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Opinions Below

The **August 20, 2024**, opinion of the Supreme Court, Schuyler County, New York is reprinted in the appendix hereto, Appendix-2.

The **August 29, 2024**, opinion of the Supreme Court, Schuyler County, New York is reprinted in the appendix hereto, Appendix-5

The **October 24, 2024**, opinion of the Supreme Court, Appellate Division Third Judicial Department is reprinted in the appendix hereto, Appendix - 8

The **April 10, 2025**, opinion of the New York Court of Appeals is reprinted in the appendix hereto, Appendix - 11

The **September 18, 2025**, opinion of the New York Court of Appeals is reprinted in the appendix hereto, Appendix - 12

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SCHUYLER

Montgomery Blair Sibley,

Plaintiff,

vs.

Kristen Zebrowski Stavisky
solely in her official capacity as
Co-Executive Director of the New
York Board of Elections and
New York's Chief Election Official,

Index No.: 24-24
Decision & Order

Defendant.

CHRISTOPHER P. BAKER, JSE

FINDINGS OF FACT

Plaintiff commenced this ballot eligibility challenge action by filing a summons and complaint on August 5, 2024. Therein, plaintiff seeks declaratory relief that Kamala Harris is ineligible to appear on the New York ballot for the November 5, 2024 United States Presidential election.

Plaintiff now moves, by "Notice of Hearing on Motion," for an Order shortening the time for the defendant to respond to the Complaint for Declaratory Relief and for an expedited scheduling Order for this action.

CONCLUSIONS OF LAW

The Court begins from the premise that the Third Department has "consistently held that the exclusive remedy for seeking to remove a candidate from the ballot is a proceeding pursuant to the Election Law." *Matter of Ferguson v. Cheeseman*, 138 A.D.2d 852,853-54 (3d Dept. 1988); *Scaringe v. Ackerman*, 119 A.D.2d 327 (3d Dept. 1986), aff'd, 68 N.Y.2d 885 (1986); see: *Savago v. Ulster County Bd. of Elections*, 220 A.D.2d 926,927 (3d Dept. 1995); see *Nowinski v. New York Bd. of Elections*, 164 A.D.3d 722 (2d Dept. 2018) (although petitioners commenced an action pursuant to CPLR Article 78, the proceeding was governed by the requirements set forth in the Election Law, including the shortened statute of limitations).

Among other substantive and procedural requirements, Election Law section 16-116 provides that a "special proceeding under the foregoing provisions of this article shall be

heard upon a verified petition...and upon such notice to such officers, persons or committees as the court or justice shall direct, and shall be summarily determined." "Notably, in election proceedings jurisdiction is not acquired unless the methods of service designated by the court are strictly complied with." *Matter of Millar v. Tolly*, 252 A.D.2d 872,873 (3d Dept. 1998)(also noting that, pursuant to CPLR 304, a special proceeding is commenced by the filing of a notice of petition or order to show cause and petition); see *Wallace v. Bujanow*, 176 A.D.3d 1307, 1309 (3d Dept. 2019) ("For Supreme Court to have acquired jurisdiction, petitioners were required to seek and obtain a directive from a justice or the court as to how respondents were to be notified of such proceeding."). Defendant's receipt of actual notice of the action "does not suffice to confer jurisdiction." *Id.* at n.2.

Here, plaintiff failed to comply with Election Law 16-116, proceeding by way of a summons and complaint rather than by commencing a special proceeding with a verified petition and notice of petition or order to show cause.

Because plaintiff failed to proceed by notice of petition or order to show cause and, accordingly to obtain the Court's directive as to the notice to be provided to defendant, the Court lacks jurisdiction over this matter. See, e.g., *Millar*,252 AD.2d at 873; *Wallace*, 176 A.D.3d at 1309. Plaintiff's complaint must be dismissed accordingly.

It is therefore, ORDERED, that plaintiff's motion is hereby denied; and it is further ORDERED, that the Complaint is hereby dismissed. This shall constitute the Decision and Order of the Court.

ENTER

Dated: August 20,2024.

/s/ Hon. Christopher P. Baker
Supreme Court Justice

At a Motion Term of The Supreme Court of the State of New York held in and for the Sixth Judicial District in the County of Schuyler, Watkins Glen, New York, heard on the 29th day of August, 2024

PRESENT: HON. CHRISTOPHER P. BAKER SUPREME COURT JUSTICE

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SCHUYLER**

Montgomery Blair Sibley,

Plaintiff,

vs.

