

a1 - *Young v. McGarvey*

Appendix 1 – Entered on May 9, 2024

NO. 24-CI-002968 JEFFERSON CIRCUIT COURT
DIVISION FIVE (5)
JUDGE TRACY E. DAVIS

GEOFFREY M. YOUNG MOVANT

Electronically filed
v. **OPINION AND ORDER**

MORGAN MCGARVEY RESPONDENT

PROCEDURAL HISTORY

The above-styled and numbered action came before the Court during the call of its May 6, 2024, motion hour on motions filed by both parties. This action commenced on April 26, 2024, the filing of Movant, Geoffrey M. Young (hereinafter "Movant" and/or Mr. Young)'s Motion Challenging the Ballot Status of Morgan McGarvey ("Respondent" and/or "Congressman McGarvey")¹

[footnote 1: Although not sued in his official capacity, the Court refers to the

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Respondent as Congressman McGarvey
as he is the elected Representative to
the U.S. Congress for Kentucky's Third
District.]

Said Motion was filed pursuant to KRS 118.176 (2).
Simultaneously therewith, Mr. Young filed a Motion
to conduct a trial thereon during the Court's May 6th
motion hour. On May 02, 2024, Congressman
McGarvey, by counsel, moved to schedule a briefing
schedule and a hearing date on Respondent's
anticipated Motion to Dismiss. On May 03, 2024,
Respondent filed his Combined Motion to Dismiss
pursuant to CR 12.02 (f) and (g), and Response in
Opposition to Mr. Young's ballot challenge. Both Mr.
Young's "procedural order" and Congressman
McGarvey's motion for a briefing schedule were
considered by the Court on May 06. Also, during the
call of the case on May 6th, Mr. Young tendered his

reply to the Respondent's motion to dismiss styled as his proposed "Order." Although, under JRP 401, The Respondent would ordinarily be provided ten (10) days to file a reply, given the expedited nature of proceedings under KRS 118.176 (2), the Court has sufficient information to take this matter under submission. Pursuant to CR 52.01 the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

This Court has jurisdiction over the subject matter and the parties. Movant, Mr. Young, is an opposing candidate to Congressman McGarvey, and Jefferson County is the judicial circuit in which the candidate whose bona fides are questioned resides. KRS 118.176 (2).

Congressman McGarvey has been a citizen of the United States for at least seven (7) years, a

resident of the Commonwealth of Kentucky, and over twenty-five (25) years of age. He is thus a qualified candidate to be a House Representative under U.S.

CONST. Art. 1, § 2; (2).²

[footnote 2: These facts are confirmed by the current admission of Congressman McGarvey to the U.S. House of Representatives.] Congressman McGarvey has properly filed his notification and declaration pursuant to KRS 118.125.

Without making further specific findings, given the standard of review applicable to motions to dismiss under CR 12.02(f), the Court assumes all facts as alleged by Mr. Young in his Motion Challenging the Ballot Status of Morgan McGarvey are true, and the same are taken as true. The question presented is thus, if these allegations are true, has the Movant alleged sufficient facts to question the bona fides of Congressman McGarvey,

and have the Court find that Respondent is not a bona fide candidate?

CONCLUSIONS OF LAW

Under CR 12.02(f), a motion to dismiss for failure to state a claim upon which relief can be granted must be denied unless the plaintiff "appears not to be entitled to relief under any set of facts which could be proven to support his claim." *Morgan v. Bird*, 289 S.W.3d 222, 226 (Ky. App. 2009). When analyzing a motion to dismiss, the "pleadings are to be construed in the light most reasonable to the plaintiff and all allegations stated in the complaint should be taken as true." *Ewell v. Central City*, 340 S.W.2d 479, 480 (Ky. App. 1960). The Court is not required to make any factual determination; rather, the question is purely a matter of law." *James v. Wilson*, 95 S.W.3d 875, 883-4 (Ky. App. 2002). The

question the Court must answer in the affirmative for the case to proceed is "if the facts alleged in the complaint can be proved, would the plaintiff be entitled to relief?" *Id.* "The test is whether the pleading sets forth **any** set of facts which -- if proven -- would entitle the party to relief. If so, the pleading is sufficient to state a claim." *Mitchell v. Coldstream Laboratories, Inc.*, 337 S.W.3d 642, 645 (Ky. App. 2010) (emphasis in original).

KRS 118.176 (1) defines a "bona fide candidate" as "one who is seeking nomination in a primary or election in a special or regular election according to the law." After careful review of Mr. Young's motion shows Movant makes **no** challenge to Congressman McGarvey's **qualifications**. There are no allegations that the Respondent is not at least 25 years of age, has not been a citizen of the United

States for at least seven years, no that he is not an inhabitant of Kentucky.

