

21-7890 ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
MAY 12 2022
OFFICE OF THE CLERK

Michael E. Bargo Jr.

— PETITIONER

(Your Name)

vs.

Pritzker et al.

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Seventh Circuit Court of Appeals, Chicago

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Michael E. Bargo Jr.

(Your Name)

7320 N. Oriole Ave.

(Address)

Chicago, IL 60631-4254

(City, State, Zip Code)

773-775-4320

(Phone Number)

QUESTION(S) PRESENTED

Whether the eight rules of the IL 102nd General Assembly cited in this case violate and nullify Petitioner Michael E. Bargo Jr's. right to have his elected Illinois State Representative represent his will and consent to all Illinois legislative actions, and delegate to the IL House Speaker, acting through these eight rules, the unconstitutional power to usurp the full value of Petitioner Bargo's vote to all Illinois House legislative committees.

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Michael E. Bargo Jr.
7320 N. Oriole Ave.
Chicago, IL 60631-4254
773-775-4320
Plaintiff

JOHN J. (J.B.) PRITZER, Governor of IL, in his official capacity;

EMANUEL CHRIS WELCH, Speaker of the IL House of Representatives, in his official capacity

KWAME RAOUL in his official capacity as Illinois Attorney General;

DON HARMON, Pres. of Illinois Senate, in his official capacity;

Defendants

Thomas R. Ewick, #6279084, Assistant Illinois Attorney General,
500 South Second Street
Springfield, Illinois 62701
Ph: 217-785-4555
Fax: 217-524-5091
Email: Thomas.Ewick@ilag.gov
Attorney representing all defendants, To Be Noticed

RELATED CASES

- Originating case *Bargo v. Pritzker et al.*, U.S. District Court for the Central District of Illinois. No. 3:20-cv-03045-SEM-TSH. Judgement entered April 18, 2022.
- *Bargo v. Pritzker et al.* No. 21-2578, U.S. Court of Appeals for the Seventh Circuit. Judgment entered February 28, 2022.

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INDEX TO APPENDICES

APPENDIX A - Court ORDER re: Case No. 21-2578 (Document 00713974592) issued

February 28, 2022 by the Seventh Circuit Court of Appeals, Chicago, by Appellate Court Judges Diane P. Wood, Michael Y. Scudder and Amy J. St. Eve; E-filed March 22, 2022 dismissing case no. 3:20-cv-03045-SEM-KLM without prejudice for lack of jurisdiction.

APPENDIX B - Judgment and ORDER issued by IL Central District Court Judge Sue E.

Meyerscough dismissing Case no. 3:20-cv-03045-SEM-KLM without prejudice for lack of subject matter jurisdiction. E-filed April 18, 2022.

APPENDIX C - 1 through C-6 Opinion issued by IL Central District Court, Springfield,; Judge

Sue. E. Meyerscough re: Case no. 3:20-cv-03045-SEM-KLM dismissing the case without prejudice for lack of subject matter jurisdiction. E-filed March 28, 2022.

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States Court of Appeals appears at Appendix A to the petition and is:

☒ reported at PACER Case Locator 21-2578, E-filed March 22, 2022.

The opinion of the United States Central district court of Springfield, IL appears at Appendix B to the petition and is:

☒ reported at PACER Locator 20-3045, E-filed April 18, 2022.

The opinion of the United States District Court in Springfield, IL appears at Appendix C to the petition and is:

☒ reported at PACE LOCATOR 3:20-cv-03045-SEM-KLM, E-filed March 28, 2022.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case
was February 28, 2022.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

AUTHORITIES

CASES	PAGE NUMBER
<i>Reynolds v. Sims</i> , 377 U.S. 554-555, (1964).....	1, 6, 7, 16
<i>Shelby County v. Holder</i> , 133 S. Ct. 2612 (2013).....	15
<i>Yick Wo v. Hopkins</i> , 118 U.S. 356 (1886).....	1

STATUTORY PROVISIONS INVOLVED

18 U.S.C. § 241. Conspiracy against rights.
18 U.S.C. § 242. Deprivation of rights under law.
28 U.S.C. § 1331. Federal question.
28 U.S.C. 1343(a)(3)(4). Civil rights and elective franchise.
28 U.S.C. §1391. Venue generally.
28 U.S.C. §2201.
28 U.S.C. §2202. Further relief.
42 U.S.C. §1983. Civil action for deprivation of rights.
42 U.S.C. §1988. Proceedings in vindication of Civil rights.
52 U.S.C., Chapter 13 - Enforcement of voting rights.
52 U.S.C. §10101 Voting rights act.
52 U.S.C. §10302.

STATUTORY PROVISIONS INVOLVED, (CONT'D).

52 U.S.C. §10304. Alteration of voting qualifications; procedure and appeal; purpose of effect of diminishing the ability of citizens to affect their preferred candidates.

52 U.S.C. §10307. Prohibited acts.

OTHER AUTHORITIES

Voting Rights Act, Public Law 90-110. http://library.clerk.house.gov/reference-files/PPL_VotingRightsAct_1965.pdf

U.S. Constitution; <https://www.archives.gov/founding-docs/constitution>.

