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COMMONWEALTH OF KENTUCKY  
BOONE CIRCUIT COURT  
DIVISION I  
CASE NO. 24-CI-01869

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**JUSTIN CRIGLER,**  
*in his capacity as Boone County Clerk,*

**PETITIONER**

**IN RE: UNION PRECINCT 1 AND UNION PRECINCT 4  
GENERAL ELECTION ON NOVEMBER 5, 2024**

**ORDER**

This matter came before the Court for a hearing pursuant to the Orders entered November 8 and 12, 2024, to determine whether an official recount by the Court should occur of ballots cast November 5, 2024 at Union Precinct Nos. 1 and 4 in Boone County. Present in person were Hon. Justin Crigler, with counsel, Hon. Jordan Dallas Turner, Boone County Attorney, and Hon. William Knoebel, Assistant Boone County Attorney. Hon. Steven Megerle appeared on behalf of Douglas Bine. Counsel for the Kentucky Board of Elections also appeared and made an oral Motion to intervene in the action. Pursuant to the Court's Orders, the voting machine, voting equipment, or voting system, the ballots, ballot boxes, and all papers pertaining to the election (collectively, the "Voting Machines and Ballots") from Union Precinct No. 1 and Union Precinct No. 4 were transferred by way of bailiff transport to Courtroom 4A, Fourth Floor, of the Boone County Justice Center, and brought into said hearing on record.<sup>1</sup> The Court being in all ways sufficiently advised;

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<sup>1</sup> Pursuant to the Court's Orders, on November 12, 2024, the Court's Bailiffs, Deputy Scott Davenport, and Sgt. Mike Rankin, with the Boone County Sheriff's Office, retrieved the Voting Machines and Ballots from the custody of the Boone County Clerk and delivered the same immediately and directly to the Court, while on the record. Following the hearing, the same Bailiffs returned the Voting Machines and Ballots to the custody of the Boone County Clerk.

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Hon. Justin Crigler, in his capacity as Boone County Clerk, filed a Verified Petition pursuant to KRS § 120.017 on November 8, 2024 concerning ballots cast at Union Precinct Nos. 1 and 4 in Boone County. Upon learning of the action, and pursuant to KRS § 120.017(3), the Court immediately ordered custody of the Voting Machines and Ballots pertaining to the election from the precincts claiming error to be transferred to the Court and initially fixed the date for the manual recount by the Court as November 12, 2024.

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KRS §120.017(5) provides as follows:

On the day fixed for the recount, the court shall proceed to recount the ballots if their integrity is satisfactorily shown and shall complete the recount as soon as practicable, and shall file and enter of record the results thereof.

For the reasons stated at the hearing (and based primarily upon the statements contained in the Petition), concerning which all present at the hearing indicated agreement, the Court finds a recount would be futile. It is undisputed that eligible voters within the City of Union limits voting at Union Precinct No. 1 and Union Precinct No. 4 were unintentionally disenfranchised. These voters were unable to cast the appropriate ballot for races for Union City Council and on an issue concerning the sale of cannabis within the City of Union because ballots for said voters were given to ineligible voters residing outside of the City of Union. Likewise, voters who did not reside within the City of Union (and therefore ineligible to vote on these questions) were provided and voted on ballots for what should have been exclusively limited to residents of the City of Union. The County Clerk indicated, through counsel, that five hundred (500) ballots were ordered for eligible voters within city limits and that only two hundred fifty-seven (257) residents of Union requested ballots to vote. However, all 500 ballots were voted, resulting in precinct officials reporting a shortage of ballots for Union at the effected precincts during voting hours November 5, 2024.

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Hence, the Court is unable to find the integrity of the ballots from Union Precinct Nos. 1 and 4 has been satisfactorily shown because the problem is not with the counting process of the ballots cast, but with the integrity of the election through which the ballots were cast. “[T]he purpose of a recount proceeding [is] to ascertain *the correctness of the numerical result.*” *Hogg v. Howard*, 242 S.W.2d 626, 628 (Ky. 1951), citing *Burd v. Meadows*, 124 S.W.2d 85 (Ky. 1939). Recounting ballots improperly cast will neither remove those ballots nor reveal the votes of those otherwise deprived of voting.

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As aptly stated in *Burd* (and cited by Petitioner), “the allegations of the petition, if true, furnish a proper basis to contest the election successfully and to show that there has been in fact no election at all.” *Burd v. Meadows*, 124 S.W.2d, at 86. However, although the irregularity of the election is conceded by all parties to this action, procedurally, the Court cannot grant relief for election irregularities under a statute that provides a recount as the sole remedy. In any event, and for purposes of the pending action, “[t]he very facts . . . which indicate the invalidity of the election likewise demonstrate the uselessness of a recount.” *Id.* Therefore a recount would be inappropriate. Parties to this action, or other persons having an interest and not yet before Court, are free to seek other relief, if appropriate, in an election contest suit.

**IT IS HEREBY ORDERED AND ADJUDGED** that the Motion of Douglas Bine to Intervene and for Leave to File an Election Contest and Application is **GRANTED**.

**IT IS FURTHER HEREBY ORDERED AND ADJUDGED** that the oral Motion of Commonwealth of Kentucky State Board of Elections for leave to intervene is **GRANTED**.

**IT IS FURTHER HEREBY ORDERED AND ADJUDGED** that the relief sought by Petitioner in the Verified Petition for recount is **DENIED**.

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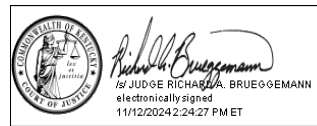
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**IT IS FURTHER HEREBY ORDERED AND ADJUDGED** that the voting machine, voting equipment, or voting system, the ballots, ballot boxes, and all papers pertaining to the election from Union Precinct No. 1 and Union Precinct No. 4, shall be returned by way of bailiff transport to the custody of the Boone County Clerk, Justin Crigler, for keeping in accordance with Kentucky law.

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**IT IS SO ORDERED.**



**JUDGE RICHARD A. BRUEGGEMANN**  
**BOONE CIRCUIT COURT**

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