The sole allegation conceivably relating to Congressman McGarvey's seeking nomination "according to the law," is the rehashed allegation of an alleged conspiracy to violate KRS 118.105 between the Respondent, the Kentucky Democratic Party, the Louisville Democratic Party, Governor Andy Beshear, and Kentucky Educational Television. However, those allegations have been made numerous times and routinely rejected. Most recently, in Case No. 23-CI-426, styled Geoffrey M. Young v. Andy Beshear, Franklin County Circuit Court, Division I, filed May 05, 2023. There, Mr. Young's Motion Challenging the Ballot Status of Andy Beshear, reads virtually identical to the instant motion concerning Congressman McGarvey,

includes the same allegations concerning the March 25, 2023, meeting of the State Central Executive Committee, and raised Mr. Young's allegations that the Kentucky Democratic Party's amended By-Laws violated KRS 118.105 (1). This Court agrees with Judge Stevens, formerly of Jefferson Circuit Court Division Six that: "The Movant's claims regarding a conspiracy are irrelevant to his claims under KRS 118.176. To the extent Movant asserts the same, those claims have been previously adjudicated and are barred by the doctrine of res judicata. (Order entered November 06, 2019, in Case No. 19-CI-006292, Geoffrey Young v. Andy Beshear.)

This Court further agrees with the May 15, 2023, Order of the Hon. Phillip J. Shepherd, Judge of the Franklin Circuit Court in Movant's challenge vs. Governor Beshear in Case No. 23-CI-426, which this

Court paraphrases here:

In this action, it is clear to the Court that Mr. Young cannot prove any set of facts that would entitle him to relief. He has not alleged that [Congressman McGarvey] fails to meet the constitutional requirements that are set forth in [U.S. CONST. Art. 1, § 2; (2)] which requires candidates for [the House of Representatives] to be at least [25] years of age, and to [be a citizen of the United States for at least seven years, and an inhabitant of Kentucky]. In order to sustain his claim that [Congressman McGarvey] is not a *bona fide* candidate, he would have to have a good faith basis to allege that the [Congressman] does not meet the constitutional qualifications. No such claim has been made or could be made. Having failed to allege a lack of constitutional qualifications, his claim must fail.

He has not alleged any evidence necessary to prove a claim under KRS 118.175 (criteria for a bona fide candidate) or KRS 118.105 (1) (criteria for nominations by political parties). Mr. Young's dispute with [the Kentucky] Democratic Party over changes to its By-Laws, whatever their

merit or lack of merit, have no bearing on the qualifications of [Congressman McGarvey] as a candidate for election. [Congressman McGarvey] is legally entitled under the election statutes to have his name on the primary ballot, and to have all votes counted. Mr. Young's individual objections to the actions of the Democratic Party in amending its By-Laws, provide no basis for disqualifying any candidate, including [Congressman McGarvey], from the primary election.

Because Mr. Young does **not** allege that Congressman McGarvey does **not** meet the constitutional *qualifications* for office, the Court determines that Mr. Young's Motion Challenging the Ballot Status of Morgan McGarvey fails to state a claim upon which relief can be granted under CR 12.02 (f). As such, the Court need not consider the alternative ground under CR 12.02 (g), for failure to join the State Board of Elections as a party hereto.

ORDER

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WHEREFORE, based upon the foregoing, Mr.
Young's motions are hereby **DENIED**, and
Respondent's Motion to Dismiss pursuant to CR
12.02 (f) is hereby **GRANTED**.

IT IS FURTHER ORDERED The above-styled
action is hereby **DISMISSED WITH PREJUDICE**.

This is a final and appealable Order and there
is no just cause for delay.

s/ TRACY E. DAVIS JUDGE
JEFFERSON CIRCUIT COURT
DIVISION FIVE (5)

DATE: _____

NOE:
Counsel of Record
via electronic service per § 5 (10) of the eFiling Rules.

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Appendix 2 – Entered on May 22, 2024

NO. 24-CI-002968 JEFFERSON CIRCUIT COURT
DIVISION FIVE (5)
JUDGE TRACY E. DAVIS

GEOFFREY M. YOUNG MOVANT

Electronically filed

V.

ORDER

MORGAN MCGARVEY RESPONDENT

The above-styled and numbered action came before the Court during the call of its May 20, 2024, motion hour on the motion of the Movant, Geoffrey M. Young, (hereinafter "Mr. Young") to alter, amend or vacate the Court's Opinion and Order entered herein on May 09, 2024. Said motion was filed on May 15, 2024. Mr. Young appeared pro se. The Respondent, Morgan McGarvey ("Respondent" and/or "Congressman McGarvey")¹

[footnote 1: Although not sued in his

official capacity, the Court refers to the Respondent as Congressman McGarvey as he is the elected Representative to the U.S. Congress for Kentucky's Third District.]

was represented by the Hon. Katherine Lacey Crosby. After careful consideration of the record, the arguments of counsel and Mr. Young, as well as the applicable case, statutory and procedural law, being otherwise sufficiently advised, and for the reasons set forth below, the instant motion is hereby **DENIED.**

Although Mr. Young's motion is brought under the rubric of CR 59.01 -- which relates to motions for new trials -- as Mr. Young specifically stated that he was **not** requesting a new trial and as he is asking this Court to vacate a judgment and enter a new one, the Court treats the motion as if filed under CR 59.05. This rule provides only that: "[a] motion to

alter or amend a judgment, or to vacate a judgment and enter a new one, shall be served not later than 10 days after entry of the final judgment." Although CR 59.05 does not recite specific grounds for relief under the rule, the Kentucky Supreme Court has cited to its federal counterpart, FED. R. CIV. P.

59(e), in limiting the grounds to the following:

First, the movant may demonstrate the the motion is necessary to correct manifest errors of law or fact upon which the judgment is based. Second, the motion may be granted so that the moving party may present newly discovered or previously unavailable evidence. Third, the motion will be granted if necessary to prevent manifest injustice...Fourth, a Rule 59(e) motion may be justified by an intervening change in controlling law.

