

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2023-008495-002 DT

06/16/2024

HONORABLE GEOFFREY FISH

CLERK OF THE COURT  
M. Mogel  
Deputy

STATE OF ARIZONA

TODD C LAWSON  
NICHOLAS KLINGERMAN  
CASEY BALL

v.

TERRY THOMAS CROSBY (002)

TIMOTHY REGIS GRIMM  
DENNIS I WILENCHIK  
BRIAN RICHARD GIFFORD

JUDGE FISH  
VICTIM WITNESS DIV-AG-CCC

MINUTE ENTRY

This matter was taken under advisement following oral argument on Defendant's Motion to Dismiss as a Matter of Law filed February 7, 2024. Co-Defendant Judd has joined in the Motion. The Court has considered the Motion, the State's Response, the Defendant's Reply, and oral argument presented.

Defendant contends the indictment should be dismissed based on legislative immunity, the alleged interference did not occur at any election, there was no interference with the Secretary of State's duties, A.R.S. §16-1004(A) is void for vagueness and the conspiracy charge may only be prosecuted in Cochise County. Defendant also argues any dismissal should be with prejudice.

**Timeline of Events:**

The following is taken from available public records including many exhibits submitted to the grand jury and attached as exhibits by the parties. Sometime prior to the general election

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in 2022, Defendants Judd and Crosby, Cochise County Supervisors, began inquiring about the ability to conduct a hand count of ballots for the upcoming election. In early October 2022, the Cochise County Board of Supervisors (referred to herein as CCBS) were advised by the Cochise County Attorney's Office at a work session they had no specific authority to conduct a hand count, no additional authority outside of statute and the Elections Procedure Manual (referred to herein as EPM) and changing procedures with a fast-approaching election was a significant problem. Defendant Judd indicated a desire to get a legal opinion from the Attorney General's Office.<sup>1</sup>

Following the work session, State Elections Director, Kori Lorick, sent the CCBS a letter indicating a full hand count would be unlawful and violate the EPM. While a limited post-election hand count audit is proscribed, there are no procedures or law authorizing a full hand count. Arizona Counties Insurance Pool also sends a letter to the CCBS advising no coverage or legal defense if the CCBS moves forward with a hand count.<sup>2</sup>

A special Board of Supervisors Hearing was held on October 24, 2022. At that hearing, two items were placed on the agenda which if approved, would require a hand count of ballots. Many members of the public spoke at the hearing both for and against the proposal to hand count ballots. Cochise County Attorney, Brian McIntyre advised the CCBS that total hand counting was not permitted, violated elections statutes and the EPM and further he would not defend the action should they proceed. In addition, a representative of the Arizona Counties Insurance Pool spoke and indicated the county would not have insurance to count on and ACIP would not hire an attorney in the event of litigation. The CCBS voted in favor of conducting a hand count audit of all precincts to be completed prior to the canvas of general election results pursuant A.R.S. §16-602(B).<sup>3 4 5</sup>

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<sup>1</sup> See *CCBS meeting minutes October 11, 2022*.

<sup>2</sup> See *Grand Jury exhibit 1, Chronology*.

<sup>3</sup> See *CCBS meeting minutes, October 24, 2022*.

<sup>4</sup> Defendants Judd and Crosby voted in favor while Supervisor English voted against.

<sup>5</sup> A.R.S. §16-602(B) states:

B. For each countywide primary, special, general and presidential preference election, the county officer in charge of the election shall conduct a hand count at one or more secure facilities. The hand count shall be conducted as prescribed by this section and in accordance with hand count procedures established by the secretary of state in the official instructions and procedures manual adopted pursuant to section 16-452. The hand count is not subject to the live video requirements of section 16-621, subsection D, but the party representatives who are observing the hand count may bring their own video cameras in order to record the hand count. The recording shall not interfere with the conduct of the hand count and the officer in charge of the election may prohibit from recording or remove from the facility persons who are taking actions to disrupt the count. The sole act of recording the hand count does not

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Following the October 24, 2022, hearing, the State Elections Director sends another letter to the CCBS warning not to conduct a full hand count of all ballots, but rather comply with the limited hand count audit as prescribed and requests assurances of the same.<sup>6</sup> On October 26, 2022, the CCBS held an emergency hearing to respond to the Secretary of State's most recent letter. Defendants Crosby and Judd, on behalf of the CCBS, sent a letter back to the Secretary of

