

APPENDIX A

No. 18-5213

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

[DATE STAMP]
FILED
Jun 01, 2018
DEBORAH S. HUNT, Clerk

ELLIS KEYES,
Plaintiff-Appellant,

v.

EDISON BANKS,
Defendant-Appellee.

Before: GUY, COOK, and DONALD, Circuit
Judges.

Pro se litigant Ellis Keyes appeals the district court's dismissal of his complaint asking to enjoin proceedings in the Letcher County Kentucky Circuit Court. On April 19, 2018, we denied his emergency motion to stay those proceedings. Keyes now petitions for rehearing. *See* 6th Cir. R. 27(g). Upon review, we conclude that his motion does not demonstrate that we overlooked or misapprehended a point of law or fact in denying his emergency stay motion. *See* Fed. R. App.

P. 40(a)(2).

Therefore, the motion for reconsideration is
DENIED.

ENTERED BY ORDER OF THE COURT

/s/

Deborah S. Hunt, Clerk

APPENDIX B

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF KENTUCKY SOUTHERN DIVISION at PIKEVILLE

**ELLIS KEYES,
Plaintiff,**

v. Civil Action No. 7: 18-23-KKC

**EDISON BANKS,
Defendant.**

ORDER

Plaintiff Ellis Keyes has filed a "Motion to Set Jury Trial" requesting that this matter be scheduled for jury trial in September. [R. 11] However, the Court dismissed this action on February 26, 2018 [R. 4, 5], and Keyes' appeal remains pending before the United States Court of Appeals for the Sixth Circuit [R. 8]

Accordingly, Keyes' "Motion to Set Jury Trial" [R. 11] is DENIED AS MOOT.

Entered: September 5, 2018.

/s/
[SEAL] KAREN K. CALDWELL, CHIEF JUDGE
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY

APPENDIX C

No. 18-5213

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

[DATE STAMP]
FILED
Apr 19, 2018
DEBORAH S. HUNT, Clerk

ELLIS KEYES
Plaintiff-Appellant,

v.

EDISON BANKS,
Defendant.

ORDER

Before: GUY, COOK, and DONALD, Circuit
Judges.

Ellis Keyes appeals the district court's judgment
dismissing his complaint. Keyes moves for an
emergency stay, asking us to enjoin proceedings in the
Letcher County Circuit Court.

We may grant a stay or injunction pending
appeal using the same analysis that we use in

reviewing the grant or denial of a motion for a preliminary injunction. *Overstreet v. Lexington-Fayette Urban Cty. Gov't*, 305 F.3d 566, 572 (6th Cir. 2002). This involves examination of four factors-likelihood of success on the merits, irreparable harm to the moving party, harm to other parties, and the public interest. *Serv. Emps. Int'l Union Local 1 v. Husted*, 698 F.3d 341, 344 (6th Cir. 2012) (citing *Overstreet*, 305 F.3d at 573). As the moving party, Keyes has the burden of showing that he is entitled to a stay. *Id.* at 343.

The Anti-Injunction Act, 28 U.S.C. § 2283, prevents us from granting Keyes the relief he seeks. We conclude that the relevant factors do not weigh in favor of granting a stay.

The emergency motion for a stay is DENIED.

ENTERED BY ORDER OF THE COURT

/s/
Deborah S. Hunt, Clerk

APPENDIX D

Commonwealth of Kentucky Court of Appeals

NO. 2018-CA-000423-EL

**ELLIS KEYES
APPELLANT**

v.

**EDISON G. BANKS, II
APPELLEE**

**ELECTION APPEAL FROM
LETCHER CIRCUIT COURT
ACTION NO. 18-CI-00032**

ORDER

**BEFORE: JONES, J. LAMBERT, AND NICKELL,
JUDGES.**

The appellant, Ellis Keyes, filed a notice of appeal from an opinion and order of the Letcher Circuit Court that found Mr. Keyes was not a bona fide candidate for the office of Commonwealth's Attorney for the 47th Judicial Circuit. KRS 118.176(4) provides that review of an order disqualifying a candidate is initiated by filing in this Court a motion to set aside the circuit court order. On March 22, 2018, this Court

directed the appellant to show cause why this action should not be dismissed as improperly taken.

The Court has considered the parties' responses to the March 22 order. "Election contests must be practiced in strict conformity with the legislatively mandated procedures." *Stearns v. Davis*, 707 S.W.2d 787, 789 (Ky. App. 1985) (citing *Duvall v. Gatewood*, 500 S.W.2d 416 (Ky. 1973)). Having been otherwise sufficiently advised, the Court fails to find sufficient cause and ORDERS that this action be DISMISSED as improperly taken.