Voting Rights Act after the Court's Decision in Shelby County. Hearing before the Subcommittee on the Constitution and Civil Justice of the Committee on the Judiciary, July 18, 2013, Washington, D.C. U.S. Gov. Printing Office, Serial No. 113-135. Source: <https://www.govinfo.gov/content/pkg/CHRG-113hhrg81983/html/CHRG-113hhrg81983.htm>

Voting Rights act (1965). transcript: <https://www.ourdocuments.gov/doc.php?flash=true&doc=100&page=transcript\\>.

Voting Rights background information: <https://www.archives.gov/files/legislative/resources/education/voting-rights/images/facsimiles-all.pdf>.

The Voting Rights Act, Summary and Text, US Commission on Civil Rights. Clearinghouse Publication No. 32, Sept. 1971. US Govt Printing Office, Washington, DC, p. 2.

Statement of the Case

Bargo incorporates the record of case 3:20-cv-03045-SEM-TSH filed February 12 and filed February 13 2020 by reference. Footnotes and other information is in the original case.

The US Const. guarantees to every State in the union a republican form of government and authorizes the States to administer state elections. This petition addresses the right of Petitioner Bargo (Bargo) to have his vote counted equally with all other qualified voters not only in all IL State elections, but to have the IL State Representative Bargo votes into the House as his IL State Rep. representative, represent his will and consent in all IL House legislative activities, particularly in the writing of all IL State House committee bills.

As the Court noted in *Reynolds v. Sims*, 377 U.S. 555 (1964) "The right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise." [Footnote 29]. Further support is found in *Yick Wo v. Hopkins*, 119 U.S. 356, (1886) where the Court ruled "the political franchise of voting as 'a fundamental political right, because preservative of all rights.'"

The Voting Rights Act(s) only addressed deprivations of the right to vote at the local and State levels regarding registration, such as deprivations of the opportunity to vote due to race, age and other personal characteristics at the registration and polling place levels; et al., without specifically addressing the voting rights violations regarding whether State legislatures have codified State legislative actions which impede the recording and/or influence of all voters' voices in State Committee legislative actions, by limiting the access their elected officials have to represent their policy preferences in State House committees. (See Fourteenth Amendt., Rights guaranteed, Privileges and Immunities of Citizenship, Due process and Equal Protection").

State codified legislation, specifically the IL House rules of the 101st and 102nd Illinois GeneralAssemblies, which are identical in all respects, are the focus of this voting rights complaint.

The 1965 Voting Rights Act included a definition of voting: "In the Voting Rights Act, the term 'voting' includes all action necessary--from the time of registration to the actual counting of the votes--to make a vote for public office or party office effect." This definition of the term "voting" however, did not reference any specific legislative or governmental actions past the "actual counting of the votes." This means that the Voting Rights Act(s) did not address specific state actions enacted at the legislative level which may impede, deny, diminish or nullify the influence Bargo's vote in State House committees; acts effectuated through denial or impediments of Bargo's ability to express his will and consent through his elected IL State representative; (and the will and consent of all other similarly situated persons in IL) has on all Illinois State legislation written and passed into law by the IL House of Representatives.

This case addresses violations of Bargo's right to have his will and consent heard in all IL House Committees due to specific provisions of the Rules of the 102nd IL General Assembly (IL GA) which duplicate the original complaint Bargo filed regarding the rules of the I 101st GA. The arguments are identical. Bargo had to replace the rules of the 101st GA with the title the Rules of the 102nd GA, and Judge Meyercough agreed in Appendix B-3.

Briefly stated, the codified Rules of the 102nd GA Bargo challenges as voting rights violations fall into three categories: These are listed here under three topics: I) IL House committee restrictions; II) scheduling of House legislative actions; and III) interference with

Bargo's access to all legislative actions through the 102nd IL GA rules of the IL House Rules Committee.

I

House Committee restrictions

i. Rule 4 (c)(14): The Speaker has sole legislative authority "To appoint all Chairpersons, Co-Chairpersons, and Vice-Chairpersons of committees (from either the majority or minority caucus), and to appoint all majority caucus members of committees." [parentheses original] This unconstitutional rule nullifies the previous rules of the IL House found in the 1982 IL House rules that required the majority and minority parties to choose their own committee chairs. As a remedy the Court may declare this Rule unconstitutional, permanently enjoin the IL House from enforcing it, and declare cited rules of the Illinois 1982 Rules in Tables 1 through 6 of the original case filing as a constitutional replacement. Because this Rule clearly mandates that the Speaker has sole authority and right to choose all committee chairs, and committee chairs act as editors to choose voters' will and consent, Bargo is deprived of his Constitutional right to express his policy choices to committees, without impairment, through the IL House Representative whom he feels best represents his policy concerns.

