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IN THE CHANCERY COURT FOR HAMILTON COUNTY, TENNESSEE
AT CHATTANOOGA

TENNESSEE DEMOCRATIC PARTY,)
)
Plaintiff/Petitioner,)
)
v.)
)
HAMILTON COUNTY ELECTION)
COMMISSION, and MARK GOINS, in)
his official capacity as State Election)
Coordinator,)
)
Defendants/Respondents)
)
and)
)
Robin Smith,)
)
Intervening Defendant/Respondent)
)

Case No. 18-0426

FINAL ORDER

This cause came on to be heard on August 31, 2018, before the Honorable Jeffrey Atherton, Chancellor, on separate Motions to Dismiss a Complaint for Declaratory and Injunctive Relief and Alternatively Petition for Writ of Certiorari filed by the Plaintiff, Tennessee Democratic Party ("Plaintiff"), which were filed by Defendant Hamilton County Election Commission ("HCEC"), Defendant Mark Goins, in his official capacity as State Election Coordinator ("Mr. Goins"), and by Intervening Defendant Robin Smith ("Ms. Smith"), as well as the Ms. Smith's Motion for Costs and Attorney's Fees pursuant to Tenn. Code Ann. § 20-12-119(c).

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HAMILTON COUNTY CLERK & MASTER
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For the reasons announced by the Court from the bench as set forth in the attached transcript, which is hereby adopted and incorporated as if fully restated herein, the Court finds that Plaintiff is neither an affected person for purposes of seeking declaratory relief pursuant to Tenn. Code Ann. § 1-3-121 or Tenn. Code Ann. § 29-14-101, nor an aggrieved party for purposes of judicial review pursuant to a common-law writ of certiorari pursuant to Tenn. Code Ann. § 27-9-101. Accordingly, the Court finds that HCEC's Motion to Dismiss for lack of standing is well-taken and should be granted.

The Court further finds, for the reasons announced by the Court from the bench as set forth in the attached transcript, which is hereby adopted and incorporated as if fully restated herein, that Plaintiff's claims for declaratory relief pursuant to Tenn. Code Ann. § 1-3-121 and Tenn. Code Ann. § 29-14-101 against Mr. Goins in his official capacity are barred by the doctrine of sovereign immunity and should be dismissed for lack of subject matter jurisdiction. Additionally, the Court finds that the Complaint fails to state a claim for which relief can be granted as against Mr. Goins. Accordingly, the Court finds that Mr. Goins' Motion to Dismiss is well-taken and should be granted.

Furthermore, for the reasons announced by the Court from the bench as set forth in the attached transcript, which is hereby adopted and incorporated as if fully restated herein, the Court finds that Ms. Smith's motion is well-taken and should be granted on the same grounds as previously articulated by the Court and on the additional ground that this Court lacks jurisdiction to determine a political party's nominee for elected office following resolution of an election contest pursuant to Tenn. Code Ann. § 2-17-104.

Notwithstanding, the Court finds that Ms. Smith's Motion for Costs and Attorney's Fees pursuant to Tenn. Code Ann. § 20-12-119(c) is not well-taken and should be denied, as the primary reason for the Court's dismissal was pursuant to Tenn. R. Civ. P. 12.02(1), rather than 12.02(6).

IT IS THEREFORE ORDERED, ADJUDGED, and DECREED that:

1. Defendant Hamilton County Election Commission's Motion to Dismiss is granted in toto;
2. Defendant State Coordinator of Elections Mark Goins' Motion to Dismiss is granted in toto;
3. Intervening Defendant Robin Smith's Motion to Dismiss is granted in toto;
4. Intervening Defendant Robin Smith's Motion for Costs and Attorney's Fees is denied;
5. All other remaining motions not ruled upon are dismissed as moot;
6. Plaintiff's Complaint is dismissed in its entirety and with prejudice; and,
7. Costs are assessed against the Plaintiff, Tennessee Democratic Party, for which execution may issue, if necessary.

IT IS SO ORDERED.

ENTER: THIS 19th DAY OF September, 2018.



**HONORABLE JEFFREY ATHERTON
CHANCELLOR**

APPROVED FOR ENTRY:

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On this 19th day of September
2018, I certify that a copy of this order was
mailed to the parties or their counsel.

