

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
17th DIVISION

JAKE BEQUETTE,

Petitioner,

v.

Case No. 60CV-22-2957

JOHN THURSTON, In His Official Capacity
As Secretary of State for the State of Arkansas;
**ARKANSAS STATE BOARD OF ELECTION
COMMISSIONERS, JOHN THURSTON,
SHARON BROOKS, JAMES HARMON
SMITH, III, BILENDA HARRIS-RITTER,
WENDY BRANDON, WILLIAM LUTHER,**
and **JAMIE CLEMMER**, In Their Official
Capacities as Commissioner of the Arkansas
State Board of Election Commissioners;
**CRAIGHEAD COUNTY ELECTION
COMMISSION, JEANNETTE
ROBERTSON, TAMMY HODGES,** and
EMMA AGNEW in their Official Capacities as
Commissioners of the Craighead County
Election Commission; and **PHILLIPS COUNTY
BOARD OF ELECTIONS, MARK LYNN,
HAROLD W. BOALS,** and **JOHN H.
HUFF**, in their Official Capacities as
Commissioner of the Phillips County Board
of Elections,

Defendants.

**FIRST AMENDED PETITION FOR
DECLARATORY JUDGMENT AND WRIT OF MANDAMUS**

COMES NOW the Petitioner Jake Bequette and for his First Amended Petition against Defendants John Thurston, in his official capacity as Secretary of State for the State of Arkansas; Arkansas State Board of Election Commissioners, John Thurston, Sharon Brooks, James Harmon Smith, III, Bilenda Harris-Ritter, Wendy Brandon, William Luther, and Jamie Clemmer in their official capacities as Commissioners of the State Board of Election Commissioners; Craighead County Election Commission, Jeannette Robertson, Tammy Hodges, and Emma Agnew in their official capacities as Commissioners of the Craighead County Election Commission and, the Phillips County Board of Elections, Mark Lynn, Harold W. Boals, and John H. Huff in their official capacities as Commissioners of Phillips County Board of Elections, alleges as follows:

INTRODUCTION

1. This is a declaratory judgment action brought by Jake Bequette, a Republican candidate for the office of U.S. Senator from Arkansas, to remedy all Republican Primary Election Ballots in Arkansas to correctly identify Mr. Bequette as “Jake Bequette” as opposed to “Jack Bequette” in all counties in which this name identification error appears.

2. On May 9, 2022, early voting began in this year’s Primary Election.

3. On that same date, in response to a report from a concerned Craighead County voter who noticed a discrepancy on his ballot, Mr. Bequette’s campaign learned for the first time that Republican Primary Election Ballots in Arkansas had misidentified him as “Jack Bequette” instead of correctly identifying him “Jake Bequette.” Mr.

Bequette's campaign then immediately alerted the Craighead County Election Commission of this critical error.

4. In response, Craighead County Election Coordinator, Jennifer Clack reported to Mr. Bequette's campaign that the Commission was aware that the ballots erroneously identified Mr. Bequette as "Jack Bequette" on the Official Ballot for the Republican Primary Election in that county. Ms. Clack also said that she believed other counties had the same name identification error.

5. Moreover, Ms. Clack shockingly reported that this name misidentification error had been reported to the Craighead County Election Commission on April 28, 2022 by the Secretary of State, but neither Mr. Bequette, his campaign, or the state's voters received any notification at all from either the Secretary of State or the Commissioners in Craighead County of this critical ballot error in the nearly **two weeks** between when this error was discovered and when voting commenced.

6. Even more disturbing is that nothing at all was done to correct this error prior to the commencement of early voting on May 9, 2022, or even at a bare minimum, to notify Mr. Bequette and the affected voters of this error so that Arkansas's Republican voters know and correctly understand their voting options for U.S. Senate.

7. On May 10, 2022, the Secretary of State issued a public statement confirming Craighead County's error, and moreover, that Craighead County could have fixed Mr. Bequette's name on its ballots prior to early voting. Secretary Thurston also confirmed that Craighead County's commissioners were required by law to hold a public meeting to explain the error, give a solution, or explain why the error could not be fixed. Instead,

the Craighead County Election Commission violated Arkansas law and chose to do nothing at all.

8. Further, within that same public statement, the Secretary of State also revealed that the office had known since May 6, 2022 that Phillips County’s Republican Primary Ballot had also misidentified Mr. Bequette as “Jack Bequette”, but Phillips County also chose not to have the required public hearing or even notify Mr. Bequette, his campaign, or the Phillips County electorate of its misidentification of Mr. Bequette on Phillips County’s ballots.

9. This action is necessary to ensure that Arkansas voters will not be disenfranchised, but instead will have a free and fair opportunity to knowingly cast their vote for Jake Bequette in the Republican Primary for U.S. Senate.

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction over this claim for declaratory judgment and relief under the Arkansas Declaratory Judgment Act, which is codified at A.C.A § 16-111-101, *et seq.*

11. Venue is proper in this County in that it involves defendants in their official capacities as state officers. A.C.A § 16-60-103 (2) and (3).

PARTIES

12. Petitioner Jake Bequette (“Petitioner” or “Mr. Bequette”) is a citizen of Arkansas and a resident of Pulaski County.

13. Defendant John Thurston, is the duly elected Secretary of State and is sued in his official capacity as Secretary of State for the State of Arkansas.

14. Defendant Arkansas State Board of Election Commissioners, and its Commissioners John Thurston, Sharon Brooks, James Harmon Smith, III, Bilenda Harris-Ritter, Wendy Brandon, William Luther, and Jamie Clemmer are sued in their official capacities as Commissioners of the State Board of Election Commissioners.