ii. Rule 10(b)(i). Two provisions of Rule 10(b), (i) and (ii) are unconstitutional. These are numbered here separately as Rule 10(b)(i) and Rule 10(b)(ii). The language of Rule 10(b)(i) is: "No member may be appointed to serve as a Chairperson, Minority Spokesperson, or Co-Chairperson of any committee unless the member is serving in at least his or her third term as a member of the General Assembly..." This restriction of committee leadership to members serving in a *third term* denies Bargo and all other qualified voters in IL the opportunity to have

their most recently elected State Representative serve in any legislative chair position in any committee of the IL House in their first and second term. [emphasis added] This third term restriction does not exist in the US Constitution, nor did the IL GA Rules cite any Constitutional foundation or Supreme Court ruling to validate this restriction. This rule, Rule 10(b)i, is an unconstitutional voting rights deprivation since it deprives Petitioner Bargo his right to express his personal IL policy concerns to the IL House through his constitutional right to vote, every two years, for the IL House Representative whom he feels best represents the policies he would like the State of IL to enact in the next *four years* [emphasis added] of state legislation (the Rule nullifies Bargo's voting right to have an ability to influence legislation only in the fifth and sixth years). This is a voting rights deprivation since it takes away the entire value of Bargo's House representative's vote for four years: the first two terms served by any State Representative Bargo has elected to serve in the IL House. This Rule is an impermissible, unconstitutional de jure IL House Rule which deprives Bargo his voice in IL House legislation for two IL House election cycles. Rule 10(b)(i) therefore denies Bargo two-thirds of the value of his vote, and the Supreme Court has ruled the value of a vote cannot be diminished or impaired. The SCOTUS ruling clearly means Bargo's vote cannot be diminished or impaired for any period of time mandated through a House rule. Furthermore, the Speaker's right to require all Chairpersons to be serving in their third term is not founded in the US Constitution. Since the Speaker is allowed, through this House Rule, to continue to impose this third term limit upon whoever may serve as a Chair person, this Rule functions as an unconstitutional empowerment of the Speaker to decide what voices are heard in all IL State House committees. The necessity of the two year election cycle for IL House Representatives was explained by James Madison in *Federalist* No. 37:

“The genius of republican liberty, seems to demand on one side, not only that all power should be derived from the people; but, that those intrusted with it should be kept in dependence on these people, by a short duration of their appointments; and that, even during this short period, the trust should be placed not in a few, but in a number of hands. Stability, on the contrary, requires that the hands, in which power is lodged, should continue for a length of time the same. A frequent change of men will result from a frequent return of electors; and a frequent change of measures, from a frequent change change of men...”

Further support that the three term requirement is unconstitutional is the rule found in the US Constitution regarding the election of Congressional House representatives, which mandates that the House members of congress have only a two year term. The two year term in the IL House is modeled after the two year term applied to Congressional House Representatives in the US Const. The two year interval in the US Constitution is consistent with Madison's observation in *Federalist* No. 37, noted above, that a "frequent change of [legislative] measures will result from a frequent return of electors." Since this IL GA third term rule is unconstitutional on its face, all voters are equally denied their voice. Because Bargo's vote is counted anonymously in all IL State elections, Bargo's vote is nullified along with the vote of every other voter in Illinois House elections.

Rule 10(b)(ii): This Rule clearly states: "A member [of any IL House Committee] may be temporarily replaced on a committee if the member is otherwise unavailable." What this rule does not state is that the only legislative action through which the member is replaced is through the personal choice of the Speaker acting alone, without consulting any minority or majority committee caucus, or any Chair.

This Rule is unconstitutional for three fundamental constitutional reasons.

(a) First; this rule enables the Speaker to replace any House member at any time with a House member whom the Speaker feels agrees with the personal legislative agenda of the Speaker. The IL Policy Institute stated that the Speaker replaces committee members in order to impose his own political policies upon committee bills. There is no evidence that Committee Chairs or caucuses play any effective role in choosing replacement committee members.

(b) Second; at the same time this rule denies Bargo (as well as all other IL voters) the right to have a committee member chosen from a political party, either of the minority or majority, who represents Bargo's will and consent as he expressed through his choice of his elected IL House Representative.

(c) Third; there is no Constitutional basis for the Speaker, acting alone, to have the authority to pick and choose all substitute committee members, regardless of their political party affiliation or membership in the majority or minority IL House committees. Pursuant to the US Const., all IL House members are constitutionally bound to represent the will and consent of their district voters. Also, this House rule fails to cite any Supreme Court ruling, or a constitutional ruling from any District or Appellate Federal Court case, as a precedent. In a republican form of government only the Committees, acting through their parties' caucus with the authority of the voters, can choose legislative voices and express the voters will and consent through committee legislation. This clearly follows from both the foundational principles of a republican form of government and basic voting right laws which state that only the voters, acting through their committee chairs, can ultimately choose the members of their own caucuses. In *Reynolds*, 377 U.S. 566 the Supreme Court affirmed this basic

