballot drawing – which immediately followed the hearing before Judge Gardner – I am reaffirmed in my belief that the capsules were manipulated to be distinguishable and that the 2023 drawing for general election ballot position lacked transparency, fairness and honesty just as the previous eighteen (18) drawings did.

13. I believe that the Democrat Party and the Democrat Party’s nominees were disadvantaged by the lack of transparency and fairness in the 2023 ballot drawing

¹ <https://fb.watch/mvwXkGrvRh/> (Last visited August 18, 2023)

process just as the Republican Party and the Republican Party's nominees were disadvantaged in the previous eighteen (18) drawings.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the statements made by me are willfully false, I am subject to punishment.


MICHAEL D. BYRNE

DATED: August 18, 2023