Gullion v. Gullion, 163 S.W.3d 888, 893 (Ky. 2005),

quoting 11 Wright & Miller, Federal Practice &

Procedure: (2d ed.) §2810.1. It is well-established

that "[a] party cannot invoke CR 59.05 to raise arguments and to introduce evidence that should have been presented during the proceedings before entry of the judgment." *Id.* Relief under CR 59.05 is "an extraordinary remedy which should be used sparingly." *Id.*

As explained on the record, the Court perceives no manifest errors of law nor any manifest injustice in sustaining Congressman McGarvey's motion to dismiss under CR 12.02 (f). Mr. Young makes no showing of newly discovered or previously unavailable evidence nor any intervening change in controlling law.

The focus of KRS 118.176 is concerned with a candidate's bona fides, which *Merriam-Webster* defines as: "1: food faith; sincerity; 2: the fact of being genuine...; 3: evidence of one's good faith or genuineness...; 4: evidence of one's **qualifications** or achievements..." As

used in KRS 118.176, bona fides refers to the good faith, genuineness **and qualifications of a candidate to hold the office to which election is sought.**

Kentucky State Board of Elections v. Faulkner, 591 S.W.3d 398, 403 (Ky. 2019) (emphasis added).

As the Court previously found, Mr. Young "makes **no** challenge to Congressman McGarvey's **qualifications**. There are no allegations that the Respondent is not at least 25 years of age, has not been a citizen of the United States for at least seven years, no that he is not an inhabitant of Kentucky." "Because Mr. Young does **not** allege that Congressman McGarvey does **not** meet the constitutional **qualifications** for office, the Court determines that Mr. Young's Motion Challenging the Ballot Status of Morgan McGarvey fails to state a claim upon which relief can be granted under CR 12.02 (f)."

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WHEREFORE, based upon the foregoing Mr. Young's motion to vacate the Court's Opinion and Order entered May 09, 2024, is hereby, respectfully, **DENIED.**

This is a final and appealable Order and there is no just cause for delay.

s/ TRACY E. DAVIS JUDGE
JEFFERSON CIRCUIT COURT
DIVISION FIVE (5)

DATE: _____

NOE:

Counsel of Record
via electronic service per § 5 (10) of the eFiling Rules.

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Entered 24-CI-002968 05/22/2024 David L.
Nicholson, Jefferson Circuit Clerk

Appendix 3 – Entered on June 10, 2024

NO. 24-CI-002968 JEFFERSON CIRCUIT COURT
DIVISION FIVE (5)
JUDGE TRACY E. DAVIS

GEOFFREY M. YOUNG MOVANT

Electronically filed

V.

ORDER

MORGAN MCGARVEY RESPONDENT

The above-styled and numbered action came before the Court during the call of its June 3, 2024, motion hour, on the "Movant's Second Motion to Vacate." Such a request is improper. See Moore v. Commonwealth, 357 S.W.3d 470, 496-97 (Ky. 2011):

[T]his provides an opportunity for this Court to comment on a point of civil procedure. The Commonwealth appeals the denial of a so-called motion to reconsider...Motions such as this merely asking the trial court to change its mind have become a very common practice in the circuit courts of this Commonwealth ...**Such repetitious motions are improper.** While it is true that under

CR 54.02 the trial court retains broad discretion to revisit its **interlocutory** rulings at any time **prior to the entry of a final judgment**, that discretion is properly invoked only when there is a *bona fide* reason for it, *i.e.*, a reason the court has not already considered...

Otherwise a motion to reconsider amounts to no more than badgering the court, a practice that well could be deemed a violation of Civil Rule 11. The bench and bar are admonished to take notice that this practice of filing multiple vexatious motions to reconsider is not supportable under the Civil Rules and should be discontinued.

(Emphasis added)(internal citations omitted).

The Court entered a final and appealable Opinion and Order on May 09, 2024. Mr. Young filed a timely "Motion To Vacate" on May 15, 2024. Said Motion was resolved via the Court's Order entered May 22, 2024, which denied Mr. Young's motion. This matter has been fully and finally adjudicated. "The denial of [a 59.05] motion confirms the finality

and enforceability of the original judgment."

Atkisson v. Atkisson, 298 S.W.3d 858, 866 (Ky App. 2009), *citing Harris v. Stephenson*, 321 S.W.2d 399, 401 (Ky. 1959) and it is axiomatic that: "A court loses jurisdiction once its judgment is final." *Harris v. Camp Taylor Fire Protection Dist.*, 303 S.W.3d 479, 482 (Ky. App. 2009) *quoting Mullins v. Hess*, 131 S.W.3d 769, 774 (Ky. App. 2004). *See also* CR 52.02.

WHEREFORE, Movant's Second Motion to Vacate is hereby, respectfully, **DENIED**.

s/ TRACY E. DAVIS JUDGE
JEFFERSON CIRCUIT COURT
DIVISION FIVE (5)

DATE: _____

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Plaintiff, pro se.