principle of voting: "The right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government." Bargo argues that this right also mandates that Bargo's policy preferences on all IL House committees must also be protected by the Federal Courts. Therefore Bargo argues that rule 10(b)(ii) denies him his right to have his voice represented by an IL State Representative of his choice, and mandates that the Speaker acting alone, without any formal vote of Committee chairs, choose the voices who may be heard, when serving as substitutes in all IL House Committees. In practice, then, this Rule functions as a *Shelby County* decision "scheme or device" used by the Speaker to deprive/usurp, diminish/impair Bargo's right to express, through his vote, his personal policy preferences to all IL House legislation. Further corroborating evidence that Rule 10(b)(ii) mandates voting rights violations is the fact that the Illinois Policy Institute found that in 2016 the Speaker replaced Committee voting members through Rule 10(b)(ii) over 600 times. Since in 2016 the IL House had 40 committees, this means that all committees had members changed to replace voters' voices an average of 15 times each in that one year's legislative session. This practice violates the one person one vote principle the Supreme Court upheld in *Reynolds*. The committee bills that can be amended and revised through an application of Rule 10(b)(ii) include bills passed by both the majority and minority committees. This rule therefore qualifies as a legislative scheme of voting rights deprivation since it denies Bargo and all other similarly situated voters their right to have their House Representative express their personal policy preferences to all IL House committees and to influence all IL House

legislation through his vote. In conclusion, Rule 10(b)(ii) is a legislative de jure voting rights violation enforced with the power of the IL House Rule legislative 10(b)(ii) law.

II

The list IL General Assembly Rules which diminish and impair the value of Bargo's vote in all IL House legislation by delegating to the Speaker, acting alone, the authority to unconstitutionally control committees through unconstitutional calendar "schedule" and "time" constraints which did not exist in the earlier 1982 and other earlier IL legislative House Rules.

Rule 9(b) "Schedule" states: "The Speaker may schedule or reschedule deadlines at his or her discretion for any action on any category of legislative measure as the Speaker deems appropriate, including deadlines for the following legislative actions." Bargo argues that the scheduling of bills in Committee should follow the 1982 IL House Rules, which specify: "The Chairman of the committee or of a subcommittee thereof shall set each bill or resolution within 30 days after it is referred to the committee..." Furthermore, in the event that a committee fails to hear a bill, the 1982 House Rule 25 (a) clearly mandates: "Each bill shall, if requested by its sponsor, have a hearing by the Committee or by a subcommittee thereof prior to the 45th day after its assignment to a committee." This 45 day time limit was a de jure IL House Rule that allowed any committee to hear any bill. This rule is unconstitutionally limited to one hour by Rules 9(a) and 9(b) of the 102nd IL GA. The "time period" is a fundamental aspect of legislation, and the most basic element of voting; since both the election of IL House

Representatives and the meetings of all committees are controlled through time (elections for IL State Representatives are held every two years). But through Rule 9(b) the Speaker is able to seize control of, and restrict through constraints; time as a method of vote voice impairment: it denies Bargo's elected State Representative the time to implement Bargo's policy preferences to all IL House legislation. Controlling time limits therefore functions as an unconstitutional scheme to control access to the IL House legislation: the practice deprives Bargo access to all IL House committees and therefore all IL House legislation. As a result it denies Bargo the value of his vote: his opportunity to express his will and consent through his elected IL House Representative to all IL House legislation. Furthermore, the one hour limit rule does not specify that the one hour must be within the normal operating hours of the legislative day. The Court should rule that following the 1982 IL House Rules, all bills must be properly presented by the Clerk to the House floor within normal daily legislative hours, with a full 3 day prior announcement, physically published by the Clerk, and hand delivered to the Chairs of all committees, both majority and minority, before a bill may be called for a vote by the IL House floor. This Remedy is noted in Table 1, Pet. App. p. 85 of original case filing.

In addition to the scheduled legislative activities that the Speaker personally schedules under Rules 9(a)(b); under Rule 9(c) the Speaker has, by rule, acting alone and without any required consultation with any House committee chairs, the legislative authority to revise, suspend and reschedule, at any time he/she personally chooses, the date and time when an Illinois House bill shall be voted on by Bargo's IL House Representative. And per Rule 9(b) these schedule changes "are [immediately] effective upon being filed by the Speaker with the Clerk." No one hour time notice appears in

this Rule. In the past IL House Rules, such as in the 1982 Rules of the IL House, the period of time allowed for the Notice requirement was always set by pre-published IL House Rules. The remedy is for this Court to replace this Rule with the legislative schedule published under Rules 25 (d) and (e), of the IL 1982 House Rules listed under the heading "Scheduling of Bills in committee" in the original case.

41. The following list contains two elements. The numbered statement in quotation marks is the published schedule of legislative activities established by Rule 9(b) of the IL General Assembly which mandate that the Speaker, acting alone, decide the legislative calendar for these IL House legislative activities. No specific calendar dates are given per Rule 9(b) for any IL House legislative action. Additionally, pursuant to Rule 9(a) the Speaker has sole power to personally determine, with one hour's notice to the IL House committees, what the future schedule will be for all legislative actions of all House committee. No House Committee can know beforehand what the Speaker will decide, as to the calendar of House activities, so no House Committee can convene its caucus members within any predictable time frame. And once the Speaker announces the time, House members have only one hour to prepare.

The remedy Bargo recommends is for the House to follow established rules from the 1982 IL House Rules. They are listed under the purview of Rule 27 and the heading "Scheduling of Bills in Committee," a heading that did not appear in the IL GA House rules. Briefly stated, the 1982 IL House Rules under Rule 27 had specific advance Notice for all the calendar dates for all IL House and Senate actions; while the 102nd IL GA House rules do not give a single scheduled calendar date. In place of the pre-published list of calendar dates Rule

9(b) mandates that the schedule be determined, at the last minute, by the Speaker acting alone, with no more than a one hour notice to all House members. Incorporated here by reference.

