

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION

CHRISTOPHER GLEASON, Candidate for Supervisor
of Elections, Pinellas County, Elector, Citizen, and Taxpayer,

Plaintiff,

v.

Case No.: 24-003995-CI
UCN: 522024CA003995XXCICI

JULIE MARCUS, in her official capacity
as Pinellas County Supervisor of Elections, et al.,

Defendants.

**SUPERVISOR MARCUS' REPLY TO PLAINTIFF'S RESPONSE CONTAINED
WITHIN DOCKET 52 AND DOCKET 58**

COMES NOW, Julie Marcus, in her official capacity as Pinellas County Supervisor of Elections, by and through undersigned counsel, pursuant to Rule 2.425 and seeks the Court to uphold its Order Granting Defendant Julie Marcus's Motion to Determine the Confidentiality of Trial Court Records and Granting Defendant's Motion for Order Related to Plaintiff's Filing of Sensitive Information in Violation of Rule 2.425, Florida Rules of General Practice and Judicial Administration.

Docket entry #18 pages 2 and 4 of 27 filed September 9, 2024 as Exhibit G Configuration Report should continue to be held as confidential pursuant to Florida Rule of Judicial Administration 2.420, Florida Statutes §§ 119.0725 (2)(b) and 119.0725 (2)(d).

Plaintiff appears to be conflating the Florida Public Records Law with the provisions governing court filings under the Florida Rules of General Practice and Judicial Administration. The intent of Rule 2.425 is to prevent sensitive information from being made public in court records held by the Clerk of Court. Even if certain exhibits exist as public records under Florida

Statutes § 119, the requirement to redact or seal confidential information in court filings remains unaffected. Gadd v. News-Press Pub. Co., 412 So. 2d 894 (Fla. 2d DCA 1982).

Plaintiff's allegations in paragraph 3 of his Response are unsupported by factual evidence. The Supervisor's actions are aimed at ensuring that the court record complies with confidentiality requirements and does not contain sensitive information. Plaintiff's disregard for these requirements does not negate the necessity of maintaining the confidentiality of such information.

The information contained in Docket entry #18 pages 2 and 4 of 27 filed September 9, 2024 as Exhibit G Configuration Report has never been made public through an official and documented disclosure. There is a critical difference between official and unofficial disclosures. Fitzgibbon v. CIA, 286 U.S. App. D.C. 13, 911 F.2d 755 (1990). The disclosures of information Plaintiff references were his own and they do not tender the critical elections infrastructure data any less confidential.

Plaintiff cannot rely on his own unauthorized dissemination of confidential information to circumvent statutory confidentiality protections. Unauthorized/unofficial public disclosure does not abrogate the legal requirement to maintain the confidentiality of sensitive information within court records. Plaintiff cites Barron v. Colbert, 393 So. 2d 1209, 1211 (Fla. 3d DCA 1981), claiming that the Florida Supreme Court held that confidentiality claims become moot once information enters the public domain. However, this case does not appear to exist in Florida jurisprudence. Therefore, Plaintiff's reliance on this authority is misplaced.

Plaintiff neither shows that pages 2 and 4 of Exhibit G meet any threshold for widespread publication nor provides any valid authority for the proposition that the information contained in Exhibit G qualifies under Fla. Stat. §§ 119.0725 (2)(b) and (d). While transparency is important, the legislature has determined that certain information must remain confidential to protect

significant public interests, including the security and integrity of election systems. The confidentiality provisions in Florida Statutes §§ 119.0725(2)(b) and (d) serve to safeguard sensitive election infrastructure, and compliance with these statutes upholds the public interest.

Paragraphs 11 and 12 do not contain the information which Plaintiff purports it to be and is not relevant to the issues at bar. Paragraph 13 talks about trade secrets; the information the Supervisor is asking this Court to hold as confidential in the public court file is not a trade secret and the Supervisor has not requested confidentiality on that basis. The information disclosed in Exhibit G contains information on confidential election infrastructure as well as network configurations, both of which are confidential and exempt from public records pursuant to Florida Statutes §§ 119.0725(2)(b) and network configurations 119.0725(2)(d).

In paragraph 15, Plaintiff incorrectly assumes that the presence of a modem equates to an internet connection, thereby arguing that the information cannot be confidential. This misunderstanding is irrelevant to the confidentiality provisions under Florida Statutes §§ 119.0725(2)(b) and (d), which protect certain security-related information regardless of its perceived connectivity status. Plaintiff's relies upon the fictitious cases of *Barron v. Colbert* and *Nicolette v. Florida Department of Law Enforcement* to support his argument. Diligent searches were conducted for both Florida as well as any state or federal caselaw with the names and citations relied upon by Plaintiff – there are none. By citing nonexistent authority, Plaintiff demonstrates a blatant disregard for the integrity of the legal proceedings and attempts to mislead this Court. Plaintiff's reliance on fictitious caselaw not only fails to support his arguments, but casts serious doubt on the credibility of his entire submission and the representations therein. In the absence of legitimate legal support, Plaintiff's claims should be rejected.