Entered 24-CI-002968 06/10/2024 David L.
Nicholson, Jefferson Circuit Clerk

* * * * *

Appendix 4 – Entered on July 23, 2024

NO. 24-CI-002968 JEFFERSON CIRCUIT COURT
DIVISION FIVE (5)
JUDGE TRACY E. DAVIS

GEOFFREY M. YOUNG MOVANT

Electronically filed

v. ORDER

MORGAN MCGARVEY RESPONDENT

The above-styled and numbered action came
before the Court during the call of its July 15, 2024,
motion hour on cross-motions of the parties for
sanctions.¹

[footnote 1: Movant, Geoffrey M. Young,
also re-noticed his sprawling, omnibus
"Third Motion to Vacate All Nullities

Entered So Far" filed on June 11, 2024, and which was noticed for the Court's June 24th motion hour. However, contrary to Mr. Young's assertion that this Court gave J. Green a "note" advising that said motion was "not to be heard," the Court's ruling on said motion was that it was "**Not to be called. Denied.** See Court's 6/10/24 Order."]

Movant, Geoffrey M. Young (hereinafter "Movant" and/or "Mr. Young") filed his motion "for massive punitive sanctions" on July 11, 2024. On the same date, the Respondent, Morgan McGarvey ("Respondent" and/or "Congressman McGarvey")²

[footnote 2: Although not sued in his official capacity, the Court refers to the Respondent as Congressman McGarvey as he is the elected Representative to the U.S. Congress for Kentucky's Third District.]

filed his Consolidated Response to Mr. Young's motion and cross-motion for Rule 11 sanctions against Mr. Young. Mr. Young tendered his Reply to

Respondent's Response on July 15th and the Court provided Mr. Young up through and including Friday, July 19th to file a written Response to Congressman McGarvey's cross-motion, which was filed on July 22nd, but postmarked on July 19th. This matter is now ripe for adjudication. After careful consideration of the record, the motions, the memoranda of the parties, as well as the applicable case, statutory and procedural law, and being otherwise sufficiently advised, and for the reasons set forth herein below, the Court hereby finds and Orders as follows:

I. BACKGROUND

The Court entered a final and appealable Opinion and Order on May 09, 2024, dismissing Mr. Young's ballot challenge against Congressman McGarvey, with prejudice. Central to the Court's

analysis was the fact that Mr. Young's ballot challenge pursuant to KRS 118.176 was **not** directed to Congressman McGarvey's **qualifications**, but instead alleged a conspiracy of primary election rigging by the Respondent, the Kentucky Democratic Party, the Louisville Democratic Party, Governor Andy Beshear, and Kentucky Educational Television. However, this Court determined that such allegations were irrelevant to Mr. Young's claims under KRS 118.176.

The Court stands by its prior determination. Further, as previously explained in the Court's Order entered on June 10th, even if the Court believed its prior judgment was erroneous, "[a] court loses jurisdiction once its judgment is final." *Harris v. Camp Taylor Fire Protection Dist.*, 303 S.W.3d 479, 482 (Ky. App. 2009) *quoting Mullins v. Hess*, 131

S.W.3d 769, 774 (Ky. App. 2004). *See also* CR 52.02.

Dissatisfied with the Court's ruling, Mr. Young continues to describe the Court's decisions as "nullities." However, the Court's May 9th Order resolved all the claims of all the parties and was a final and appealable Order. Its finality was re-adjudicated when the Court denied Mr. Young's original motion to alter, amend or vacate via Order entered May 22, 2024. Further Motions to reconsider are not only improper, *Moore v. Commonwealth*, 357 S.W.3d 470, 496-97 (Ky. 2011), they are **pointless**.

The Court offers the following in the (perhaps misguided) hope that Movant will finally understand and accept the Court's original analysis. KRS 118.176 (1) defines a "bona fide candidate" as "one who is seeking nomination in a primary or election in a special or regular election according to the law."

Movant interprets this provision as allowing a ballot challenge under KRS 118.176 to question a candidate's bona fides for any "election-related violations" of law. There are several problems inherent in Mr. Young's interpretation. First, such a construction could be unconstitutionally vague. "The void-for-vagueness doctrine requires that a penal statute define the criminal offense with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement." *Martin v. Commonwealth*, 96 S.W.3d 38, 59 (Ky. 2003) quoting *Kolender v. Lawson*, 461 U.S. 352, 357, 103 S.Ct. 1855, 1858, 75 L.Ed.2d 903 (1983).³

[Footnote 3: Although KRS 118.176 is not a penal statute, Movant's construction of 'according to the law'

would effectively incorporate
Kentucky's criminal code in addition to
any civil tort.]

Second, Movant's interpretation of KRS

118.176 (1) -- and indeed what he attempted to do in
this action -- challenging Congressman McGarvey's
bona fides via reference to an alleged violation of the
law, frustrates the summary nature of proceedings
under KRS 118.176 (2). The Court agrees with Mr.
Young's argument that "[b]allot challenges are
special statutory proceedings that must be decided
'summarily and without delay.'" However, *if*
consideration of a motion to dismiss under Rule 12
would unduly delay consideration of the matter (here
it took only seven (7) days), alleging and proving a
conspiracy is certainly outside of the summary
proceeding contemplated by the statute.