Here is the list of IL GA Rule 9(b) twelve legislative activities, followed by the 1982 House Rule, regarding the same legislative activity, and the calendar date given in the 1982 House Rules. Tables 1 thru 6 list all twelve of these IL Rules, accompanied by the 1982 IL House rules which Bargo suggests provide remedies for the IL IL GA rules. This allows a comparison of how the 102nd IL GA rules deny Bargo's IL House Rep. the ability to express Bargo's vote, as compared to the 1982 IL House rules. In the 102nd GA all of these calendar dates are personally determined by the Speaker, and Bargo's IL State Rep. is not allowed more than one hour of time to prepare to respond.

(1) "Final day to request bills from the Legislative Reference bureau."

Remedy: 1982 IL House Exh. C-8, Rule 27(b)(1): "To be considered by June 30 of an odd numbered year, a House bill must be requested from the Legislative Bureau by March 15 or filed by April 6 of that year or exempt under sub-section (e) and a Senate Bill must be introduced by in the House by June 1 of that year or exempt under subsection (e)."

(2) "Final day for introduction of bills." Remedy: 1982 IL House Rule, 25(d) and (e), House bills were due May 4 in odd numbered years and on May 2 in even numbered years."

(3) "Final day for standing committees of the House to report House bills, except House appropriation bills." Remedy: 1982 IL House rule 36, House bills were due May 4 in odd numbered years and on May 2 in even numbered years."

(4) "Final day for standing committees of the House to report House appropriation bills."

Remedy: 1982 House IL Rule 25 cited the due date of House appropriation bills as May 11 in odd numbered years, and May 9 in even numbered years.

(5) "Final day for Third Reading and passage of House bills, except House appropriation bills." Remedy: 1982 IL House Rule, 35 (g), May 18 in odd numbered years, and May 23 in even numbered years.

(6) "Final day for Third Reading and passage of house appropriation bills." The 1982 IL House Rule, 35 (g), Exh. C-1, specified May 25 in odd numbered years and May 29 in even numbered years.

(7) "Final day for standing committees of the House to report Senate appropriation bills." Remedy: 1982 IL House Rule 35(g), Exh. C-10, C-11; June 29 in odd numbered years and June 27 in even numbered years.

(8) "Final day for standing committees of the House to report Senate bills, except appropriation bills." Remedy: The 1982 IL House Rules did not include a specific date for the reporting of Senate bills.

(9) "Final day for special committees to report to the House." Remedy: The 1982 IL House Rules did not include a specific calendar date for the reporting of all special committee activities to the House so the 1982 House Rules do to provide a remedy.

(10) Final day for Third Reading and passage of Senate appropriation bills. Remedy: 1982 IL House Rule, the calendar dates of June 29 in odd numbered years and June 27th in even numbered years.

(11) Final day for Third Reading and passage of Senate bills, except appropriation bills.

Remedy: 1982 House Rule, calendar dates of June 22 in odd numbered years and June 25 in even numbered years.

(12) Final day for consideration of joint action motions and conference committee reports. Remedy: The 1982 House Rules did not specific a calendar date for consideration of joint action motions.

The applicable 1982 IL House Rules, which are included in Exhibits C-1 thru C-11 provide both evidence and remedies to the Court as to how the rules of the IL IL General Assembly have been changed to deprive Bargo's elected House Representative any opportunity to review and decide, in any committee, how Bargo's personal policy choices may best be expressed through IL House bills.

III

IL IL GA House Rules which bestow upon the IL House Speaker sole authority to control all IL State legislation through his control of the Rules Committee. The following is a list of IL House "Rules Committee" rules which usurp the value of Bargo's vote in all Illinois legislative activity.

Rule 15(d): "Upon concurrence of a majority of those appointed [by the Speaker] the Rules Committee may advance any legislative measure pending before it to the House, without referral to another committee:" This rule unconstitutionally empowers the Rules Committee to write the final versions of any and all IL House bills without the participation of Bargo's elected State Representative or any of Bargo's party's committee members. Furthermore, this rule empowers the Speaker and two of his personally chosen same party members the unconstitutional ability to advance any bill to the floor of the House, without first having the bill

vetted through the appropriate IL House committee. Remedy: this Rule should be ruled unconstitutional, and the State of IL legislature enjoined from enforcing it, since it denies Bargo and all other qualified voters in all IL House legislation the opportunity to express their will and consent to all IL House bills. Details are in the original case filing.

Rule 15(d):

"Notwithstanding any other provision of these Rules, a floor amendment, joint action motion for final action, or conference committee report advanced to the House by the Rules Committee may be considered for adoption no sooner than *one hour* after the Clerk announces the report of the Rules Committee referring such a legislative measure to the House."

