

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*)

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. The district judge set the case for hearing nine days later. Two weeks after that, the district judge found the case to have been filed in bad faith because the plaintiff had already lost three similar state-court cases, and the judge sanctioned the plaintiff \$5,000. The court of appeals affirmed the dismissal and the sanction.

Subject: Getting on the ballot. *Topics:* Getting on the ballot; pro se party; matters for state courts; recusal.

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

District 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

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

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

6. Order, *id.* (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], 2013 WL

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

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

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.

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, *Blakely v. Mississippi*, No. 2:11-cv-148 (S.D. Miss. July 22, 2011).

14. Opinion, *Blakely*, 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).