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constitute sufficient grounds for the officer in charge of the election to prohibit observers from recording or to remove them from the facility. The hand count shall be conducted in the following order:

1. At least two percent of the precincts in that county, or two precincts, whichever is greater, shall be selected at random from a pool consisting of every precinct in that county. The county political party chairman for each political party that is entitled to continued representation on the state ballot or the chairman's designee shall conduct the selection of the precincts to be hand counted. The precincts shall be selected by lot without the use of a computer, and the order of selection by the county political party chairmen shall also be by lot. The selection of the precincts shall not begin until all ballots voted in the precinct polling places have been delivered to the central counting center. The unofficial vote totals from all precincts shall be made public before selecting the precincts to be hand counted. Only the ballots cast in the polling places and ballots from direct recording electronic machines shall be included in the hand counts conducted pursuant to this section. Provisional ballots, conditional provisional ballots and write-in votes shall not be included in the hand counts and the early ballots shall be grouped separately by the officer in charge of elections for purposes of a separate manual audit pursuant to subsection F of this section.
2. The races to be counted on the ballots from the precincts that were selected pursuant to paragraph 1 of this subsection for each primary, special and general election shall include up to five contested races. After the county recorder or other officer in charge of elections separates the primary ballots by political party, the races to be counted shall be determined by selecting by lot without the use of a computer from those ballots as follows:
  - (a) For a general election, one statewide ballot measure, unless there are no measures on the ballot.
  - (b) One contested statewide race for statewide office.
  - (c) One contested race for federal office, either United States senate or United States house of representatives. If the United States house of representatives race is selected, the names of the candidates may vary among the sampled precincts.
  - (d) One contested race for state legislative office, either state house of representatives or state senate. In either case, the names of the candidates may vary among the sampled precincts.
  - (e) If there are fewer than four contested races resulting from the selections made pursuant to subdivisions (a) through (d) of this section and if there are additional contested federal, statewide or legislative races or ballot measures, additional contested races shall be selected by lot not using a computer until four races have been selected or until no additional contested federal, statewide or legislative races or ballot measures are available for selection.
  - (f) If there are no contested races as prescribed by this paragraph, a hand count shall not be conducted for that precinct for that election.

<sup>6</sup> See *Secretary of State Letter dated October 25, 2022*.

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State indicating there will not be a full hand count of “every item on every ballot”. Another agenda item, obtaining outside counsel for the CCBS, was tabled after discussion.<sup>7</sup>

On October 28, 2022, a CCBS work session was conducted. The agenda item to be discussed was the possible direction regarding the expanded hand count of ballots as approved on October 24, 2022. Cochise County Elections Director, Lisa Marra, detailed the existing hand count process which is in line with the statutory scheme and EPM. Defendant Judd discussed an informal opinion issued by the Attorney General’s Office which seemed to permit an expanded hand count of all ballots at all precincts and to perform a hand count audit of all early ballots. Attorney McIntyre took issue with the opinion and once again advised the CCBS against proceeding with the hand count. Ms. Marra voiced concerns including chain of custody issues if counts were conducted prior to the state canvass on December 5, 2022. Defendant Judd brought up the idea of doing the hand count after the canvassing as an audit to verify effectiveness.<sup>8</sup>

On October 31, 2022, a special action was filed in the Cochise County Superior Court by the Arizona Alliance for Retired Americans requesting a Writ of Mandamus to enjoin a hand count. The CCBS, David Stevens and Lisa Marra were named in their legal capacity.<sup>9</sup> The next day, the CCBS held an emergency meeting to discuss selection of outside counsel and outside counsel were retained.<sup>10</sup>

On November 7, 2022, following an evidentiary hearing, the Hon. Casey McGinley granted a preliminary injunction and enjoined the full hand count audit of all votes cast and further ordered any hand count conducted would be held in accordance with A.R.S. §16-602.<sup>11</sup> An appeal of Judge McGinley’s order was filed by counsel representing CCBS.

On November 8, 2022, the general election was held. On November 10, 2022, Cochise County Attorney McIntyre sent a letter to all parties involved in the litigation that his office was aware “certain actors may attempt go forward with an ‘expanded hand count’ despite the decision rendered Monday by Judge McGinley.”<sup>12</sup> County Attorney McIntyre warned of possible criminal acts in proceeding with an expanded hand count.<sup>13</sup>

On November 14, 2022, Defendants Judd, and Crosby, in their official capacity, filed a Special Action suit against Cochise County Elections Director, Lisa Marra. According to the

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<sup>7</sup> See *CCBS meeting minutes October 26, 2022*.

