

STATE OF MICHIGAN
HILLSDALE COUNTY 2B DISTRICT COURT

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

Case No: 240497 FY and 240498 FY

v.

Hon. Megan R.M. Stiverson

1. Stefanie Lynn Juntilla (Stefanie Lambert)

2. Stephanie Scott

Defendants.

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Court's Findings following Preliminary Examination and Written Arguments

This Court received both closing arguments and rebuttal. I will not be granting or addressing any other motions filed, including the motion made by Attorney Olsen to withdraw as counsel. There was attorney representation throughout the case, and Juntilla filed a closing

argument. I am not going to accept a withdrawal as counsel before a determination is made in a case that all the proofs were presented on. The motion to withdraw is denied. The motion regarding sub-rebuttal is granted and was considered. The prosecution indicated they were not going to respond unless this required same and I do not. This Court has all of the proofs and arguments and is able to make a determination of whether probable cause exists with that evidence and the appropriate laws.

As a preliminary matter based off of arguments regarding venue, this case was heard in the appropriate venue based off of all testimony presented at the preliminary examination for probable cause purposes. The intricate nature of computer crimes allows for multiple jurisdictions to be involved, including multiple “scenes” of the crime. But the originating location of the sensitive electoral information in question was the property of Adams Township in Hillsdale County. Any illegality involved in the removal of this information (which is a primary question for this Court to determine) does not change the venue, other than there may be many locations where a crime occurred. Of note:

Special venue rules apply with respect to preliminary examinations. MCL 762.3(3) provides:

“With regard to . . . examinations conducted for offenses not cognizable by the [district court], the following special provisions apply:

(a) If an offense is committed on the boundary of 2 or more counties, districts or political subdivisions or within 1 mile thereof, venue is proper in any of the counties, districts or political subdivisions concerned.

(b) If an offense is committed in or upon any railroad train, automobile, aircraft, vessel or other conveyance in transit, and it cannot readily be determined in which county, district or political subdivision the offense was committed, venue is proper in any county, district or political subdivision through or over which the conveyance passed in the course of its journey.

(c) Except as otherwise provided in [MCL 762.3(3)(b)], if it appears to the attorney general that the alleged state offense has been committed within the state and that it is impossible to determine within which county, district or political subdivision it occurred, the violation may be alleged to have been committed and may be prosecuted and punished or the examination conducted in such county, district or political subdivision as the attorney general designates. The responsibility and the authority with reference to all steps in the prosecution of such case shall be the same, as between the prosecuting attorney of the county so designated and the attorney general, as though it were an established fact that the alleged criminal acts, if committed at all, were committed within that county, district or political subdivision.”

A district court has no authority to grant a motion for change of venue before a preliminary examination is held. *In re Attorney General*, 129 Mich App 128, 132 (1983). MCL 762.7, the statute granting courts of record authority to change venue in criminal cases, is only applicable to circuit courts in felony cases. *In re Attorney General*, 129 Mich App at 131.

The witnesses that testified at trial were: Lieutenant Jay Barkley from the Michigan State Police; Benjamin Cotton, a computer forensic examiner; Jonathan Brater, Director of the Bureau of Elections; Joshua McAlpine, Learning Management Assistant for MI Bureau of Elections; Mark Nichols, former Adams Twp. Supervisor; and Abe Dane, County Clerk (former Chief Deputy County Clerk).

Was probable cause shown for each of the crimes alleged based off of testimony and exhibits presented at the preliminary examinations? Both prosecution and defense in this matter took some time to clarify their interpretation of the probable cause standard during their closing arguments so this Court wants to be clear, directly quoting from the Bench Book Guidelines the applicable as related to this standard.

“In general terms, the purpose of a preliminary examination is to determine whether a crime was committed and whether there is probable cause to believe that the defendant committed it.” *People v Crumbley (On Remand)*, 346 Mich App 144, 167 (2023) (cleaned up). “More specifically, in order to bind a defendant over for trial in the circuit court, the district court must find probable cause that the defendant committed a felony based on there being evidence of each element of the crime charged or evidence from which the elements may be inferred. Probable cause requires enough evidence to cause a person of ordinary caution and prudence to conscientiously entertain a reasonable belief of the defendant’s guilt. The district court abuses its discretion by binding over a defendant when the prosecution has failed to present sufficient evidence to support each element of the charged offense.” *Id.* at 167-168 (quotation marks and citations omitted).

