

Bad-Faith Litigation by a Felon to Get on the Ballot

Blakely v. City of Laurel Clerk Office
(*Keith Starrett, S.D. Miss. 2:13-cv-72*)

On April 8, 2013, a would-be candidate for city council filed a pro se federal complaint alleging wrongful disqualification of his candidacy on the basis of old felony convictions.¹ With his complaint, the plaintiff filed motions for leave to proceed in forma pauperis and for expedited hearing.² Magistrate Judge Michael T. Parker granted the in forma pauperis motion on the following day.³ The court was familiar with the plaintiff, because he was a frequent litigant.⁴

Judge Keith Starrett issued an order on April 10 setting the case for hearing on April 17 to determine, among other things, whether the case should be dismissed.⁵ At the hearing, Judge Starrett heard testimony from the plaintiff, who offered evidence that his rights of suffrage had been restored.⁶ On the basis of the plaintiff's testimony, Judge Starrett determined who among the named defendants should receive summonses and who should be dismissed.⁷ On April 23, Judge Starrett set a hearing on the plaintiff's motion for a preliminary injunction for April 29.⁸

On April 30, Judge Starrett issued an order finding the plaintiff's complaint to be filed in bad faith, because he had already lost three similar state-court cases.⁹ Judge Starrett sanctioned the plaintiff \$5,000.¹⁰

On June 30, the court of appeals dismissed an appeal as frivolous: "The record supports the district court's finding that Blakely's complaint raised claims that were duplicative of claims he had raised unsuccessfully in at least three prior state cases."¹¹

On September 8, Judge Starrett entered an order enforcing his \$5,000 sanction order and additionally ordered the plaintiff to pay the original \$350 filing fee.¹²

1. Complaint, [Blakely v. City of Laurel Clerk Office](#), No. 2:13-cv-72 (S.D. Miss. Apr. 8, 2013), D.E. 1.

2. Motion, *id.* (Apr. 8, 2013), D.E. 3; Docket Sheet, *id.* (Apr. 8, 2013).

3. Docket Sheet, *supra* note 2.

4. Interview with Hon. Keith Starrett and his law clerk Charles Blanchard, Nov. 26, 2013.

5. Order, [Blakely](#), No. 2:13-cv-72 (S.D. Miss. Apr. 10, 2013), D.E. 5.

For this report, Tim Reagan interviewed Judge Starrett and his law clerk Charles Blanchard by telephone on November 26, 2013.

6. Order, [Blakely](#), No. 2:13-cv-72 (S.D. Miss. Apr. 18, 2013), D.E. 10; Docket Sheet, *supra* note 2.

7. Order, [Blakely](#), No. 2:13-cv-72 (S.D. Miss. Apr. 18, 2013), D.E. 9.

8. Order, *id.* (Apr. 23, 2013), D.E. 15; *see* Preliminary Injunction Motion, *id.* (Apr. 17, 2013), D.E. 8.

9. Order, *id.* (Apr. 30, 2013), D.E. 20 [hereinafter Apr. 30, 2013, Order], *available at* [2013 WL 1826255](#); *see* Defense Exhibits, *id.* (Apr. 30, 2013), D.E. 19 (including state court holdings that restoration of the plaintiff's right of suffrage did not imply a right to hold public office).

10. Apr. 30, 2013, Order, *supra* note 9.

11. [Blakely v. Evans](#), 574 F. App'x 420, 420 (5th Cir. 2014).

12. Order, [Blakely](#), No. 2:13-cv-72 (S.D. Miss. Sept. 8, 2014), D.E. 49.

On October 9, Judge Starrett recused himself because the plaintiff filed a pro se legal malpractice action concerning settlements in other cases, naming Judge Starrett as one of the defendants.¹³ Judge Daniel P. Jordan III dismissed the malpractice action, because Judge Starrett had judicial immunity and the other claims were state-law claims.¹⁴

13. Recusal Order, *id.* (Oct. 9, 2014), D.E. 50 (assigning the case to Judge Sul Ozerden); *see* Complaint, [Blakely v. Thornton](#), No. 2:14-cv-118 (S.D. Miss. July 25, 2014), D.E. 1; Amended Complaint, *id.* (Jan. 5, 2015), D.E. 5; *see also* Docket Sheet, [Blakely v. City of Laurel Police Dep't](#), No. 2:12-cv-154 (S.D. Miss. Sept. 10, 2012); Docket Sheet, [Blakeley v. Mississippi](#), No. 2:11-cv-148 (S.D. Miss. July. 22, 2011).

14. Opinion, [Blakely v. Thornton](#), No. 2:14-cv-118 (S.D. Miss. Jan. 7, 2015), D.E. 12; Order, *id.* (Jan. 7, 2015), D.E. 13; *see also* Order, *id.* (Dec. 29, 2014), D.E. 9 (denying Judge Jordan's recusal); Order, *id.* (Dec. 29, 2014), D.E. 10 (denying Magistrate Judge Linda R. Anderson's recusal).