2026 IL App (1st) 260213
No. 1-26-0213
Opinion filed March 6, 2026

FIFTH DIVISION

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

OMAR AQUINO, Plaintiff-Appellant, v. THE STATE BOARD OF ELECTIONS, as a Duly Constituted Electoral Board and Its Members; LAURA K. DONAHUE, Chair; RICK S. TERVEN SR., Vice Chair; JENNIFER M. BALLARD CROFT, Member; CRISTINA D. CRAY, Member; TONYA L. GENOVESE, Member; CATHERINE S. MCCRORY, Member; JACK VRETT, Member; CASANDRA B. WATSON, Member; and KIRK J. ORTIZ, Respondent-Objector, Defendants-Appellees.	)	Appeal from the Circuit Court of Cook County. No. 2026 COEL 000007 The Honorable Viviana Martinez Judge, Presiding.

JUSTICE ODEN JOHNSON delivered the judgment of the court, with opinion. Presiding Justice Mitchell and Justice Mikva concurred in the judgment and opinion.

OPINION

¶ 1 Appellant Omar Aquino appeals the circuit court's dismissal for lack of jurisdiction over his petition challenging an adverse ruling by the State Board of Elections (the Board). Appellant sought reelection to the position on the State Central Committee for the Democratic Party of Illinois. However, the Board ruled that his name would not appear on the ballot for

the March 17, 2026, general primary election. For the following reasons, this court similarly finds that we lack jurisdiction and accordingly dismiss the appeal.

¶ 2 I. BACKGROUND

¶ 3 The facts regarding jurisdiction are not disputed and raise a purely legal question, permitting our statement of facts to be brief. Effective July 1, 2024, the General Assembly amended the Election Code (10 ILCS 5/1-1 *et seq.* (West 2022)) to require that a party who seeks judicial review of a decision of the electoral board must name "as respondents [1] the electoral board, [2] its members, and [3] the prevailing candidates or objectors." Pub. Act 103-600, § 10-5 (eff. July 1, 2024) (amending 10 ILCS 5/10-10.1(a)). The amendment further requires that the party seeking review must serve a copy of its petition upon "each of the respondents named." Pub. Act 103-600, § 10-5 (eff. July 1, 2024) (amending 10 ILCS 5/10-10.1(a)). It is undisputed that, while appellant served the members, the objector, and the Board's General Counsel, he did not separately serve the Board.

¶ 4 On appeal, the appellant argues that service to the members constituted both service to them and to the Board. However, he does not argue that service to the general counsel constituted service to the Board.

¶ 5 II. ANALYSIS

¶ 6 It is well established that "[c]ourts have no inherent power to hear election contests, but may do so only when authorized by statute and in the manner dictated by statute." *Pullen v. Mulligan*, 138 Ill. 2d 21, 32 (1990). When a court exercises special statutory jurisdiction as in this case, "that jurisdiction is limited to the language of the act conferring it and the court has no powers from any other source." *Fredman Brothers Furniture Co. v. Department of Revenue*, 109 Ill. 2d 202, 210 (1985). If, in the exercise of special statutory jurisdiction, "the

mode of procedure prescribed by statute is not strictly pursued, no jurisdiction is conferred." *Freedman Brothers*, 109 Ill. 2d at 210.

¶ 7 The process for obtaining judicial review of an electoral board decision is set forth in section 10-10.1(a) of the Election Code, which we are thus required to interpret. 10 ILCS 5/10-10.1(a) (West 2024). "With statutory interpretation, our primary goal is to ascertain and give effect to the intent of the statute's drafters." *People v. McCain*, 2025 IL App (1st) 240873, ¶ 22. "The most reliable indicator of the drafters' intent is the language they chose to use in the statute itself." *McCain*, 2025 IL App (1st) 240873, ¶ 22. "When reading the language of the statute, we give the words their plain and ordinary meaning." *McCain*, 2025 IL App (1st) 240873, ¶ 22. An issue of statutory interpretation is a question of law that we review *de novo*. *In re Christopher K.*, 217 Ill. 2d 348, 364 (2005).

¶ 8 Section 10-10.1(a) states in full:

> "Except as otherwise provided in this Section, a candidate or objector aggrieved by the decision of an electoral board may secure judicial review of such decision in the circuit court of the county in which the hearing of the electoral board was held. The party seeking judicial review must file, within 5 days after service of the decision of the electoral board as provided in Section 10-10, a petition with the clerk of the court that names as respondents the electoral board, its members, and the prevailing candidates or objectors in the initial proceeding before the board. The party seeking judicial review must serve a copy of the petition upon each of the respondents named in the petition for judicial review by registered or certified mail within 5 days after service of the decision of the electoral board as provided in Section 10-10. The petition shall contain a brief statement of the reasons why the decision of the board should be reversed. The

> petitioner shall file proof of service with the clerk of the court within 5 days after service of the decision of the electoral board as provided in Section 10-10. No answer to the petition need be filed, but the electoral board shall cause the record of proceedings before the electoral board to be filed with the clerk of the court on or before the date of the hearing on the petition or as ordered by the court.
>
> The court shall set the matter for hearing to be held within 30 days after the filing of the petition and shall make its decision promptly after such hearing." 10 ILCS 5/10-10.1(a) (West 2024).