“[T]he probable cause required for a bindover is “greater” than that required for an arrest and . . . imposes a different standard of proof[;] . . . [t]he arrest standard looks only to the probability that the person committed the crime as established at the time of arrest, while the preliminary hearing looks both to that probability at the time of the preliminary hearing *and* to the probability that the government will be able to establish guilt at trial.” *People v Cohen*, 294 Mich App 70, 76 (2011) (citations omitted). “The district court’s [probable cause] inquiry is not limited to whether the prosecution has presented sufficient evidence on each element of . . . the offense, but extends to whether probable cause exists after an examination of the entire matter based on legally admissible evidence.” *People v Crippen*, 242 Mich App 278, 282 (2000) (citations omitted).²⁷ However, “[a] preliminary hearing is ordinarily a much less searching exploration into the merits of a case than a trial, simply because its function is the more limited one of determining whether probable cause exists to hold the accused for trial.” *People v Drake*, 246 Mich App 637, 640 (2001), quoting *Barber v Page*, 390 US 719, 725 (1968).

In determining whether there is probable cause to believe a crime has been committed by the accused, a judge has a duty “to pass judgment on the credibility of the witnesses.” *People v Yost*, 468 Mich 122, 127-128 (2003) (citations omitted). “If the evidence introduced at the preliminary examination conflicts or raises a reasonable doubt about the defendant’s guilt, the [judge] must let the factfinder at trial resolve those questions of fact[, and t]his requires binding the defendant over for trial.” *People v Hudson*, 241 Mich App 268, 278 (2000) (citation omitted); see also *Yost*, 468 Mich at 128; *People v Goecke*, 457 Mich 442, 469-470 (1998). Although “the magistrate must exercise some judgment in analyzing the evidence at the preliminary examination when deciding whether there is probable cause to bind over a defendant,”⁵⁸ *People v Anderson*, 501 Mich 175, 184 (2018), “charges should not be dismissed merely because the prosecutor has failed to convince the reviewing tribunal that it would convict[; t]hat question should be reserved for the trier of fact,” *People v Perkins*, 468 Mich 448, 452 (2003), citing *Goecke*, 457 Mich at 469-470.

This Court is specifically taking into consideration whether there was evidence introduced that conflicts or raises a reasonable doubt about the Defendant’s guilt as to each count and whether the case should proceed to the Circuit Court to allow the factfinders at trial to resolve any of these questions of fact. And, specifically, is it probable that the government will be able to establish guilt at trial. Note that this does not mean the Court looks to whether a case will be proven beyond a reasonable doubt at a future trial, but that it is probable.

Count 1: MCL 752.795 Computers – Unauthorized Access

A person shall not intentionally and without authorization or by exceeding valid authorization do any of the following:

- (a) Access or cause access to be made to a computer program, computer, computer system, or computer network to acquire, alter, damage, delete, or destroy property or otherwise use the service of a computer program, computer, computer system, or computer network.
- (b) Insert or attach or knowingly create the opportunity for an unknowing and unwanted insertion or attachment of a set of instructions or a computer program into a computer program, computer, computer system, or computer network, that is intended to acquire, alter, damage, delete, disrupt, or destroy property or otherwise use the services of a computer program, computer, computer system, or computer network.

The prosecution argues that there is probable cause to believe that Defendant Scott accessed the Electronic Poll Book (EPB) flash drive for the unauthorized purpose of having the data on this storage device transmitted to computer analyst Benjamin Cotton, so he could use that

data to perform an analysis requested by Defendant Lambert. There is zero question that there was access made and this qualifies as a computer system or program. The prosecution also correctly argues, for probable cause purposes that this information was then sent to Mr. Cotton by Lambert. The question for the court to consider for probable cause is whether this was an unauthorized purpose under the statute.

The flash drive data was encrypted and password protected, which means this password would have come from Defendant Scott to Defendant Lambert (who hired Mr. Cotton, as was testified to at the examination). There is probable cause based off circumstantial evidence at trial to conclude that this occurred and a direct admission made by Defendant Scott in a civil affidavit in a different matter that she provided election data from Adams Township to Cotton.

The prosecution refers to MCL 168.509gg(1).