This Rule unconstitutionally restricts the opportunity all IL Representatives have to conference and study any legislative actions seized by the Speaker's Rules Committee and deprives Bargo's State Rep. any opportunity to express Bargo's policy choices to these legislative actions. Additionally, there is a notification issue. All IL House committee members are only given, by this rule, a one hour time limit, through a Notice posted on the IL House website, not through a physically posted Notice posted by the Clerk or notification printed and distributed to all IL House committee Chairs. This rule was not found in the 1982 Rules. In the 1982 Rules the Clerk was required, by law, to notify all members of the IL House of any legislative actions: "The Clerk shall publish a daily calendar and place it on the desks of the members before the convening of the House on each legislative day..." This 1982 rule requiring Notice to all IL House members was unconstitutionally replaced by the one hour rule. The one hour time limit mandated by this rule deprives Bargo the time and opportunity needed by Bargo's State Representative to exercise Bargo's right to have a bill read in committee, have a House

conference discuss the bill through their caucus, and vote on the bill on the House floor, as well as have a Second and Third Reading. The one hour time limit is, therefore, an unconstitutional time limit and impairment of Bargo's elected IL State Representative's ability to express Bargo's will and consent to IL House legislation on the floor of the IL House. It impairs and diminishes Bargo's right to have his vote influence IL House legislation. Furthermore, the one hour time limit does not specify that the bill must be posted within the hours of the legislative day; and bills can be posted at 3 a.m. The rule does not cite any constitutional reason to deprive Bargo's House Representative the right to have a First, Second and Third floor vote. The previous IL House Rules required that all IL House bills must have Three Readings on the floor of the IL House. This rule is found in the daily calendar of the IL 1982 House Rules. Bargo's right to have three readings of a House bill is deprived by these unconstitutional Rules Committee changes and the language of 15(d) does not establish a constitutional basis for this rule constitutional or cite any House rule precedent. This Rule, 15(d) is only designed to deprive Bargo his voting right to express, through his vote, his policy preferences to the House.

In practice the one hour rule functions as a *Shelby County* "scheme or device" deliberately designed to diminish and deprive Bargo of his right to have his elected IL State Rep. express Bargo's policy choices to all IL House committees, and should be abolished pursuant to the Supreme Court's ruling that the right to vote cannot be diminished or impaired. No explanation referring to US Constitutional or Supreme Court precedents is given in the IL GA House Rules for this one hour time limit. Bargo argues that no Supreme Court precedents exist, or can exist, since the Supreme Court has never, to Bargo's knowledge, upheld the constitutionality of a short time period conference restriction in a local, State or Federal election.

The IL House and the Speaker implicitly acknowledge that Rule 15(d) has no Constitutional voting rights basis since the House and Speaker never cited or explained the Constitutional basis of Rule 15(d). By comparison, Bargo respectfully requests that this Court note the Rules of the 1982 House. The 1982 IL House Rules specified the duration of time that must be allowed for bills to be considered by the House. These time allowances apply to First Reading of bills, Second Reading of bills, and Third Reading. The 1982 IL House rules never limited legislative actions to one hour, and most commonly involved two or more days; proving that the one hour time rule violates the IL House legislative time rules which existed in and before 1983.

Rule 17:

“The Rules Committee may consider any legislative measure referred to it under these Rules, by motion or resolution, or by order of the Presiding Officer [who is personally chosen by the Speaker] upon initial reading. The Rules Committee may, with the concurrence of a majority of those appointed, sponsor motions or resolutions; notwithstanding any other provision of these Rules, any motion or resolution sponsored by the Rules Committee may be *immediately considered* by the House *without referral to a [existing House] committee.*” [italics added]

This rule denies Bargo's IL House Representative (and the IL House representatives of all other qualified IL State voters) the time and opportunity to review motions or resolutions sponsored by the Rules Committee before they are considered through a vote by the entire IL House. In 1816 Thomas Jefferson stated : "a government is republican in proportion as every member composing it has his equal voice in the direction of its concerns...by representatives chosen by himself." *Reynolds*, Footnote 53. [emphasis added] Rule 17 is unconstitutional. It denies/deprives Bargo his right to express his vote, through his elected House representative, in all IL House committees, for the policies of his choice. In the past the IL Rules committee had a limited

period of time in which to examine legislation for formal House rule violations and was given a strict time limit. In past IL House rules such as in the 1982 rules the Rules Committee did not have the authority to write or re-write legislation and then submit it to the House floor for a floor vote, without the originating House committee(s) having the opportunity to review the legislation, and have three readings of a bill on the House floor. This Rule denies Bargo's voting right to choose, every two years, the House representative who Bargo feels best represents his personal policy choices.

Simultaneously, this Rule also replaces Bargo's policy choices with those of a small group of three persons: the Speaker and his two other Rules Committee members who were personally chosen by the Speaker, and who thus conform to the Speaker's policy choices. It is a scheme of voting rights deprivation.

Rule 18(g):

"Notwithstanding any other provision of these Rules, any bill pending before the Rules Committee shall be immediately discharged and referred to a standing committee, special committee, or order of the Daily Calendar, as provided in this Rule, if the Principal Sponsor of the bill files a motion that is signed by no less than three-fifths of the members of both the majority and minority caucuses, provided each member signing the motion is a sponsor of the underlying bill subject to the motion and the motion specifies the appropriate standing committee, special committee, or order on the Daily Calendar to which the bill shall be referred. Such a bill shall be filed, in writing, with the Clerk."