ENTERED: APR 16 2018

/s/
JUDGE, COURT OF APPEALS

APPENDIX E

Commonwealth of Kentucky Court of Appeals

NO. 2018-CA-000423-EL

**ELLIS KEYES
APPELLANT**

v.

**EDISON G. BANKS, II
APPELLEE**

**ELECTION APPEAL FROM
LETCHER CIRCUIT COURT
ACTION NO. 18**

SHOW CAUSE ORDER

The appellant, Ellis Keyes, filed a notice of appeal on March 15, 2018, in the Letcher Circuit Court from the March 13, 2018 opinion and order of that court that found Mr. Ellis was not a bona fide candidate for the office of Commonwealth's Attorney for the 47th Judicial Circuit.

Statutes governing election contests are strictly construed and must be followed. *Stearns v. Davis*, 707 S.W.2d 787 (Ky. App. 1985) (citing *Duvall v. Gatewood*, 500 S.W.2d 416 (Ky. 1973)). KRS 118.176(4)

establishes the procedure to challenge a circuit court order disqualifying a candidate. *See Gibson v. Thompson*, 336 S.W.3d 81 (Ky. 2011). This statute provides that the disqualified candidate must file in the Court of Appeals a motion to set aside the order within five (5) days of the entry of the circuit court order. Instead of filing a motion to set aside the March 13 order in this Court, the appellant filed a notice of appeal in the Letcher Circuit Court.

The appellant is ORDERED to SHOW CAUSE why this action should not be dismissed as improperly taken. The appellant SHALL FILE with the Clerk of this Court five copies of a response to this order within ten (10) days of the date of entry of this order. Within five (5) days of the date of filing of the appellant's response, the appellee may file a response. Upon the expiration of the time given, this matter shall be submitted to a three-judge panel of this Court for review.

ENTERED: 03/22/18

/s/

CHIEF JUDGE, COURT OF APPEALS

APPENDIX F

**COMMONWEALTH OF KENTUCKY
LETCHER CIRCUIT COURT
CIVIL ACTION NO: 18-CI-00032**

[DATE STAMP]
ENTERED
LARRY D. ADAMS, CLERK
MAR 13 2018
LETCHER CIRCUIT DISTRICT COURTS
BY /s/

**EDISON G. BANKS, II
PETITIONER**

VS

ELLIS L. KEYES

And

ALLISON LUNDERGAN GRIMES, in her official capacity as SECRETARY OF STATE OF THE COMMONWEALTH OF KENTUCKY and CHAIRPERSON OF THE STATE BOARD OF ELECTIONS OF THE COMMONWEALTH OF KENTUCKY

And

WINSTON MEADE, in his official capacity as

LETCHER COUNTY COURT CLERK and
CHAIRMAN OF THE LETCHER COUNTY BOARD
OF ELECTIONS
RESPONDENTS

THIS CAUSE, having come on for hearing on March 8, 2018, on the Petitioner's Motion Challenging the bona fides of the Respondent's qualifications to seek election for the Office of the Commonwealth's Attorney for the 47th Judicial Circuit and the Court having heard arguments of Counsel and having reviewed the record and Briefs filed herein and (the Court being otherwise sufficiently advised, hereby enter its Opinion and Order.

OPINION

1. This action is brought pursuant to KRS 118.176, which allows any opposing candidate to question the bona fides of an opposing candidate.
2. The Petitioner, Edison G. Banks, II, the current Commonwealth's Attorney for the 47th Judicial Circuit, has filed for re-election in the 2018 General Election. The Movant is a Republican.
3. The Respondent, Ellis L. Keyes, has also filed for the same office. The Respondent is a Democrat.
4. Section 100 of the Constitution of the Commonwealth of Kentucky sets forth the qualifications one must have to hold the Office of Commonwealths Attorney. The two issues to be

decided in this action are whether or not the Respondent, Ellis L. Keyes, is an attorney and if so, whether he has been licensed to practice law in the Commonwealth for the past four years.

5. The Movant produced evidence, in the form of a letter, from the Kentucky Bar Association, indicating that the Respondent, Ellis L. Keyes, is not a licensed practicing attorney in this Commonwealth. The Respondent, Ellis L. Keyes, admitted during the hearing of this matter, that he, in fact, is not now, nor has he ever been, a licensed practicing attorney within the Commonwealth of Kentucky.

