

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

FRED SMITH

PLAINTIFF

VS.

NO. 4:15-CV-00521 JM/BD

ARKANSAS BOARD OF ELECTION COMMISSIONERS, ET AL

DEFENDANTS

ANSWER OF CRITTENDEN COUNTY ELECTION COMMISSIONER

Comes the defendant, Crittenden County Election Commission, and for its Answer to Complaint of plaintiff, Fred Smith, states:

1. That the Complaint fails to state a claim against defendant, Crittenden County Election Commission, upon which relief can be granted and the Complaint should therefore be dismissed against it pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

2. That the Complaint is barred by the doctrines of res judicata and collateral estoppel in that the Circuit Court of Pulaski County, Arkansas, in an order entered April 6, 2012 in cause number CV-1201245 granted a writ of mandamus and declaratory judgment finding that plaintiff was ineligible at the time of his filing for state representative, and therefore, could not be a candidate for elective office. That this order is a final judgment and the law of the case, therefore, plaintiff is barred from pursuing this case under the doctrine of the law of the case, res judicata, and collateral estoppel, and his Complaint should therefore, be dismissed with prejudice.

3. That in the event this Complaint is not dismissed pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure or for the reasons set forth in paragraph 2 of its Answer, that defendant denies each and every allegation of the Complaint as being without merit.

Wherefore, defendant, Crittenden County Election Commission prays:

1. that the Complaint be dismissed pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure;
2. that the Complaint be dismissed with prejudice pursuant to the law of the case, res judicata, and/or collateral estoppel;
3. that the Complaint be dismissed as without merit; and
4. for any and all other relief to which it may be entitled.

Dated this 31st day of December, 2015.

Respectfully submitted,

/s/ Joe M. Rogers (69068)
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CERTIFICATE OF SERVICE

I, Joe M. Rogers, certify that on December 31, 2015, a copy of the foregoing was filed electronically. Notice of the filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's electronic filing system

/s/ Joe M. Rogers
Joe M. Rogers