

SUPREME COURT OF TENNESSEE

William Thomas McFarland v. Michael S. Pemberton et al.

530 S.W.3d 76 (Tenn. 2017) · No. E2014-02176-SC-R11-CV · Decided September 20, 2017

SUMMARY

The Tennessee Supreme Court held that a county election commission had authority to conduct a quasi-judicial hearing and determine whether a judicial candidate satisfied the constitutional residency requirement. The court further held that the commission's decision was a final administrative decision reviewable by common-law writ of certiorari, subject to a 60-day filing period. Because the plaintiff filed his election contest after that period expired, the court affirmed dismissal as untimely.

CASE DETAILS

COURT	Supreme Court of Tennessee
WRITING FOR THE COURT	Holly Kirby; Jeffrey S. Bivins, C.J.; Roger A. Page, J.
JURISDICTION	Tennessee
DECIDED	September 20, 2017
DOCKET	E2014-02176-SC-R11-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal by permission from the Tennessee Court of Appeals after the Roane County Chancery Court granted the defendants' motions to dismiss and for summary judgment in an election contest.
STANDARD OF REVIEW	Summary judgment is reviewed de novo with no presumption of correctness. Statutory interpretation and other purely legal issues are also reviewed de novo.
PRECEDENTIAL VALUE	Published state supreme court opinion; precedential.
PARTIES	William Thomas McFarland v. Michael S. Pemberton, Roane County Election Commission, Lowell P. Malmquist, Vickie Watts, Ralph DePorter, Celia Simon, James Ryan, Mark Goins

TOPICS

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PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the county election commission had authority under Tennessee's Election Code, by necessary implication, to conduct a quasi-judicial hearing and determine a candidate's factual residency qualification.
2. Whether the election commission's determination that the candidate satisfied the residency requirement was a quasi-judicial final administrative decision subject to review by common-law writ of certiorari.
3. Whether McFarland was an aggrieved person with standing to seek review under Tennessee Code Annotated sections 27-9-101 and 27-9-102 despite not participating in the election commission hearing.
4. Whether an election contest pleading challenging the candidate's residency was, in substance, a petition for writ of certiorari subject to the sixty-day limitations period.

HOLDINGS

1. A county election commission has authority, by necessary implication from its statutory duty to ensure that only qualified candidates appear on the ballot, to conduct a quasi-judicial hearing and make a factual determination regarding a candidate's residency qualification.
2. The Election Commission's factual determination of Pemberton's residency and resulting certification of him as a candidate were quasi-judicial administrative actions, not merely ministerial or legislative acts.
3. The Election Commission's certification decision was a final administrative order or judgment reviewable by common-law writ of certiorari under Tennessee Code Annotated section 27-9-101.
4. McFarland was an aggrieved person with standing under section 27-9-101 because he was Pemberton's opposing candidate and had actual notice of the election commission proceedings.
5. Although styled as an election contest, McFarland's complaint was substantively a request for judicial review of the Election Commission's residency decision and was therefore subject to the sixty-day limitations period for certiorari.

KEY QUOTATIONS

"It is a fundamental rule of law that the departments, agencies, and commissions of government have no inherent or common-law power of their own. They are purely creatures of statute." (530 S.W.3d at 87)

"Under the Election Code, the Coordinator and the Election Commission had the implicit authority to conduct the quasi-judicial hearing in order to effectively carry out their joint duty to place only qualified candidates on the ballot." (530 S.W.3d at 93)

"Thus, Mr. McFarland had a sufficient special interest and/or personal stake in the outcome of the Election Commission's decision so as to qualify as 'anyone who may be aggrieved' by the decision." (530 S.W.3d at 98)

FACTUAL BACKGROUND

Michael S. Pemberton sought election as circuit court judge for Tennessee's Ninth Judicial District and listed a Roane County residence, although he also owned a home in Knox County. A voter challenged Pemberton's residency, and the Roane County Election Commission held a public quasi-judicial hearing, considered documentary evidence and statements, and unanimously certified Pemberton as a qualified candidate. William Thomas McFarland, Pemberton's opposing candidate, did not participate in the hearing, and Pemberton later won the election. McFarland filed an election contest after the election, asserting only that Pemberton failed to satisfy the constitutional residency requirement.

PROCEDURAL HISTORY

Michael Pemberton's residency was challenged before the Roane County Election Commission, which held a hearing and certified him as a qualified candidate. After Pemberton won the judicial election, McFarland filed an election contest challenging Pemberton's residency. The chancery court dismissed the action as untimely because the gravamen of the complaint was judicial review of the Election Commission's final administrative decision and the action was not filed within the sixty-day period for a writ of certiorari. The Court of Appeals affirmed, and the Tennessee Supreme Court granted permission to appeal and affirmed.

DISPOSITION

affirmed

CASES CITED

- Rye v. Women's Care Center of Memphis, M PLLC, 477 S.W.3d 235, 250 (Tenn. 2015)
- Tennessean v. Metropolitan Government of Nashville, 485 S.W.3d 857, 862-63 (Tenn. 2016)
- City of Memphis v. Shelby County Election Commission, 146 S.W.3d 531, 533-38 (Tenn. 2004)
- Huskey v. Crisp, 865 S.W.2d 451, 454 (Tenn. 1993)
- Asberry v. Garrett, No. 01-A-01-9511-CH-00515, 1996 WL 334366, at *2 (Tenn. Ct. App. June 19, 1996)
- State ex rel. Hammond v. Wimberly, 196 S.W.2d 561, 563 (Tenn. 1946)
- State ex rel. Commission of Transportation v. Medicine Bird Black Bear White Eagle, 63 S.W.3d 734, 768-69 (Tenn. Ct. App. 2001)
- In re Sentinel Trust Co., 206 S.W.3d 501, 519 (Tenn. Ct. App. 2005)
- Martin v. Powers, 505 S.W.3d 512, 518 (Tenn. 2016)
- In re Kaliyah S., 455 S.W.3d 533, 552 (Tenn. 2015)
- Peterson v. Dean, 777 F.3d 334, 337-47 (6th Cir. 2015)
- City of Memphis v. Shelby County Election Commission, 146 S.W.3d 531, 535-38 (Tenn. 2004)
- Sanifill of Tennessee, Inc. v. Tennessee Solid Waste Disposal Control Board, 907 S.W.2d 807, 810 (Tenn. 1995)
- Mayhew v. Mayhew, 376 S.W.2d 324, 327 (Tenn. App. 1963)
- Fallin v. Knox County Board of Commissioners, 656 S.W.2d 338, 341-42 (Tenn. 1983)
- Davison v. Carr, 659 S.W.2d 361, 363 (Tenn. 1983)

- Metropolitan Government of Nashville v. Board of Zoning Appeals of Nashville, 477 S.W.3d 750, 755-58 (Tenn. 2015)
- Wood v. Metropolitan Government of Nashville & Davidson County, 196 S.W.3d 152, 158 (Tenn. Ct. App. 2005)
- Comer v. Ashe, 514 S.W.2d 730, 741-42 (Tenn. 1974)
- Benz-Elliot v. Barrett Enterprises, L.P., 456 S.W.3d 140, 147-51 (Tenn. 2015)
- Dehoff v. Attorney General, 564 S.W.2d 361, 363-64 (Tenn. 1978)
- Johnson v. Metropolitan Government for Nashville and Davidson County, 54 S.W.3d 772, 774-75 (Tenn. Ct. App. 2001)

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