Index No.: 24-24

Decision & Order

Kristen Zebrowski Stavisky
solely in her official capacity as
Co-Executive Director of the New
York Board of Elections and
New York's Chief Election Official,

Defendant.

/

CHRISTOPHER P. BAKER, JSE

Plaintiff herein commenced an action by summons and complaint, on August 5, 2024, seeking a declaration that presidential candidate Kamala Harris is ineligible to appear on the New York Ballot for the 2024 United States Presidential Election. Thereafter, before defendant answered the complaint (indeed, before her time to answer had expired), Plaintiff moved for an expedited scheduling order which would have, *inter alia*, shortened the statutory time frame in which defendant was required to answer the complaint. On August 20, 2024, the Court issued an Order denying the motion without a hearing and dismissing the complaint for failure to comply with procedural requirements for ballot access challenges under New York law—specifically, those requirements set forth in Election Law §16-116.

On August 21, 2024, plaintiff moved to vacate the August 20, 2024 Order dismissing the complaint. The Court notes that plaintiff's motion is not a motion to renew or a motion to re-argue pursuant to CPLR §2221. Rather, the motion is apparently based upon the Court's inherent authority to vacate its own prior order upon a party's motion. See, e.g. *Woodson v. Mendon Leasing Corp.*, 100 N.Y.2d 62, 68 (2003) ("a court may vacate its own judgment for sufficient reason and in the interests of substantial justice."); *Dyno v. Lewis*, 300 A.D.2d 784 (3d Dept. 2002).

The parties appeared for oral argument on August 29, 2024, with plaintiff contending that the Court's Order should be vacated because, among other reasons, he asserts federal law claims which somehow exempt him from compliance with New York procedural law in a New York State Supreme Court action.

Because the Court finds that the plaintiff, who has chosen New York State Supreme Court as the venue for this action, must comply with New York procedural law, regardless of the fact that he bases his claims, at least in part, on federal law. The Court continues to adhere to its August 20, 2024 decision. The Court is particularly unpersuaded by plaintiff's claim, at page five of his brief, that requiring plaintiff to comply with New York procedural law would "relegate Sibley...to second-class status, subjecting him to New York's burdensome pleading requirements that would 'produce different outcomes in [Ku Klux Klan Act] litigation based solely on whether the claim is asserted in state or federal court.'" Rather, the procedural rules the Court has referenced are designed to do the opposite, and, in fact, would have given plaintiff the very relief he sought in his original motion by setting this action on an expedited track with a statutory scheduling preference.

Plaintiff's motion to vacate the Order is denied accordingly.

It is therefore, ORDERED, that plaintiff's motion to vacate the Court's August 20, 2024 Order, is hereby denied, as is his motion for expedited consideration of his Complaint.

This shall constitute the Decision and Order of The Court.

ENTER

Dated: August 29, 2024.

/s/ Hon. Christopher P. Baker
Supreme Court Justice

STATE OF NEW YORK SUPREME COURT
APPELLATE DIVISION THIRD JUDICIAL DEPARTMENT

Montgomery Blair Sibley,

Plaintiff,

vs.

CV-24-1509

Kristen Zebrowski Stavisky
solely in her official capacity as
Co-Executive Director of the New
York Board of Elections and
New York's Chief Election Official,

MEMORANDUM
AND ORDER

Defendant.

Calendar Date: October 24, 2024

Before: Egan Jr., J.P., Clark, Ceresia, Powers and Mackey, JJ.

Montgomery Blair Sibley, Odessa, appellant pro se.
Letitia James, Attorney General, Albany (Beezly J. Kiernan of counsel), for respondent.

Per Curiam.

Appeals (1) from an order of the Supreme Court (Christopher P. Baker, J.), entered August 20, 2024 in Schuyler County, which, among other things, dismissed the complaint for lack of jurisdiction, and (2) from an order of said court, entered August 29, 2024 in Schuyler County, which denied plaintiff's motion to vacate the prior order. Plaintiff commenced this action for declaratory judgment against defendant, as the chief election official who oversees the placement of names of candidates on New York -2- CV-24-1509 election ballots. Plaintiff seeks a declaration that defendant would violate her duty and oath of office and deprive him of the right to vote for a President of the United States who is a natural born citizen as required by the US Constitution were she to permit Kamala Harris,¹ the Democratic Party nominee for the office of President of the United States in the November 5, 2024 general election, to appear on the New York ballot. In support of his contention, plaintiff alleges that Harris is not a natural born citizen of the United States because her parents were not United States citizens at the time of her birth and that she is thus ineligible under the Qualifications Clause of the US Constitution from appearing on the ballot as a candidate for the office of President (see US Const, art II, § 1 [5]; Election Law § 6-122). Plaintiff also moved for an expedited scheduling order, seeking,

