

STATE OF MICHIGAN
SIXTEENTH JUDICIAL CIRCUIT COURT

MACOMB COUNTY REPUBLICAN PARTY and
ERIC CASTIGLIA,

Plaintiffs,

vs.

Case No. 2022-1953-NZ

MARK FORTON and
DAVID LANGER,

Defendants.

OPINION AND ORDER

The parties have filed various motions seeking sundry relief.

I. BACKGROUND

Plaintiffs Macomb County Republican Party and Eric Castiglia filed this action on May 24, 2022. Plaintiffs asserted plaintiff Castiglia is the current chairman of plaintiff Macomb County Republican Party. Defendant Mark Forton was the former chairman and defendant David Langer was the former treasurer of plaintiff Macomb County Republican Party.

Plaintiffs averred the County Convention—a meeting of the elected Macomb County Republican precinct delegates and at-large delegates—was convened on April 11, 2022. The delegates duly elected plaintiff Castiglia (158 votes) as permanent chair over defendant Forton (123 votes). Executive members were also replaced by new members that were duly elected as the Macomb County Executive Committee. Delegates from the 9th and 10th District Caucuses were also duly elected to attend the Republican State Convention. Defendant Forton and Dawn Beattie's challenges to these decisions were rejected by the MIGOP Credentials Committee.

Plaintiffs contended a special meeting of the Macomb County Executive Committee was held April 18, 2022 to elect a new Macomb County Republican Party chairman. A quorum of the Executive Committee members were present and elected plaintiff Castiglia as chairman.

Plaintiffs avowed defendant Forton failed to comply with the April 11, 2022 County Convention outcome, claiming he (defendant Forton) was still chairman. Defendant Forton refused to turn over the bank accounts, records of transfer, keys to the office building on Garfield Road (Clinton Township) and Facebook (and any other social media account) information. Instead, defendant Ford said he had emptied the \$24,000 bank account balances by making contributions and paying checks without the approvals of the executive and finance committees.

Accordingly, plaintiffs' amended complaint sought: I. Declaratory relief that (1) the actions taken April 11 and 18, 2022 are valid and (2) defendant Forton be required to return all property (bank accounts, office keys and social media information) belonging to the Macomb County Republican Party to the Executive Committee; II. Quo warranto and III. Accounting.

On May 24, 2022, plaintiffs had also moved for a temporary restraining order and order to show cause regarding the return of the property identified in their complaint.

A hearing on plaintiffs' motion for a TRO and order to show cause was held June 6, 2022. Based on the hearing, a *Temporary Restraining Order and Scheduling Order* was signed June 7, 2022 that (1) required defendant Forton to turn over the office keys, (2) required defendant Forton and/or defendant Langer to turn over all bank account information, (3) granted plaintiff Castiglia access to all websites, emails and social media accounts, and (4) set a briefing schedule and date for defendants' motion for summary disposition. An *Order Regarding Motion for Reconsideration* was also signed June 7, 2022, staying the TRO until a rehearing on June 24, 2022.

An Order of Adjournment, Order Granting a Substitution of Counsel; Scheduling Order

was signed June 24, 2022, adjourning the hearing on the preliminary injunction until July 8, 2022. The *Order* contained the parties' stipulation that only existing automatic payments drafts will be released from MCRP bank accounts and they will refrain from taking any official action until the preliminary injunction is resolved.

On July 26, 2022, defendants filed a counter-claim for quo warranto.

The parties subsequently agreed to trial of this matter as a quo warranto action based on stipulated facts and exhibits. An *Opinion and Order* was signed August 5, 2022, reinstating defendant Forton, defendant Langer and the other delegates elected to the MCRP Executive Committee at the Fall 2020 County Convention as delegate members of the Executive Committee.

The parties have now filed various motions seek sundry relief.

