

SUPREME COURT OF KENTUCKY

Honorable George W. Davis, III v. Honorable Thomas D. Wingate, Judge, Franklin Circuit Court, Division II

2014-SC-000323-MR (Ky. Aug. 14, 2014) · No. 2014-SC-000323-MR · Decided August 26, 2014

SUMMARY

The Kentucky Supreme Court affirmed the denial of a writ petition seeking to prevent the Franklin Circuit Court from hearing a declaratory judgment action challenging the constitutionality of House Bill 427. The Court held that Franklin Circuit Court had subject-matter jurisdiction over the constitutional challenge under Kentucky's declaratory judgment statute, and that the candidate-bona-fides procedure in KRS 118.176 did not divest it of jurisdiction. The Court emphasized the distinction between challenging the constitutionality of the governing statute and challenging the candidate's qualifications.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Chief Justice Minton; Justice Abramson; Justice Keller; Justice Noble; Justice Venters; Justice Scott; Justice Cunningham
JURISDICTION	Kentucky
DECIDED	August 26, 2014
DOCKET	2014-SC-000323-MR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Court of Appeals' denial of a petition for a writ of prohibition seeking to prevent the Franklin Circuit Court from hearing a declaratory judgment action challenging the constitutionality of HB 427.
STANDARD OF REVIEW	De novo review applies to a first-class writ case alleging that a lower court is acting outside its jurisdiction because jurisdiction is generally a question of law.
PRECEDENTIAL VALUE	Published and designated to be published; majority opinion is precedential under applicable Kentucky law.
PARTIES	Honorable George W. Davis, III v. Honorable Thomas D. Wingate, Judge, Franklin Circuit Court, Division II

TOPICS

election law subject matter jurisdiction appellate procedure declaratory judgment statutory interpretation

PRACTICE AREAS

Kentucky election law extraordinary writs declaratory judgments subject-matter jurisdiction
statutory interpretation

QUESTIONS PRESENTED

1. Whether Franklin Circuit Court had subject-matter jurisdiction to hear Rosen's declaratory judgment action challenging the constitutionality of HB 427.
2. Whether KRS 118.176's procedure for challenging a candidate's bona fides vested exclusive jurisdiction in the circuit court of the candidate's county of residence over Rosen's constitutional challenge.
3. What standard of review applies to a first-class writ proceeding alleging that a lower court is acting outside its jurisdiction.

HOLDINGS

1. A first-class writ proceeding alleging that a lower court is acting outside its jurisdiction is reviewed de novo when the alleged error presents a question of law concerning jurisdiction.
2. Franklin Circuit Court had jurisdiction to hear Rosen's declaratory judgment action concerning the constitutionality of HB 427.
3. A court acts outside its subject-matter jurisdiction only when it has not been given, by constitutional provision or statute, the power to hear the type of claim at issue; jurisdiction is distinct from venue.
4. Davis was not entitled to a writ prohibiting Franklin Circuit Court from proceeding with Rosen's declaratory judgment action.

KEY QUOTATIONS

“A writ of prohibition may be granted upon a showing that (1) the lower court is proceeding or is about to proceed outside of its jurisdiction and there is no remedy through an application to an intermediate court; or (2) that the lower court is acting or is about to act erroneously, although within its jurisdiction, and there exists no adequate remedy by appeal or otherwise and great injustice and irreparable injury will result if the petition is not granted.” (at 5)

“A court acts outside its jurisdiction, accordingly, only “where [it] has not been given, by constitutional provision or statute, the power to do anything at all.”” (at 7)

“Rosen is challenging the constitutionality of a statute delineating the requisite bona fides. But he is not challenging whether he possesses those bona fides.” (at 9)

FACTUAL BACKGROUND

HB 427 amended Kentucky election statutes to prohibit a judge who elected to retire as a Senior Status Special Judge from becoming a candidate for elected office during the five-year period prescribed by KRS 21.580. Marc I. Rosen, who had retired as a Senior Status Special Judge in 2009, submitted nominating papers to run for circuit judge in Boyd County and filed a declaratory action in Franklin Circuit Court challenging HB 427's constitutionality. A separate Boyd County voter challenged Rosen's bona fides under KRS 118.176, and the Boyd Circuit Court found him disqualified under HB 427 without expressly deciding the statute's constitutionality.

PROCEDURAL HISTORY

Marc I. Rosen filed a declaratory judgment action in Franklin Circuit Court challenging the constitutionality of HB 427, which restricted former Senior Status Special Judges from becoming candidates for elected office for five years after retirement. Davis intervened and moved to dismiss for lack of jurisdiction; the Franklin Circuit Court denied the motion. After a separate Boyd Circuit Court proceeding addressed Rosen's candidate qualifications, the Court of Appeals granted relief in that proceeding but denied Davis's writ petition concerning the Franklin Circuit Court action. The Kentucky Supreme Court affirmed the Court of Appeals and remanded the matter to Franklin Circuit Court.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The matter was remanded to Franklin Circuit Court for further proceedings consistent with the opinion.

CASES CITED

- Hoskins v. Maricle, 150 S.W.3d 1, 9-10 (Ky. 2004)
- Grange Mutual Insurance Co. v. Trude, 151 S.W.3d 803, 810 (Ky. 2004)
- Shumaker v. Paxton, 613 S.W.2d 130 (Ky. 1981)
- Hargis v. Parker, 85 S.W. 704, 706 (Ky. 1905)
- Chamblee v. Rose, 249 S.W.2d 775, 776-77 (Ky. 1952)
- Duncan v. O'Nan, 451 S.W.2d 626, 631 (Ky. 1970)
- Commonwealth, Department of Highways v. Berryman, 363 S.W.2d 525, 526 (Ky. 1963)
- Daugherty v. Telek, 366 S.W.3d 463, 466-67 (Ky. 2012)
- Lee v. George, 369 S.W.3d 29, 33 (Ky. 2012)
- Commonwealth ex rel. Conway v. Thompson, 300 S.W.3d 152, 163 n.27 (Ky. 2009)
- Fritsch v. Caudill, 146 S.W.3d 926, 927 (Ky. 2004)
- Noble v. Meagher, 686 S.W.2d 458, 460 (Ky. 1985)
- Iroquois Post No. 229 v. City of Louisville, 279 S.W.2d 13, 14 (Ky. 1955)
- Sullenger v. Sullenger's Administratrix, 152 S.W.2d 571, 574 (Ky. 1941)

- Cox v. Howard, 261 S.W.2d 673 (Ky. 1953)
- Baker v. Fletcher, 204 S.W.3d 589, 597-98 (Ky. 2006)

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