

IN THE CHANCERY COURT FOR KNOX COUNTY, TENNESSEE

PART I

JOHN SCHMID,

**as a Knox County Commissioner
affected by Knox County Charter
Term Limits;
as a Knox County Commissioner;
as a Knox County Taxpayer;
as a registered Knox County
voter who intends to vote in
the Knox County Republican
for the Fourth District Primary
Election; and
on Relationship to Knox County
and the State of Tennessee,**

Plaintiff,

VS.

No. 166706-1

**KNOX COUNTY ELECTION
COMMISSION and BROOK
THOMPSON in his capacity
as Coordinator of Elections
for Tennessee,**

Defendants.

ORDER

In accordance with the Court's memorandum opinion, filed contemporaneously herewith, which is adopted and incorporated herein by reference, it is, therefore,

ORDERED, ADJUDGED and DECREED as follows:

(1) That the prayers in the COMPLAINT OF JOHN SCHMID filed April 6, 2006 for preliminary injunctive relief, including relief by writ of mandamus and/or temporary

ENTERED

APR 11 2006

HOWARD G. HOGAN

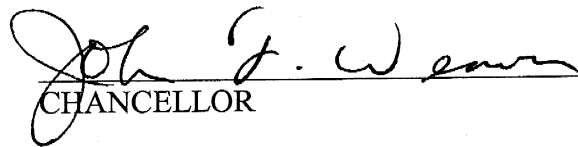
injunction, are denied;

(2) That the plaintiff's MOTION TO CONSOLIDATE filed April 6, 2006, is denied;

(3) That the MOTION TO INTERPLEAD filed April 6, 2006, by Bee Deselm, is denied; and

(4) That the MOTION TO INTERPLEAD filed April 6, 2006, by James Gray, is denied.

Enter this 11th day of April, 2006.


CHANCELLOR

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing was placed in the United States Mail, postage prepaid to:

Herbert S. Moncier
Attorney at Law
550 W. Main Avenue, Suite 775
Knoxville, TN 37902

Robert H. Watson, Jr.
Attorney at Law
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Knoxville, TN 37901-0131

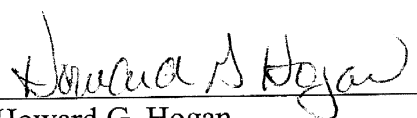
John E. Owings
Chief Deputy Law Director
400 Main Avenue, Suite 612
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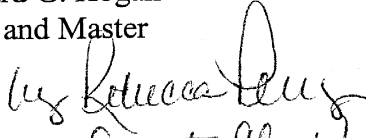
William H. Crabtree
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P.O. Box 1468
Knoxville, TN 37901-1468

James L. Murphy
Attorney at Law
P.O. Box 340025
Nashville, TN 37203

Janet Klienfelter
Assistant Attorney General
P.O. Box 20207
Nashville, TN 37202-0207

This 12th day of April, 2006.


Howard G. Hogan
Clerk and Master


Rebecca Dwyer
Deputy Clerk

IN THE CHANCERY COURT FOR KNOX COUNTY, TENNESSEE

PART I

JOHN SCHMID,

**as a Knox County Commissioner
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voter who intends to vote in
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Election; and
on Relationship to Knox County
and the State of Tennessee,**

Plaintiff,

VS.

No. 166706-1

**KNOX COUNTY ELECTION
COMMISSION and BROOK
THOMPSON in his capacity
as Coordinator of Elections
for Tennessee,**

Defendants.

MEMORANDUM OPINION

This matter is before the Court on the following:

(1) Prayers in the COMPLAINT OF JOHN SCHMID filed April 6, 2006, for preliminary relief, including a writ of mandamus and/or temporary injunction, including mandatory acts, which would stop and enjoin the primary election scheduled for May 2,

2006, and require the Knox County Election Commission to remove the plaintiff's name from the ballot as well as the names of other candidates;

(2) Motion to consolidate filed April 6, 2006; and

(3) Document entitled, "MOTION TO INTERPLEAD AND SHORTEN TIME FOR NOTICE BY BEE DESELM," filed April 6, 2006 by Bee DeSelm; and

(4) Document entitled, "MOTION TO INTERPLEAD AND SHORTEN TIME FOR NOTICE BY JAMES GRAY," filed April 6, 2006.