among other things, to shorten the statutory time period for defendant to file an answer. Supreme Court denied plaintiff's motion and, *sua sponte*, dismissed the complaint for failure to comply with the procedural requirements set forth in Election Law § 16-116 for ballot access challenges. Plaintiff's subsequent motion to vacate the court's order was denied. Plaintiff appeals from both orders. We affirm.

Regardless of plaintiff commencing this as an action for declaratory judgment and characterizing the issue as a federal challenge that purportedly supersedes any state law, the effect of the relief sought by plaintiff is judicial intervention in the election process to remove Harris from the ballot based upon allegations that she does not meet the substantive requirements to hold the office of President of the United States. "It is well settled that a court's jurisdiction to intervene in election matters is limited to the powers expressly conferred by statute" (*Matter of Scaringe v Ackerman*, 119 AD2d 327, 328 [3d Dept 1986] [internal quotation marks and citations omitted], affd 68 NY2d 885 [1986]; *accord Matter of Korman v New York State Bd. of Elections*, 137 AD3d 1474, 1475 [3d Dept 2016], *lv denied* 27 NY3d 903 [2016]). Consistent with our prior holdings, "the exclusive remedy for seeking to remove a candidate from the ballot is a proceeding pursuant to the Election Law" (*Matter of Ferguson v Cheeseman*, 138 AD2d 852, 853 [3d Dept 1988]; *see Matter of Scaringe v Ackerman*, 119 AD2d at 328-329). As this action is clearly an attempt by plaintiff to remove Harris from the ballot, plaintiff was required to pursue his challenge by way of a special proceeding pursuant to the Election Law, which requires commencement by verified petition or order to show cause and a directive by Supreme Court as to the manner of service (*see* Election Law § 16-116; *Matter of Wallace v Bujanow*, 176 AD3d 1307, 1308-1309 [3d Dept 2019]; *Matter of Millar v Tolly*, 252 AD2d 872, 873 [3d Dept 1998]). As plaintiff failed to avail himself of the applicable statutory procedures under the Election Law, Supreme Court properly¹ determined that jurisdiction was lacking (*see Matter of Wallace v Bujanow*, 176 AD3d at 1309; *Matter of Millar v Tolly*, 252 AD2d at 873). Accordingly, the court's dismissal of the complaint will not be disturbed. Plaintiff's remaining contentions are unpersuasive and without merit.

Egan Jr., J.P., Clark, Ceresia, Powers and Mackey, JJ., concur.

ORDERED that the orders are affirmed, without costs. ENTER: Robert D. Mayberger
Clerk of the Court

¹ We note that Kamala Harris is not a party to this action.

STATE OF NEW YORK
COURT OF APPEALS

Montgomery Blair Sibley,

Plaintiff,
vs. Mo. No: 2024-754

Kristen Zebrowski Stavisky
solely in her official capacity as
Co-Executive Director of the New
York Board of Elections and
New York's Chief Election Official,

MEMORANDUM
AND ORDER

Defendant.

Decided and Entered on the Tenth day of April 2025.

Present, the Hon. Rowan D. Wilson, Chief Judge, presiding.

Appellant, having appealed and moved for leave to appeal to the Court of Appeals in the above title;

Upon the papers filed and due deliberation, it is

ORDERED on the Court's own motion, that the appeal is dismissed without costs, upon the grounds that the issues presented here have become moot; and it is further

ORDERED, that the motion for leave to appeal is dismissed upon the ground that the issues presented have become moot.

/s/ Heather Davis
Clerk of Court

STATE OF NEW YORK
COURT OF APPEALS

Montgomery Blair Sibley,

Plaintiff,
vs. Mo. No: 2025-287

Kristen Zebrowski Stavisky
solely in her official capacity as
Co-Executive Director of the New
York Board of Elections and
New York's Chief Election Official,

Defendant.

/

Decided and Entered on the Eighteen day of September, 2025.

Present, the Hon. Rowan D. Wilson, Chief Judge, presiding.

Appellant having moved for reargument in the above cause;

Upon the papers filed and due deliberation, it is

ORDERED, that the motion is denied.

/s/ Heather Davis
Clerk of Court