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Baxter County Circuit Court
Canda Reese, Circuit/County Clerk
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03CV-23-452
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IN THE CIRCUIT COURT OF BAXTER COUNTY, ARKANSAS
CIVIL DIVISION

IN THE MATTER OF LEVI WOODS
AS CANDIDATE FOR NORFORK SCHOOL BOARD
POSITION NO. 2, DISTRICT 61

V. **CASE NO. 03CV-23-452**

LEVI WOODS **PETITIONER**

ANSWER OF CIRCUIT AND COUNTY CLERK CANDA REESE

Comes now the State of Arkansas, by and through David L. Ethredge, Prosecuting Attorney for the 14th Judicial District, and deputy prosecutor Christopher Carter and for the Clerk's Response to the Petition states as follows:

1. That the allegations in paragraphs 1, 3 and 4 of the Petition filed December 29, 2023 are admitted.

2. That the allegation in paragraph #2 is not known to the respondent but there is no reason to dispute the allegation.

3. That the allegations contained in paragraphs 5 and 6 are denied with regard to confusion. The Clerk has reviewed emails and does concede that the Norfork School district replied that "Levi Woods" was up for re-election. All allegations that there was a "discussion" about numbering or renumbering positions with regard to the Norfork school election are specifically denied.

4. The respondent has no knowledge as to the allegations in paragraph #7 and therefore denies the same.

5. That the allegations in paragraphs 8 and 9 are admitted. The two deputies who took the filings do not recall a discussion about "the correct position number" as alleged in paragraph #10 but the respondent concedes it may have happened. The respondent would also note that Rule 10(d) of the Arkansas Rules of Civil procedure requires that the documents referred to in the petition be attached as necessary documents. In order

to prevail the petitioner must show the documents were accepted (i.e. file marked) by the Clerk's office on November 13, 2023 (or at least by noon on November 14, 2023) to show that those documents were in fact accepted by the Clerk on that date and at least 20 valid voters signed the petition. That aside the Clerk has looked at the records and can confirm that the names on the petition were checked and the documents were accepted and file marked at 11:13 AM on November 13, 2023 by Lindsay Roberts election coordinator for Baxter County. Mr. Woods filled in he was running for petition #1 even though he had been elected 5 years earlier to position #2 and was running for re-election. The Clerk would also note that Mr. Woods apparently filed for position #2 10 years earlier and had no opponent and did not vote for himself so no one actually won his uncontested election and he had to be appointed to the position.

6. The allegation in paragraph #11 is admitted and the statement by the petitioner in paragraph #12 does not require a response.

7. That the citations to law contained in paragraphs #13-16 are a correct statement of current Arkansas law. Arkansas Code6-114-111(e)(2)(A) puts the burden on the respondent, County Clerk Canda Reese to reject a petition that does not conform and give the reason. Both parties concede that County Clerk Canda Reese fulfilled that obligation albeit after the filing period ended. The "clerk's office" may have failed as alleged in paragraph #17 but the respondent did not.

8. The allegations and relief requested in paragraphs 18, 19 and 20 are denied. The Clerk has the responsibility to certify candidates to the Baxter County Election Commission but it is the Election Commission that that places names on the ballot and they must do so 75 days PRIOR to the election. See 7-7-203(d)(2).

9. That the relief requested in patently unfair to the person who filed for position #2 on the Norfork School Board. At this moment she is unopposed and pursuant to A.C.A. 6-14-111(h)(2) which states "The county board of election commissioners shall not place the name of an unopposed candidate for school district

director on the ballot during a school board election held concurrently with the preferential primary election or general election"—which is the case for 2024.

10. It is the position of the respondent that there are necessary parties missing from this lawsuit and while the Clerk may be ordered to certify the results there has to be a mechanism to place all candidates for position 2 on the ballot which almost certainly has been completed, a drawing for positions, and a LEGAL reason for the Baxter County Election Commission to accept a late filing and place names on ballots. The deadlines for these activities have passed and these parties are not before the Court.

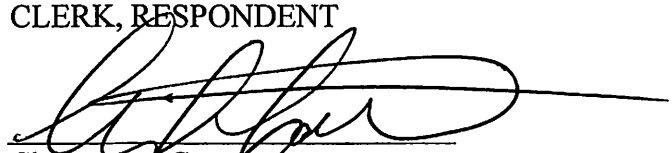
11. The respondent would note that there is no remedy for her to correct the situation once the filing period ended. If this petition had been filed earlier other parties might not have been necessary.

12. The purpose of a writ of mandamus is to enforce an established right or to enforce the performance of a duty. *City of N. Little Rock v. Pfeifer*, 2017 Ark. 113, at 4, 515 S.W.3d 593, 596. When requesting a writ of mandamus, the petitioner must show a clear and certain right to the relief sought and the absence of any other adequate remedy. *T.J. ex rel. Johnson v. Hargrove*, 362 Ark. 649, 655, 210 S.W.3d 79, 82 (2005). The standard of review is whether the circuit court abused its discretion in granting or denying a petition for writ of mandamus. *Pfeifer*, 2017 Ark. 113, at 5, 515 S.W.3d at 596. The Clerk has no authority to see that "and be placed on the ballot for the school board election to be held in March 2024, effectively immediately". The Court potentially could grant the relief requested in paragraph #19 but that solves nothing and certainly not the real relief the Petitioner requests.

WHEREFORE, the Respondent prays that Petition filed herein be denied as it is impossible for this Court to grant the full relief requested at this time and with the allegations contained in this petition.

Respectfully Submitted,

CANDA REESE, BAXTER COUNTY CIRCUIT AND COUNTY CLERK, RESPONDENT

By: 

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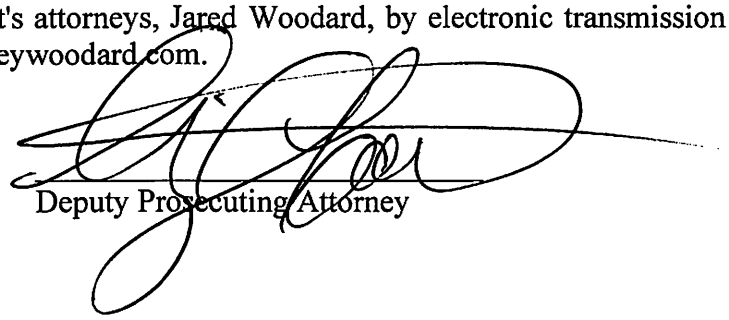
CERTIFICATE OF SERVICE

I, Christopher Carter, Deputy Prosecuting Attorney, do hereby certify that a copy of the foregoing motion has been served on the Defendant's attorneys, Jared Woodard, by electronic transmission on the Court filing system and by email to jared@stanleywoodard.com.



Deputy Prosecuting Attorney