ROBIN L. MILLER, CLERK & MASTER

By: [Signature] 4N DC&M

Court Ruling - August 31, 2018

1 IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
2 11TH JUDICIAL DISTRICT, HAMILTON COUNTY

3 -----
4 TENNESSEE DEMOCRATIC PARTY, :
5 :
6 Plaintiff, :
7 :
8 -vs- : Case No.
9 : 18-0426
10 HAMILTON COUNTY ELECTION :
11 COMMISSION, :
12 :
13 MARK GOINS, IN HIS OFFICIAL :
14 CAPACITY AS STATE ELECTION :
15 COORDINATOR, :
16 :
17 Defendants. :
18 -----

19 TENNESSEE DEMOCRATIC PARTY, :
20 :
21 Petitioner, :
22 :
23 -vs- :
24 :
25 HAMILTON COUNTY ELECTION :
26 COMMISSION, AND :
27 :
28 MARK GOINS, IN HIS OFFICIAL :
29 CAPACITY AS STATE ELECTION :
30 COORDINATOR, :
31 :
32 Respondents. :
33 -----

34 COURT RULINGS

35 -----
36 BE IT REMEMBERED, that the
37 above-styled cause came on for hearing on the
38 31st day of August, 2018, before the
39 Honorable Jeffrey M. Atherton, in the
40 Chancery Court of Hamilton County, Tennessee,
41 and the following rulings were given:
42 -----

43 Whitney A. Vaughn, TN LCR #418
44 Angel & Associates Court Reporting
45 P.O. Box 1145
46 Hixson, Tennessee 37343
47 (423) 876-4435 and 800-298-DEPO (3376)

Alpha Reporting Corporation

18 SEP 19 11:25

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HAMILTON COUNTY CLERK

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* * * * *

THE COURT: Thank you very much.
With regard to the request for injunctive relief, the Court understands that the burden of proof is upon the proponent or the movant. 65.04(2) is rather clear. The burden is clearly shown. I understand that that is to be deemed or interpreted as clearly and convincingly shown.

We'll just get right to the heart of the matter. Number one, I am most troubled by what I perceive to be the technical deficiencies with regard to the filing, and I have discussed those.

Beyond the technical deficiencies -- and I'm not specifically denying the request for injunctive relief based upon the technical deficiencies, but certainly that would be a matter for further review by this Court or others.

That being said, at issue is what are the criteria the Court should consider as to whether or not the movant will suffer immediate and irreparable injury, loss or damage pending a final judgment in the action, or that the acts or omissions of the adverse party will tend to render such final judgment ineffectual.

I have tried to listen closely to the

1 assertion relative to the Democrat or the Tennessee
2 Democrat Party and the potential for harm. I have
3 tried to consider the potential for harm as
4 articulated in the complaint and the pleadings that
5 have been presented and the argument that has been
6 presented.

7 What I have not yet heard, and it is not in
8 the record before me, is that there is any obligation
9 on the part of the Tennessee Democratic party to pay
10 one cent to any candidate, whether that candidate is
11 in a contested or an uncontested race.

12 It would seem that in order to support a
13 claim of the likelihood of suffering some irreparable
14 harm, there would have to be at least an allegation
15 contained in the verified complaint that the
16 Tennessee Democratic Party was under some obligation
17 to support or otherwise participate in any particular
18 election, whether it be contested or uncontested.

19 There is nothing in the record before me
20 that indicates that the Tennessee Democratic Party is
21 under an obligation to contribute to the candidacy of
22 any particular party, regardless of whether or not it
23 is a contested or uncontested race.

24 And so the Court does -- the Court finds
25 that the plaintiff in this case has not shown that it

1 is -- that it will suffer immediate and irreparable
2 injury since it is a purely -- at least from the
3 discussions that have been provided and the
4 conversations and papers filed, there is no
5 obligation to do anything for the candidate.

6 It is -- and so, therefore, the Court finds
7 that the petitioner has failed to show the likelihood
8 that the party present before me today, being the
9 Tennessee Democratic Party, has clearly shown that it
10 is likely to suffer or it was clearly shown that it
11 will suffer immediate irreparable injury or loss or
12 damage pending final judgment.

13 When I further consider, for example, the
14 additional factors that are included within the
15 determination of Rule 65 relief, and in terms of
16 weighing the harm to the respective parties, I'm
17 sorry, but the proof before me does not show any
18 significant harm to be effected to the Tennessee
19 Democratic Party or, in all candor, its candidate as
20 reflected in that thing that was filed with me today
21 by virtue of running in an open contested election.

22 The harm, however, to our newest party,
23 Ms. Robin Smith, from being excluded from
24 participating in that election, is certainly
25 significant.