(1) Subject to subsection (3), the information described in this subsection that is contained in a registration record is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The secretary of state, a designated voter registration agency, or a county, city, township, or village clerk shall not release a copy of that portion of a registration record that contains any of the following:

- (a) The record that an individual declined to register to vote.
- (b) The office that received a registered elector's application.
- (c) A registered elector's driver license or state personal identification card number.
- (d) The month and day of birth of a registered elector.
- (e) The telephone number provided by a registered elector.
- (f) The digitized signature of an elector that is captured or reproduced and transmitted to the qualified voter file by the secretary of state or a county, city, or township clerk under section 509hh or by the secretary of state under section 307 of the Michigan vehicle code, 1949 PA 300, MCL 257.307.

This specifically addresses what is considered confidential information and the prosecution argues that it is clear that the clerk is bound by this law and therefore prohibited from releasing this information to Cotton. The EPB did contain protected data including elector's driver's license number and the month and day of the elector's birth. This was confirmed by Cotton during his testimony. The defense disagrees that this statute applies as it is a FOIA related law. However, this FOIA related law describing information a clerk **shall not**

release falls under MICHIGAN ELECTION LAW (EXCERPT) -- Act 116 of 1954. Confidential voter information was released by both Ms. Scott and Ms. Juntilla (Lambert).

The last thing to consider for probable cause on Count 1 is whether the disclosure was legal and justified. The Defendants argue this is justified based on MCL 168.520:

MICHIGAN ELECTION LAW (EXCERPT)
Act 116 of 1954

168.520 Illegal or fraudulent registration; township or city clerk, powers and duties; assistance by police or sheriff; assistant examiners, appointment, expenses.
Sec. 520.

If a township or city clerk has knowledge that there is a probable illegal or fraudulent registration in the township or city, or in any ward or precinct of the township or city, the clerk has the power and duty to make a full investigation of the facts concerning the registration and to ascertain whether any name has been illegally or fraudulently registered. A township or city clerk is authorized and empowered to call upon the police department of the city or the sheriff of the county in which the city is located, or both, to assist in making the investigation, and the police department and the sheriff are required to render assistance if the clerk makes a request for assistance, and to furnish the clerk at his or her request with all available assistance in making the investigation. A township or city clerk is further authorized and empowered if he or she considers it necessary or advisable to appoint assistant examiners for the purpose of the investigation. Bills for the services of the examiner must be approved by the clerk and must be audited and paid by the township board or legislative body of the city in the same manner as the expenses of conducting elections are paid.

So, let's unpack this. First, Scott would have to have knowledge that there is **probable** illegal or fraudulent registration in her township. Both attorneys, specifically the Defense, made it quite clear that probable being used as a standard is not just a reasonable likelihood that something may be happening kind of standard. Like probable cause in a preliminary examination. The Oxford definition of probable is defined as "likely to be the case or to happen." The Merriam Webster definition is "supported by evidence strong enough to establish presumption but not proof." Or a legal definition whereby facts lead a reasonable person to believe a law violation occurred. There was testimony that Ms. Scott believed a voter name was of concern (one specifically that was testified to) and that she was concerned about a duplicate or even a false person being registered. This would certainly give legal rise as a call for concern that

she may want to investigate. Explanations were given through testimony regarding the Qualified Voter File (QVF) and the fact that it is a constantly changing file. It made sense to this court from all of the testimony why this would be constantly changing as new voters, deceased voters, voters who have moved, etc. are constantly being tracked. But Clerk Scott was legally allowed to make an inquiry and investigate.

This brings the Court to “ a Township or city clerk is authorized and empowered to call upon the police department of the city or the sheriff of the county in which the city is located, or both, to assist in making the investigation, and the police department and the sheriff are required to render assistance if the clerk makes a request for assistance, and to furnish the clerk at his or her request with all available assistance in making the investigation.” This did NOT happen. The clerk had this power and chose not to do this. The next authorization and empowerment a clerk has is to appoint assistant examiners for purpose of the investigation. And that all bills for the services of that examiner MUST be approved by the clerk and MUST be audited and paid by the township board or legislative body of the city in the same manner as the expenses of conducting elections are paid. This did NOT happen. The investigation conducted by Ms. Scott does not appear to be lawful and should be left to a finder of fact at a trial to determine. While hiring an attorney is certainly within the prerogative of Clerk Scott she does not appear to have followed the clear intention in that statute to conduct the investigation regarding the concerns she had to the voter process.

Ben Cotton, the independent examiner, who was allowed data to the confidential voter information, actually testified that his compensation came from his agreement with attorney Juntilla (Lambert). There is no proof that Cotton or even attorney Juntilla Lambert took oaths of office or received payment that was appropriately billed to the township and documented.

