

IN THE CIRCUIT COURT OF LEFLORE COUNTY, MISSISSIPPI**ANJUAN BROWN****PETITIONER****V.****NO: 2011-0098CI****PRESTON RATLIFF,
THE LEFLORE COUNTY DEMOCRATIC
EXECUTIVE COMMITTEE, THE LEFLORE
COUNTY ELECTION COMMISSION AND
THE LEFLORE COUNTY CIRCUIT CLERK****RESPONDENTS****ORDER**

This case involves a controversy concerning the Leflore County Democratic primary election for Supervisor, District 3, which was held August 2, 2011, between Anjuan Brown and Preston Ratliff. Initially, Anjuan Brown was declared the winner of the primary with a vote of 607 for Brown to 518 for Ratliff. On August 22, 2011, Ratliff filed a petition to contest the results pursuant to Mississippi Code Annotated Section 23-15-921 et seq.

Two different small groups, each claiming to be acting on behalf of the Leflore County Democratic Executive Committee (LCDEC), met with different results. A group of six purported LCDEC members chaired by Ross threw out all of the absentee ballots and declared Ratliff the winner of the primary election. Another group of purported LCDEC members chaired by Griggs denied Ratliff's contest and reaffirmed Brown as the winner. Legal proceedings were apparently filed in both the Chancery and Circuit Courts of Leflore County. The Circuit Court of Leflore County entered an order dated September 19, 2011, finding that it lacked jurisdiction and opined that each candidate should file a petition contesting the findings of both the Ross and Griggs groups who purported to respond to the contest filed by Ratliff. On September 20, 2011, Brown filed a Complaint in the Nature of a Verified and Sworn Protest and Petition Concerning an Election Contest (Miss. Code Ann. Sec 23-15-927), Petition for Writ of Certiorari,

Declaratory Judgment, Writ of Prohibition and/or Mandamus and for any and all other Legal and Equitable Relief. Brown also filed a separate Motion to Order the Election Officials to Place Anjuan Brown on the General Election Ballot.

Via order dated September 22, 2011, the Mississippi Supreme Court appointed the undersigned as special judge to preside over the Petition for Judicial Review under Miss. Code Ann. Sec. 23-15-929 (1972). On September 23, 2011, this Court heard argument on the Motion only and gave the parties until 3 p.m. on September 26, 2011, in which to file any supplemental matters in support their respective positions. Both sides filed supplemental materials, and the Court is now prepared to rule on said motion.

Brown argues that Miss. Code Ann. Sec. 23-15-927 (1972) provides that the filing of a Petition for Judicial Review "shall automatically supersede and suspend the operation and effect of the order, ruling or judgment of the Executive Committee appealed from," and that the original election certification should therefore require his name be placed on the general election ballot as the Democratic party nominee for Supervisor, District 3

Ratliff, on the other hand, argues that the Leflore County Democratic Executive Committee group chaired by Ross officially amended the Democratic Primary results for Supervisor, District 3, and that it is, therefore, the duty of Leflore County Election Commission to print the general election ballots with Ratliff listed as the Democratic Primary nominee under Miss. Code Ann. Sec 23-15-213 (1972). Ratliff further argues that Miss. Code Ann. Sec. 23-15-937 (1972) provides that "when no final decision has been made in time as hereinafter specified, the name of the nominee declared by the party executive committee should be placed on the official ballot as the party nominee," but the election contest shall nevertheless proceed to final judgment. In further support of his position, Ratliff cites Francis v. Sisk 205 So.2d 254 (Miss.) (1967) in support of his interpretation.

In the 1967 Francis decision, the Supreme Court addressed the prior statutes and concluded that it was the obvious intention of the Legislature to honor the decision of the County Democratic Executive Committee rendered in an election contest unless and until it is

superseded by a Special Tribunal. At the time of the decision, the statute did not provide that the filing of a petition for review automatically superseded the party executive committee's ruling.

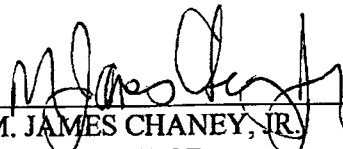
However, at the very next session of the Legislature, that language was added to what is now Miss. Code Ann. Sec. 23-15-927 (1972) and provided that the mere filing of a petition for judicial review shall automatically supersede and suspend the operation and effect of the order, ruling or judgment of the party executive committee appealed from.

In his supplemental response in opposition of Brown's motion, Ratliff acknowledges that the language concerning the filing of a Petition for Judicial Review superseding the county party executive committee was added after Francis, but Ratliff contends nevertheless that the holding in said case should control. This Court, however, is of the opinion that the language of Miss. Code Ann. Sec 23-15-927 (1972) must be given meaning and legal effect.

The LCDEC first certified Brown as the democratic primary nominee for Supervisor, District 3. Ratliff properly exercised his right to contest the election right before the 20-day deadline expired for so doing. There is a dispute between the parties as to which group represents the real LCDEC and whether there was any legitimate resolution of Ratliff's contest. In any event, even if one assumes for the purposes of this motion, that the LCDEC properly convened and decided the election contest in Ratliff's favor, that would be the ruling or decision for which Brown filed his Petition for Judicial Review. That ruling or decision, therefore, has been automatically superseded and suspended by virtue of Miss Code Ann. Sec. 25-15-927 (1972). Once the Petition for Judicial Review was filed, that leaves the original party certification in place, and based thereon the Leflore County Election Committee should place Brown's name on the ballot for the general election pending the final outcome of the Petition for Judicial Review. This decision in no way affects the merits of Ratliff's legal position in the upcoming judicial review, including the possibility that Ratliff could be declared the democratic nominee and/or that a special election could be ordered.

It is therefore ordered and adjudged that, pending a decision on the Petition for Judicial Review, the Leflore County Election Commission place Anjuan Brown's name on the ballot as the Democratic Party nominee for Supervisor, District 3.

SO ORDERED this the 27th day of September, 2011.


M. JAMES CHANEY, JR.
SPECIAL JUDGE