6. That Section 100 of the Kentucky Constitution provides that "No person shall be eligible to the office of Commonwealth Attorney who is not at the time of his election, twenty-four years of age, citizen of Kentucky, and who has not resided in the state two years and one year next preceding his election in the county and district in which he is a candidate. No person shall be eligible to the office of Commonwealth's Attorney unless he shall have been a licensed practicing lawyer for four years."

7. The Constitution of the Commonwealth sets forth the requirements to hold this office, and the Respondent, Ellis L. Keyes, clearly does not meet the constitutional requirements to hold the office of the Commonwealth Attorney.

ORDER

Based upon the foregoing, the Court hereby orders as follows:

a. That the Petitioner's Motion for Removal from the Ballot and Injunctive Relief, pursuant to KRS 118.176, is hereby granted.

b. The Respondent, Winston Meade, in his official capacity as the Letcher County Court Clerk and as Chairman of the Letcher County Board of Elections, and the Respondent, Allison Lundergan Grimes, in her official capacity as Secretary of State of the Commonwealth of Kentucky and Chairperson of the State Board of Elections of the Commonwealth of Kentucky, are hereby enjoined and restrained from permitting or causing the name of Ellis L. Keyes from appearing on any ballot for the office of the Commonwealth's Attorney for the 47th Judicial Circuit for the May 22, 2018 Primary Election and/or the November 6, 2018 General Election.

c. IT IS FURTHER ORDERED AND ADJUDGED that the Respondents, Winston Meade and Allison Lundergan Grimes, in their official capacities, are enjoined and restrained from tabulating or certifying, any votes cast for the Respondent, Ellis L. Keyes, for the office of the Commonwealth's Attorney for the 47th Judicial Circuit in the May 22, 2018 Primary Election and/or the November 6, 2018 General Election.

This is a final and appealable Order and there being no just cause for delay, this matter is hereby

stricken from this Court's docket.

DATED this 13th day of March, 2018.

/s/

JAMES W. CRAFT, II
JUDGE, LETCHER CIRCUIT COURT

APPENDIX G

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION
AT PIKEVILLE**

**ELLIS KEYES,
Plaintiff,**

v. CIVIL NO. 7:18-CV-23-KKC

**EDISON BANKS,
Defendant.**

JUDGMENT

In accordance with the order entered on this date the Court hereby ORDERS and ADJUDGES as follows:

- 1) this action is DISMISSED and STRICKEN from the Court's active docket; and
- 2) this judgment is FINAL and APPEALABLE.

Dated February 26, 2018.

[SEAL] **KAREN K. CALDWELL, CHIEF JUDGE
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY**

APPENDIX H

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF KENTUCKY SOUTHERN DIVISION - PIKEVILLE

**ELLIS KEYES,
Plaintiff,**

v.

CIVIL NO. 7:18-CV-23-KKC

**EDISON BANKS,
Defendant.**

ORDER

This matter is before the Court on plaintiffs "emergency motion," (DE 1) in which he requests that the Court stay a certain action in Letcher Circuit Court. Plaintiff states that he is a candidate for Commonwealth Attorney in Letcher County, Kentucky and that his opponent has filed an action in Letcher Circuit Court to remove plaintiff's name from the ballot because he is not a licensed attorney. Plaintiff asks this Court to stay or dismiss his opponent's action in state court. (DE 1, Motion at 2, 3, 4, 9.) This is the sole relief plaintiff seeks in this Court.

"A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where

necessary in aid of its jurisdiction, or to protect or effectuate its judgments." 28 U.S.C.A. § 2283. None of those conditions applies here. Accordingly, this Court has no jurisdiction to render the sole relief requested by plaintiff. For this reason, the Court hereby ORDERS that this matter is DISMISSED and STRICKEN from the Court's active docket.

Dated February 26, 2018.

[SEAL]

KAREN K. CALDWELL, CHIEF JUDGE
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY

APPENDIX I

Supreme Court of Kentucky

**2018-SC-000199-D
(2018-CA-000423)**

**ELLIS KEYES
MOVANT**

V.

**EDISON G. BANKS, II
RESPONDENT**

**LETCHER CIRCUIT COURT
2018-CI-00032**

ORDER DENYING DISCRETIONARY REVIEW

The motion for review of the decision of the Court of Appeals is denied.

Movant's motion to supplement the motion for discretionary review is hereby denied as moot.

ENTERED: August 8, 2018.

/s/
CHIEF JUSTICE