The legal right and ability to hire an attorney does not mean that Ms. Scott was legally allowed to give this voter information to her or anyone else without following the requirements set forth under Michigan Election Law. There is probable cause to bind over Count 1 as to both Defendants.

Count 2: Conspiracy to Commit – Computers – Unauthorized Access

This alleges that both Defendants did unlawfully conspire, combine, confederate and agree together to commit the offense of Computers- Unauthorized Access, prohibited by MCL 752.795 contrary to MCL 750.157a: intentionally and without authorization or by exceeding valid authorization insert, attach, or knowingly create an opportunity for the unknowing and unwanted insertion or attachment of a set of instructions or a computer program into a computer program, computer, computer system, or computer network; contrary to MCL 752.795 and MCL 752.797(2)(a).

For probable cause purposes there is sufficient evidence that Ct 1 Unauthorized Access of a computer program, system, network, or computer occurred. To show probable cause for conspiracy there was probable cause that not only did the information transfer occur, but access was provided to both Ms. Juntilla Lambert and to Ben Cotton. The evidence at the preliminary examination showed clearly that Ms. Scott and Ms. Juntilla Lambert conspired to affect this act. Attorney client relationships do not extend to the commission of crimes, of which this Court finds there was probable cause of same.

Count 3: Computers – Using to Commit a Crime – Maximum Imprisonment of 4 Years or more but Less than 10 Years

This alleges that both Defendants did use a computer program, computer, computer system, or computer network to commit, attempt to commit, conspire to commit, or solicit another to commit Computers-Unauthorized Access-MCL 752.795; contrary to MCL 752.796 and MCL 752.797(3)(d).

The prosecution argues that the evidence clearly established that Lambert used a computer to transfer Electronic Poll Book (EPB) flash drive data to Cotton. This is information she received from Clerk Scott. There is probable cause that a transfer occurred. There is probable cause that this was protected private voter information. There is probable cause that the transfers occurred without legal authority. It is true that a jury COULD determine that this is not able to be proved beyond a reasonable doubt. The defense sets forth articulate and well-researched arguments. But the fact remains that probable cause exists. If this Court believed that it was improbable for a jury to convict the decision could be made to not bind over. However, the probable cause standard is clear here and the Assistant Attorney General has established probable cause as to each element as to both Defendant Scott and Defendant Juntilla Lambert.

Pertaining to Defendant Scott only:

Count 4: Common Law Offenses

This alleges that Defendant Scott did commit an indictable offense at common law, to wit: Misconduct in office, contrary to MCL 750.505.

The Assistant Attorney General argues that the evidence points to malfeasance, when Clerk Scott provided the flash drive password to Lambert, with the knowledge that the confidential data would be provided to another third party, Ben Cotton. Whether for analysis or not, there was probable cause that this was outside the scope of her authority. The prosecution theory, then, is that as a Constitutionally elected official she had a duty to protect the privacy of voter information and to refrain from sharing that information with unauthorized persons. Again, the prosecution relies on MCL 168.509gg, making certain voter information confidential. Sharing the password allowing access to Juntilla Lambert and Cotton gave access to those individuals to have the ability to view, delete, tamper with, or even distribute this private voter

information. The voters in this State have the right to know that their information stays confidential. Ms. Scott put that information at risk. There is probable cause to believe that this rises to the level of malfeasance and it should proceed to the Circuit Court for a trial.

Count 5: Election Law – Ballot Tampering

This alleges that Defendant Scott did conceal, withhold, or destroy a voting machine; contrary to MCL 168.932(b).

The prosecution's position is that Defendant Clerk Scott failed to turn over the tabulator to the County Clerk as she was instructed by the Director of Elections and then failed to assist the Michigan State Police in the officer's attempts to retrieve the voting machine. Deputy Clerk Dane was clearly acting under what he believed was a lawful directive by the Bureau of Elections, Jonathan Brater. The question for this Court is was there a directive that was lawful? And if there was a lawful directive did Clerk Scott fail to follow it?

