

STATE OF MINNESOTA
COUNTY OF SCOTT

DISTRICT COURT
FIRST JUDICIAL DISTRICT

Aaron Paul,
Contestant,
v.
Brad Tabke,
Contestee.

CASE NO.: _____

NOTICE OF
ELECTION CONTEST
Minn. Stat. § 209.021

NOTICE OF ELECTION CONTEST UNDER MINNESOTA STATUTE § 209.021

Pursuant to Minnesota Statute § 209.021, Contestant Aaron Paul submits this notice of election contest to challenge the issuance of an election certificate to Brad Tabke (“Contestee”) to become the Representative of District 54A in the Minnesota State House of Representatives.

This contest is based on two undisputed facts. First, following the recent election, Scott County election officials announced that they have irretrievably lost and failed to count 21 ballots cast for the Representative of District 54A—and that 20 of these were unquestionably lawful and validly-cast ballots that Minnesota law required to be counted. Second, after failing to count these 21 ballots, Scott County election officials declared that Rep. Tabke had been re-elected by a margin of 14 votes over Contestant Aaron Paul. In other words: Scott County election officials unlawfully lost and failed to count significantly more ballots than would be needed to change the announced result of the election, meaning at the very least the actual victor is in absolute doubt and at worst the candidate who received fewer votes has been announced as the winner.

Mr. Paul challenges the results of the election due to violations of the Minnesota Election Law by the Scott County Auditor’s Office, Elections Division. Specifically, the contest alleges:

1. **Irregularities in the Conduct of the Election:** The Elections Division materially deviated from proper election procedures, which directly impacted the results of the election.
2. **Question of Legally Cast Votes:** Uncertainty exists regarding which candidate received the largest number of votes legally cast.
3. **Deliberate, Serious, and Material Violations:** Scott County Elections officials engaged in deliberate, serious, and material violations of Minnesota Election Law.

The undisputed facts show that these legal violations have made it impossible to rely on canvassed election results to determine which candidate won the November 5 election for House District 54A. As a result, the Court should declare that a vacancy will exist for this seat once Rep. Tabke's current term ends, which would allow voters to make a clear decision pursuant to Minnesota law governing special elections.

This notice and memorandum outlines these claims as the basis for Mr. Paul's contest.

JURISDICTION

1. This Court has jurisdiction over this matter pursuant to Minnesota Statute § 209.021. For contests relating to state legislative office, "the contestant shall file the notice of contest with the court administrator of district court in the county where the contestee maintains residence." Contestee Brad Tabke resides in Scott County Minnesota.

2. Contestant has standing to bring this action pursuant to Minn. Stat. § 209.02, which allows "[a]ny eligible voter, including a candidate" to file an election contest regarding the "nomination or election of any person for whom the voter had the right to vote if that person is declared nominated or elected to...a ... legislative... office[.]" The contest may be brought "over an irregularity in the conduct of an election," or "over the question of who received the largest number of votes legally cast, [...] or on the grounds of deliberate, serious, and material violations

of the Minnesota Election Law.” Contestant was the Republican candidate for District 54A, is a resident of Scott County, and eligible to vote in District 54A.

3. This contest rests on all three grounds. First, there were irregularities in the conduct of the election which directly impacted the results of the election. Second, there is a dispute as to which candidate received the largest number of legally cast votes. And third, this contest also asserts violations of specific provisions of Minnesota law:

- Minn. Stat. § 203B.121 subd. 5, which governs the handling of ballots cast during early voting;
- Minn. Stat. § 204C.21, which governs ballot counting; and
- Minn. Stat. § 204C.24, subd. 1(2), (5) & (7), which outlines further procedures and guidelines for managing election ballots and ensuring compliance with election laws.

PARTIES

4. Petitioner-Contestant Aaron Paul resides at 1377 Ridge Lane, Shakopee, MN 55379, and is qualified as an eligible voter under Minnesota election law. He therefore is eligible to vote for the Representative to the Minnesota State Legislature from House District 54A. Paul objects to the declaration by the Scott County Canvassing Board that Brad Tabke received more votes than Aaron Paul in the General Election.

5. Contestee Brad Tabke resides at 1584 Harvest Lane, Shakopee, MN 55379. He is the current declared winner of the House of Representatives seat for District 54A.

6. The Scott County Auditor Treasurer is Cynthia Geis. She oversees the Department that is responsible for the conduct of the 2024 election for District 54A House of Representatives.