This Rule is unconstitutional because it mandates that the IL Rules Committee, composed of only five IL State Representatives, with a quorum defined as only three members of the Speaker's personal political party, have the legislative power to control and rewrite all IL House legislation. Furthermore, this Rule deprives of Bargo his Constitutional right to have

access to the IL House through his elected State Representative unless arbitrary, unconstitutional legislative barriers are met, such as the requirement that a three-fifths majority sign a motion and all signers of that motion become a sponsor of the bill. This Rule unconstitutionally changes the existing, underlying 1982 IL Assembly committee rules for voting on legislative bills; and dilutes and diminishes the value of Bargo's vote. The Illinois Policy Institute concluded:

"[IL Speaker] Madigan, unlike his counterparts in most other states, has the power to kill bills, even those that have popular support and deserve true floor debate, by virtue of his power to appoint the majority of Rules Committee members. That committee [composed of the Speaker and two persons chosen by him/her from their own political party] determines whether a bill will be sent to a substantive committee for deliberation or simply sit in the Rules Committee until it dies."

The remedy is for this Honorable Court to declare this rule unconstitutional, enjoin the IL General Assembly from enforcing it in any form, and replace it with the 1982 IL House Rules which did not have this rule. The replacement rules Bargo recommends are the 1982 IL House Rules found in the Exhibits C-1 thru C-11 and cited in Tables 1 through 6. Bargo's vote should have a clear, unimpaired, unobstructed voice in all IL House legislative committees. Furthermore, this Rule, 18(g) establishes what are in effect legislative requirements which violate the SCOTUS rulings regarding "diminish and impair" practices, which also impede Bargo's ability to express, through his vote, his will and consent to all IL legislative activities. While the "tests and devices" Court ruling was originally applied to state and local elections, the Court may see the provisions of Rule 18(g) which establish roadblocks to Bargo accessing IL House legislation seized by the Rules Committee, as voting rights impairments, tests and devices which violate Bargo's voting rights at the IL State House level. This denial of Bargo's right to address all IL House committees through his vote did not exist in the 1982 IL

House rules. The remedy is to declare the provisions of Rule 18(g) unconstitutional as facially violative of Bargo's voting rights, to enjoin the Illinois House from enforcing them, and for the IL House to return to the 1982 Rules found here in the original case Table 5, p. 89.

Furthermore, Rule 18(g) is unconstitutional since it mandates that the IL House Rules Committee create an unelected legislative majority by enabling and utilizing a majority quorum composed of the Speaker and only two IL State Representatives, personally chosen by only the Speaker, then have granted to them, through Rule 18(g) the unconstitutional legislative power to control and rewrite all provisions of all IL House legislation without the participation of Bargo's IL State Representative. This rule is unconstitutional for two reasons based in the Constitution: 1) it is a de jure facial violation of Bargo's right to access all IL committees through his vote, 2) it replaces Bargo's will and consent in all IL House Committees, without restriction; with the will and consent of only three members of the Rules Committee. And since the Rules Committee defines a quorum as the Speaker and two committee members of his choice, in reality the Speaker has sole power to choose all IL House legislation. This completely nullifies Bargo's right to express his will and consent to all IL House legislation, and therefore all IL Senate legislation, since the House writes bills first. The Supreme Court has always banned voter nullification practices, regardless of whether they operate to nullify voters' rights at the level of registration, the ballot box on election days, or geographical districting schemes. Most importantly, the Supreme Court has always acted to guard and protect the rights of voters to express their unimpaired will and consent to all state legislation.

Rule 22(b): "No bill that provides for an appropriation of money from the State Treasury may be considered for passage by the House unless it has first been favorably reported

by an Appropriations Committee *or*: (2) the bill was *exempted from this requirement* by a majority of those appointed to the Rules Committee.” [emphasis added] This Rule has three unconstitutional provisions:

(a) The first is that the Rules Committee, with voting members completely controlled by the Speaker, may decide, upon its own volition, to seize and amend any bill of appropriation from any House Committee; thereby absolutely interfering with the appropriations process, nullifying Bargo's vote value in any and all IL House or Senate appropriations processes.

(b) Second, the three member quorum of the Rules Committee is improperly given the authority to rewrite all appropriations bills as the Speaker chooses, amend them, and immediately put them to a floor vote without sending it back to the originating committee, denying the voices of IL House voters' voices in the originating IL House Committee any right to amend or append the appropriations bill. This further nullifies the value of Bargo's vote in all House committees.

(c) Third, there is no time limit restricting how long the Rules Committee can withhold an Illinois House bill from having a House floor vote, and withhold it from amendment by its originating committee. This rule then codifies what has become a practice which unconstitutionally empowers the Speaker to personally act to prevent bills from reaching the House floor, denying Bargo's IL House representative the right to vote on the bill[s]. As a matter of record, the Illinois Policy Institute reported that in 2016 the Rules Committee, implementing rule 22(b), seized and amended over 600 bills from Illinois House Committees.

