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2017 IL App (3d) 170061-U

Order filed November 13, 2017

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2017

| | | |
|------------------------------------|---|-------------------------------|
| ANTONIO CARRICO, BEBE J. MINTON, |) | Appeal from the Circuit Court |
| KELLY J. ELDERSON, EDWARD A. |) | of the 21st Judicial Circuit, |
| SCHLEICHER, and FRANCIS T. CIANCI, |) | Kankakee County, Illinois. |
| |) | |
| Plaintiffs-Appellees, |) | |
| |) | |
| v. |) | |
| |) | Appeal No. 3-17-0061 |
| BOURBONNAIS TOWNSHIP ELECTORAL |) | Circuit No. 16-MR-772 |
| BOARD and its members, JEFFREY |) | |
| UMPHREY, BRIAN J. ROGERS, and MEL |) | |
| BLANCHETTE, |) | |
| |) | The Honorable |
| Defendants-Appellants. |) | Ronald J. Gerts, |
| |) | Judge, presiding. |

JUSTICE McDADE delivered the judgment of the court.

Justices Lytton and Wright concurred in the judgment.

ORDER

¶ 1 *Held:* The Bourbonnais Township Electoral Board's appeal was dismissed as moot.

¶ 2 The plaintiffs, Antonio Carrico, Bebe J. Minton, Kelly J. Elderson, Edward A.

Schleicher, and Francis T. Cianci, filed nominating papers for certain Bourbonnais Township

offices. Defendant Bourbonnais Township Electoral Board (Board), which consisted of defendants Jeffrey Umphrey, Brian J. Rogers, and Mel Blanchette, held a hearing on an objection that had been filed to the plaintiffs' nominating papers. The Board voted to approve the objection, and the plaintiffs sought judicial review of the Board's decision. The circuit court set aside the Board's decision. On appeal, the defendants argue that this court should confirm the Board's decision. We dismiss the appeal as moot.

¶ 3

FACTS

¶ 4

On November 28, 2016, the plaintiffs filed nominating papers as Republican candidates for certain Bourbonnais Township offices. Specifically, Carrico declared his candidacy for Township Supervisor and the other four petitioners declared their candidacies for Township Trustee. An objection was filed to the plaintiffs' nominating papers. The objector alleged that the Republican party did not file a statement of determination to nominate candidates via primary election with the county clerk by November 15, 2016, which the objector claimed was necessary under section 45-55 of the Township Code (60 ILCS 1/45-55 (West 2014)) before the plaintiffs could be placed on the ballot for the April 4, 2017, election.

¶ 5

On December 12, 2016, the Board held a meeting at which the objection to the plaintiffs' nominating papers was addressed. Plaintiff Carrico had stated that he had spoken to the county clerk, who had told him that there would be no need for a primary if no other individuals had filed as Republican candidates. After a brief deliberation, the Board voted unanimously to approve the objection to the plaintiffs' nominating papers.

¶ 6

The plaintiffs subsequently filed a petition for judicial review of the Board's decision. In part, the petition alleged that the Board consisted of defendants Umphrey, Rogers, and Blanchette. The petition further alleged that Umphrey was a candidate for the office of

Township Supervisor and that Blanchette was a candidate for the office of Township Trustee. Accordingly, the petition alleged that the Board was improperly constituted at the time it approved the objection to the plaintiffs' nominating papers. The defendants filed an answer to the petition, but they did not respond to the plaintiffs' allegations regarding the candidacies of Umphrey and Blanchette.

¶ 7 In late January 2017, the circuit court held a hearing on the petition for judicial review, which resulted in the court setting aside the Board's decision and ordering the plaintiffs to be placed on the ballot. The defendants appealed on January 27, 2017, and requested an expedited appeal. However, the defendants failed to file a proper motion to expedite. The defendants thereafter filed that motion on February 9, 2017, but failed to include proof of service. The requisite proof of service was received by this court on February 24, 2017. However, given the circumstances and the timing of the motion, this court denied the defendants' motion to expedite.

¶ 8 ANALYSIS

¶ 9 On appeal, the defendants argue that this court should confirm the Board's decision that upheld the objection to the plaintiffs' nominating papers. Specifically, the defendants contend that: (1) the plaintiffs' inclusion on the ballot for the election on April 4, 2017, was a nullity because the Republican party did not file a statement of determination to nominate candidates via primary; and (2) the circuit court lacked the authority to order the plaintiffs' names to be placed on the ballot.

¶ 10 Initially, we note that the defendants have not addressed the glaring mootness problem with this appeal.

“A case on appeal becomes moot where the issues presented in the trial court no longer exist because events subsequent to the filing

of the appeal render it impossible for the reviewing court to grant the complaining party effectual relief. [Citation.] The conclusion of an election cycle generally renders an election contest moot.”

Bettis v. Marsaglia, 2014 IL 117050, ¶ 8.

In this case, the time to hold a primary has long passed, as has the April 2017 election. Clearly, this appeal presents moot questions.

¶ 11 Furthermore, we hold that the instant appeal fails to qualify for the public interest exception to the mootness doctrine, which requires that: (1) the question is of a public nature; (2) there is a need for an authoritative determination to guide public officers; and (3) the question is likely to recur. *Girov v. Keith*, 212 Ill. 2d 372, 383 (2004). Questions related to election law are undoubtedly of a public nature. *Bettis*, 2014 IL 117050, ¶ 11. However, we hold that there is no need for an authoritative determination on these issues. The procedure for primary nominations set forth in section 45-55 of the Township Code (60 ILCS 1/45-55 (West 2014)) is clear, as are the requirements for the eligibility of individuals to serve on electoral boards when hearing objections to nominations (10 ILCS 5/10-9 (West 2014)).

¶ 12 CONCLUSION

¶ 13 Under these circumstances, we dismiss the defendants’ appeal as moot.

¶ 14 Appeal dismissed.