The prosecution relies on the testimony placed on the record at the preliminary examination that the Bureau of Elections was aware of Clerk Scott's statements made publicly at an open meeting where she had allegedly made statements that she would not follow the election procedures mandated by law. Mr. Brater sought the assurances of Clerk Scott that she would comply with her duty to sign off on preventative maintenance and public accuracy testing. The letter written by Mr. Brater is clear in his concerns. Brater subsequently made repeated attempts to obtain her assurance that she would comply and per the Prosecutor's argument "reasonably feared" that the required procedures might not be followed. So, he exercised his supervisory authority and responsibilities. He directed Clerk Scott to turn over all the equipment and materials necessary for the upcoming election and relieved her of her duties. The prosecution argues that this authority was firmly rooted in law. I disagree. Whether Clerk Scott was possibly

not going to comply with having the preventative maintenance done doesn't show probable cause that she committed a crime or was noncompliant. She still had time to comply. To put it very clearly, the Bureau of Elections jumped the gun. Maybe she wasn't going to comply. Maybe the eleventh hour would have come and went without her compliance. Then, there would have been ample evidence that Clerk Scott had been negligent in her duties allowing Mr. Brater to swoop in and relieve her of her duties. But it just frankly never happened.

The County Clerk at the time, and her staff (including then Deputy Clerk Dane), were ordered to go to the township offices to retrieve the equipment and materials to allow for the maintenance to be done. It is clear they were acting in good faith under what they believed to be a valid directive from the Bureau. When they retrieved the case that they believed contained the tabulator tablet it was discovered (the next day after unlocking the case) that the tabulator tablet was not in the case. To be clear, there is no evidence that the tabulator tablet was inappropriately stored or taken off grounds. In fact, Clerk Scott (who had been relieved of her election duties but was still a Constitutionally elected clerk) told the Michigan State Police that she would be compliant with the whereabouts of the tablet if they had a valid search warrant. It sounds like the prosecution is arguing that if a search warrant is necessary that means the voter machine was concealed, withheld or destroyed. Once a valid search warrant was obtained the township treasurer, who had keys to both Scott's office and a locked, secure file cabinet in the office, arrived, opened the locked cabinet and found the voting machine.

All of the events following were the felony Counts 1, 2, 3 and 4 (as to Clerk Scott only). This is where there is probable cause that a crime occurred.

There is no probable cause a crime was committed here. Making law enforcement get a search warrant doesn't make this concealing, tampering or destroying. And the entire basis of

the need for a search warrant to begin with was based off Defendant Clerk Scott being prematurely relieved of her duties. There was no law or authority shown by the prosecution in this matter, other than letters from Brater than indicate some authority he thought he had. There is not probable cause to bind Count 5 over.

Count 6: Election Law – Failure to Perform Duty

This is a misdemeanor offense that alleges Defendant Scott did disobey a lawful instruction or order of the Secretary of State by failing to present a voting tabulator for routine maintenance, contrary to MCL 168.931(1)(h). This case will simply proceed to trial to see if the prosecution can meet their burden of proof, as no probable cause determination at preliminary exam is necessary on the misdemeanor.

The attorney for the People, represented by the Attorney General's office indicate in their arguments that both Defendant Juntilla (Lambert) and Defendant Scott are election deniers of the 2020 election results and argue an elaborate conspiracy theory. This Court must make clear that it is only using the evidence shown at the months-long preliminary examination through testimony and exhibits. There was no testimony taken regarding these allegations or accusations and they will not be addressed. If this was a motive or even a defense being presented the appropriate time for them to be addressed is at a trial. Instead, this Court is using the law to make its opinion as to probable cause. These election cases are concerning to the people of the State of Michigan and the United States as a whole. It is not the position of this Judge to legislate from the Bench or to give any personal opinion on actual or conspiracy theories regarding elections.

The Michigan Law is the basis for this Court's decision to bind these cases over to the Circuit Court for trial.

There has been probable cause shown as to all felony charges as they apply to Defendant Juntilla Lambert and as to Counts 1, 2, 3, 4 as they apply to Defendant Scott. Whether or not there is enough evidence for a conviction by a neutral finder of fact is left to a fair and impartial jury to decide. And the gravity of that decision and the effect on election integrity is not lost on this Judge. We must have confidence that our Constitutionally elected officials and attorneys are acting within their ethical and legal authority. It is necessary for a finder of fact to look at the evidence in this case and make a determination based on the law at the time these actions were alleged to have taken place.

Stefanie Juntilla (Lambert) is bound over to the Circuit Court for arraignment on all three felony counts.

Stephanie Scott is bound over to the Circuit Court for arraignment on felony counts 1, 2, 3, and 4. The 6th misdemeanor count is continued over with the file as a whole.

November 26, 2025


Megan R.M. Stiverson (P67160)
2B District Court Judge for Hillsdale County