Defendant has identified the following exhibits as containing confidential and/or sensitive

information which Plaintiff has still not redacted (THIS IS NOT AN EXHAUSTIVE LIST):

- a. Docket 18, Exhibit G contains confidential information on PDF pgs. 2 and 4 of 24 of the Configuration Report from March 19, 2024.
 - i. This photograph was taken in violation of Florida Statutes, section 102.031(5); and
 - ii. This photograph reveals information which is confidential and exempt from public records pursuant to Florida Statutes, section 119.0725.
- b. Docket 4, Exhibit E contains sensitive and confidential information including:
 - i. An e-mail from Dustin Chase to Cathi Chamberlain which includes confidential information, to wit: the date of the voter's vote-by-mail ballot request was made is confidential pursuant to Florida Statutes, section 101.62(3), as set forth in DE12-10 attached as an Exhibit to Plaintiff's Complaint;
 - ii. Untruncated e-mail addresses in violation of Rule 2.45(a)(5)(A);
 - iii. Complete telephone number(s) in violation of Rule 2.45(a)(4)(E);
 - iv. Complete driver's license number(s) in violation of Rule 2.45(a)(4)(C); and
 - v. A portion of a social security number in violation of Rule 2.45(a)(3)(A).
- c. Docket 9 contains a complete driver's license number(s) in violation of Rule 2.45(a)(4)(C) (pdf 4/4).
- d. Docket 10 contains a complete driver's license number(s) in violation of Rule 2.45(a)(4)(C) (pdf 4/4).
- e. Docket 11 contains a complete driver's license number(s) in violation of Rule 2.45(a)(4)(C) (pdf 4/4).

- f. Docket 12 contains a complete driver's license number(s) in violation of Rule 2.45(a)(4)(C) (pdf 4/4).
- g. Docket 14, Exhibit F, Untruncated e-mail addresses in violation of Rule 2.45(a)(5)(A); and Complete telephone number(s) in violation of Rule 2.45(a)(4)(E), which may be limited to the Plaintiff's or governmental.
- h. Docket 17 contains a complete driver's license number(s) in violation of Rule 2.45(a)(4)(C).
- i. Docket 19 contains complete telephone number(s) in violation of Rule 2.45(a)(4)(E).
- j. Docket 22, Exhibit L, contains a complete telephone number in violation of Rule 2.45(a)(4)(E) and an untruncated e-mail address in violation of Rule 2.45(a)(5)(A) and which may be limited to governmental.
- k. Docket 26 contains complete telephone numbers in violation of Rule 2.45(a)(4)(E) and untruncated e-mail addresses in violation of Rule 2.45(a)(5)(A).
- l. Docket 27 contains untruncated e-mail addresses in violation of Rule 2.45(a)(5)(A), which may be limited to the Plaintiff's or governmental.
- m. Docket 28, Exhibit F, Docket 27 contains untruncated e-mail addresses in violation of Rule 2.45(a)(5)(A), which may be limited to the Plaintiff's or governmental.
- n. Docket 30, Exhibit O, contains untruncated e-mail addresses in violation of Rule 2.45(a)(5)(A) and complete telephone numbers in violation of Rule 2.45(a)(4)(E), although Plaintiff redacted some e-mail addresses completely.
- o. Docket 31, Exhibit P, contains untruncated e-mail addresses in violation of Rule 2.45(a)(5)(A), which may be limited to governmental addresses.

- p. Docket 32, Exhibit Q, contains complete telephone number in violation of Rule 2.45(a)(4)(E), which may be limited to governmental numbers, and untruncated email addresses in violation of Rule 2.45(a)(5)(A).
- q. Docket 34, Exhibit S, contains a complete telephone number in violation of Rule 2.45(a)(4)(E) and untruncated e-mail addresses in violation of Rule 2.45(a)(5)(A), both of which are governmental.
- r. Docket 35, Exhibit U, contains untruncated e-mail addresses in violation of Rule 2.45(a)(5)(A), although Plaintiff redacted some e-mail addresses completely.

Plaintiff has not been denied access to public records and fails to articulate a basis as to why the above-identified records containing sensitive information should not continue to be held as confidential/sensitive until Plaintiff cures the issues which were created via his filings. Had Plaintiff paginated his exhibits, the Clerk could be directed to the sensitive information for redaction, however Plaintiff did not do so. Despite Plaintiff's failure to uphold his responsibility under Rule 2.425 of the Florida Rules of General Practice and Judicial Administration to minimize sensitive information in court filings, Plaintiff failed to redact such information, thereby not only violating the rules, but risking the privacy and security of individuals. Exhibit G contains a configuration report dated March 19, 2024, which includes detailed information about Defendant's election equipment data and IT resources. Not only is disclosure of this information expressly protected as confidential and exempt under Florida Statutes § 119.0725(2)(b) and (d) as "information relating to critical infrastructure" and "network schematics." Additionally, this disclosure could compromise election integrity. Plaintiff has a responsibility to adhere to the Florida Rules of General Practice and Judicial Administration. Plaintiff's failure to redact both confidential information as well as sensitive information not only violates these rules but also risks

compromising the privacy and security of individuals and election systems. The court has the authority to require compliance and impose appropriate sanctions for noncompliance.

WHEREFORE, in consideration of the above, Defendant respectfully requests that the Court's Order from September 20, 2024 be upheld and any other such relief this court deems appropriate, including but not limited to the costs, including attorney's fees, incurred in the identification of sensitive information within the Court file and the preparation of this motion.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 27, 2024, the foregoing document was filed with the Clerk of the Circuit Court by using the Florida Courts E-Filing Portal and simultaneously served through the E-Portal to **JEFFREY N. KLEIN, ESQ.**, Attorney for Defendant Pinellas County Canvassing Board, at jklein@pinellas.gov and eservice@pinellas.gov, and to **CHRISTOPHER GLEASON, PRO SE PLAINTIFF**, via E-Mail at gleasonforpinellas@gmail.com, cpgleason72@gmail.com and immutabletruth@protonmail.com.

/s/ Jared D. Kahn

JARED D. KAHN

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