1 is because the motion to dismiss addresses -- and I
2 am receptive, Mr. Duggins, to the party chastisement,
3 I think you referred to, when you combine actions --
4 and that's all well and good. I'm not here to hardly
5 chastise or not chastise. Generally it is my role to
6 get chastised, not do the chastising.

7 With that being said, first I look in the
8 context of, again, the statutory basis as has been
9 articulated. And you look at 1-3-121, affected
10 person. The case that was referred to, the Grant
11 versus Anderson case we just talked about, continues
12 the concept of a particularized injury requirement.

13 It cites several similarities, I guess, were
14 discussed in there. May not be predicated -- again,
15 this is straight out of that particular case. May
16 not be predicated upon an injury to an interest that
17 the plaintiff shares in common with all other
18 citizens. That's making reference or referring --
19 citing American Civil Liberties Union of Tennessee
20 versus Darnell.

21 Our reading of the new statute is that it
22 does not relax the particularized injury requirement
23 for standing in cases brought regarding the legality
24 or constitutionality of a governmental action.
25 Again, these are just quotes right out of that case,

1 one of the few that actually have addressed that
2 particular statute.

3 So certainly the Court acknowledges that
4 declaratory judgment statutes are to be construed
5 liberally, and it's incumbent upon the Court to
6 address those which involve present rights accrued
7 under presently existing facts. And a real interest
8 must be in dispute because I don't get to render
9 advisory opinions.

10 The Court finds that the motion to dismiss
11 with regard to the averments under 29 -- excuse me --
12 under 1-3-121, and specifically the affected person,
13 the motion to dismiss is granted because the Court
14 does not find, even under the standard applied under
15 12.02(6), that the plaintiff in this case falls
16 within the confines of an affected person, as this
17 Court understands the particularized injury
18 requirement.

19 Moving then forward to 29-14-101, et. seq.,
20 when reflecting upon the provisions articulated in
21 that statute or in that series of statutes, the Court
22 finds particularly helpful, in considering upon that
23 issue, the Coleman versus Henry case, which is an old
24 case, a 1947 case, which kind of summarizes certain
25 similar elements, even though it was more related to

1 candidates. But the holding in that case was a
2 complainant had no special interest in the matter.
3 There was no justiciable controversy between the
4 parties. And I think much has been stated concerning
5 the ability to attack certain constitutionality
6 issues or legal issues.

7 But, in any event, of particular importance
8 to that Court was that the candidates, who the
9 defendant was representing, were not made parties to
10 the action. That seemed to be a factor that was of
11 particular concern to the Court at that time. The
12 citation is 201 S.W.2d 686.

13 In all candor, I'm not going to spend a
14 whole lot of time because I have essentially found
15 that the Democratic Party does not qualify as an
16 aggrieved party. And therefore, the Court similarly
17 dismisses under 29 -- excuse me -- 27-9-101, that is
18 the aggrieved party requirement.

19 And under the aggrieved party requirement,
20 this Court has already decided and has articulated
21 the standard to be applied. And in all candor,
22 although but for the lack of standing, certainly the
23 basis for a writ of cert has been articulated. The
24 Court is not satisfied that the plaintiff has
25 articulated that it is, in fact, an aggrieved party

1 or is aggrieved by the administrative decision.

2 I simply cannot ignore that here we are a
3 month and a half, or however long it has been since
4 filing, and I do not have either the Democrat
5 candidate, nor do I have any articulated basis that
6 the Democrat Party is -- the Tennessee Democrat Party
7 is under any obligation, whether a race is contested
8 or uncontested, to give one red cent to any
9 individual.

10 There is absolutely nothing in the record
11 before me that -- if there was an obligation, other
12 than some voluntary decision to do or not to do, it
13 is purely within the discretion of the party. I am
14 not persuaded by the associational standing argument.
15 And this Court grants the motion to dismiss as
16 presented by the Hamilton County Election Commission.

17 I'll be pleased to hear the motion to
18 dismiss on behalf of the next defendant, which is
19 Mr. Goins.

20 * * * * *

21 THE COURT: The motion to dismiss
22 filed by Mr. Goins in his capacity -- official
23 capacity as the State Election's Coordinator, the
24 Court has already addressed the issue of standing,
25 and that is ground one that supports a motion to

1 dismiss filed by that defendant.