<sup>8</sup> See *CCBS meeting minutes October 28, 2022*.

<sup>9</sup> See *CCBS meeting minutes November 1, 2022*.

<sup>10</sup> See *CCBS meeting minutes November 2, 2022*.

<sup>11</sup> See *ruling in CV2022-00518 filed November 7, 2022*.

<sup>12</sup> See *November 10, 2022, letter from Cochise County Attorney, Brian McIntyre at page 2*.

<sup>13</sup> *Id.*

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complaint, Plaintiffs (Defendants Judd and Crosby) alleged the prior court order of November 7, 2022 “did not enjoin the County Recorder or Elections Director from conducting an expanded hand count of fewer than 100% of election day ballots”.<sup>14</sup> Further, Plaintiffs alleged Ms. Mara refused to turn over ballots to the County Recorder so he could comply with the Board’s lawful command.<sup>15 16</sup> The complaint stated the CCBS had not yet held a meeting to vote to proceed with the lawsuit and therefore is named as a plaintiff through the use of “Doe X” designation.<sup>17</sup>

On November 15, 2022, the CCBS met in a regular board meeting. As part of that meeting, an agenda item was heard regarding approval of payment to outside counsel regarding the ongoing litigation. The issue was discussed and tabled.<sup>18</sup> On that same day, a special board of supervisors meeting was scheduled and then cancelled. An agenda item was listed as follows “modify current standing action by the board of Oct. 24, 2022, regarding hand count audit pursuant to ARS 16-602 B; to be 99.9% of ballots will be counted.”<sup>19</sup>

On November 16, 2022, Defendant’s Judd and Crosby filed a motion to dismiss their Special Action complaint. Apparently, there was no board meeting to discuss and decide this action.<sup>20</sup> The Special Action was dismissed on November 17, 2022.

On November 18, 2022, a special board of supervisors meeting was held with the only agenda item being to accept the elections results as certified and submitted by the Cochise County Elections Department. The CCBS heard from Elections Director Marra as to the specifics of the election and tabulations. Following Ms. Marra, many persons from the public spoke to the CCBS both for and against accepting the results of the election. In addition, State Elections Director, Kori Lorick, also spoke to the CCBS to specifically address issues regarding the certification of voting machines. Discussion ensued about the accreditation of the voting machines. The Deputy County Attorney advised the CCBS they had until November 28, 2022, to certify the election results pursuant to law. Defendants Judd and Crosby voted to table certification until November 28, 2022, at 10:00 a.m. at which time the CCBS would hold a meeting and decide whether the machines were properly accredited.<sup>21</sup>

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<sup>14</sup> See *Verified Complaint in CV2022-00533, Cochise County Superior Court, at page 2.*

<sup>15</sup> *Id.*

<sup>16</sup> The Court notes there doesn’t appear to exist any public documents relating (i.e. board minutes, work session minutes, etc.) documenting where the CCBS continued to move forward with hand counts or other election related action notwithstanding the allegations contained in the Special Action complaint.

<sup>17</sup> See *Verified Complaint in CV2022-00533, Cochise County Superior Court, at page 3.*

<sup>18</sup> See *CCBS Meeting Minutes from November 15, 2022, at page 7.*

<sup>19</sup> See *Hand Count Litigation Chronology at page 3.*

<sup>20</sup> *Id.*

<sup>21</sup> See *CCBS meeting minutes November 18, 2022.*

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November 28, 2022, was the deadline for all counties to certify their elections. On November 28, 2022, the CCBS held a special meeting. The only item on the agenda for the meeting was the acceptance and certification of the results of the November 8, 2022, election. Defendant Crosby indicated the agenda was incorrect as it was missing the agenda item to provide interaction between subject matter experts on voting machines and representatives from the Secretary of State's Office. Defendant Crosby moved to table the certification until December 2, 2022, where a new agenda to include the hearing on the voting machines could be issued. Chairman English restated the Board had the necessary information for the non-discretionary duty. A vote was held and the motion to table was approved.<sup>22</sup>

