



AlaFile E-Notice

03-CV-2022-900892.00

Judge: JIMMY B POOL

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NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

TIARA YOUNG HUDSON V. KAY IVEY ET AL
03-CV-2022-900892.00

The following matter was FILED on 8/12/2022 10:10:35 PM

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GINA J. ISHMAN
CIRCUIT COURT CLERK
MONTGOMERY COUNTY, ALABAMA
251 S. LAWRENCE STREET
MONTGOMERY, AL, 36104

334-832-1260


IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

HUDSON TIARA YOUNG,)	
Plaintiff,)	
)	
V.)	Case No.: CV-2022-900892.00
)	
KAY IVEY,)	
PATRICK TUTEN,)	
TOM PARKER,)	
Defendants.)	

ORDER

Before the Court is Defendants' Motion to Dismiss. Doc. 34. Upon consideration of the briefing and the arguments of counsel at the hearing held on August 8, 2022, and the briefing submitted by the parties thereafter, the Court finds that Plaintiff's Complaint is due to be dismissed.

First, the Complaint is due to be dismissed because a *quo warranto* action is the "exclusive remedy to determine whether a party is usurping a public office." *Riley v. Hughes*, 17 So. 3d 643, 646 (Ala. 2009); see Ala. Code § 6-6-591, *et seq.* In this action, Plaintiff asks the Court to oust a sitting circuit judge from office. The only way for this Court to have subject-matter jurisdiction over such an action in these circumstances is via a statutory *quo warranto* proceeding.

Second, in the alternative, the Complaint is due to be dismissed because the Court finds that Plaintiff lacks standing to maintain this action. Plaintiff lacks an injury to a legally protected right. See *State v. Prop. at 2018 Rainbow Drive known as Oasis*, 740 So. 2d 1025, 1027 (Ala. 1999); *King v. Campbell*, 988 So. 2d 969 (Ala. 2007). And even if Plaintiff had alleged a justiciable injury, she cannot establish the required

elements of traceability and redressability because Defendants cannot afford her the relief she seeks. See *Stamps v. Jefferson Cnty. Bd. of Educ.*, 642 So. 2d 941, 944 (Ala. 1994).

Third, in the alternative, the Complaint is due to be dismissed because the Court finds that the Complaint fails to state a claim on which relief could be granted. The Legislature lawfully established the Judicial Resources Allocation Commission and the Commission lawfully reallocated a circuit judgeship from Jefferson County to Madison County. The Act creating the Commission carries significant standards that limit the Commission's discretion and foreclose Plaintiff's argument that the Legislature unlawfully delegated its authority. *Monroe v. Harco, Inc.*, 762 So. 2d 828, 831 (Ala. 2000); *Bailey v. Shelby Cnty.*, 507 So. 2d 438, 442 (Ala. 1987). To the extent matters outside the pleadings have been presented to the Court, those matters are excluded. The Court has considered only matters in the pleadings in deciding that the Complaint is due to be dismissed.

Upon consideration of the briefing and the arguments of counsel at the hearing and the briefing submitted thereafter, it is hereby ORDERED that:

1. The Motion to Dismiss (Doc. 34) is GRANTED. The Complaint is DISMISSED; and
2. All other pending motions are DENIED as moot.

This is a final judgment.

DONE this 12th day of August, 2022.

/s/ JIMMY B POOL
CIRCUIT JUDGE
