

FILED
U.S. District Court
District of Kansas

DEC 02 2021

Clerk, U.S. District Court
By AW Deputy Clerk

UNITED STATES DISTRICT COURT
FOR THE DISTRICT COURT OF KANSAS

CELISHA TOWERS,

Plaintiff

v

Case No. 21-CV-2564-HLT-TJJ

Daniel Soptic, in his capacity as
Contestee and in his individual capacity, and
Gayle Townsend,
Mary Gonzales,
Tom Burroughs, in capacity as Contestee, and
Unified Government of
Wyandotte County and
Kansas City, Kansas, et al, and,
Michael Abbott, In his capacity as Wyandotte
County Election Commissioner and
in his individual capacity,

Defendant.

**AMENDED CONTESTANT CELISHA TOWERS MOTION TO DISMISS
WYANDOTTE COUNTY ELECTION COMMISSIONER MICHAEL ABBOTT
MOTION TO INTERVENE AND MOTION TO STAY THE FEDERAL AND STATE
PROCEEDINGS IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT COURT OF KANSAS FOR A FAIR AND HONEST TRIAL**

COMES NOW, Plaintiff Celisha Towers Pro Se (“Plaintiff”) and moves for the Court to
dismiss Election Commissioner Michael Abbott Motion to Intervene and to Stay the State and
Rev. 6/2017 KSJC

Federal Claims in the United States District Court For The District Court Of Kansas pursuant to ²⁸ U.S.C. 1367
 and 28 U.S.C §1331 Federal Question and for a fair, and honest trial due to the State Court Judge admitting during a Status Conference held on December 1, 2021 that if the case is “remanded” back to him he will not allow Plaintiff to exercise K.S.A. 25-1447 to inspect machines, and do a court supervised manual hand-count of all ballots submitted during the General Election to properly prepare for Trial, or accept a freely Amended pleading that was timely submitted on November 22, 2021. The Plaintiff is not looking for an expedited process to take her rightful seat as Sheriff-Elect, but a fair and honest trial to prove the true and correct intent of the citizens of Wyandotte County 15th and 26th Amendment rights were deprived due to thousands of valid registered voter ballots that were cast during the General Election held on November 2, 2021 was not counted and erroneously, and negligently abridged under the authority and guidance of the Election Commissioner Michael Abbott, and that the evidence will change the results of the election of several candidates, and then relief granted to plaintiff and all candidates injured once voter intent is proven in the Federal Court. Therefore, the plaintiff asks for the honorable Judge to stay the proceedings in the United States District Court For The District Court Of Kansas.

ELECTION COMMISSIONER MICHAEL ABBOTT DOES NOT QUALIFY TO INTERVENE

Pursuant to K.S.A. § 25-1445 and 25 CFR § 584.5(a). Upon application by any person to intervene, within five (5) days after the filing of notice of custody [contest] stating facts sufficient to show an interest in the contest not in common with the contestant or contestee and specifying with particularity the basis of such interest and result requested, the court may permit such intervention and make such orders as may be appropriate under the circumstances. Any person permitted to intervene shall be referred to as the intervenor. 25 CFR § 584.5(a), states an entity or an individual, Rev. 6/2017 KSJC

whether acting on his or her own behalf or as an agent of another entity not permitted to appeal, may be permitted to participate as a party if the presiding official finds that: (3) the individual's entity's interest is not adequately represented by the existing parties; and (4) Intervention would not unfairly prejudice existing parties or delay resolution of the proceeding. Rule 24, states (1) is given an unconditional right to intervene by a federal statute; . . . (3) *Delay or Prejudice*. In exercising its discretion, the court must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights.

Here, Michael Abbott does not satisfy the requirements under K.S.A. § 25-1445 or 25 CFR § 584.5 or Rule 24 to be a moving party or a person to submit a Motion to Intervene because he is considered an original party able to appeal named in the civil action in the capacity of the Wyandotte County Election Commissioner and in his individual capacity. Michael Abbott interest in this civil action is in common with the plaintiff and every defendant named in the proceeding because he was the overseer of the entire election and the ultimate reason that his negligence and fraud produced this civil action. Michael Abbott intervention will create delay. Thus, Michael Abbott's intervention will prejudice all parties involved. Michael Abbott is not considered a third party in this civil action and therefore, the plaintiff asks for the Court to dismiss this Motion to Intervene and to stay the proceedings in the Federal Court.

**MICHAEL ABBOTT FAILED TO TIMELY SUBMIT MOTION TO INTERVENE
AGAINST AMENDED PLEADING**

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Michael Abbott Motion to intervene only addresses an original pleading that was submitted on November 19, 2021. Michael Abbott submitted his Motion to Intervene after already being served the Amended Pleading and still failed to timey submit or Amend his Motion to address the November 22, 2021, Amended Pleading. The motion according to K.S.A. Rev. 6/2017 KSJC

§ 25-1445 had to be submitted within five days of the Amended Notice. Michael Abbott may argue his Motion is timely to the Amended Notice because he submitted the action November 24, 2021. However, that action directly addresses the original pleading and does not state any action towards the Amended Pleading. Therefore, Plaintiff asks court to also dismiss the Motion to Intervene based off being untimely to the Amended Pleading. In support, request for whether an intervention is timely: (1) the length of time during which the proposed intervenor knew or reasonably should have known of the interest in the case before moving to intervene; (2) the extent of prejudice to the existing parties as a result of the proposed intervenor's failure to move for intervention as soon as it knew or reasonably should have known of its interest; (3) the extent of prejudice to the proposed intervenor if the motion is denied; and (4) the existence of unusual circumstances militating either for or against a determination that their motion was timely.

Georgia v. U.S. Army Corps of Eng'rs, 302 F.3d 1242, 1259 (11th Cir. 2002) (citing *Chiles*, 865 F.2d at 1213). This Circuit has recognized that the requirement of timeliness "must have accommodating flexibility toward both the court and the litigants if it is to be successfully employed to regulate intervention in the interest of justice." *U.S. Army Corps of Eng'rs*, 302 F.3d at 1259 (quoting *McDonald v. E.J. Lavino Co.*, 430 F.2d 1065, 1074 (5th Cir. 1970)). Michael Abbott failed to timely address the Amended Notice and therefore, his Motion to Intervene shall also be dismissed.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing MOTION was served December 2, 2021, through the Courts E-Filing and US Mail to the following:

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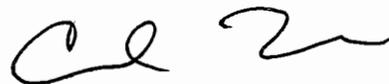
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AND SAME DATE A COPY WAS SERVED US MAIL:

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