

IN THE CHANCERY COURT FOR KNOX COUNTY TENNESSEE

CARL R. SEIDER)
)
 Plaintiff)
 v.) No. 166736-1
)
)
)
 KNOX COUNTY ELECTION COMMISSION)
)
 Defendant.)

PLAINTIFFS' AMENDED COMPLAINT

Plaintiff amends his Complaint pursuant to T.R.Civ.P. 15.01, there having been no responsive pleading, to assert consecutively numbered additional allegations and prayers for relief:

Additional Facts

30. Plaintiff adopts each averments of the original complaint.

31. On February 12, 2002 in the case of *Moody v. Hutchison* Knox County Chancery Court No. 153315-2 Timothy Hutchison was convicted of six (6) counts of criminal contempt of court for willfully making false statements to obstruct and interfere with the processes of the Court constituting violations of Tennessee Rules of Criminal Procedure 44 and T.C.A. § 29-9-102(1) and (4).

32. On May 25, 2005 Timothy Hutchison's six convictions of criminal contempt of court were affirmed by the Tennessee Court of Appeals in *Moody v. Hutchison* 159 S.W.3d 15 (Tenn.Ct.App.,2004).

T.C.A. § 8-8-102(a)(5) Disqualification

33. T.C.A. § 8-8-102(a)(5) provides:

§ 8-8-102. Qualifications; affidavit

(a) After May 30, 1997, to qualify for election or appointment to the office of sheriff a person shall:

. . .

(5) Not have been convicted of or pleaded guilty to or entered a plea of nolo contendere to any felony charge or any violation of any federal or state laws or city ordinances relating to force, violence, theft, dishonesty, gambling, liquor or controlled substances; so long as the violation involves an offense that consists of moral turpitude or a misdemeanor crime of domestic violence;

34. Pursuant to T.C.A. § 8-8-102(a)(5) Timothy Hutchison is disqualified from seeking the office of sheriff of Knox County.

T. C. A. § 8-8-102(b)(1) Disqualification

35. T.C.A. § 8-8-102(b)(1) provides:

(b)(1) Any person seeking the office of sheriff shall file with the peace officer standards and training commission, at least fourteen (14) days prior to the qualifying deadline, the following:

(A) An affidavit sworn to and signed by the candidate affirming that the candidate meets the requirements of this section;

. . .

(2) If such affidavit and form are not filed with the peace officer standards and training commission by the fourteenth day prior to the qualifying deadline for the office of sheriff, such candidate's name shall not be placed on the ballot.

36. Timothy Hutchison failed and/or falsely stated on his affidavit that was required to get his name on the ballot for sheriff of Knox County that he met the requirements of T.C.A. § T.C.A. § 8-8-102(a)(5) when, in truth and fact, he did not.

37. Timothy Hutchison did not lawfully qualified to get his name on the ballot for the office of Sheriff of Knox County as required by T.C.A. § T.C.A. § 8-8-102(a)(5) and T.C.A. § 8-8-102(b)(1).

38. T.C.A. § 8-8-102(b)(1) requirements pertain only for candidates for sheriff to get their names on the ballot and does not apply to write-in candidates for sheriff.

39. Timothy Hutchison did not qualify as a write-in candidate prior to the deadline to do so for the May 2, 2006 primary election on April 12, 2006.

40. The Knox County Election Commission unlawfully placed the name of Timothy Hutchison on a ballot for a May 2, 2006 Primary Election for the office of sheriff of Knox County.

41. Timothy Hutchison's name is unlawfully on the May 2, 2006 ballot for the office of sheriff of Knox County.

Additional Relief

WHEREFORE, Plaintiff moves for additional relief:

1. through 6. Plaintiff adopts the prayers for relief in paragraphs 1. through 6. of the original complaint.

7. That pursuant to the requirements of § 8-8-102(b)(1) and pursuant to T.C.A. § 29-25-102(1) this Court issue an alternative writ of mandamus to the Knox County Election Commission commanding it to forthwith remove the name of Timothy Hutchison from the Knox County primary ballot for the Republican nomination for the office of Sheriff of Knox County for a primary election on May 2, 2006 or any adjusted date for the Knox County primary election; or, in the alternative and if this relief is not granted,

8. That pursuant to the requirements of § 8-8-102(b)(1) and T.C.A. § 29-25-102(1) this Court issue an alternative writ of mandamus to the Knox County Election

Commission to show cause at a date set the Court as soon as possible, why the Knox County Election Commission should not be commanded to remove the name of Timothy Hutchison for the Republican nomination for the office of Sheriff of Knox County for a primary election on May 2, 2006 or any adjusted date for the Knox County primary election; or, in the alternative if this relief is not granted.

9. That Plaintiff has such additional relief as he may be entitled including his cost and attorney fees.

THIS IS THE SECOND APPLICATION FOR EXTRAORDINARY RELIEF IN THIS CASE, THE FIRST HAVING BEEN PRESENTED ON APRIL 12, 2006.


HERBERT S. MONCIER
Attorney for Plaintiff

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BPR # 1910

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been served upon the following:

1. James Murphy, attorney for the Knox County Election Commission;

2. Janet Kleinfelter, Senior Counsel, Tennessee Attorney General's Office, Attorney for Coordinator of Elections for the State of Tennessee.

3. Knox County Law Director Mike Moyers;

4. Knox County District Attorney Randall E. Nichols;


HERBERT S. MONCIER