Service on the board is a triggering mechanism, in that once the board has been served, it "shall cause the record of proceedings before the electoral board to be filed with the clerk of the court." 10 ILCS 5/10-10.1(a) (West 2024).

¶ 9 On appeal, the appellant argues that he complied with the requirement to serve the Board by serving the Board's individual members. As noted in the background section above, he does not argue that service on the general counsel constituted service on the Board itself, so that issue has been waived. He concedes that he did not serve the Board separately from its members, and he acknowledges that the statute does require service of the Board. Although the statute expressly states "by registered or certified mail," he argues that the statute fails to state how to serve the Board. He argues that service of the Board would be duplicative and that the Illinois Supreme Court case of *Bettis v. Marsaglia*, 2014 IL 117050, "controls."

¶ 10 Appellant's primary argument is that *Bettis* is not distinguishable due to the 2024 statutory amendment, although this court has already held that it was. *Williams v. Municipal Officers Electoral Board for Hazel Crest*, 2025 IL App (1st) 242534. In *Bettis*, the supreme court was interpreting the 2012 version of the statute. *Bettis*, 2014 IL 117050, ¶ 15. The 2012

statute provided that a party "must serve a copy of the petition upon the electoral board and other parties." 10 ILCS 5/10-10.1(a) (West 2012). By contrast, the 2024 statute provides that a party must "name[ ] as respondents the electoral board, its members, and the prevailing candidates or objectors." 10 ILCS 5/10-10.1(a) (West 2024). Further, the 2024 statute requires a party to "serve a copy of the petition upon each of the respondents named" by registered or certified mail. 10 ILCS 5/10-10.1(a) (West 2024).

¶ 11 Looking at just the 2012 statute (which did not contain the clarifying language added in 2024), our supreme court found that the language in front of it was confusing with respect to whether the Board had to be served separately from its members. *Bettis*, 2014 IL 117050, ¶ 24. The supreme court found that both readings of the then-existing statute were "reasonable." *Bettis*, 2014 IL 117050, ¶ 24. However, the court found that service on the Board was not necessary in that case, largely because service would be "duplicative" when the party had already served every member. *Bettis*, 2014 IL 117050, ¶ 25. Although the court found service to be duplicative in that case, it also stated that it would not hesitate to endorse this seeming redundancy if the statute had more clearly required it. *Bettis*, 2014 IL 117050, ¶ 25.

¶ 12 Justice Theis took the majority to task in her dissent, noting that "[p]resumably, the legislature knows the difference between an entity and the individuals who conduct its proceeding" and that even the majority had to acknowledge that the statute clearly required the electoral board to be served. *Bettis*, 2014 IL 117050, ¶ 39 (Theis, J., dissenting). Justice Theis also noted the ease with which a party could identify the address of a board for the purpose of sending the required certified or registered mail. She noted that a party could look to section 10-10 (10 ILCS 5/10-10 (West 2012)) which set forth—and still does—the location for board hearings. *Bettis*, 2014 IL 117050, ¶ 42 (discussing the 2012 version of section 10-10 of the

Election Code (10 ILCS 5/10-10 (West 2012))). Both the *Bettis* majority and dissent sought clarification from the legislature. The majority stated: "If the legislature intends any other prerequisites for the exercise of jurisdiction over petitions for review of electoral board decisions, it is up to the legislature to set them forth." *Bettis*, 2014 IL 117050, ¶ 32 (majority opinion). Similarly, the dissent stated: "Although section 10-10.1(a) is unambiguous, the General Assembly should recognize that a majority of this court has now declared that the statute is, in some measure, less than clear." *Bettis*, 2014 IL 117050, ¶ 44 (Theis, J., dissenting).

¶ 13 The legislature subsequently amended the relevant statute to add "members." Pub. Act No. 103-600, § 10-5 (eff. July 1, 2024) (amending 10 ILCS 5/10-10.1(a)). It left in "the electoral board" and added "members," thereby requiring the naming of both. Pub. Act 103-600, § 10-5 (eff. July 1, 2024) (amending 10 ILCS 5/10-10.1(a)). It then stated that a party "must serve a copy of the petition upon each of the respondents *named*." (Emphasis added.) Pub. Act 103-600, § 10-5 (eff. July 1, 2024) (amending 10 ILCS 5/10-10.1(a)). If the legislature meant that separate service on the Board was not required, it would have said that the party must serve a copy of the petition upon the "members, and the prevailing candidates or objectors in the initial proceeding before the board." But, instead, it said that service must be made "upon each of the respondents named"—that phrase includes the Board. Pub. Act No. 103-600, § 10-5 (eff. July 1, 2024) (amending 10 ILCS 5/10-10.1(a)); see *Orr v. Edgar*, 283 Ill. App. 3d 1088, 1096 (1996) (collective notice would "effectively read[ ] the term 'each' out of the statutory language").

