

STATE OF MICHIGAN
COURT OF CLAIMS

SHANE ANDERS,

Plaintiff,

v

JOCELYN BENSON, in her official capacity
as the duly elected Secretary of State,

Defendant.

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OPINION AND ORDER

Case No. 22-000057-MZ

Hon. Brock A. Swartzle

In this action, plaintiff seeks declaratory and injunctive relief as well as a writ of mandamus against defendant with respect to the candidacies of Janice Winfrey and Shanelle Jackson, both of whom are seeking nomination for the 12th Congressional District in the August 2022 primary. This Court granted summary disposition to defendant on the claims involving Winfrey on May 27, 2022; as to Jackson, defendant renewed the motion for summary disposition on May 31, 2022, to which plaintiff filed a brief in opposition. Consistent with the brief in opposition, plaintiff also renewed an earlier motion for emergency relief. Finally, Jackson moved to file a brief as amicus curiae. Given that this is an election-related dispute, the Court is handling the motions on an expedited basis, on the briefs, without the aid of a hearing.

To cut to the proverbial chase, plaintiff takes issue with Jackson’s affidavit of identity. Plaintiff alleges that Jackson made a false statement on the affidavit when she affirmed that “all statements, reports, late filing fees, and fines required of the candidate or any candidate committee . . . have been filed or paid,” in violation of MCL 168.558(4). Plaintiff maintains that, when

Jackson submitted her affidavit of identity, she had not filed several campaign finance reports required under the Michigan Campaign Finance Act, MCL 169.201 et seq. (MCFA). Making a false statement on an affidavit of identity will disqualify a person from the ballot. MCL 168.588(4).

Although defendant has moved for summary disposition under MCR 2.116(C)(4) (jurisdiction) and (8) (state a claim), there does not appear to be a basis for such relief under (C)(4), and the parties rely on evidence outside of the four-corners of the pleadings, making reliance on (C)(8) inappropriate. The Court has discretion, however, to review the matter under (C)(10) and (I). See *Ellsworth v Highland Lakes Dev Assoc*, 198 Mich App 55, 57-58; 498 NW2d 5 (1993).

There is no genuine issue of material fact with respect to plaintiff's claims involving Jackson's affidavit. Jackson's statement is false only if she failed to file a statement or report or pay a fee or fine actually required under the MCFA. *Reed-Pratt v Detroit City Clerk*, __ Mich App __; __ NW2d __ (2021). As defendant and Jackson explain in their respective briefs, Jackson worked with defendant to determine precisely what Jackson owed, if anything, in terms of statements, reports, fees, and fines prior to submitting her affidavit of identity. Defendant concluded that Jackson had paid the requisite fees (actually, overpaid) and had closed her committee's bank account in 2011. Defendant further concluded that Jackson had not accepted any contributions to this committee after 2010 and had dissolved the committee on April 18, 2022. As a result, no additional statements, reports, fees, and fines were due and owing on April 19, 2022, the date when Jackson submitted her affidavit. Although plaintiff points to various notices of failure to file reports that were on defendant's website when Jackson submitted her affidavit, Jackson's placement on the August 2022 primary ballot will not rise or fall depending on how vigilant defendant is with updating a website.

Because Jackson had resolved any outstanding issues she had with respect to statements, reports, fees, and fines prior to submitting her affidavit of identity, plaintiff has failed to show a genuine issue of material fact with respect to Jackson's affidavit under MCL 168.588(4). For these reasons, as well as those set forth in (1) defendant's summary-disposition brief, and (2) pages 1-4 of Jackson's amicus-curiae brief, defendant is entitled to summary disposition.

Accordingly, for the foregoing reasons,

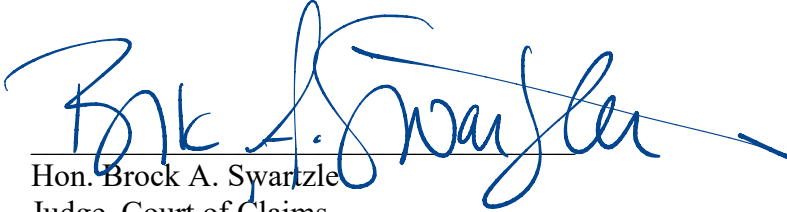
IT IS ORDERED that the "May 31, 2022 Motion for Leave to File Amicus Brief of Shanelle Jackson" is GRANTED, and the proposed brief is accepted as-filed.

IT IS FURTHER ORDERED that the "Defendant Secretary of State Jocelyn Benson's 5/30/2022 Renewed Motion for Summary Disposition" is GRANTED.

IT IS FURTHER ORDERED that the "4/29/2022 Emergency Motion for Declaratory Judgment and Injunctive Relief" and the "5/28/2022 Plaintiff's Emergency Motion for Declaratory Judgment, Writ of Mandamus, and *Ex Parte* Motion for Order to Show Cause Pursuant to MCR 3.305(C) With Respect to Candidate Shanelle Jackson" are DENIED.

IT IS SO ORDERED. This is a final order and closes the case.

Date: June 1, 2022


Hon. Brock A. Swartzle
Judge, Court of Claims