7. Julie Hanson is the Election Administrator for Scott County.

FACTUAL BACKGROUND

I. Scott County Elections

8. The General Election for House District 54A occurred on November 5, 2024. Incumbent Brad Tabke was challenged by Petitioner Aaron Paul.

9. Before election night, Scott County conducted early voting pursuant to Minn. Stat. § 203B.30. The City of Shakopee administered early voting in its city, which included precinct P-

10. Scott County is ultimately responsible for City of Shakopee elections administration.

10. At the end of election night, the vote difference between the two candidates was 13 votes.

11. On Friday, November 8 at 2pm, County officials called the candidates and informed them that there had been an irregularity and discrepancy in processing absentee votes, and that they intended to re-count the absentee votes that evening.

12. On Friday, November 8, 2024, Scott County election officials recounted all the absentee votes in their possession that were cast in the 2024 General Election.

13. Also on Friday, November 8, 2024, Scott County elections officials informed candidate Paul (and presumably candidate Tabke) that one precinct—Shakopee P-10 (“P-10”)—was “short” 20 absentee ballots. They indicated that the ballots were being searched for, that all attempts had been made to locate them, and that the ballots could not be found.

14. County officials indicated that in P-10, early voting records indicated that 329 absentee ballots were “checked in” but after multiple attempts to find them, only 309 ballots could be located.

15. Subsequently, Scott County election officials stated that one additional absentee ballot was missing from Precinct 12A.

16. Overall, Scott County election officials have publicly indicated that they are in possession of 21 more absentee ballot envelopes, which is the transmittal device for an absentee ballot, than absentee ballots.

17. Approximately one week later, Scott County elections officials contacted counsel for Representative Tabke (David Zoll) and counsel for Mr. Paul (Reid LeBeau) and indicated that the missing ballots were unretrievable. The election officials further indicated that they believed that they identified the voters who submitted the missing absentee ballots, but that they could not say with certainty that the names they identified were the voters responsible for casting the missing ballots.

18. On November 13, 2024, Scott County election officials canvassed the results for the General Election for Minnesota House District 54A and determined that Representative Tabke won the election by 14 votes. At that time, Aaron Paul requested a recount pursuant to Minn. Stat. § 204C.35, subd. 1(b)(1).

19. Following the November 13, 2024, canvass, the loss of the missing 21 ballots was reported by various news media sources.¹

20. Scott County conducted a recount on November 21, 2024. At the conclusion of the recount Representative Tabke's lead increased to 15 votes.

21. During the recount, Scott County officials held a press conference and confirmed that they were still unable to locate the 21 missing absentee ballots. *Id.*

22. The Scott County Canvassing Board met on November 25, 2024. It ruled in favor of a Paul challenge to one Tabke ballot, reducing the margin of victory to 14. Members of the

¹ E.g., Eva Herscovitz, *DFL Rep. Brad Tabke picks up one vote over Republican Aaron Paul after 54A recount*, The Minnesota Star Tribune (Nov. 21, 2024, 5:14 PM), <https://www.startribune.com/house-district-54a-recount-shakopee-tabke-paul/601184676>; *Secretary of State | November 2024*, TPT Almanac (Nov. 22, 2024), <https://www.tpt.org/almanac/video/secretary-of-state-november-2024-uhcu08/?s=>.

Canvassing Board expressed concern over the missing ballots and lack of details concerning the circumstances of the loss. The County Attorney advised them, however, that the Board was to certify the recount results, even with the issue of the missing ballots remaining unresolved.

23. The Board then certified the recount and concluded, erroneously, that Brad Tabke received the most legally cast votes for House District 54A.

24. On November 26, 2024, the Elections Administrator for Scott County, Julie Hanson, provided additional information to Contestant's Counsel and confirmed the following facts:

- a. "there were 20 more absentee ballot records than ballots counted in the Shakopee P-10 precinct [...]"
- b. "the County was in possession of the 20 absentee ballot envelopes."
- c. "After exhausting all attempts to locate the missing 20 absentee ballots, the County determined that the 20 absentee ballots have been lost and cannot be found."
- d. "the County determined that the missing 20 absentee ballots were validly cast by Minnesota residents entitled to vote in the general election for House District 54A."
- e. "The missing 20 absentee ballots were not counted, in the original count nor the recount, and were not include in any reported vote totals for the House District 54A election."