II. ANALYSIS

A. Motions for Reconsideration

A motion for rehearing under MCR 2.119(F) is not to be granted unless the motion is filed within twenty-one days of the challenged decision. MCR 2.119(F)(1). The moving party must demonstrate a palpable error by which the court and the parties have been misled, and show that a different disposition of the motion must result from correction of the error. MCR 2.119(F)(3). A motion for rehearing or reconsideration that merely presents the same issue(s) ruled on by the court, either expressly or by reasonable implication, will not be granted. *Id.*

The purpose of a motion under MCR 2.119(F) is to allow a court to immediately correct any mistakes it may have made in issuing a decision without the expense of seeking correction on appeal. *Bers v Bers*, 161 Mich App 457, 462-463; 411 NW2d 732 (1987). The time requirement for filing a motion is not jurisdictional but ensures the motion will be brought expeditiously. *Id.* The provisions of MCR 2.119(F) do not restrict the discretion of the judge to reconsider motions

where the judge later determines the judge or a predecessor made an error, based on an intervening change in the law or otherwise. *Michigan Bank-Midwest v DJ Reynaert, Inc*, 165 Mich App 630, 645-646; 419 NW2d 439 (1988), quoting *Brown v Northville Regional Psychiatric Hosp*, 153 Mich App 300, 309; 395 NW2d 18 (1986).

1. Defendants' motion

Defendants assert the *Opinion and Order* dated August 5, 2022 did not specifically address the issue of MCRP Executive Committee officers or their request for injunctive relief that plaintiff Castiglia not represent himself as the MCRP chairman and to prevent him from proceeding with an August 11, 2022 convention call. Hence, defendants seek clarification of these issues. Defendants also argue against entry of a final order until the issues of damages, costs and fines under MCL 600.4511 and 600.4515 are resolved.

As a preliminary matter, the MIGOP is not a party to this action and its actions are generally not subject to review here.

The *Opinion and Order* dated August 5, 2022 clearly:

1. Determined the actions taken to remove and replace delegates elected to the MCRP Executive Committee at the Fall 2020 County Convention were void;
2. Determined the actions taken to elect plaintiff Castiglia and new delegates to the Executive Committee at the April 11, 2022 County Convention were void; and
3. Reinstated defendant Forton, defendant Langer and the other delegates elected to the Executive Committee at the 2020 Fall County Convention as delegate members of the Executive Committee.

Inasmuch as plaintiff Castiglia and the new delegates elected to the Executive Committee at the April 11, 2022 County Convention never legally held positions on the Executive Committee, their subsequent actions while on the Executive Committee were also null and void. Consequently, reinstatement of defendant Forton, defendant Langer and the other delegates elected to the Executive Committee at the 2020 Fall County Convention as delegate members of the Executive

Committee would have also necessarily reinstated them to any offices held on the Executive Committee.

Moreover, *Opinion and Order* dated August 5, 2022's removal of plaintiff Castiglia as a delegate elected to the Executive Committee would have necessarily removed him as an officer of the Executive Committee. As a result, he is precluded from representing himself as chairperson and his convention call would be void.

Defendants have not proffered any evidence that plaintiff Castiglia will not comply with these determinations going forward, precluding the need for injunctive relief. Defendants can also notify the MCRP delegates of these legal determinations and the reinstated Executive Committee's authority to conduct the affairs of the MCRP.

As previously noted, this matter proceeded to trial. Defendants failed to proffer any evidence upon which to calculate an award of damages and/or costs. Therefore, defendants waived consideration of an award of damages and/or costs.

The imposition of a fine under MCL 600.4515 is discretionary. The interests of justice did not favor imposition of a fine.

2. Plaintiffs' motion

Plaintiffs assert defendants did not raise the issue of due process violations until filing their (defendants') Final Brief on August 3, 2022. As defendants failed to timely plead any constitutional claims, plaintiffs argue error in the decision to exercise jurisdiction over an intra-party dispute.

Plaintiffs are mistaken.

Significantly, plaintiffs' complaint delineated at great length how the events at the April 11, 2022 County Convention unfolded and purportedly followed proper procedures. Consequently,

plaintiffs' own complaint raised due process compliance concerns.

Moreover, defendants filed a brief in support of their motion for reconsideration of the June 6, 2022 *Temporary Restraining Order and Scheduling Order* that challenged whether certain actions taken on April 11, 2022 complied with the Bylaws of the MCRP. Defendants' answer to the complaint as well as their motion for summary disposition also challenged the propriety of certain April 11, 2022 actions as violative of the Bylaws of MCRP.