¶ 14 If we had any doubts on this matter—and we do not—those doubts would be erased by this court's subsequent holding in *Williams*, 2025 IL App (1st) 242534. This court has already held in *Williams* that service on both the board *and* its members is required. In *Williams*, the

appellant argued that she complied with the 2024 version of section 10-10.1(a) "by serving the members of the Board, through service on the Board itself." *Williams*, 2025 IL App (1st) 242534, ¶ 7. In other words, she was claiming that service on the members was not required when the Board was served. Although a mirror image, this is the same duplicative argument before us—namely, why serve one when you have served the other? In response, we held in *Williams*:

> "The plain and ordinary language of section 10-10.1(a) required petitioner to serve copies of the petition 'upon *each* of the respondents named in the petition for judicial review.' (Emphasis added.) Pub. Act 103-600 (eff. July 1, 2024) (amending 10 ILCS 5/10-10.1(a)). Section 10-10.1(a), in the preceding sentence, defined the respondents that were to be named in the petition as 'the electoral board, its members, and the prevailing candidates or objectors.' *Id.* Reading the statutory language together, we conclude that petitioner was required to both name and serve each of the respondents, the Board, its members ([names]), and the objector ([name])." *Williams*, 2025 IL App (1st) 242534, ¶ 14.

¶ 15 In *Williams*, we found that the *Bettis* decision was distinguishable because it interpreted an earlier version of the statute with significant differences from the current one. *Williams*, 2025 IL App (1st) 242534, ¶ 18; see *K Miller Construction Co. v. McGinnis*, 238 Ill. 2d 284, 299 (2010) (while the presumption may be rebutted, "an amendatory change in the language of a statute creates a presumption that it was intended to change the law as it previously existed"). Significantly, the prior statute did not require a party to name the Board *and* its members as respondents, and it did not require that "each of the respondents named" be served, as the current statute does. Like the appellant before us, the appellant in *Williams* argued that

the new statute did not override the underlying basis of *Bettis*, which was to eliminate duplicative service as contrary to ballot access. *Williams*, 2025 IL App (1st) 242534, ¶ 21. We rejected that argument in *Williams*, as we do now, noting that the supreme court in *Bettis* found that justification viable only due to a then-ambiguous statute and that the *Bettis* court stated that it would find otherwise if the statutory language were more plain. *Williams*, 2025 IL App (1st) 242534, ¶ 22 (discussing *Bettis*, 2014 IL 117050, ¶ 25). In its amendment, the legislature responded by first listing the distinct parties that must be named and "then purposefully" requiring that each one named must be served. *Williams*, 2025 IL App (1st) 242534, ¶ 22. We concluded: "Through plain language, the legislature clarified the ambiguity in the prior version of section 10-10.1(a)." *Williams*, 2025 IL App (1st) 242534, ¶ 22. That was sound reasoning by the appellate court last year, and we still find it to be sound.

¶ 16 When the language is plain, which we find it to be, the policy considerations behind it are best left to the legislature, as our supreme court already found in *Bettis*, 2014 IL 117050, ¶¶ 25, 32 (majority opinion). If we were to look at policy considerations, we do see the policy advantages of notifying the Board at its place of operation, where its staff is employed, particularly in light of the Board's various administrative needs, such as "caus[ing] the record of proceedings before the electoral board to be filed with the clerk of the court." 10 ILCS 5/10-10.1(a) (West 2024); see 10 ILCS 5/1A-12 (West 2024) ("[t]he State Board of Elections may employ" staff). Further, Justice Theis, in her dissent, already clearly set forth how to find the appropriate address to which the certified or registered mail must be sent. However, as our supreme court already held, even if we were concerned about avoiding duplication in service, this concern would still have to bend in front of an unambiguous statute. *Bettis*, 2014 IL 117050, ¶ 25.

¶ 17 III. CONCLUSION

¶ 18 Finding the statutory language of the General Assembly's amendment to be plain, we have no choice but to affirm the dismissal of the circuit court for lack of subject matter jurisdiction. If we were to decide differently, then the legislature's clearly expressed intent for separate service would be nullified.

¶ 19 Affirmed.

Aquino v. State Board of Elections, **2026 IL App (1st) 260213**

Decision Under Review:	Appeal from the Circuit Court of Cook County, No. 2026-COEL-000007; the Hon. Viviana Martinez, Judge, presiding.
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