Following the CCBS meeting, the Secretary of State filed a Special Action under SO200CV202200552 in the Cochise County Superior Court. The matter was assigned to the Hon. Casey McGinley once again. In addition, the Arizona Alliance for Retired Americans filed an Order to Show Cause. An emergency CCBS meeting was called for November 29, 2022. The agenda item was for the purpose of obtaining outside counsel in the new litigation filed by the Secretary of State. Judge McGinley had set the matter for hearing on December 1, 2022, and ordered any responses due by November 30, 2022. The CCBS approved obtaining outside legal counsel.<sup>23</sup>

On December 1, 2022, an emergency meeting of the CCBS was held. The item to be discussed was approval of outside counsel in both the Secretary of State's special action and the new suit from Arizona Alliance for Retired Americans.<sup>24</sup>

Later that same day, Judge McGinley held a combined hearing regarding the Secretary of State special action and AARA's complaint. Defendant Crosby appeared pro per and requested a continuance which was denied. Defendant Judd and Chairman English also appeared. After argument was presented, Judge McGinley ordered the CCBS to convene at 3:30 p.m. the same day to canvass the election with the canvass to be completed no later than 5:00 p.m. and presented to the Secretary of State.<sup>25</sup>

At 3:30 that same day, the CCBS held an emergency session wherein Defendant Judd and Chairman English voted to accept the election results and submitted the election results to the Secretary of State. Defendant Crosby did not attend the emergency session. In addition, the

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<sup>22</sup> See *CCBS meeting minutes November 28, 2022*.

<sup>23</sup> See *CCBS meeting minutes November 29, 2022*.

<sup>24</sup> See *CCBS meeting minutes December 1, 2022*.

<sup>25</sup> See *minute entry dated December 1, 2022, in Cochise County Superior Court case SO200CV202200552*.

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CCBS voted to cancel the December 2, 2022, special meeting where the hearing regarding the certification of the machines was to be held.<sup>26</sup>

On December 5, 2022, the Secretary of State, Katie Hobbs, Governor Doug Ducey and Attorney General Mark Brnovich certified the 2022 election.

At some point in 2023, the Attorney General's Office opened an investigation into the Cochise County Board of Supervisors relating to the 2022 election. Defendants Judd and Crosby were targets of the investigation. Both Defendants were subpoenaed to appear before a state grand jury. Defendant Judd appeared on November 13, 2023, and invoked her fifth amendment rights. Defendant Crosby appeared and testified. On November 27, 2023, the grand jury returned indictments against both Defendant Judd and Crosby for one count of Conspiracy, a class 5 felony and one count of Interference with an Election Officer, a class 5 felony. The grand jurors further found the offenses were committed in Cochise and Maricopa counties.<sup>27</sup>

**Law and Argument:**

**Legislative Immunity**

Defendant's first argument rests on the premise that any actions taken were protected by legislative immunity and therefore cannot be charged as crimes. While the State concedes legislative immunity exists, it argues it does not exist in this case as Defendant's conduct falls outside any legislative immunity as his responsibilities were purely "ministerial" in nature and therefore not protected.

Article 4, Part 2, Section 7 of the Arizona Constitution states, "no member of the legislature shall be liable in any civil or criminal prosecution for words spoken in debate." "Because the Arizona legislature delegated legislative powers to city and town councils...such councils are 'subordinate legislative bodies to which the State has delegated legislative power.'" *Sanchez v. Coxon*, 175 Ariz. 93 at 97 (1993). "Not everything done by a legislator 'in any way related to the legislative process' is afforded absolute immunity as a legislative function." *Mesnard v. Campagnolo*, 251 Ariz. 244 at 249 (2021). "The key inquiry is whether the legislator was performing a "legislative function" at the time he published defamatory matter." *Id.* at 248. "Whether legislative immunity applies is a legal question for the court." *Id.* at 248.

Defendant argues the act of voting on November 28, 2022, was a purely legislative activity and therefore legislative immunity would be applicable. The State posits that the act of canvassing the election is a Board mandatory legal duty under Arizona law with no discretion to

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<sup>26</sup> See *CCBS meeting minutes December 1, 2022*.

<sup>27</sup> See *Grand Jury Transcripts, November 13, 2023, and November 17, 2023*.

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refuse. Accordingly, Defendant's failure to canvass on November 28, 2022, was not a legislative act and Defendant is not entitled to claim legislative immunity.