See Affidavit of Julie Hanson, Exhibit A hereto, at ¶¶ 3,4,6-8.

25. It is undisputed that at least 20, possibly 21, missing absentee ballots were in the possession of the Scott County election officials when they went missing.

26. Based on the information provided by Scott County, it is undisputed that at least 20 of the missing absentee ballots in question were validly cast ballots by Minnesota residents

entitled to vote in the General Election in House District 54A. *See* Exhibit B, Letter from Scott County Attorney regarding Ballot Investigation, Nov. 27, 2024.

27. On November 27, 2024, Scott County Attorney Ron Hocevar released a letter detailing the investigation into the missing ballots. *Id.* The letter conforms with the information provided in Elections Administrator Hanson’s Affidavit. Based on the results of the preliminary investigation County Attorney Hocevar made the following conclusions:

- a. “That 20 absentee ballots in P10 were properly accepted for counting on October 17 and should have been counted;”
- b. “That these ballots are the ballots that were not counted;”
- c. “That the ballots were most likely were never removed from their secrecy envelopes;”
- d. “That the ballots were likely in their secrecy envelopes when the secrecy envelopes were thrown away;”
- e. “That the ballots most likely will not be recovered; and”
- f. “That even if the ballots were found, it is unlikely that their chain of custody can be proven to assure they have not been tampered with.” *Id.* at 2-3.

28. Additionally, Mr. Hocevar noted that investigation into the missing ballot in P-12 was not pursued. *Id.* At 1.

LEGAL STANDARD

29. Minnesota Election Law requires the following:

- a. Minn Stat. § 203B.121, subd. 5(a) requires election judges to store and count absentee ballots: “On a day on which absentee ballots are inserted into a ballot box, two members of the ballot board must: (1) remove the ballots from the ballot box

at the end of the day; (2) without inspecting the ballots, ensure that the number of ballots removed from the ballot box is equal to the number of voters whose absentee ballots were accepted that day; and (3) seal and secure all voted and unvoted ballots present in that location at the end of the day.

b. Minn. Stat. § 204C.21, subd. 1 requires that ballots be grouped and counted systematically, ensuring uniformity and accuracy in tallying ballots.

c. Minn. Stat. § 204C.24, subd. 1(2), (5), & (7) require that:

- Election judges must accurately document the total votes received by each candidate, record the number of undervotes, overvotes, and defective ballots for each office.
- The number of individuals who voted at the election in the precinct must equal the total number of ballots cast in the precinct.
- Election judges must certify by their signatures “that all of the ballots cast were accurately piled, checked, and counted; and that the numbers entered by the election judges on the summary statements correctly show the number of votes cast for each candidate.”

CONTEST GROUNDS

II. Count I—Irregularity in Conduct of an Election.

30. Contestant Aaron Paul realleges and incorporates paragraphs 8-28.

31. Scott County elections officials admit a material irregularity in the conduct of this election. Scott County election officials failed to record, maintain, and count at least 20, possibly 21, validly cast absentee ballots in direct violation of Minn. Stat. § 203B.121, subd. 5 and Minn. Stat. § 204C.24, subd.1(2), (5), & (7).

32. The admitted irregularity directly impacted the results and outcome of the election for District 54A. The admitted irregularity could and will change the results for the District 54A race.

33. The admitted irregularity directly impacts the results for District 54A, as the amount of missing ballots exceeds the difference in ballots cast for the candidate declared the winner.

34. The admitted irregularity in the conduct of the election, losing at least 20 possibly 21 ballots, has impacted the results for District 54A by making it impossible to determine who received the most ballots cast on election day.

III. Count II—Question of Who Received the Largest Number of Votes Legally Cast.

35. Contestant Aaron Paul realleges and incorporates paragraphs 8-28.

36. Scott County admits that a material irregularity in the conduct of the election occurred, that eligible voters cast valid ballots, and those ballots were not included in the vote totals for District 54A.

37. Scott County has directly refuted the canvassed results of District 54A. By their own statements, Scott County admits that the reported canvassed results for District 54A are incorrect.

38. Due to Scott County's admitted failure to secure, maintain, and count up to 21 validly cast ballots, a question exists as to who received the largest number of votes legally cast for Minnesota House District 54A.