Mr. Young would have this Court

disenfranchise 44,275 Kentucky voters who voted for Congressman McGarvey -- **not** because Congressman McGarvey was unqualified for the office under CONST. Art. 1, § 2; (2), or because there was an issue with his notification and declaration paperwork -- but because *he* says there has been a conspiracy to rig the election. He would have this Court decide the issue summarily on a motion, with no opportunity for discovery, motion practice, or the protections of due process. This Court does not believe that was the intent of the General Assembly in enacting KRS 118.176, and the Court can locate no reported decisions where such a position has been upheld. The cases annotated under KRS 118.176 deal with a candidate's qualifications, and challenges thereto, and this makes sense.⁴

[Footnote 4: Challenges to a candidate's

bona fides, or qualifications for office -- whether they be for age, residency, party affiliation, acknowledgments, verifications, etc. -- are fairly straightforward and easy to establish via public records which are readily available and certifiable, i.e., birth records, driver's license and property records, voter registrations, tax information, notary certifications, and political party registrations. Conversely, if Mr. Young's interpretation of KRS 118.176 (1) is correct, even if limited to "election-related-violations" of law, a Pandora's box of alleged "violations" could be used to judicially circumvent public elections. For example, a candidate could allege a political rival falsely characterized their voting record, or political positions. The candidate could claim their opponent was not seeking nomination "according to law" because of libel, slander, "fraud," etc. Under Mr. Young's interpretation, a single Circuit Court judge would essentially determine the election by deciding the issue, *summarily*, on a motion made under KRS 118.176, without engaging in **any** of the Constitutional or procedural due process ordinarily provided for under the law or the Kentucky Rules of Civil Procedure. Mr. Young's construction of

the statute does not make sense.]

Third, and most importantly, Movant's interpretation contradicts the interpretation of KRS 118.176 (1) provided by the Kentucky Supreme Court. "The substance of a statute includes not only its words but the judicial construction placed on those words." *Martin, supra.*, at 54. The Kentucky Supreme Court has been clear in its interpretation of KRS 118.176. *See Kentucky State Board of Elections v. Faulkner*, 591 S.W.3d 398, 403 (Ky. 2019) cited and quoted previously in the Court's May 22nd Order:

The focus of KRS 118 176 is concerned with a candidate's bona fides, which , which *Merriam-Webster* defines as: "1: food faith; sincerity; 2: the fact of being genuine...; 3: evidence of one's good faith or genuineness...; 4: evidence of one's qualifications or achievements..."

As used in KRS 118.176, bona fides

**refers to the good faith,
genuineness and qualifications of a
candidate to hold the office to
which election is sought. (Emphasis
added).**

See also, Stephenson v. Woodward, 182 S.W.3d

162 (Ky. 2006) [a decision which Mr. Young, himself,
describes the majority opinion as "superb"]: KRS
118.176...provides a procedure and remedy for pre-
election challenges to the **qualifications** of a
candidate." *Id.*, at 167 (emphasis added). [B]y
enacting KRS 118.176 -- [the General Assembly] has
delegated to the courts the sole authority to judge
the **qualifications** of candidates if a challenge is
filed prior to an election." *Id.* (emphasis added).

Cases dealing with election contests - **that is,**
disputes involving not the qualifications of a
candidate but the validity of the election itself - are
inapplicable to this matter." *Id.* at 168 (emphasis

added). "Thus, the Jefferson Circuit Court had jurisdiction, expressly granted by the General Assembly pursuant to KRS 188.176 to accept Woodward's motion as such an action was not an election contest, but rather a challenge to a candidate's **qualifications to appear on the ballot.**" *Id.* at 168-69 (emphasis added). "We are confident that the General Assembly...**intended the judiciary to adjudicate the qualifications of candidates** - even if, in rare circumstances, such adjudication actually occurs several days after the election has occurred." *Id.* at 172 (emphasis added).

And:

When a candidate who is **constitutionally unqualified** to take office nonetheless presents him or herself as a **qualified** candidate eligible for election and office nonetheless presents him or herself as a qualified candidate eligible for election and office,

that candidate has not only misled the electorate but also engaged in a futile endeavor. Votes cast for the **unqualified** candidate lack the import of those cast for a **qualified** candidate, as each vote could under no circumstances result in the placement of the candidate in the desired office.

Id. at 174 (emphasis added).

Mr. Young's subjective, and frankly scandalous,⁵

[footnote 5: Throughout these proceedings, this Court has been cautious to avoid referring to Mr. Young in disparaging terms as other courts hearing his prior ballot challenges have done, i.e. "Mr. Young is a repeat litigator who has a long history of frivolous *pro se* lawsuits attempting to use the judicial system as a means to gain attention and disqualify political opponents," Franklin Circuit Court Order 5/15/2023, in Case No. 23-CI-426. It is unfortunate that Mr. Young has not followed this Court's example. He has referred to both the Court of Appeals and the Kentucky Supreme Court as "cesspools of corruption," and every Circuit Judge who has previously

ruled against him as "100% corrupt," and "totally corrupt, lawbreaking, unethical judge[s]." He has also accused this Court of violating Rule 2.3 (A) of the Kentucky Code of Judicial Conduct, SCR 4.300.]

characterization of the Kentucky Supreme Court and Court of Appeals notwithstanding this Court is bound by and required to follow their precedents. SCR 1.040 (5). Thus, when the Court focused on Congressman McGarvey's constitutional **qualifications** under U.S. CONST. Art. 1, § 2; (2) this Court was following the *Kentucky Supreme Court's* interpretation of KRS 188.176, despite Mr. Young's alternative interpretation thereof. Thus, contrary to Mr. Young's arguments, the Court's May 9th Order decided this case upon the merits,⁶

[footnote 6: The Court's ruling was that: "Because Mr. Young does not allege that Congressman McGarvey does **not** meet the constitutional

qualifications for office, the Court determines that Mr. Young's Motion Challenging the Ballot Status of Morgan McGarvey fails to state a claim upon which relief can be granted under CR 12.02 (f)." The Court therefore dismissed this action with prejudice.]

is not and was not a "nullity," and was rendered a final and appealable Order when the Court denied Mr. Young's original motion to alter, amend or vacate via its Order entered May 22, 2024.