This Court adopts and incorporates its memorandum opinion filed November 10, 2005, as well as its order entered February 3, 2006, in civil action number 164615-1; its memorandum opinion filed April 5, 2006, as well as its order entered April 5, 2006, in civil action number 166649-1; and its memorandum opinion filed April 11, 2006, as well as its order entered April 11, 2006, in civil action number 166649-1.

The plaintiff in this case, as well as the plaintiffs in the other two civil actions, share common counsel, Mr. Moncier. The action presently before the Court is the third such action commenced by their common counsel. In the motion to consolidate filed by this plaintiff, Mr. Schmid, on April 6, 2006, his counsel states:

Plaintiff has pending motions to intervene as of right pursuant to T. R. Civ. P. 24.01 in *DeSelm v. Hutchison*, Knox County Chancery 164615-1 and *Gray v. Hutchison* to protect his interest. This separate action is filed in the event *Gray* or *DeSelm* were denied standing and Plaintiff's intervening complaint is for any reasons procedurally insufficient in those cases to provide Plaintiff the relief he seeks.

A difference in this case and the other two actions commenced by the plaintiff's counsel is that the plaintiff in this case is suing to have his own name removed from the

ballot. In other words, although this plaintiff had his name placed upon the ballot, he is suing to remove it. Plaintiff asserts that he qualified for the ballot by reason of a legal mistake. He also seeks to have the names of other candidates removed from the ballot but has not joined them as defendants. However, it is simply too late for the plaintiff to remove his name or for the Knox County Election Commission to remove his name.

From his complaint, it is difficult to ascertain the specific preliminary relief sought by Mr. Schmid. However, his counsel clarified, in argument, that Mr. Schmid is seeking the same relief as Mr. Gray in civil action number 166649-1. Mr. Schmid's counsel added that Mr. Schmid has a special ground for standing in that he is suing for the removal of his own name from the ballot. However, in paragraph 5 of his complaint, Mr. Schmid makes his request conditional and directed to others:

If Plaintiff is disqualified to serve a third term as Knox County Commissioner, Plaintiff sues to remove his name, and the name of eleven (11) other disqualified Knox County Commissioners, from the May 2, 2006 ballot. [Emphasis added]

This Court adopts and incorporates its discussion in its above memorandum opinions as to the denial of relief by mandamus or preliminary injunctive relief. Without discussing whether any such issue would be justiciable as an actual case or controversy, the plaintiff, John Schmid, would appear to have standing as to an adjudication of his own eligibility to be a candidate for the County Commission. However, in argument, the plaintiff's counsel stated that the plaintiff was not seeking any judicial declaration as to his ineligibility to serve on the Knox County Commission. The Court also adopts and incorporates its memorandum opinions and orders concerning the unnecessary and

unmanageable complexity that would be caused by joining together all the papers filed by the plaintiff's counsel, Mr. Moncier, in all three cases commenced by Mr. Moncier.

In accordance with the foregoing, the Court will enter an order providing as follows:

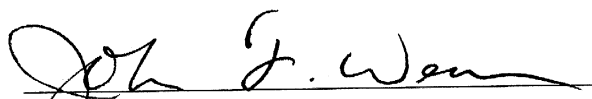
(1) That the prayers in the COMPLAINT OF JOHN SCHMID filed April 6, 2006 for preliminary injunctive relief, including relief by writ of mandamus and/or temporary injunction, are denied;

(2) That the plaintiff's MOTION TO CONSOLIDATE filed April 6, 2006, is denied;

(3) That the MOTION TO INTERPLEAD filed April 6, 2006, by Bee Deselm, is denied; and

(4) That the MOTION TO INTERPLEAD filed April 6, 2006, by James Gray, is denied.