2 In addition, the Court accepts -- and in the
3 event the Court is mistaken concerning its holding
4 with regard to standing, the Court accepts the
5 application of the doctrine of sovereign immunity,
6 since certainly the statute articulated and relied
7 upon by the plaintiffs in this case does not
8 represent a specific waiver or a particular waiver
9 with regard to sovereign immunity, as this Court
10 understands is required.

11 And, finally, in the event the Court is
12 mistaken concerning the assertion relative to
13 standing and is mistaken with regard to its holding
14 relative to sovereign immunity, the Court accepts the
15 position presented by the movant that there is no
16 claim for relief articulated in the complaint that
17 would be -- or would subject that defendant to relief
18 in this case. I think I have addressed those two
19 motions.

20 * * * * *

21 THE COURT: Very good. Well, I will
22 not restate my prior ruling concerning the standing
23 issue, and certainly it applies with regard to the
24 motion to dismiss involving Ms. Smith.

25 That being said, however, as the Court reads

1 20-12-119(c), the Court, with the exception of the
2 claim presented by Mr. Goins, is granting this motion
3 to dismiss primarily under 12.02(1) more so than
4 12 -- let me get it right, because I have -- more so
5 than anything else under 12.02(1) more so than under
6 12.02(6).

7 Now, obviously with regard to Mr. Goins and
8 the articulation of the statute of limitations in
9 this 12.02(6) -- however, as has also been
10 articulated, Mr. Goins doesn't get any money on an
11 assessment of costs.

12 And where -- and this Court finds that, with
13 regard to the request for costs as provided under
14 12 -- excuse me -- 20-12-119, since the primary basis
15 for the dismissal, although not the exclusive, deals
16 with matters related to 12.02(1) more so than
17 12.02(6) -- and that being the primary, but not only,
18 reason for dismissal, the Court denies the request
19 for assessment of costs and attorneys' fees. Will
20 there be anything further?

21 MR. ROSE: Did Your Honor rule on the
22 motion to -- our motion to dismiss?

23 THE COURT: Yes. I thought I was
24 fairly clear, but just in case, you win.

25 MR. ROSE: Thank you, Judge. I just

1 want to make sure it's on that jurisdictional issue.

2 THE COURT: If I failed to articulate
3 that, that's on me. The motion to dismiss on behalf
4 of Ms. Smith is granted on the grounds that I
5 previously reviewed.

6 That being said, obviously it renders as
7 moot certain other motions that are pending before me
8 today, such as the motions to quash and the motion to
9 strike, the motion to -- as I understand it, it
10 renders moot any remaining matters that are pending
11 before me. Is that correct, Mr. Gastel?

12 MR. GASTEL: That is my
13 understanding, Your Honor.

14 THE COURT: And Mr. Duggins?

15 MR. DUGGINS: Yes, Your Honor.

16 THE COURT: Ms. Kleinfelter?

17 MS. KLEINFELTER: Yes, Your Honor.

18 MR. ROSE: And I'm sorry to be such a
19 pest, Judge, but just so I make sure, our motion was
20 grant in toto; is that correct?

21 THE COURT: Yes.

22 MR. ROSE: Thank you, Judge.

23 THE COURT: Very good. With the
24 exception of the request for costs --

25 MR. ROSE: That's what I should have

1 said.

2 THE COURT: -- for which it is
3 denied.

4 MR. ROSE: Thank you, Judge.

5 THE COURT: If that will be all,
6 thank you very much.

7 (End of Rulings.)

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TRANSCRIPT CERTIFICATE

The Plaintiff/Defendants tenders this, their Transcript, to the judgment of the Court, which Transcript is filed within the time allowed by the law and rules of the Court, and which is signed and sealed and ordered to be made a part of the record in this cause.

This _____ day of _____, 2018.

Judge

APPROVED:

Attorney for the Plaintiff

Attorney for the Defendants

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REPORTER'S CERTIFICATE

STATE OF TENNESSEE :

COUNTY OF HAMILTON :

I, Whitney A. Vaughn, do hereby certify that the foregoing excerpted proceedings were stenographically recorded by me as stated in the caption, that pages 1 to 16, inclusive, were reduced to typewriting under my direction and supervision, and the transcript is a true and correct record, to the best of my ability, of the rulings given by the Court.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, nor am I financially interested in the action. All rates charged are usual and customary.

This the 9th of September, 2018.

Whitney A. Vaughn, TN LCR #418
Court Reporter and Notary Public
My Commission Expires 10/09/21

Court Ruling - August 31, 2018

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