IV. Deliberate, Serious, and Material violation of Minnesota Election Law.

39. Contestant Aaron Paul realleges and incorporates paragraphs 8-28.

40. The admitted failure of Scott County elections officials to secure, maintain, and count the 21 validly cast ballots constitutes a serious, material, and deliberate violation of Minn

Stat. § 203B.121 subd. 5. Specifically, by discarding absentee ballots, election officials deliberately failed to “ensure that the number of ballots removed from the ballot box is equal to the number of voters whose absentee ballots were accepted that day;” and to “secure all voted and unvoted ballots present in that location at the end of the day.” *Id.* This resulted in a serious and material violation of law, directly impacted the results of the election for District 54A and is fatal to the validity of the election.

41. Additionally, the failure to ensure an accurate count of ballots prior to and after the final tally was completed constitutes a violation of Minn. Stat. § 204C.21 and Minn. Stat. § 204C.24, Subd.1(2), (5), & (7), which requires election officials to confirm the accuracy of the ballot count, confirm that the number of ballots are equal to the number of individuals who voted, and to immediately seal the ballots for return to the county auditor once the count is complete. Election officials deliberately failed to comply with these statutes and these serious and material violations call the accuracy of the election results into serious question.

42. Furthermore, Scott County elections officials deliberately reported results knowing that up to 21 validly cast ballots were missing. In doing so, this violation of Minnesota Election Law was serious and material as it resulted in a candidate being declared the winner, without knowing who received the highest number of validly cast ballots.

43. This failure to secure and count the 21 missing absentee ballots is a serious and material violation of Minnesota Election Law. Indeed, since Representative Tabke’s currently announced margin of victory is less than 21 votes, this violation is of significant magnitude that it may determine the election outcome, resulting in the announced winner of the race being the candidate who the voters did *not* select.

44. Minnesota Election Law mandates that Minnesota county auditors, and their agents, have a statutory duty to ensure accurate voter registration, proper absentee ballot handling, secure elections, transparent vote counting, and access to voting for all eligible voters. These duties are designed to preserve the integrity of the election process, safeguard voter rights, and ensure that the election results accurately reflect the will of the people. The actions of Scott County elections officials constitute a serious breach of not only Minnesota Election Law, but the public trust in our electoral system.

PRAYER FOR RELIEF

WHEREFORE, Contestant prays that the Court:

45. Immediately set the date for service of Contestee's answer for seven (7) days after service of the notice of election contest, in compliance with Minnesota Statute § 209.03.

46. Immediately set a hearing within fifteen (15) days of filing of this notice of contest, in compliance with Minnesota Statute § 209.10, subd. 3.

47. Immediately instruct the Court Administrator for Scott County to submit the Notice of Contest to the chief justice of the Minnesota State Supreme Court by certified mail within three (3) days of receipt of the notice of contest.

48. Issue Findings of Fact and Conclusions of Law that based on the facts described herein Contestant is entitled to a decree changing the declared result of the election.

49. Issue Findings of Fact and Conclusions of Law that based on the facts described herein violations of the law did occur, and that the irregularity on the conduct of the election directly affected the outcome of the District 54A election.

50. Issue Findings of Fact and Conclusions of Law that based on the facts described herein violations of the law did occur, and that the deliberate, serious, and material violation of law directly impacted the outcome of the District 54A election.

51. Issue Findings of Fact and Conclusions of Law that based on the facts described herein, a question as to who received the most votes for 54A exists and is unresolvable based on the ballots in possession of Scott County.

52. Enjoin the Scott County Auditor and Secretary of State from issuing a certificate of election to Representative Tabke.

53. Declare that the election for House District 54A is invalid and that a vacancy in House District 54A exists.

54. Issue Findings of Fact and Conclusions of Law recommending that the House of Representatives refuse to seat Representative Tabke to the House District 54A seat,

55. Grant Plaintiff such other and further relief as the Court deems just and appropriate.

Dated: November 29, 2024

Respectfully Submitted,



R. Reid LeBeau II (MN# 347504)

Attorney for Aaron Paul

Chalmers, Adams, Backer, and Kaufman

525 Park St. Suite 255

St. Paul, MN 55103


651-397-0089

rlebeau@chalmersadams.com

*I declare under penalty of perjury that everything I have stated in this document is true and correct.
Minn Stat. § 358.116*

ACKNOWLEDGEMENT

Pursuant to Minn. Stat. § 549.211, the undersigned acknowledges that costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party or parties for actions in bad faith; the assertion of a claim or a defense that is frivolous and that is costly to the other party; the assertion of an unfounded position solely to delay the ordinary course of the proceedings or to harass; or the commission of a fraud upon the Court.



