2026 IL App (1st) 261589-U

SECOND DIVISION
October 14, 2026

No. 1-26-1589

NOTICE: This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

MARCUS LEWIS, Plaintiff-Appellant, v. ILLINOIS STATE BOARD OF ELECTIONS, COOK COUNTY CLERK MONICA GORDON, WILL COUNTY CLERK ANNETTE PARKER, KANKAKEE COUNTY CLERK DAN HENDRICKSON, CHICAGO BOARD OF ELECTION COMMISSIONERS, WGN-TV/NEXSTAR MEDIA GROUP, INC., CHRISTIAN MAXWELL, Defendants-Appellees.	)	Appeal from the Circuit Court of Cook County 26COEL10 Honorable Maureen Ward Kirby, Judge Presiding

JUSTICE McBRIDE delivered the judgment of the court.
Justices Reyes and Van Tine concurred in the judgment.

ORDER

¶ 1 *Held*: Dismissal of election challenge affirmed where the trial court lacked jurisdiction to consider primary candidate's untimely filing.

¶ 2 Plaintiff, Marcus Lewis, filed a complaint against the Illinois State Board of Elections (Board); the Cook County, Will County, and Kankakee County Clerks; the Chicago Board of Election Commissioners; WGN-TV/Nexstar Media Group, Inc.; and Christian Maxwell (collectively, defendants), contesting the results of the 2026 Republican Party primary election for

the office of U.S. Representative in Congress for the First Congressional District (First District Republican Primary). The trial court dismissed that complaint, finding that it was time barred and that the court was without jurisdiction to address any of his claims. For the following reasons, we affirm that judgment.

¶ 3 The record shows that Lewis filed a complaint against defendants on May 15, 2026, challenging the certification of Christian Maxwell as the winner of the First District Republican Primary. Lewis alleged that the defendants "fraudulently 'manipulated & manufactured' " vote totals to " 'steal' his Election Day win," and instead award the nomination to Maxwell. Lewis alleged that on March 9, 2026—eight days before the March 17, 2026, election day—the television station WGN included a news ticker at the bottom of a television news broadcast that identified Lewis as having received 65% of the votes, with "100%" of the votes "in." Lewis contended that WGN had illegally revealed the "real time" "vote tabulation" prior to election day, and he inferred that Maxwell's subsequent election day win was fraudulent.

¶ 4 Prior to filing the complaint in this case, Lewis, along with another primary candidate, filed a lawsuit in the federal District Court for the Northern District of Illinois on March 23, 2026, regarding the above allegations. During those proceedings, WGN submitted an affidavit explaining that on March 9, 2026, the news ticker had been inadvertently broadcast live while WGN was testing technical aspects of the ticker. The testing had been done using "mock voting returns" because "[a]ctual election return projections" are not available "until election day." The mock results were inadvertently displayed for a total of 50 seconds, during which WGN displayed mock data for seven candidate races. WGN removed the test ticker as soon as it learned of the mistake. The Director of Election Operations at the Board also submitted an affidavit confirming that on March 9, the Board had not received any election results for the March 17 primary.

¶ 5 The federal district court denied Lewis's motion for a temporary restraining order on April 13, 2026, and dismissed his complaint for failure to state a claim on April 22, 2026. Lewis did not appeal.

¶ 6 Thereafter, Lewis filed the complaint at issue in this appeal. Defendants moved to dismiss the complaint, arguing that under section 2-619 of the Code of Civil Procedure, Lewis's petition to contest the election results was untimely. In the alternative, defendant Nexstar argued that Lewis's constitutional claim was barred by *res judicata* and collateral estoppel.

¶ 7 Lewis responded, arguing that his challenge was timely under sections 23-19 and 23-20 of the Election Code.

¶ 8 The circuit court dismissed the complaint with prejudice in a written memorandum opinion and order filed August 14, 2026.[1] The court explained that section 23-20, on which Lewis relied, did not apply to his challenge to primary results, as that section applied to elections in which a person is "declared elected." Rather, section 7-63 of the Election Code "provides a statutory right to a cause of action by which 'any candidate whose name appears on the *primary* ballot of any political party may contest the election… by filing with the clerk of the circuit court a petition… *which shall be filed within 10 days after the completion of the canvass of the returns* by the election authority making the final canvass of returns.' " (emphasis in original) Citing 10 ILCS 5/7-63 (West 2024). Here, the Board completed its final canvass of returns no later than April 17, 2026, and any petition challenging the primary results was due 10 days later, on or before April 27, 2026. Accordingly, Lewis's complaint, filed May 15, 2026, was time-barred.

¶ 9 The court further explained that, as "pronounced by the Illinois Supreme Court, courts have no inherent power to hear election contests—they may do so only when authorized by statute and

[1] The trial court entered a corrected order on August 17, 2026, to fix a typographical error.

in the manner dictated by statute." Accordingly, Lewis's failure to "adhere to statutory requirements for an election contest *** depriv[ed] the [trial] [c]ourt of jurisdiction," and the court dismissed the complaint pursuant to section 2-619(a)(5).

