

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
MCLEAN COUNTY, ILLINOIS**

STATE OF ILLINOIS,)
)
)
vs.)
)
)
STEVEN LAZAROV,)
Defendant)

FILED
6/18/2024 3:08 PM
DONALD R. EVERHART, JR.
CLERK OF THE CIRCUIT COURT
MCLEAN COUNTY, ILLINOIS
Case No. 2024CM000368

**MOTION TO QUASH SUBPOENA DUCES TECUM DIRECTED TO
ILLINOIS STATE UNIVERSITY**

NOW COMES a non-party, THE BOARD OF TRUSTEES OF ILLINOIS STATE UNIVERSITY, by and through its attorneys, the Office of General Counsel, Illinois State University, and for its Motion to Quash Subpoena Duces Tecum directed to Illinois State University, states as follows:

1. On May 3, 2024, the Defendant and six other individuals were charged with the offense of Criminal Trespass on State Supported Land (belonging to the Board of Trustees of Illinois State University, hereinafter the "University) after refusing to leave a University building during closing hours despite being warned multiple times by University officials and police.
2. The Defendant recently served the University with a subpoena duces tecum requesting various information.
3. Specifically, the Defendant's subpoena duces tecum at issue seeks the following information:

All documents, records, photographs, video recordings, correspondence, communication, permits, licenses, or other information fixed in a tangible medium concerning or relating to protests, marches, directactions [sp], speeches, or arrests for trespass at Hovey Hall. All rules and regulations concerning Hovey Hall or protests in and around same time. Time frame is January 1, 1970 to present.

(See subpoena duces tecum directed to the University, attached hereto and incorporated herein as Exhibit 1).

4. The undersigned requests that this Court take judicial notice that Defendant has also filed a civil case, alleging, *inter alia*, violations of the First Amendment against the University, Dean Morgan, and President Aondover Tarhule. (See Complaint, attached hereto and incorporated herein as Exhibit 2).

5. In the civil case, Defendant alleges the following:

- a. Hovey Hall is the central administrative building at ISU (See Exhibit 2, ¶6);
- b. Hovey Hall has long been a public forum for protests and marches. (See Exhibit 2, ¶13);
- c. Hovey Hall has been available and/or used by protests and marches after hours in the past (See Exhibit 2, ¶22);
- d. Hovey Hall was not less of a public forum because the ISU employees who worked in that building were leaving for the day (See Exhibit 2, ¶23);

6. A court should grant a motion to quash a subpoena if a request is oppressive, unreasonable, or overbroad. *People ex rel. Fisher v. Carey*, 77 Ill. 2d 259, 270 (1979).

7. Similarly, subpoena duces tecum should only be upheld if:

- a. The material sought is relevant and usable as evidence;
- b. The material cannot be obtained any other way;
- c. Counsel cannot prepare for trial without the material;
- d. The subpoena is issued in good faith and the request is not a fishing expedition.

(*United State v. Nixon*, 418 U.S. 683 (1974); *People v. Shukovsky*, 128 Ill. 2d 225 (1989); *People ex rel. Fisher*, 77 Ill. 2d 259 (1979).

8. Here, it is clear that the information and documents in which Defendant seeks are irrelevant and immaterial to the underlying criminal matter (criminal trespass on state supported land). The University's past protests or marches in and around Hovey Hall, for example, have no bearing on whether Defendant criminally trespassed on state supported land on May 3, 2024. For this reason, it is further unlikely that the information would be admissible at trial.


9. Moreover, Defendant's demand for the information identified in his subpoena is overly broad and unduly burdensome. The request seeks records relating to protests, marches, and speeches, and arrests (among various other things) at Hovey Hall for the past 54 years which would require the undersigned to attempt to obtain information from multiple departments and sources.

10. Perhaps most importantly, the Defendant's demand for the information identified above is not made in good faith and constitutes a fishing expedition in his effort to prosecute the civil case against the University, Dean Morgan, and President Tarhule. It is clear from the allegations contained in the civil Complaint that Defendant's theory of the case involves the University allowing protests after hours in the past. However, this theory is unrelated to the instant criminal trespass matter by this Defendant. Defendant should seek information and evidence through the proper channels pursuant to the Illinois Code of Civil Procedure as it relates to the civil matter. Defendant should not be permitted to obtain "free" discovery through inappropriate means, such as the subpoena power provided to him in an entirely different legal matter.

WHEREFORE, the University respectfully requests that this Court grant its Motion to Quash because the information sought is irrelevant, immaterial to the underlying criminal matter, likely inadmissible at trial, overly broad, unduly burdensome, not made in good faith, and constitutes a fishing expedition into irrelevant matters impacting the civil matter.

Respectfully submitted,

BOARD OF TRUSTEES OF ILLINOIS
STATE UNIVERISTY, a non-party



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CERTIFICATE OF FILING AND PROOF OF SERVICE

I certify that on June 18, 2024, I electronically filed and transmitted the foregoing Motion to Quash with the Clerk of the Court for the Eleventh Judicial Circuit, McLean County, Illinois, by using Odyssey eFileIL system.

I further certify that on June 18, 2024, the individual named below, have been served via email to their law known address.

Steven Lazarov
c/o Sheryl Weikal, Esq.
Email: sheryl@weikallaw.com

Under penalties as provided by law pursuant to section 1-109 of the Illinois Code of Civil Procedure [735 ILCS 5/1-109], I certify that the statements set forth in this Certificate of Filing and Proof of Service are true and correct, except as to matters therein stated to be on information and belief and as to such matters I certify as aforesaid that I verily believe the same to be true.

/s/ Shelby Lynn
Office of General Counsel
Illinois State University