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MINNESOTA
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Aaron Paul,

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VERIFICATION DECLARATION
Minn. Stat. § 209.021**VERIFICATION DECLARATION OF R. REID LEBEAU II**

R. Reid LeBeau II (“Declarant”), as counsel for Contestant Aaron Paul, declares and states that the facts contained in the Notice of Election Contest Under Minnesota Statute § 209.021 dated November 29, 2024, are based upon his own knowledge and understanding, and are true and correct to the best of his recollection.

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Minn Stat. § 358.116

Dated: November 29, 2024



R. Reid LeBeau II (MN# 347504)

Attorney for Aaron Paul

Chalmers, Adams, Backer, and Kaufman

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STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF SCOTT

FIRST JUDICIAL CIRCUIT

<p>Aaron Paul,</p> <p style="padding-left: 40px;">Contestant,</p> <p>v.</p> <p>Brad Tabke,</p> <p style="padding-left: 40px;">Contestee.</p>	<p>Case No.: _____</p> <p style="text-align: center;">AFFIDAVIT OF JULIE HANSON</p>
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AFFIDAVIT OF JULIE HANSON

Julie Hanson, hereby affirms and certifies, under the penalty of perjury, the following:

1. I am the Elections Administrator for Scott County ("County"). I am making this Affidavit based on my personal knowledge. If called to do so, I could and would testify to the matters herein.
2. In my capacity as Elections Administrator, I am the local election official responsible for duties relating to Scott County's elections, including state and federal elections.
3. While carrying out my election duties, I identified a discrepancy in the count of ballots, in which there were 20 more absentee ballot records than ballots counted in the Shakopee P-10 precinct from the City of Shakopee.
4. From the initial receipt of Shakopee P-10 precinct's ballots through the time in which the absentee ballots in dispute were identified as missing, the County was in possession of the 20 absentee ballot envelopes.
5. I organized and conducted multiple search attempts with County and City staff to locate the 20 absentee ballots.
6. After exhausting all attempts to locate the missing 20 absentee ballots, the County determined the 20 absentee ballots have been lost and cannot be found.
7. Upon investigating the ballot count discrepancy, the County determined the missing 20 absentee ballots were validly cast by Minnesota residents entitled to vote in the general

election for House District 54A.

- 8. The missing 20 absentee ballots were not counted, in the original count nor the recount, and were not included in any reported vote totals for the House District 54A election.

I declare under penalty of perjury that everything I have stated in this document is true and correct.
Minn. Stat. § 358.116

Dated: November 26, 2024

Scott County, Minnesota

/s/ Julie Hanson

Julie Hanson
 Scott County Property & Customer Service Manager
 County Recorder/Registrar of Titles
 Deputy Registrar 135
 Elections Administrator

MINNESOTA
 JUDICIAL
 BRANCH



OFFICE OF THE
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CRIMINAL-MISDEMEANOR
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CIVIL
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VICTIM/WITNESS
Tera Portinga - Supervisor

OFFICE MANAGER
Lori Lambrecht

November 27, 2024

During the post-election audit of election returns, Scott County staff discovered that the City of Shakopee did not return the number of ballots that would match the Statewide Voter Registration System (SVRS) count for voters checked in. After reviewing the situation further, Scott County has come to the conclusion that the ballots were likely disposed of while they were in their secrecy envelopes, after being removed from their signature envelopes but before being tabulated.

The City of Shakopee held early voting at its City Hall from September 20, 2024 through November 4, 2024. Early voting from September 20 through October 17 was by “envelope voting,” in which an individual could complete their absentee ballot, place it in a security envelope, put that inside a signature envelope, and leave the completed packet with the City as if it had been mailed in. On the night of October 17, 2024, Absentee Ballot Boards were allowed to start opening absentee envelope ballots and scanning them through tabulators. On October 18, individuals who were voting early switched from envelope voting to “direct ballot voting,” in which their absentee ballots were immediately scanned through the tabulators.

On election day, after the polls closed, Scott County noted that the City of Shakopee was slow to report their final results. At 10:50 PM, Shakopee reported that it had 6,300 absentee ballots still in process; at 11:25 PM, the City reported they had only gotten through 2,400 of those ballots with two tabulators running. Scott County advised Shakopee to stop tabulating and the remaining ballots could be run through the County’s high speed tabulator. At around 12:20 AM on Wednesday, November 6, the County and City put the remaining ballots through the County’s tabulator. Upon completing that work, City staff confirmed that the total of the scanned ballots matched the amount of ballots that they should have reported. This was later found to be incorrect.

