

IN THE SPRINGFIELD CITY COUNCIL
SPRINGFIELD, SANGAMON COUNTY, ILLINOIS

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City Clerk's Office

WILLIE "SHAWN" GREGORY,)
)
Petitioner,)
)
vs.) NO.: 2019-EC-0001
)
GAIL SIMPSON, and DON GRAY, as)
COUNTY CLERK OF SANGAMON)
COUNTY, ILLINOIS,)
)
Respondents.)

RECOUNT HEARING OFFICER'S REPORT AND RECOMMENDED FINDINGS

After reviewing the Brief of Petitioner, WILLIE "SHAWN" GREGORY ("Gregory"), Brief of Respondent, GAIL SIMPSON ("Simpson"), Response Brief of Petitioner Gregory, Reply Brief of Respondent Simpson, Petitioner Gregory's Reply Brief, Respondent Simpson's Second Brief in Response, exhibits, case law, statutes and arguments, the Recount Hearing Officer's Report and Recommended Findings are as follows:

I. OFFICIAL AND STIPULATED VOTE RESULTS

A. Declared Results Alderman of Ward 2

Willie "Shawn" Gregory	465
Gail Simpson	466
Tom Shafer	99
Herman A. Senor	394

B. Stipulated Vote Results

Willie "Shawn" Gregory	460
Gail Simpson	464
Tom Shafer	97
Herman A. Senor	386
Overvote	5

II. PETITIONER GREGORY'S CHALLENGES

A. Three Ballots Cast For Simpson (023-01, 087-01 and 087-05) No Initials Of Election Judges

It is my recommendation that the initials are mandatory as argued in the briefs and, thus, these three (3) votes for Simpson should not be counted in her favor. So, no change to the stipulated results at this point.

B. Overvoted Ballot (087-16 and 087-17) Both Pertain To Same Ballot

Ballot was rejected because of votes for Simpson and Shafer. It is my recommendation that the intent of the voter cannot be ascertained as argued in the briefs, and this ballot should remain an overvote and not counted as to either candidate. So, no change to the stipulated results at this point.

C. Other Ballots (087-06, 087-09, 087-13 and 087-18)

Ballots for Senor which lacked the initials of the election judge. To be consistent, these four (4) votes should not be considered for Senor. Thus, no change to the stipulated results at this point.

D. Eleven Invalid Affidavits Of Assisted Voters In Precinct 87 (087-26 through 087-36)

It is my recommendation that these eleven (11) Affidavits of Assisted Voters were improperly completed and are, therefore, void as argued in the briefs. It is further my recommendation that the requirements are mandatory, and post-election affidavits cannot rehabilitate legally deficient affidavits presented on election day. A legally deficient Affidavit of Assisted Voter cannot be connected to a specific ballot. Thus, the proper remedy is apportionment. The appropriate proportional reductions will be done at the end of this recommendation.

III. RESPONDENT SIMPSON CHALLENGES

A. Ballots – No Initials Of Election Judge (023-004, 023-005, 079-003, 079-004, 079-006, 079-007, 084-001, 084-002, 087-007, 087-010, 087-014 and 087-019)

Again, being consistent, it is my recommendation that these ballots not be counted for the candidate receiving these votes, except for 079-006 challenge. It is my recommendation that this ballot for Senor was initialed correctly. Thus, one (1) vote should be added to Senor of the stipulated results. Senor now has 387 votes.

B. Distinguishing/Identifying Marks On Ballot For Gregory (084-004)

Voter used different colors of ink. It is my recommendation that the different colors of ink used on the ballot do not indicate an attempt to distinguish the ballot and, therefore, the ballot should be counted as a vote for Gregory. So, one (1) vote added to Gregory of the stipulated results. Gregory now has 461 votes.

C. Damaged Ballot Cast For Gregory (087-025)

Ballot unable to run through electronic machine due to damage to ballot. The ballot was remade and initialed by both election judges. It is my recommendation that the City Clerk followed all statutory required steps and the ballot should be counted as a vote for Gregory. So, one (1) vote added to the stipulated results. Gregory now has 462 votes.

D. Two Invalid Affidavit Of Assisted Voters In Precincts 3 And 75 (003-010 and 075-0030)

To be consistent, it is my recommendation that these affidavits were improperly completed and void. The proportional reductions will be done at the end of this recommendation.

E. Certificate On Election Day Registered Voter (006-004 and 084-006)

006-004 alleges voter failed to sign voter registration to receive ballot. I recommend that the Election Code was complied with since voter signed the certificate. 084-006 alleges

Affidavit of Name Change was unsigned by election judge. It is my recommendation that all statutory requirements were met since the affidavit was correctly completed and supporting witness signed under line for printed name. Thus, no changes to stipulated results.

IV. CONCLUSION

For the reasons stated herein and the briefs on file, two (2) disputed ballots should be counted in favor of Gregory, 0 in favor of Simpson, 0 in favor of Shafer, one (1) in favor of Senor, and one (1) in favor of an overvote. Accordingly, the total before factoring in proportional reductions due to invalid affidavits should be as follows:

	Total
Gregory	462
Simpson	464
Shafer	97
Senor	387
Overvote	6

Total ballots to be apportioned across the candidates due to invalid affidavits should be as follows: 1 in Precinct 03, 1 in Precinct 75, and 11 in Precinct 87.

Vote totals should be reduced per precinct as follows:

Precinct 03	Votes	Percent	Precinct 75	Votes	Percent	Precinct 87	Votes	Percent
Gregory	92	51.69%	Gregory	46	36.22%	Gregory	52	16.00%
Simpson	70	39.33%	Simpson	42	33.07%	Simpson	105	32.31%
Shafer	3	1.69%	Shafer	6	4.72%	Shafer	21	6.46%
Senor	13	7.30%	Senor	33	25.98%	Senor	147	45.23%
Total	178	100.00%	Total	127	100.00%	Total	325	100.00%

I am using votes for Precincts from Gregory’s Brief.

Accordingly, after apportionment, each candidate should lose the following vote totals due to the legally deficient affidavits:

	Precinct 03 (1)	Precinct 75 (1)	Precinct 87 (11)	Total
Gregory	.5169	.3622	1.7600	2.6391
Simpson	.3933	.3307	3.5541	4.2781
Shafer	.0169	.0472	0.7108	0.7749
Senor	.7300	.2598	4.9753	5.9651

Therefore, the final vote totals should be as follows:

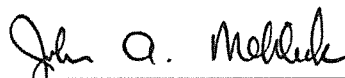
	Total Ballots	Less Apportioned Affidavits	Final Total
Gregory	462	2.6391	459.3609
Simpson	464	4.2781	459.7219
Shafer	97	0.7749	96.2251
Senor	387	5.9651	381.0349

The results on 4/23/2019 had Simpson being elected by one (1) vote. My Report and Recommendation has Simpson being elected by .3610 of a vote. Every vote does count. To have them counted correctly, the election judges in the precincts need to do their jobs correctly and avoid mistakes. To do this, all laws, rules and procedures must be followed. All voters will then be protected and their votes counted. Even if my recommendation was to count all votes and no reductions, the results would be the same. Gregory would get five (5) additional votes. Simpson would get four (4) additional votes. Added to the stipulated results, Simpson would win 368 votes to Gregory's 365.

My recommendation is to be consistent and follow the law, and only count votes as outlined above with reductions.

Therefore, I recommend Gail Simpson should be declared the winner of the election and rightfully entitled to a seat on the Springfield City Council as Alderman of Ward 2.

Respectfully submitted,



John A. Mehlick
Recount Hearing Officer

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