

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Watts Coordinate Pretrial Proceedings, et al.,

Plaintiff,

Case No.: 19-cv-1717

vs.

Honorable Andrea R. Wood

Kallatt Mohammed, et al.,

Magistrate Judge Sheila M. Finnegan

Defendants.

DECLARATION OF JESSICA M. SCHELLER

I, Jessica M. Scheller, do hereby state as follows:

1. I am the Deputy Chief of the Civil Actions Bureau. Prior to this assignment, I was the Division Chief of the Advice, Business & Complex Litigation Division of the Civil Actions Bureau in the Cook County State's Attorney's Office ("CCSAO"). I held that position beginning on October 1, 2018.¹
2. As Division Chief, I oversee the work of five sections of the Civil Action Bureau: Municipal Litigation, Advice, Transactions & Litigation, Affirmative & Complex Litigation, Real Estate Tax Litigation, Worker's Compensation Litigation.
3. I am responsible for, *inter alia*, accepting service and assigning responsibility for more than 400 subpoenas served upon the CCSAO annually for CCSAO documents and/or ASA testimony. I am also the decision-maker responsible for asserting or waiving deliberative process and/or other applicable privileges when producing documents or witnesses for testimony.
4. Also, I am responsible for supervising all transparency litigation.
5. The CCSAO has received approximately a dozen subpoenas in the instant matters, which have been consolidated for discovery as noted in the above caption. This declaration is in support of quashing the deposition testimony of former First Assistant State's Attorneys Joseph Magats and Eric Sussman, former Director of the Conviction Integrity Unit Mark Rotert, and current Director for the Conviction Integrity Unit, Nancy Adduci. In addition to the subpoenas, I have reviewed the deposition topics proposed by the City Defendants.

¹ I am currently responsible for the duties of the Division Chief of the Advice Business & Complex Litigation Division during the process to select a successor in this role.

6. The Defendants in these matters seek the depositions of four former or current high-ranking CCSAO officials with the stated purpose of discovering the CCSAO's processes, underlying decision-making (and the bases thereto) regarding the CCSAO's decisions with respect to dropping charges or not retry certain Plaintiffs. Additionally, Defendants explicitly seek discovery of the CCSAO's processes, underlying decision-making (and the bases thereto) with respect to its decisions whether or not to object to the Petitions for Certificates of Innocence ("COI") filed by individual plaintiffs.
7. As the Department head responsible for doing so, I have asserted and continue to assert the deliberative process privilege as well as the work-product privilege over testimony and materials related to the decisions made by the CCSAO to drop charges and not to retry Plaintiffs, unless there is a specific reason not to do so, or if in my assessment a waiver has occurred. I have not been presented with any materials or facts suggesting that the CCSAO, or any of its current or former staff, have publicly discussed these decisions in the instant cases that would constitute a waiver of the deliberative process or work production privilege doctrines. While the CCSAO and some of its agents spoke very generally about these cases to the press, there was no disclosure of specific factual or legal analysis for any specific charge or case, nor of the deliberative process for any specific case.
8. As the Department head responsible for doing so, I have asserted and continue to assert the deliberative process privilege as well as the work-product privilege over testimony and materials related to the CCSAO's position on the Plaintiffs' petitions for COI. The power to make policy decisions related to the CCSAO's position on a COI is vested exclusively in the State's Attorney and the Attorney General as the officials elected to serve the public interest. To divulge the process by which the CCSAO investigates and determines how to approach a COI would open the process up to outside influence. Interested individuals outside of the CCSAO may try to manipulate the process itself in order to achieve a favored outcome. While the CCSAO and some of its agents spoke very generally about these cases to the press, there was no disclosure of specific factual or legal analysis, nor of the deliberative process for any specific case.
9. As the Department head responsible for doing so, I have asserted and continue to assert the deliberative process privilege as well as the work-product privilege over materials related to the CCSAO decisions concerning litigation generally, unless there is a specific reason not to do so, or if in my assessment a waiver has occurred as to any particular fact or legal conclusion. I have not been presented with any materials or facts suggesting that the CCSAO, or any of its current or former staff, have publicly discussed the deliberative process or work production pertaining to decisions concerning the COI process and procedure or the felony review process and procedure, either generally or specific to the instant case.
10. The documents and information which exist pertaining to these decisions generally include the criminal trial file, the work product of the Post-Conviction and

Conviction Integrity Units, and the work product of the Civil Actions Bureau, its supervisory team, and electronic communications between decision makers.

I declare that as of July 10, 2023, pursuant to 28 U.S.C. 1746, the foregoing is true and correct.

By: */s/ Jessica M. Scheller*
Jessica M. Scheller
Assistant State's Attorney