15. Defendant Craighead County Election Commission, and its Commissioners Jeannette Robertson, Tammy Hodges, and Emma Agnew are sued in their official capacities as Commissioners of the Craighead County Election Commission.

16. Defendant Phillips County Board of Elections, and its Commissioners Mark Lynn, Harrold W. Boals, and John H. Huff are sued in their official capacities as Commissioners of the Phillips County Board of Elections.

FACTUAL ALLEGATIONS

17. Petitioner is a Republican candidate for U.S. Senate for the State of Arkansas.

18. Since at least April 28, 2022, all Defendants, including John Thurston as the Secretary of State have known that Official Ballots for the Republican Primary in Craighead County misidentified Mr. Bequette as “Jack Bequette,” but the Secretary of State chose not to notify Mr. Bequette, his campaign, or the Arkansas electorate of the name misidentification error on the Official Ballots as related to Mr. Bequette and his candidacy.

19. Instead, it appears that on April 28, 2022, that persons within the Secretary of State’s office merely sent an email to the Craighead County Election Coordinator

Jennifer Clack and Craighead County Clerk, Lesli Penny, explaining the name identification error to them, and to them only.

20. The email also provided Ms. Clack with a “cut and paste” from A.C.A. § 7-5-209 mandating that the County Election Commission hold a public meeting to announce the error, and further, immediately correct the error or show cause why the correction should not be done. At present, it does not appear that either the Craighead County Election Commission, or its Commissioners, ever held a public meeting to announce the error and provide the Secretary of State or the State Board of Election Commissioners the “show cause” element necessary to show why a correction could not be made before early voting began or thereafter.

21. At present, it is known the Republican Primary Official Ballots for Craighead County are in error because they misidentify Mr. Bequette as “Jack Bequette.”

22. Craighead County places blame for the error on the Secretary of State and says its paper ballots were correct when submitted to the Secretary of State’s office, but thereafter, its voting machines were programmed with the erroneous name. Further, Craighead County reports it cannot fix the machines to correct Mr. Bequette’s name. On the other hand, the Secretary of State’s office blames Craighead County for the error and states the County can reprogram the voting machines and fix Mr. Bequette’s name.

23. By at least May 6, 2022, the Secretary of State also found that Phillips County had the same name misidentification error and also erroneously identified Mr. Bequette as “Jack” on its official Republican Primary Ballots. Neither Phillips County nor the Secretary of State informed Mr. Bequette or his campaign of this error either, and

moreover, the Phillips County Commissioners also failed to have a public meeting pursuant to A.C.A. § 7-5-209 to explain the problem or provide a solution. Instead, as with Craighead County, Phillips County chose to hide the error and thus created questions about the integrity of the voting process in at least these two counties, if not the entire State of Arkansas.

24. Petitioner reserves his right to amend this Petition as his investigation continues and to add additional county commissions and parties as necessary.

COUNT

DECLARATORY JUDGMENT AND SUPPLEMENTAL RELIEF

37. Petitioner re-alleges and incorporate the paragraphs above.

38. The purpose of the declaratory judgment statutory scheme is to settle and afford relief from uncertainty and insecurity with respect to rights, status and other legal relations. A.C.A. § 16-111-102.

39. This court should issue declaratory judgment against the Arkansas Secretary of State and the other named Defendants finding that Petitioner has been misidentified in the Republican Primary Official Ballots.

40. This court should also declare that the Commissioner Defendants in both Craighead and Phillips counties and their respective Commissions violated A.C.A. § 7-5-209 by choosing not to hold a public meeting to announce the errors and correct the error immediately or even show cause why the correction should not be done.

41. Further, pursuant to A.C.A. § 16-111-108 this court should also provide immediate and emergency injunctive relief in the form of a Writ for Mandamus on behalf of Mr. Bequette and Arkansas voters by immediately ordering the Secretary of State, the State Board of Election Commissioners, the Craighead County Election Commission, the Phillips County Board of Elections, and all county election commissions in Arkansas to confirm the accuracy of their respective Republican Primary Official Ballots. Further, if an error as to Mr. Bequette's identification appears, to immediately correct the error and provide uniform statewide notice to all voters of the misidentification of Mr. Bequette in some of the state's Official Ballots.

PRAYER OF RELIEF

WHEREFORE, Petitioner prays for entry of Declaratory Judgment on his behalf and for supplemental injunctive relief in the form of an immediate permanent injunction and Writ of Mandamus requiring the following:

- a. Ordering the Secretary of State, the State Board of Election Commissioners, the Craighead County Election Commission and its Commissioners, the Phillips County Board of Elections and its Commissioners, and all county election commissions in the State of Arkansas to immediately correct their respective Republican Primary Official Ballots to the extent that Mr. Bequette is erroneously identified and immediately correct the error by accurately identifying him as "Jake Bequette;"

b. Ordering the Secretary of State, the State Board of Election Commissioners, the Craighead County Election Commission and its Commissioners, the Phillips County Board of Elections and its Commissioners, and all county election commissions in the State of Arkansas to provide uniform statewide notice to all Republican voters in the State of Arkansas of the misidentification of Mr. Bequette in some of the state's Official Ballots, and that his correct name as "Jake Bequette."

c. Petitioner also prays for recovery of his attorneys' fees and costs of this litigation, and for all other just and appropriate relief.

d. Further, Petitioner requests a hearing on this matter within two to seven days pursuant to Rule 78(d) of the Arkansas Rules of Civil Procedure.

DATED: May 11, 2022,

Respectfully submitted,

POYNTER LAW GROUP



Scott Poynter
scott@poynterlawgroup.com
Daniel Holland
daniel@poynterlawgroup.com
POYNTER LAW GROUP
407 President Clinton Ave., Suite 201
Little Rock, AR 72201
(501) 812-3941