II. MOTION(S) FOR SANCTIONS

Although, as set forth above, this Court lost jurisdiction to amend or supplement its final judgment on May 22, 2024, the Court maintains jurisdiction to enter a supplemental judgment awarding costs and/or sanctions. *See, e.g., Brett v. Media General Operations, Inc.*, 326 S.W.3d 452, 460 (Ky. App. 2010) citing *Brett v. Isaac*, 2008-SC-000712, *unpublished* 2009 WL 2707092 (Ky. Aug.

27, 2009). Although *Brett* involved a claim for costs under CR 54.04, as with costs which are assessed after a judgment is entered, Rule 11 likewise specifically commands: "The Court shall postpone ruling on any Rule 11 motions filed in the litigation until after entry of a final judgment." The full text of CR 11 reads:

Every pleading, motion and other paper of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign his pleading, motion, or other paper and state his address. Except when otherwise specifically provided by Rule or statute, pleadings need not be verified or accompanied by affidavit. The rule in equity that the averments of an answer under oath must be overcome by the testimony of two witnesses or of one witness sustained by corroborating circumstances is abolished. The signature of an attorney or party constitutes a certification by him that he has read the pleading, motion or

other paper; that to the best of his knowledge, information, and belief formed after reasonable inquiry **it is well grounded in fact and is warranted by** existing law or a good faith argument for the extension, modification or reversal of existing law, **and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.** If a pleading, motion or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. **If a pleading, motion, or other paper is signed in violation of this rule,** the court, upon motion or upon its own initiative, **shall impose** upon the person who signed it, a represented party, or both, **an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.** The Court shall postpone ruling on any Rule 11 motions filed in the litigation until after entry of a final judgment. (Emphasis added.)⁷

[footnote 7: *Compare* FED. R. CIV. P. 11, which contains a "safe harbor" provision under §§ (c)(2), which has been held to prohibit moving for Rule 11 sanctions after entry of a final judgment. *See e.g., Ridder v. City of Springfield*, 109 F.3d 288, 296-97 (6th Cir. 1997). This distinction between the Kentucky Rules and the Federal Rules (upon which they are based) provides the Court the opportunity to explain why Mr. Young's reliance upon *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007) is misplaced. "[W]hen Kentucky reported law is silent on a particular question pertaining to the Rules, Kentucky courts routinely accept guidance from federal authorities that have spoken on the same question." *Sexton v. Bates*, 41 S.W.3d 452, 456 (Ky. App. 2001). Kentucky law, however, is not silent on the standard applicable to motions made under CR 12.02 (f). Indeed, Kentucky's standard is more lenient than the Federal standard announced in *Twombly* as recognized in *Combs v. IGC Hazard, LLC*, 934 F.Supp.2d 915, 923-24 (E.D. Ky. 2013). Mr. Young was given the benefit of Kentucky's more relaxed standard.]

Although Movant believes Rule 11 can be

summarized as "thou shall not lie to the judge," it goes beyond that. It includes filing pleadings, motions, or other papers for an improper purpose. As stated by the Court of Appeals in *Lexington Inv. Co. v. Willeroy*, 396 S.W.3d 309, 312 (Ky. App. 2013), *as modified* (March 22, 2013): "CR 11 does not provide substantive rights to litigants but is a procedural rule designed to curb abusive conduct in the litigation process." *Citing Clark Equipment Co. Inc. v. Bowman*, 762 S.W.2d 417, 420 (Ky. App. 1988). However, the opinion continues:

[CR 11] is intended only for exceptional circumstances. *Id.* The test to be used by the trial court in considering a motion for sanctions is whether the attorney's conduct [or the party's conduct], at the time he or she signed the allegedly offending pleading or motion, was reasonable under the circumstances. *Id.* at 312-13.

Mr. Young bases his motion for Rule 11

sanctions upon his characterization of Respondent's counsel's motion to dismiss being based upon "lies." However, the Court cannot say that the motion was unreasonable under the circumstances. Further, as set forth in the Background section, *above*, the Court did not rely on the doctrine of *res judicata* in dismissing this action. The basis for the Court's decision was set forth *above* in FN6. There is no merit in Mr. Young's "Motion for Massive Punitive Sanctions Against Morgan McGarvey and His Lying Lawyers," and the same is hereby **DENIED**.

