

FILED

IN THE CIRCUIT COURT OF TEXAS COUNTY, MISSOURI

AUG 17 2012

MARCI MOSLEY
Circuit Clerk
TEXAS COUNTY, MO

In Re the Matter of:)
)
 TIM CEPLINA,)
 Contestant, Plaintiff,)
)
 VS.)
)
 JAMES SIGMAN)
 Contestee, Defendant,)
)
 and)
)
 DONALD R. TROUTMAN)
 Texas County Clerk, Missouri, Defendant.)

Case No. 12TE-CC00322

WRIT ORDERING ELECTION RECOUNT

Now on this 17th day of August 2012, the Court takes up the First Amended Petition for Election Recount. The parties have reached an agreement as to the recount. Tim Ceplina appears/appears not and his attorney, Kimberly F. Lowe appears. The Defendant, James Sigman, appears/appears not. The Defendant Donald R. Troutman appears/appears not. The Court finds all Defendants have been duly served with summons and/or a copy of the Petition, either by personal service or by registered mail, as required by RSMo Section 115.579.1. No responsive pleadings have been filed and the parties have agreed to a recount and the Court makes the following findings:

1. Texas County Missouri is a county existing under the laws of the State of Missouri.
2. Plaintiff was a candidate appearing on the ballot for the office of Texas County Sheriff in the Republican primary held on 7 August 2012.

3. The Defendant, Donald R. Troutman, is the County Clerk of Texas County, Missouri, as well as the election authority for Texas County, Missouri.
4. Defendant, James Sigman, was a candidate appearing on the ballot for the office of Texas County Sheriff in the Republican primary held on 7 August 2012.
5. On 9 August 2012, the Texas County Clerk certified the election of results from Texas County for the election, with Tim Ceplina receiving 2,096 votes, James Sigman receiving 2,117 votes, and Wes Ellison receiving 1,167 votes. Total votes tallied for all candidates running for Sheriff, including the unopposed Democrat, Melissa Dunn were 6,326 votes.
6. Pursuant to the foregoing election results, Tim Ceplina was defeated by James Sigman by 21 votes, or less than 1% of the total votes cast.
7. Pursuant to RSMo Section 115.601 (1), Tim Ceplina is entitled to a recount of the election results.
8. The Republican primary for the Office of the County Sherriff was the most contested race in Texas County, yet according to the certified results there were approximately 376 votes (nearly 6%) which were uncountable likely because they were not properly marked or the scanner could not read them.
9. A manual recount of the votes is necessary to maintain the integrity of the recount, ensure public confidence in the voting system, and remove doubts as to the accuracy of the voter tabulation hardware and software and optical scanning equipment.
10. Where an election recount is appropriate, RSMo Section 115.585.5 authorizes the Court to order a manual recount of the ballots for a contested election.

11. Ceplina, as Plaintiff, and Sigman, as Defendant, are the only candidates who can be affected by the results of the election recount and they have signed an agreement and filed it with the court confirming the recount be ordered.

12. Donald Troutman has agreed the recount may be held at the County Administration Building meeting room on August 20, 2012 at 1:00 p.m.

It is hereby ORDERED as follows:

A. The Court hereby commands by this Writ, that Donald Troutman, as the election authority for Texas County, to prepare his office and all records and materials relating to the contested election for a recount to be completed on Monday August 20, 2012 at 1:00 p.m. at the County Administration Building Meeting Room.

B. At the request of the parties, the Court hereby orders a manual recount of all ballots cast for Tim Ceplina and James Sigman in the election.

C. Tim Ceplina and James Sigman may be present at the recount venue to observe the recount and have filed their Suggestion for Recount Observers and the Court has herewith signed an Order Appointing Election Observers. Ceplina and Sigman may also be present for the recount.

D. The election authority shall select election judges in accordance with law who are qualified to serve under Section 115.085 RSMo., and shall thereafter organize, direct and supervise the recount in accordance with law and the provisions of this Writ. The ballots subject to review may be examined by a team designated by the election authority or his designee, Linda Vandivort. If there is any dispute regarding voter intent with respect to any ballot, it shall be segregated for *in camera* inspection by the Court, whereupon the Court shall make its findings with respect to such voter intent.

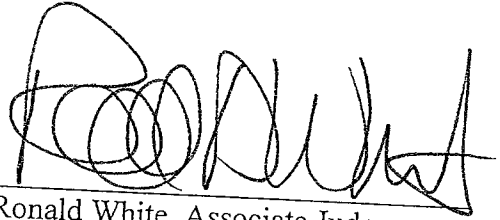
E. For purposes of determining voter intent, the Emergency Rules of the Secretary of State promulgated June 30, 2006, in Volume 31, Number 11 of the Missouri Register, 15-CSR 30-9.20 Uniform Counting Standards, shall be observed.

F. Upon completion of the recount, the totals of all votes cast for each of Tim Ceplina and James Sigman shall be determined and presented to the Court by the election authority, whereupon the Court shall aggregate the vote totals and make its findings regarding the election results.

G. In all other respects, the procedures mandated by law regarding election recounts shall be followed and observed.

SO ORDERED.

Dated: 8/17/12


Ronald White, Associate Judge