Signed this 11th day of April, 2006.


CHANCELLOR

cc: Herbert S. Moncier, Esq.
Robert H. Watson, Jr., Esq.
John E. Owings, Esq.
William H. Crabtree, Esq.
Jerrold L. Becker, Esq.
Janet Kleinfelter, Esq.
James L. Murphy, Esq.

IN THE CHANCERY COURT FOR KNOX COUNTY, TENNESSEE

PART I

JAMES GRAY,

**Chairman of the
Democratic Party
of Knox County, Tennessee,**

Plaintiff,

VS.

No. 166649-1

**TIMOTHY HUTCHISON and
KNOX COUNTY ELECTION
COMMISSION,**

Defendants.

ENTERED

APR 11 2006

HOWARD G. HOGAN

ORDER

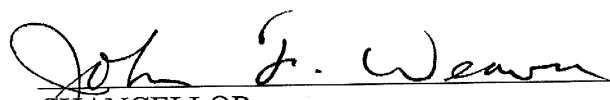
In accordance with the Court's memorandum opinion, filed contemporaneously herewith, which is adopted and incorporated herein by reference, it is, therefore,

ORDERED, ADJUDGED and DECREED as follows:

- (1) That the preliminary relief, sought by mandamus, is denied;
- (2) That the preliminary relief, sought by temporary injunction, is denied;
- (3) That the MOTION TO INTERPLEAD, filed April 3, 2006, by John Schmid, is denied;
- (4) That the MOTION TO INTERPLEAD, filed April 3, 2006, by Bee DeSelm, is denied;
- (5) That the "MOTION TO AMEND COMPLAINT," filed April 3, 2006, by the

plaintiff, James Gray, excluding the section entitled, "JOINDER BY BEE DESELM
AND JOHN SCHMID," is granted.

Enter this 11th day of April, 2006.


CHANCELLOR

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing was placed in the United States Mail, postage prepaid to:

Herbert S. Moncier
Attorney at Law
550 W. Main Avenue, Suite 775
Knoxville, TN 37902

Robert H. Watson, Jr.
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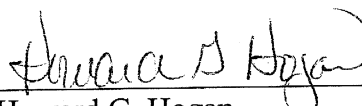
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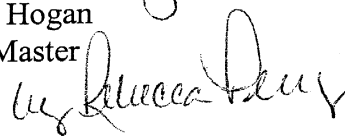
James L. Murphy
Attorney at Law
P.O. Box 340025
Nashville, TN 37203

Janet Klienfelter
Assistant Attorney General
P.O. Box 20207
Nashville, TN 37202-0207

This 12th day of April, 2006.



Howard G. Hogan
Clerk and Master



IN THE CHANCERY COURT FOR KNOX COUNTY, TENNESSEE

PART I

JAMES GRAY,

**Chairman of the
Democratic Party
of Knox County, Tennessee,**

Plaintiff,

VS.

No. 166649-1

**TIMOTHY HUTCHISON and
KNOX COUNTY ELECTION
COMMISSION,**

Defendants.

MEMORANDUM OPINION

This matter is before the Court on prayers in the amended and supplemental complaint of the plaintiff, James Gray, Chairman of the Democratic Party of Knox County, Tennessee, for preliminary relief to stop the primary election scheduled in Knox County for May 2, 2006 and to substitute the plaintiff's "election plan" which would reschedule the primary election, remove candidates from the ballot, and reopen the qualifying period. The plaintiff is requesting that this Court declare Article VII of the Knox County Charter as unconstitutional and invalid as applied to the primary election scheduled for May 2, 2006. The plaintiff also requests that the Court declare applicable state election laws, at T.C.A. §§ 2-13-203(b); 2-5-204(a); and 2-5-101(g), as