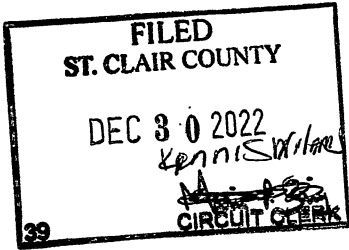


IN THE CIRCUIT COURT TWENTIETH JUDICIAL CIRCUIT  
ST. CLAIR COUNTY, ILLINOIS

JAMES A. GOMRIC, in his capacity as )  
 St. Clair County State's Attorney, and )  
 RICHARD "RICK" WATSON, in his )  
 capacity as St. Clair County Sheriff; )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 KWAME RAOUL, Illinois )  
 Attorney General, and JAY )  
 ROBERT PRITZKER, Governor of )  
 Illinois, )  
 )  
 Defendants. )



No. 22 MR 262

**EMERGENCY TEMPORARY RESTRAINING ORDER TO ENJOIN**  
**ENFORCEMENT OF PRETRIAL RELEASE PROVISIONS OF**  
**PUBLIC ACT 101-652 AND PUBLIC ACT 102-1104**

This 30<sup>th</sup> day of December, 2022, being a regular judicial day of this Court, and the cause having come for emergency hearing on Plaintiffs' *Verified Emergency Motion for Temporary Restraining Order, for Preliminary Injunction, and for Expedited Hearing on Application for Preliminary Injunction*, filed on this date against Illinois Attorney General Kwame Raoul and Illinois Governor J.B. Pritzker regarding the impending implementation of the pretrial release provisions of the SAFE-T Act on January 1, 2023. Assistant State's Attorney Christopher G. Allen appearing for Plaintiffs. The Court is fully advised in the premises, and finds it has jurisdiction over the subject matter of the proceedings. The Court makes the following findings:

1. The Court has considered the contents of the Verified Emergency Motion for Temporary Restraining Order, for Preliminary Injunction, and for Expedited Hearing on Application for Preliminary Injunction, the incorporated references from the Complaint for

Declaratory Judgment, each of their respective exhibits, and the arguments of counsel for the Plaintiffs.

2. The Court notes the findings and legal rationale put forth in the Memorandum of Decision filed on December 28, 2022, and Order entered December 30, 2022, respecting the Motions for Summary Judgment in the consolidated case of *Rowe v. Raoul*, 22-CH-16; Ill. S. Ct. Case No. 129016, as decided by Judge Cunnington in Kankakee County. See Plaintiff's Exhibit A to the *Verified Emergency Motion for Temporary Restraining Order*, of record December 30, 2022. The Court also notes the commonality of both named Defendants in this case were active litigants before the Court in the Kankakee County case.

3. Plaintiffs' Complaint in this present action makes many of the same arguments presented by Plaintiffs in the consolidated Kankakee County case, specifically the Article I, Section 9 "bailable" argument and the separation of powers argument.

4. The changes to the pretrial release system in the SAFE-T Act which Plaintiffs particularly challenge are to take effect January 1, 2023, or two days from today's date.

5. At the time of Judge Cunnington's publication of the Memorandum of Decision noted above, 57 counties had filed suit throughout the state and were consolidated to the action in Kankakee County by the Illinois Supreme Court. Absent action by this Court, it is probable that with regard to pretrial release two criminal justice systems will concurrently exist between those parties to the Kankakee County matter, and counties like St. Clair.

6. Plaintiffs identify and represent they will incur irreparable injury in the event the SAFE-T Act's pretrial release provisions are enforced despite being unconstitutional. As the Kankakee County Circuit Court found in determining that the Kankakee County Plaintiffs had standing to pursue their action:

the government has a substantial and undeniable interest in ensuring criminal defendants are available for trial. *Bell v. Wolfish*, 441 U.S. 520, 534 (1979). P.A. 101-652, although the effect was lessened somewhat by P.A. 102-1104, the pretrial release provisions still restricts the ability of the court to detain a defendant where the court finds that the defendant will interfere with jurors or witnesses, fulfill threats, or not appear for trial. These provisions will likely lead to delays in cases, increased workloads, expenditures of additional funds, and in some cases, an inability to obtain defendant's appearance in court.

...

Plaintiff Sheriffs also are injured ... Sheriffs and their deputies are obligated by law to serve and execute all orders within their counties. 55 ILCS 5/3-6019. In the place of the long-standing practice of issuing warrants when defendants fail to appear, P.A. 101-652 and P.A. 102-1104, mandates that the court first consider issuing a summons instead of a warrant. Although the Act, as amended, now provides for the issuance of a warrant as is currently the case, the amendment requires the court to first consider a summons as the appropriate response to a defendant who fails to appear for court. The increased risk and injury to the Sheriff is still present with the added requirement of consideration of a summons in the first instance. These summonses must or most likely will be served by the Sheriff's Office. Unlike arrest warrants, summonses do not authorize the use of force to gain entry into the defendant's dwelling, or even command the individual to open the door, nor authorize taking the defendant into custody. If the defendant still refuses to appear, the Plaintiff Sheriffs must expend resources and endanger their employees in an additional attempt to secure the presence of an unwilling criminal defendant by service of a warrant now authorized by the amendment. This will undoubtedly lead to increased overtime, staffing needs, and other costs. More importantly, it puts the Sheriff's staff at increased risk. The court finds that this issue is not simply a police dispute, as defendants urge, but a clear matter of law enforcement safety.

See Plaintiff's Exhibit A to the *Verified Emergency Motion for Temporary Restraining Order*, of record December 30, 2022 at 16-18.

6. On the above stated facts and those sworn in the *Verified Emergency Motion for Temporary Restraining Order*, the following findings are made:

- a. No adequate remedy exists at law which would otherwise protect and preserve the parties interests; and
- b. That irreparable injury will occur should this temporary Order without notice to Defendants fail to issue in advance of 12:00 a.m. on January 1, 2023; and
- c. Plaintiffs' have identified a clearly ascertained right in need of protection; and

- d. As displayed by the Court's ruling in Kankakee County, Illinois, and the common issues raised in these Plaintiffs' Complaint, there is a substantial likelihood of success on the merits.

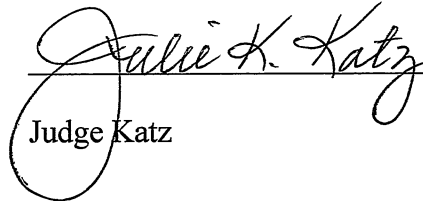
IT IS SO ORDERED:

The Court finds that this Temporary Restraining Order should issue on an emergency basis as prayed in Plaintiffs' Motion. Defendants are hereby restrained from implementation of the pre-trial provisions of Public Act 101-652 and 102-1104 that amend the term "bail" with "pre-trial release" consistent with the finding of unconstitutionality by Judge Cunningham in Kankakee County.

Plaintiffs are excused from posting a bond in favor of the above named Defendants. There is no just cause to delay enforcement or appeal of this Order. This Order shall have immediate effect. Copies of this Order shall be immediately served upon Defendants.

This matter is continued for hearing on Plaintiffs' Preliminary Injunction to January 9, 2023, at 1:30 p.m. in Courtroom 405.

Entered December 30, 2022

  
\_\_\_\_\_  
Judge Katz

Prepared and Presented by:

Christopher Allen, 6312244  
on behalf of Plaintiffs Gomric and Watson  
St. Clair County State's Attorney's Office