“Whether an act is ‘legislative’ depends on the nature of the act.” *Arizona Independent Redistricting Commission v. Fields*, 206 Ariz. 130 at 138 (2003). “An act is legislative in nature when it bears the ‘hallmarks of traditional legislation’ by reflecting a discretionary, policymaking decision that may have prospective implications...” *Id.* at 138. “Further, a legislative act occurs in a “field where legislators traditionally have the power to act.”” *Id.* at 138. “the ‘formally legislative character’ of an act-i.e., the fact that a decision was made by voting or through an equivalent legislative procedure – ‘weighs in favor of legislative immunity, [but] it does not itself decide the issue’”. *Schmidt v. Contra Costa County*, 639 F.3d 1122 at 1137 (2012) quoting *Kaahumanu v. County of Maui*, 315 F.3d 1215 (2003).

Here, the facts are straightforward. The deadline for the CCBS, including Defendant, to canvass the votes of the 2022 general election was November 28, 2022. Defendant and the Board were properly advised of this fact and were further advised the act of canvassing was not discretionary. The fact Defendant wished to conduct a hearing on the validity of the machines used is secondary and not relevant to the requirement the vote be canvassed and transmitted to the Secretary of State. The CCBS may have every right to hold such a hearing and investigate as it sees fit to do. However, the failure to hold a vote and conduct the canvass as a non-discretionary function of the CCBS in order to delay and hold a hearing on the validity of the voting machines, does not amount to a legislative act. The CCBS, or any other county board of supervisors, does not have the authority to delay the canvass with the single exception being where returns from a polling place are found to be missing, a situation not in found here. *See* A.R.S. §16-642 and §16-643. Canvassing the vote is not a discretionary function.

**THE COURT FINDS** Defendant is not protected by legislative immunity in the acts alleged to have taken place.

**Definition of “At Any Election”**

Defendant next contends any alleged interference did not occur “at any election” as an “election” ends when the polls close and therefore did not apply at the time of the alleged misconduct in this case. Defendant further argues any acts alleged to have occurred, occurred after the polls closed. Defendant argues the rule of lenity requires a strict and narrow reading of A.R.S. §16-1004. The State argues an “election” does not end with polls closing, but rather continues until, at least, a canvass of the results is held.

Defendant is charged in Count 2 with Interference with an Election Officer pursuant to A.R.S. §16-1004(A) which states:



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A person who at any election knowingly interferes in any manner with an officer of such election in the discharge of the officer's duty, or who induces an officer of an election or officer whose duty it is to ascertain, announce or declare the result of such election, to violate or refuse to comply with the officer's duty or any law regulating the election, is guilty of a class 5 felony.

Defendant is correct when arguing the phrase “at any election” is not specifically defined in the statute. “When interpreting a statute, a Court must ‘give effect to the intent of the Legislature.’” *Spirlong v. Browne*, 236 Ariz. 146 at 149 (2014). In support of its position, the State cites to *Sheperd v. Brumback*, 148 Ariz. 280 (1985). That court held “...that an election to form a community college district is complete and a district is formed under A.R.S. §15-1403, only when the votes cast under A.R.S. §15-1404 are canvassed and it is officially revealed and entered on the records of the board of supervisors pursuant to A.R.S. §16-656 that a majority of votes cast favor formation of the district.” *Id.* at 285. The court further stated, “we find no case which hold that an election is effective prior to a formal canvass.” *Id.* at 284.

The Court finds the use of the term “at any election” simply allows the statute to encompass any election and avoid having to specify which election the statute applies to, i.e. primary, general, or special election. Further, based on the *Brumback* case, the Court finds an “election” would include the canvassing of the votes and therefore §16-1004(A) would be applicable to actions alleged to have occurred after the polls closed but before the votes canvassed.

**THE COURT FINDS** an “election”, as used in §16-1004(A) would include the period in which votes are cast until the time votes are canvassed.

### **Interference with the Secretary of State’s Duty**

Next, Defendant contends the Secretary of State’s Duty to canvass the statewide votes were not interfered with as the canvassing took place on December 5, 2022, as scheduled, and required. The fact the statewide canvass proceeded on December 5, 2022, is not disputed. The dispute, however, is whether Defendant “interfered” with the Secretary of State between the dates alleged in the indictment. The Court does not believe this is a legal question that need be answered by this Court, but rather a factual question for trial jury to answer. Whether the Secretary of State had election “duties” that proceeded the statewide canvassing on December 5, 2022, and whether those “duties” were in fact interfered with are factual issues in dispute and best left to a jury.