Congressman McGarvey's Cross-Motion for sanctions against Mr. Young is more compelling. Filing a **third** motion to vacate on June 11th **after** the Court had explained the day prior that a *second* motion was improper and that the Court no longer had jurisdiction to modify its final judgment, could

be deemed unreasonable under the circumstances, abusive conduct in the litigation process, and interposed only to needlessly increase the costs of litigation. However, as it does not appear that Mr. Young has yet to fully comprehended the Court's analysis and the basis for its May 9th Opinion and Order -- a failure hopefully cured by this Order -- the Court will refrain from awarding sanctions at this time. The Respondent's Cross-Motion for Rule 11 Sanctions is hereby **RESERVED** with the following caveat: **This case is resolved and over! This case HAS been resolved and over since May 22nd!** Should Mr. Young file **any** further Motions or Pleadings in this case, he does so at the risk of the Court amending this Order to award Congressman McGarvey his reasonable attorney's fees incurred since May 22, 2024.

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s/ TRACY E. DAVIS JUDGE
JEFFERSON CIRCUIT COURT

DIVISION FIVE (5)

DATE: _____

NOE:

Counsel of Record via electronic service per § 5 (10)
of the eFiling Rules.

NOE/fcm & electronic mail:

_____ Geoffrey M. Young, 2430 Millbrook Drive,
Lexington, KY 40503, *Plaintiff, pro se.*
_____ Geoffrey M. Young, energetic22@yahoo.com,
Plaintiff, pro se.

Entered 24-CI-002968 07/23/2024 David L.
Nicholson, Jefferson Circuit Clerk

* * * * *

Appendix 5 – Entered on August 20, 2024

Commonwealth of Kentucky
Court of Appeals

NO. 2024-CA-0910-EL

GEOFFREY M. YOUNG

MOVANT

ON MOTION FOR INTERLOCUTORY RELIEF

v. ARISING FROM JEFFERSON CIRCUIT
COURT, HONORABLE TRACY E. DAVIS,
JUDGE, ACTION NO. 24-CI-002968

MORGAN MCGARVEY

RESPONDENT

ORDER

BEFORE: THOMPSON, CHIEF JUDGE; CETRULO
AND LAMBERT, JUDGES.

This matter is before this Court on Movant,
Geoffrey M. Young's ("Mr. Young") motion to set
aside the circuit court's order entered July 23, 2024,
pursuant to RAP¹ [footnote 1: Kentucky Rules of
Appellate Practice.] and KRS² [footnote 2: Kentucky
Revised Statutes.] 118.176. Congressman McGarvey
filed a response. Mr. Young filed a motion for leave
to file a reply. Having reviewed the record and being
otherwise sufficiently advised, IT IS HEREBY
ORDERED that the motion to set aside shall be, and
hereby is, DENIED. IT IS FURTHER ORDERED

that the motion for leave shall be, and hereby is,
DENIED.

On April 26, 2024, Mr. Young filed a ballot challenge in Jefferson circuit court alleging "election-related violations" on the part of democratic primary candidate and Respondent herein, Morgan McGarvey. Mr. Young claimed these violations rendered Congressman McGarvey an unqualified candidate pursuant to KRS 118.176.

On May 9, 2024, the circuit court entered an opinion and order dismissing Mr. Young's ballot challenge and granting Respondent's motion to dismiss with prejudice. Movant filed three successive motions to alter, amend, or vacate, all of which were denied. The parties filed cross-motions for sanctions, both of which were denied by order entered July 23, 2024. On July 26, 2024, Mr. Young filed a motion in this Court to set aside the circuit

court's July 23, 2023 order pursuant to KRS 118.176(4), and sought \$60,000,000.00 in sanctions against Congressman McGarvey (\$30,000,000.00) and his three attorneys (\$10,000,000.00 each).

KRS 118.176(4) provides as follows:

If the court finds the candidate is not a bona fide candidate it shall so order, and certify the fact to the board of elections, and the candidate's name shall be stricken from the written designation of election officers filed with the board of elections or the court may refuse recognition or relief in a mandatory or injunctive way. The order of the Circuit Court shall be entered on the order book of the court and shall be subject to a motion to set aside in the Court of Appeals. The motion shall be heard by the Court of Appeals or a judge thereof in the manner provided for dissolving or granting injunctions, **except that the motion shall be made before the court or judge within five (5) days after the entry of the order in the Circuit Court,** and may be heard and tried upon the original papers, and the order of the Court of Appeals or judge thereof shall

be final.

KRS 118.176(4) (emphasis added). The expedited procedure set forth in KRS 118.176(4) only applies to orders disqualifying a candidate. *Gibson v. Thompson*, 336 S.W.3d 81, 82-83 (Ky. 2011). In the case *sub judice*, the circuit court did not disqualify any candidate. Furthermore, the circuit court's disposition of the case was not based on a ruling under KRS 118.176, as that court found that Mr. Young's allegations amounted to an election contest, and not a challenge of Congressman McGarvey's qualifications for office pursuant to KRS 118.176. Therefore, Mr. Young was not entitled to move this Court to set aside the circuit court's order pursuant to the expedited appellate procedure of KRS 118.176(4), and he has not properly invoked this Court's jurisdiction.

Even if Mr. Young were entitled to invoke the expedited appellate procedure under KRS 118.176(4), his motion to set aside was not timely. The circuit court entered its order on May 9, 2024. Pursuant to KRS 118.176(4), Mr. Young had five (5) days to file a motion with this Court to set aside such an order, which would have made his motion due by May 14, 2024. However, he did not file his motion to set aside with this Court until July 26, 2024, making his filing untimely.