Therefore, defendants had raised due process issues well in advance of trial.

Accordingly, the *Opinion and Order* dated August 5, 2022 did not palpably err in reviewing the actions taken at the April 11, 2022 County Convention. Recall *American Indep Party v Secretary of State*, 397 Mich 689, 696; 247 NW2d 17 (1976), citing *O'Brien v Brown*, 409 US 1, 4, 5; 92 S Ct 2718; 34 L Ed 2d 1 (1972) (“ ‘the political processes’ should ‘function free from judicial supervision’ *unless infringement of constitutional rights is alleged*” [emphasis added]).

B. Defendants' Motion to Show Cause

Defendants assert plaintiff Castiglia, Ron Weiser and Meshawn Maddock are defying the holdings of the *Opinion and Order* dated August 5, 2022. Hence, defendants request orders to show cause why plaintiff Castiglia, Weiser and Maddock should not be held in contempt.

MCR 3.606(A) provides:

For a contempt committed outside the immediate view and presence of the court, on a proper showing on ex parte motion supported by affidavits, the court shall either

- (1) order the accused person to show cause, at a reasonable time specified in the order, why that person should not be punished for the alleged misconduct; or
- (2) issue a bench warrant for the arrest of the person.

As a preliminary matter, defendants' motion is not supported by any affidavits. Therefore, the motion need not be further addressed.

Notwithstanding, the posting by an unknown “minion of Eric Castiglia” is nothing more than rank and inadmissible hearsay. MRE 801(c) and 802.

Defendants recognize the *MIGOP* has set the statewide Republican Party county conventions for August 11, 2022. As such, the MCRP County Convention must take place on August 11, 2022.

Additionally, defendants have not demonstrated plaintiff Castiglia is defying the *Opinion and Order* dated August 5, 2022. The mere fact that Weiser does not believe the *MIGOP* is bound by the *Opinion and Order* dated August 5, 2022 does not establish Weiser was acting in conjunction with anyone else and, more particularly, plaintiff Castiglia. To the extent plaintiff Castiglia is planning to hold a Republican Party convention under a name *other* than the MCRP, defendants have not cited any authority that would preclude him from doing so. See *Cornforth v Borman's, Inc*, 148 Mich App 469, 479; 385 NW2d 645 (1986) (party may not simply announce a position or argument in a brief and then leave it up to the court to discover and rationalize the basis of its claims).

Defendants’ reliance on a social media posting from Meshawn Maddock as a basis for finding her in contempt lacks merit. There is no indication when the posting was made to suggest Maddock is defying the *Opinion and Order* dated August 5, 2022.

Weiser’s September 9, 2022 e-mail stating “The Michigan Republican Party recognizes Eric Castiglia as County Chairman in Macomb County” was only sent to two people: Maddock and Paul Cordes. Therefore, defendants have not established Weiser’s e-mail will have a significant effect on the August 11, 2022 MCRP County Convention. Additionally, any show cause hearing could not take place until sometime after August 11, 2022 and would be of dubious value for resolving the competing and resolved convention disputes.

III. CONCLUSION

For the reasons set forth above:

A. Defendants Mark Forton and David Langer’s motion for reconsideration is GRANTED, in part, and DENIED, in part, as explained above;

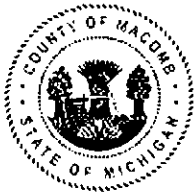
B. Plaintiffs Macomb County Republican Party and Eric Castiglia’s motion for reconsideration is DENIED; and

C. Defendants’ motion to show cause plaintiff Castiglia, Ron Weiser and Meshawn Maddock is DENIED.

This *Opinion and Order* again resolves the last pending claim in this matter, which remains closed. MCR 2.602(A)(3).

IT IS SO ORDERED.

DATE SIGNED: August 10, 2022




MATTHEW P. SABAUGH, CIRCUIT COURT JUDGE
/s/ MATTHEW P. SABAUGH
CIRCUIT COURT JUDGE, P56268

08/10/2022