¶ 10 Finally, "in an abundance of caution," the court also found that Lewis's constitutional claims were barred by collateral estoppel and *res judicata*, because he "already tried and lost his federal constitutional claims against some of the defendants in this case. In that same federal case, [Lewis] sought to overcome the certification of the election results. That is the same relief he requests here." The court found that all the elements of both collateral estoppel and *res judicata* were satisfied, and that Lewis's "[d]isagreement" with the federal court's ruling on the merits of his claim did not overcome its preclusive effect.

¶ 11 Lewis filed a timely notice of appeal that same day.

¶ 12 In this court, Lewis appeals the dismissal of his complaint, arguing that the court erred in finding that it did not have jurisdiction. Lewis contends that "Article 23 'clearly' says the judge has jurisdiction to hear the contest by appellant." He acknowledges that "as a candidate," he has "10 days to file a contest." He argues, however, that the court "overlooked" that he is "also an 'elector' of the State" as defined in article 23 of the Election Code, and that article 23 permits "electors" 30 days to contest certification.

¶ 13 The trial court dismissed Lewis's complaint pursuant to section 2-619 of the Code of Civil Procedure. A section 2-619 motion to dismiss admits the legal sufficiency of the complaint but asserts an affirmative matter that avoids or defeats the claim. *American Freedom Insurance Co. v. Garcia*, 2021 IL App (1st) 200231, ¶ 32. Such affirmative matters can include that "the court does not have jurisdiction," or that "the action was not commenced within the time limited by law." 735 ILCS 5/2-619(a)(1), (5) (West 2024). When analyzing such a motion, the court accepts all of the

complaint's well-pled allegations as true. *Ontiveroz v. Khokhar*, 2025 IL 130316, ¶ 17. We review a dismissal under section 2-619 *de novo*. *Id.*

¶ 14 "[C]ircuit courts may exercise jurisdiction over election cases only as provided by statute because, in election cases, the court exercises special statutory jurisdiction." *Id.*, ¶ 42; *Pullen v. Mulligan*, 138 Ill. 2d 21, 32 (1990) ("Courts have no inherent power to hear election contests, but may do so only when authorized by statute and in the manner dictated by statute."). A party challenging the results of an election must therefore " 'comply strictly with the procedures prescribed by the statute' " governing such election challenges. *Ontiveroz*, 2025 IL 130316, ¶ 23, quoting *People ex rel. Madigan v. Illinois Commerce Comm'n*, 2014 IL 116642, ¶ 10.

¶ 15 Under the Election Code, a primary election candidate who wishes to contest the results of a primary election must file a petition "within 10 days after the completion of the canvass of the returns by the election authority making the final canvass of returns." 10 ILCS 5/7-63 (West 2024). Here, the Board was statutorily required to complete the final canvass no later than April 17, 2026, and Lewis does not dispute that it occurred on or before that date. See 10 ILCS 5/22-7 (West 2024) ("State Board of Elections shall proceed within 31 days after the election, and sooner if all the returns are received, to canvass the votes").

¶ 16 Lewis was therefore required to file his petition by April 27, ten days after April 17. Instead, Lewis filed his complaint almost three weeks later, on May 15, 2026. In these circumstances, the trial court correctly dismissed Lewis's action, because the court lacked jurisdiction to entertain it. *Pullen*, 138 Ill. 2d at 33 ("Failure to timely file an election contest prohibits the court from proceeding with the contest").

¶ 17 Lewis, however, contends that he was entitled to file his election challenge within 30 days of the canvass, invoking section 23-20 of the Election Code, 10 ILCS 5/23-20 (West 2024). Section 23-20 provides, in relevant part, that a person:

> "desiring to contest such election shall, within thirty (30) days after the person whose election is contested is declared elected, file with the clerk of the proper court a petition, in writing, setting forth the points on which he will contest the election."

¶ 18 This court has found, in no uncertain terms, that "section 23–20 is not applicable to primary elections." *Jordan v. Kusper*, 164 Ill. App. 3d 990, 994 (1987). The provision applies by its terms to challenges after a person is "declared elected," and a person is not "declared elected" by a primary election. Instead, a primary election secures a political party's nomination for office in a general election. See *id*. ("[W]hen [the challenged candidate] won the Republican primary election for the judicial vacancy, he was not declared 'elected to any office' but merely achieved the right to run as the Republican Party's candidate for that office."). Accordingly, the 30-day time limit in section 23-20 "app[lies] only to contest the results of general elections and do[es] not apply to the nomination process and primaries which are governed by Article 7." *Id.*

¶ 19 Because we conclude that the trial court lacked jurisdiction over Lewis's election challenge requiring its dismissal, we need not consider the alternative bases for dismissal based on *res judicata* and collateral estoppel.

¶ 20 For the foregoing reasons, we affirm the judgment of the circuit court.

¶ 21 Affirmed.