After the circuit court's May 9, 2024, order, Mr. Young filed multiple motions to alter, amend, or vacate, but these successive filings have no effect to toll or stay the time in which to take appellate action. *Mollett v. Trustmark Ins Co.*, 134 S.W.3d 621, 624 (Ky. App. 2003) (citing *Cloverleaf Dairy v. Michels*, 636 S.W.2d 894, 895-96 (Ky. App. 1982)).

The Civil Rules "govern procedure and practice in all actions of a civil nature in the Court of Justice **except for special statutory proceedings....**" CR³ 1 [footnote 3: Kentucky Civil Rule 1] (emphasis added). "A 'special statutory proceeding' is one that is complete within itself having each procedural detail prescribed[,] such as an election contest or a KRS 118.176 proceeding. *McCann v. Sullivan Univ. Sys., Inc.*, 528 S.W.3d 331, 334 (Ky. 2017) (some internal quotation marks and citations omitted). "KRS 118.176 is the only statutory method to challenge a candidate's bona fides in court before election," *Davis v. Wingate*, 437 S.W.3d 720, 726 (Ky. 2014), and it does not permit any extension of the five-day period in which to file a motion to set aside with this Court. The statute "must be **strictly complied** with because compliance with certain

statutory steps are jurisdictional requirements."

Noble v. Meagher, 686 S.W.2d 458, 460 (Ky. 1985)

(emphasis added), abrogated on other grounds by

statute as stated in *Kentucky State Board of*

Elections v. Faulkner, 591 S.W.3d 398 (Ky. 2019).

Therefore, Mr. Young's motion to set aside pursuant

to KRS 118.176(4) is untimely, and he did not

properly invoke this Court's jurisdiction.

WHEREFORE, Mr. Young's motion to set

aside pursuant to RAP 20(B) and KRS 118.176 is

DENIED. IT IS FURTHER ORDERED that Mr.

Young's motion for leave to file a reply to the

response is DENIED.

ENTERED: August 20, 2024 s/ Larry E. Thompson

CHIEF JUDGE, COURT OF APPEALS

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Appendix 6 - Entered on January 27, 2025
SUPREME COURT OF KENTUCKY

2024-SC-0462-I

GEOFFREY M. YOUNG MOVANT

ON REVIEW FROM COURT OF APPEALS
V. NO. 2024-CA-0910
JEFFERSON CIRCUIT COURT NO. 24-CI-2968

MORGAN MCGARVEY RESPONDENT

ORDER

On September 23, 2024, Movant Geoffrey M. Young filed a "Motion for Writ of Mandamus Against the Clerk" in the above-styled case. The motion, in substance, seeks leave to file a motion for discretionary review of the Court of Appeals' August 20, 2024 Order in *Geoffrey M. Young v. Morgan McGarvey*, Case No. 2024-CA-0910. Young moves that the Court direct its Clerk, Katie Bing, to file his previously tendered motion for discretionary review.

The Clerk rejected the motion for filing pursuant to her authority under RAP 27(E) and (F).

In April 2024, Young initiated a ballot challenge under KRS 118.176 against Morgan McGarvey, the sitting Representative to the U.S. Congress for the Third District of Kentucky, as McGarvey sought reelection. Young lost his ballot challenge in the Jefferson Circuit Court on July 23, 2024, when the trial court entered an order granting McGarvey's CR 12.02(f) motion to dismiss. Young subsequently filed a motion to vacate the circuit court's order in the Court of Appeals. The Court of Appeals treated Young's motion to vacate as a request for interlocutory relief made pursuant to KRS 118.176 and RAP 20(B). Young's motion was denied by order of the Court of Appeals, entered on August 20, 2024.

Pursuant to RAP 20(F), "Any party adversely affected by an order of the Court of Appeals in a proceeding under sections (B) or (C) of this rule, may no later than 10 days from the date on which the order was entered move the Supreme Court to vacate or modify it." Any request for appellate review by this Court was required to be submitted for filing no later than August 30, 2024, through the filing of a motion to vacate or modify. Young hand-delivered a motion for discretionary review for filing on September 5, 2024. Young's submission was incorrect in form (a motion for discretionary review rather than a motion to vacate or modify) and was untimely.

Having considered Movant's motion and supporting documentation provided, the Court DENIES Young's Motion for Mandamus Against the Clerk, and DISMISSES this case from the Court's

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active docket.

Bisig, Conley, Goodwine, and Keller, JJ.,
sitting. All concur.

ENTERED: January 27, 2025

s/ Debra Hembree Lambert
CHIEF JUSTICE

* * * * *

Appendix 7 - Entered on March 26, 2025

SUPREME COURT OF KENTUCKY

2024-SC-0462-I

GEOFFREY M. YOUNG

MOVANT

ON REVIEW FROM COURT OF APPEALS
V. NO. 2024-CA-0910
JEFFERSON CIRCUIT COURT NO. 24-CI-2968

MORGAN MCGARVEY

RESPONDENT

ORDER

Movant Geoffrey M. Young's motion to vacate

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the Court's dismissal order, treated as a motion to reconsider is DENIED.

Upon entry of this Order, this matter shall be final and no further filings will be accepted by the Supreme Court Clerk.

Goodwine, Keller, Nickell and Thompson, JJ., sitting. All concur.

ENTERED: March 26, 2025

s/ Debra Hembree Lambert
CHIEF JUSTICE