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Politics

Commission election struggle is kept at a boil

By MICHAEL KRUSE
Published January 5, 2007

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Rose Rocco!

It's Hernando County's legal tangle that just won't go away. And it might stick around for quite some time.

After Brooksville attorney Joe Mason earlier this week filed a five-page motion for rehearing, a 28-page supplemental motion and a four-page second supplemental motion, Judge John Booth now has more reading to do and another decision to make. The motion in essence asks the judge to reconsider his findings from last month. At issue, still, according to Mason, is whether Rocco was a resident of the right district in November at the time of the election in the race for County Commission.

In the motion, Mason deliberates on the exact meaning of "at the time of election," gets into some grammar nitty-gritty and cites case law stretching back to 1928.

No word on Booth's decision as of Thursday evening. But there are basically three possibilities. He could ...

1. Deny the motion outright.
2. Grant the motion and set a hearing and then change his mind.
3. Grant the motion and set a hearing and then not change his mind.

Jason Melton, Rocco's Spring Hill attorney, has said in the past all this is about "sour grapes," and on Thursday he called it "absurd."

"Frankly," he said, "there are a lot of really important things going on in the county right now that Ms. Rocco needs to be focusing on. This is really not one of them."

"Do you want somebody in office who is ineligible to be in office?" Mason said Thursday. "Do you want somebody to be able to 'game' the system? If they are, in effect, willing to thumb their nose at the system, will they be able to pay attention to the details of the law?"

He asked: "Do you want somebody with that character sitting in a County Commission seat?"

Robinson, 61, was elected to the County Commission in 1992 and was re-elected three times. She changed from Democrat to Republican in 2005. Rocco, 65, switched from Republican to Democrat in March and beat Robinson in November by 1,444 votes for the District 2 seat.

But that was only the beginning of the battle. Robinson sued Rocco on Nov. 14.

Robinson's stance: Rocco didn't live where she was supposed to live when she was supposed to live there.

Rocco's take: County Attorney Garth Collier faxed her information telling her she could move after the actual Election Day as long as she lived in the Spring Hill district by the time she was sworn in on Nov. 21. She moved into the district on Nov. 15 - eight days after the election but two days before the county Canvassing Board certified the results and six days before she was to be sworn in.

Booth issued a temporary injunction on Nov. 20 barring her from taking the seat the next day.

The judge made his "final" decision Dec. 21. Rocco was sworn in that same day.

"All the law ever asked her to do was to be a resident when she was a commissioner," Melton said.

"To me, she lost," Rocco told the Times after the original suit was filed. "Deal with it."

Mason is representing Janey Baldwin, a local political gadfly and an "intervenor" in this case who joined on Robinson's side as a voter and taxpayer. Robert Morris of Brooksville

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is Robinson's attorney.

In the latest motion, Mason calls Rocco an "ineligible interloper," and says a reversal of the decision by the judge will be a nod to "the substantial interests of the public" and "the interests of justice."

He writes in the motion that a 1928 Florida Supreme Court case, Davis vs. Crawford, established that "the time of election" is the time the last ballot is cast, not when the Canvassing Board finishes up, not when she's sworn in.

He also argues that Booth "grammatically misconstrued" the residency requirement. The residency requirement in Florida is simple: County Commissioners must live in the district they represent. The state statute reads like this: "One commissioner residing in each district shall be elected as provided by law."

Here's Booth in his Dec. 21 order: "Rocco would not become a 'commissioner' until Nov. 21, 2006, when her term of office commenced. Here also, the past tense 'elected' is utilized in the Constitution. Thus, Rocco wasn't 'elected' until Nov. 17, 2006, when the official results were certified by the Hernando County Canvassing Board."

And here's Mason in his motion from earlier this week: "In fact, the world 'elected' ... is a past participle in the past tense verb form required by the sentence's simple future tense, in a bare-infinitive intransitive verb phrase (of the irregular intransitive verb 'to be'), conjugated with the contextual third-person imperative modal auxiliary verb 'shall' ..."

Got it?

"On some level," Melton said, "it is disputes like this that give my profession a bad name."

Mason said Thursday all this is "procedurally very complex." Said Melton: "I don't find it to be a complicated matter at all."

Only one thing's for sure: This will end up in the 5th District Court of Appeal in Daytona Beach. That's not just a likelihood.

"It is a certainty," Mason said.

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- by Buddy** **01/05/07 09:54 AM**
What an irony that Joe Mason would be concerned about anybody else "gaming" the political system. He lived in Tampa for decades and continued to vote in Brooksville local elections. His disrespect for the law and electoral process is outlandish
- by Jim** **01/05/07 07:45 AM**
Rose won, Go home Nancy!
- by Tom** **01/05/07 06:26 AM**
If Rocco is an interloper by court decree what is El Presidente Bush? Mr. Melton described it perfectly when he stated "On some level," Melton said, "it is disputes like this that give my profession a bad name." Janey Baldwin should find a job.
- by Bonny** **01/05/07 05:00 AM**
Maybe all the people that voted for Rose Rocco should file a class action law suit against Nancy Robinson and her attorney for continuing this mess. Give it up Nancy....this county needs to get down to more important issues.

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