

SUPREME COURT OF KENTUCKY

Franklin v. Lambert

41 S.W.3d 852 (Ky. 2001) · Decided April 26, 2001

SUMMARY

The Kentucky Supreme Court considered whether SCR 1.060(4) limits a person seeking appointment as circuit court clerk to a single special qualifying examination. The court held that the rule does not prohibit multiple examinations in the vacancy-appointment context, denied Franklin’s requested writ of prohibition, and directed that Pelfrey’s examination results be released and certified.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Chief Justice Lambert; Justice Cooper; Justice Johnstone; Justice Keller; Justice Wintersheimer; Justice Graves
JURISDICTION	Kentucky
DECIDED	April 26, 2001
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Original proceeding in the Supreme Court of Kentucky seeking a writ of prohibition under CR 57 and CR 76.36 to prevent the Administrative Office of the Courts from administering, grading, or certifying a second special examination for appointment to a vacant circuit court clerk position.
STANDARD OF REVIEW	The court interpreted SCR 1.060(4), KRS 30A.150, and related provisions as a matter of law in an original writ proceeding.
PRECEDENTIAL VALUE	Published Kentucky Supreme Court opinion; binding precedent in Kentucky.
PARTIES	Darby Franklin v. Cicely Jaracz Lambert, in her official capacity as Director of the Administrative Office of the Courts

TOPICS

- statutory interpretation
- administrative law
- election law
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether SCR 1.060(4) limits the Administrative Office of the Courts to administering only one special examination to each applicant when filling a vacancy in the office of circuit court clerk by appointment.
2. Whether the Administrative Office of the Courts could administer, grade, and certify Pelfrey's second examination after the circuit judge requested another opportunity for her to qualify.

HOLDINGS

1. SCR 1.060(4) does not prohibit or expressly authorize only one examination and does not limit the chief circuit judge from requiring a subsequent examination for an applicant seeking appointment to fill a circuit court clerk vacancy.
2. Franklin was not entitled to a writ of prohibition because the second examination was permissible in the appointment context.

KEY QUOTATIONS

“The language used neither prohibits nor explicitly authorizes the administration of multiple examinations.”
(41 S.W.3d at 854)

“The responsibility to appoint a “qualified” person within a short time confers on the judge the power to require a subsequent examination even if one or more persons so examined have passed the first examination.” (41 S.W.3d at 855)

FACTUAL BACKGROUND

The Morgan Circuit Court clerk's impending retirement created a vacancy, and the circuit judge designated Franklin and Pelfrey to take the special examination required for appointment eligibility. Franklin received a passing score, while Pelfrey initially received a score below the required 70 percent, ultimately calculated as 69.85 percent after review of an answer-key error. At the circuit judge's request, the Administrative Office of the Courts allowed Pelfrey to retake the examination, prompting Franklin's prohibition action.

PROCEDURAL HISTORY

After the Morgan Circuit Court clerk announced retirement, Circuit Judge Samuel C. Long designated Franklin and Donna Pelfrey to take a special examination. Franklin passed, while Pelfrey initially failed but was permitted by the Administrative Office of the Courts to retake the examination at the judge's request. Franklin sought a writ of prohibition and intermediate relief in the Supreme Court of Kentucky. The court denied the writ, ordered release and certification of Pelfrey's examination results, and vacated its stay of the appointment process.

DISPOSITION

writ_denied

CASES CITED

- Combs v. Huff, 858 S.W.2d 160 (Ky. 1993)

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