

## Order of Names on the Ballot

*Crim v. Tennessee Democratic Party*

(Kevin H. Sharp, M.D. Tenn. 3:12-cv-838)

Thirteen days after the August 2, 2012, Democratic primary for United States Senate in Tennessee, losing candidate Larry Crim filed a federal complaint against the Democratic Party and the state division of elections alleging that winning candidate Mark Clayton was improperly placed on the ballot and he received a disproportionate number of votes because his name was listed alphabetically first.<sup>1</sup> The complaint sought a temporary restraining order and an emergency hearing.<sup>2</sup> News media reported that Clayton's victory in the primary was an embarrassment to the party.<sup>3</sup>

Judge Kevin H. Sharp held a hearing on August 16, the day after the complaint was filed.<sup>4</sup> He granted Clayton's motion to intervene.<sup>5</sup> Judge Sharp also denied Crim immediate relief.<sup>6</sup> Crim demonstrated no wrongdoing, and he could have challenged the ballot before the election.<sup>7</sup>

On August 30, Judge Sharp granted Crim a voluntary dismissal.<sup>8</sup>

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1. Complaint, [Crim v. Tennessee Democratic Party](#), No. 3:12-cv-838 (M.D. Tenn. Aug. 15, 2012), D.E. 1.

2. *Id.* at 17.

3. See Richard Locker, *Tenn. Democrats Disavow Winner of Senate Primary*, Memphis Commercial Appeal, Aug. 4, 2012, at 1.

4. Docket Sheet, [Crim](#), No. 3:12-cv-838 (M.D. Tenn. Aug. 15, 2012); see Transcript Excerpt, *id.* (Aug. 16, 2012, filed Sept. 4, 2012), D.E. 19 (argument by the party's lawyer).

5. Order, *id.* (Aug. 16, 2012), D.E. 8; see Intervention Motion, *id.* (Aug. 16, 2012), D.E. 6.

6. Order, *id.* (Aug. 16, 2012), D.E. 9; see Tom Humphrey, *Judge Leaves U.S. Senate Candidate Clayton on Ballot*, Knoxville News-Sentinel, Aug. 17, 2012.

7. See *Mark Clayton Victory in Democratic Primary Upheld by Nashville Judge*, Nashville Tennessean, Aug. 16, 2012 (describing the hearing as "pointed and at times lively").

8. Order, [Crim](#), No. 3:12-cv-838 (M.D. Tenn. Aug. 30, 2012), D.E. 17.