Rule 22(b) plainly mandates that the Rules Committee, controlled by the Speaker in his/her official capacity and two of his/her appointees, be granted, without restriction, the unconstitutional authority to deprive Bargo and all other qualified IL voters their constitutionally protected right to decide, through access to their elected IL State House Representatives in all House legislative committees, how their taxes should be appropriated. It unconstitutionally replaces Bargo's will and consent, with regard to all IL State House appropriations, with the will and consent of the Speaker and his/her two chosen Rules Committee members. Rule 22(b), therefore, qualifies as an IL House legislative scheme/device to deny Bargo his right to address all IL House committees, through his vote, his policy/appropriations voice. Remedy: The only Constitutional remedy is to restore the legislature's constitutional authority to appropriate funds from the IL State treasury through bills passed by floor vote from the individual IL House committee that originally passed the appropriations bill. In the 1982 IL House rules the Rules Committee did not have the authority to seize, at its own volition and without a vote of any committee, all IL House appropriations bills. In the 1982 IL House Rules every committee had the legislative authority to withdraw money from the State Treasury. The appropriations bills were voted on by the entire IL House through a House floor vote, conducted with adequate notice mandatorily posted by the Clerk. Furthermore, the 1982 Rules did not delegate to the Rules Committee the exclusive authority to delay appropriations bills, seize the authority of committees to pass appropriations, or delegate all appropriation authority to the three Speaker-approved members of the Rules Committee. This Rule, 22(b) unconstitutionally delegates to the Rules Committee the unconstitutional right to amend/append all appropriations without a vote of any committee, including the committee of origin. It also violates the "Three Reading"

requirement of the legislative rules of the 1982 IL House Rules. As a result it denies Bargo his voting right to address, through his elected IL House Representative; how his IL State taxes are appropriated in IL House bills. In the 1982 Illinois House Rules this rule did not exist. In the 1982 IL Rules Bargo's vote was conserved by the Consent rules which specified the calendar time allowed for committees to study, conference, and vote on all IL House Committee appropriation bills. The 1982 House Rules allowed individual House committees to individually appropriate Bargo's taxes, allowing both majority and minority committee members to have a vote on the appropriations. Remedy in Table 6, Pet. App. page 90 of original filing. Quotation marks added.

In addition, the Court may choose to declare the IL GA rules codifying these Rules Committee requirements, such as Rule 22(b) (Pet. App. p. 75) unconstitutional, enjoin the Rules committee from practicing them, declare the Rules committee time limits cited in the 1982 Illinois House Rules an unconstitutional denial of legislative access. In the 1982 House Rules Bargo's vote was voiced through the Consent Calendar rules which specified the calendar date specified, in advance; for committees to study, conference, and vote on all IL House Committee bills. The Rules Committee does have a valid legislative function in all IL House legislative activity, to examine and ensure all IL House legislation conform to IL House Rules. However, to preserve the valid 1982 IL House functions of the Rules Committee Bargo recommends that any appropriation not approved by the Rules Committee within a time limit of five legislative days automatically proceed to the House floor for a vote, and the Rules Committee not be allowed, at any time, the opportunity to revise, amend or append any House bill beyond that five day legislative limit. A limited, specific time frame should be imposed upon the IL House Rules

Committee since only a specific time frame can deny the Rules Committee the opportunity to use time delays as an unconstitutional legislative scheme to bury House bills. This is one of the most important IL House Rule changes the Court can make to preserve Bargo's vote.

SUMMARY

Bargo prays this Honorable Court ban the IL House of the IL State legislature from practicing the eight IL House practices cited herein, and replace them with the similar rules of the 1982 House GA as specified in Tables 1 thru 6 of the original filing of 3:20-cv-03045-SEM-TSH.

REASONS FOR GRANTING THE WRIT

Bargo argues that the Rules of the 102nd IL GA deprive him, and all other IL House Rep. voters, of their right to have their vote count, in the meaning of "count" that his (their) will and consent, his (thei)r IL State policy preferences, are denied by these eight rules. Bargo is not aware of any other Federal Supreme Court voting rights case that clearly cites the rules of a state House which deprive and deny all State voters their voting rights and clearly transfer the will and consent of every voter to the will and consent of one person, the IL State House Speaker. It is important to note that these eight rules Bargo is citing here were not discussed by the Central District Court judges in Springfield, IL or by the 7th Cir. Ct. of Appeals in their rulings, which are included in Appendices A and B and C. In all three appendices the Courts ruled that the subject matter of this case could not be addressed by the IL Central District Court and the 7th Cir. Ct. of Appeals due to lack of subject matter jurisdiction. Bargo is required to submit this Supreme Court Appeal in order to have these important voting rights restrictions addressed and remedied.

Furthermore, the IL Policy Inst. has found (see original case) that a majority of all State legislatures in the United States have State House legislative rules which include some or most of these voting rights violations. In the interest of preserve the rights of all US citizens to be able to vote and have their vote count in all US State Houses of representatives a resolution and remedy of these voting rights deprivations should be addressed at the Supreme Court level.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Michael E. Bays Jr.

Date: May 12, 2022