

Court of Appeals, State of Michigan

ORDER

Steven A. Freeman v Board of State Canvassers

Docket No. 310933

LC No. 00-000000

Michael J. Kelly
Presiding Judge

Peter D. O'Connell

Stephen L. Borrello
Judges

The Court orders that the motions for immediate consideration are GRANTED.

The motion to intervene is GRANTED.

The complaint for mandamus is GRANTED. The statutorily prescribed form for nominating petitions for elective office requires the petition heading to include the "District, if any" for the office for which nomination is sought. MCL 168.544d; MCL 168.544a; MCL 168.544c(1). Plaintiff's nominating petitions for the office of Eaton Circuit Court Judge were not required to indicate "56th District." "Fifty-six" is the number of the judicial circuit that is located in Eaton County. Because the office of circuit court judge has no corresponding district, the omission of a district denomination on nominating petitions for the office of circuit court judge does not render the petitions invalid as not being in the "form prescribed by the Secretary of State." *Auto Club of Mich Comm for Lower Rates Now v Bd of State Canvassers (On Remand)*, 195 Mich App 613, 624 (1992). Plaintiff has established that he has a clear legal right to the performance of the duty sought to be compelled, defendant has a clear legal duty to perform, the act is ministerial in nature, and plaintiff has no other adequate legal or equitable remedy." *Stand Up for Democracy v Secretary of State*, ___ Mich App ___ (Docket No. 310047, issued June 8, 2012), slip op pp 10, 18. Pursuant to MCR 7.206(D)(4), we direct defendant to certify plaintiff's petition for the ballot.

O'Connell, J. respectfully dissents and states: In his complaint, plaintiff asks this Court to find that defendant acted beyond the scope of its statutory authority when it decided that plaintiff's nominating petitions were insufficient. The determination of the scope of defendant's statutory authority is a jurisprudentially significant question of law, which requires thorough briefing by the parties and comprehensive consideration by this Court. Accordingly, pursuant to MCL 7.206(E)(3)(c), plaintiff's motion should proceed to a full hearing on the merits, with supplemental briefing on the issue of defendant's statutory authority, and with expedited oral argument.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

JUL 13 2012

Date


Chief Clerk