**THE COURT FINDS** the issue of any alleged interference with the Secretary of State is a factual issue to be determined at trial.

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**Whether A.R.S. §16-1004(A) is Void for Vagueness**

Defendant next contends A.R.S. §16-1004(A) is void for vagueness. Defendant argues “at any election” is vague and “duty” as used in the statute is overbroad.

A party challenging the validity of a statute “bears the burden of establishing its invalidity.” *See State v. Boehler*, 228 Ariz 33, 35 (App. 2011). A law is vague in violation of due process if it fails to provide fair warning of criminal conduct or standards to law enforcement to avoid arbitrary or discriminatory enforcement. *State v. Western*, 168 Ariz. 169, 171 (1991). “[P]erfect clarity and precise guidance have never been required,” even for criminal laws that implicate constitutional rights. *United States v. Williams*, 553 U.S. 285, 304 (2008). A statute is not unconstitutionally vague simply because there is the possibility of arbitrary enforcement or the exercise of discretion by law enforcement. *See State v. McDermott*, 208 Ariz. 332 (2004).

As stated earlier, the Court defined what an election is. Further, the statute itself encompasses actions taken during the election, to include interference with announcing or declaring the results. Even an elected official, tasked with the responsibility of canvassing the local results and transmitting those results would have proper notice that “interfering in any manner” with an election officer could be considered criminal conduct.

Not only would an elected official have notice of criminal conduct under the current wording of the statute, in this case, Defendant had specific notice. The CCBS was warned by multiple parties, including the county attorney, the local elections officials and state election officials that a failure to canvass the votes by the deadline would not only be a violation of their responsibilities but would violate the law.

**THE COURT FINDS** A.R.S. §16-1004(A) as written is not void for vagueness.

**Conspiracy Charge Venue**

Last, Defendant contends Count 1 of the Indictment could only be brought in Cochise County as all actions regarding any alleged conspiracy occurred in Cochise County.

A.R.S. §13-109 proscribes the place of trial as follows:

A. Criminal prosecutions shall be tried in the county in which conduct constituting any element of the offense or a result of such conduct occurred, unless otherwise provided by law.

B. The following special provisions apply:

1. If conduct constituting an element of an offense or a result constituting an element of an offense occurs in two or more counties, trial of the offense may be held in any of the counties concerned; or

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2. A person who in one county solicits, aids, abets or attempts to aid another in the planning or commission of an offense in another county may be tried for the offense in either county; or
  3. If an offense is committed in transit and it cannot readily be determined in which county the offense was committed, trial of the offense may be held in any county through or over which the transit occurred; or
  4. If the cause of death is inflicted in one county and death ensues in another county, trial of the offense may be held in either county. If the cause of death is inflicted in one county and death ensues out of this state, trial of the offense shall be in the county where the cause was inflicted. If the body of a homicide victim is found in a county, it is presumed that the cause of death was inflicted in that county; or
  5. If an offense is committed on the boundary of two or more counties or within one mile of such boundary, trial of the offense may be held in any of the counties concerned; or
  6. A person who obtains property unlawfully may be tried in any county in which such person exerts control over the property; or
  7. A person who commits a preparatory offense may be tried in any county in which any act that is an element of the offense, including the agreement in conspiracy, is committed.
- C. If an offense has been committed within this state and it cannot readily be determined within which county or counties the commission took place, trial may be held in the county in which the defendant resides or, if the defendant has no fixed residence, in the county in which the defendant is apprehended or to which the defendant is extradited.

In this case, the State alleges interference with the Secretary of State, whose office is in Maricopa County. The Court recognizes the Defendant adamantly denies the allegations, however, as found previously in this ruling, those are facts for a jury to determine. In this case, a “result” as listed in §13-109(B)(1), if found, would be conduct consisting of interfering with the Secretary of State’s duties, and therefore Maricopa County could be an appropriate venue for Count 1. Further, as noted in the pleadings, a grand jury has already found the offenses were committed in both Cochise and Maricopa Counties.

**THE COURT FINDS** venue is proper for Count 1.

Based on the forgoing,

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**IT IS ORDERED** denying Defendant's Motion to Dismiss.