While conducting normal auditing activities on Thursday, November 7, County staff found that there was a problem with Shakopee returns in that there was a 21-ballot discrepancy between two precincts (with more absentee voters recorded than ballots received). The issues were noted to be 20 ballot records for Precinct 10 (“P10”) and one for Precinct 12A. Based on experience, staff noted that it is not uncommon for one voter to check in and not vote, so the discrepancy in Precinct 12A was not pursued; the focus was on P10.

For P10, Shakopee reported processing 329 voters but reported results for 309 ballots; in addition, their transfer case held 309 ballots. The ballots for Shakopee Precinct 10 were counted at least four times with the total number equaling 309 – while 329 people were checked in.

County staff worked to eliminate various possibilities for the discrepancy. It was felt that this was unlikely to be voters changing their mind and not voting due to the number of voters in one precinct. Staff counted signature envelopes and verified the number matched the number of voters on the SVRS reports (87 in all for P10). Applications for absentee ballots were also counted and matched to the signature envelopes, and again, all were accounted for. County staff then checked a spreadsheet report that was provided by City staff tracking absentee ballots submitted in Shakopee. The report was found to reflect a 21-ballot discrepancy between October 17 to October 18 when the sheets were reflecting ballots received and machine counts of ballots tabulated. Specifically, the running balance of absentee ballots accepted, when added to the first day number of direct voters, did not total the number of ballots reflected on the tabulator counter; the machine was 21 ballots short.

Staff considered if Health Care Facility (HCF) voting -- a common area for mismatches due to residents deciding not to vote -- could have been an issue, but after learning the dates that the City performed HCF voting and checking the envelopes, this theory was eliminated (as voting took place after the dates that were determined to be an issue). County staff next ran reports for just P10, matching them against when the City's Absentee Ballot Board was held. It was found that 20 P10 ballots were accepted by the Ballot Board on October 17 covering the voting period of October 15-17 (the last three days of envelope voting). The County was unable to recheck the City's secrecy envelopes for the missing ballots as they had not been returned with the City's election materials.

A request was made to the City for their secrecy envelopes, and the County was advised they had been thrown into the garbage. The County tracked the trash and recycling to a landfill in Burnsville and DemCon respectively, but learned that the recycle bale had already been sent for shredding.

Absentee ballot boards are established by each governing body. The members are charged with following the process to accept or reject ballots that have been voted via the envelope method. Following the procedures, two or more members of the board examine each signature envelope, mark "accepted" or "rejected," and record into the Statewide Voter Registration System. Based upon the acceptance records and the matching of the envelopes and applications, this part of the process was completed.

At the close of business on the 19th day before the election (in this case, October 17), the envelopes can start being opened. Prior to opening, voting envelopes must be divided by precinct, and each precinct has to be balanced by counting of the physical envelopes vs. the accepted number in SVRS. Once the envelopes are balanced, they are opened by precinct, opening all signature envelopes, and setting them to the side while secrecy envelopes are placed in another pile, thereby ensuring voter privacy. Once all of the signature envelopes and secrecy envelopes are opened, the ballots can be removed from the secrecy envelopes. The ballots are then reviewed, duplicated as needed, initialed, and prepared for tabulation. Although investigation is continuing, the County has been unable to verify that the missing ballots were ever removed from their secrecy envelopes.

Although the investigation is not complete and remains ongoing, County staff has made the following preliminary conclusions based upon the facts that there were 20 accepted ballots for P10 on October 17 (exactly matching the discrepancy for that precinct), and the tabulator numbers showed a discrepancy as of October 18 (the first day ballots would have been scanned and that the secrecy envelopes were disposed of):

- That 20 absentee ballots in P10 were properly accepted for counting on October 17

and should have been counted;

- That these ballots are the ballots that were not counted;
- That the ballots were most likely never removed from their secrecy envelopes;
- That the ballots were likely in their secrecy envelopes when the secrecy envelopes were thrown away;
- That the ballots most likely will not be recovered; and
- That even if 20 ballots were found, it is unlikely that their chain of custody can be proven to assure they have not been tampered with.

Date: November 27, 2024



Ronald B. Hocevar
Scott County Attorney

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