

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY MISSISSIPPI

IN RE:            **DEMOCRATIC MAYORAL PRIMARY  
FOR CITY OF STARKVILLE BETWEEN  
D. LYNN SPRUILL AND JOHN S. "JOHNNY"  
MOORE**

**JOHN S. (JOHNNY) MOORE**

**PETITIONER**

**VS.**

**NO. 2017-0215-CVK**

**D. LYNN SPRUILL**

**RESPONDENT**

**ORDER DENYING MOTION TO DISMISS  
AND APPROVING INTERLOCUTORY APPEAL**

The above styled and numbered cause came on to be heard on the motion of the respondent, D. LYNN SPRUILL [SPRUILL], to dismiss the election contest filed by JOHN S. (JOHNNY) MOORE [MOORE] for lack of personal and subject matter jurisdiction in this special court, and after reading the motion, response, and supporting materials provided by both SPRUILL and MOORE and having heard the arguments of counsel, the Court finds as follows:

1.       The items presented to the Starkville Municipal Democratic Executive Committee by Petitioner, while not being presented with specificity, provided enough notice for the Committee to take a closer look at the Petition and the 10-day statute is binding on them.

2.       Based upon the decision in *Chandler v. McKee*, 202 So.3d 1269 (Miss. 2016), Section 23-15-927 contains no language requiring the Petitioner to wait until the executive committee has ruled before Petitioner files his petition for judicial review in the Circuit Court, and, therefore, this Court has jurisdiction of the parties and subject matter.

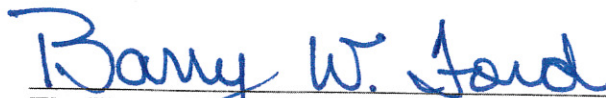
**IT IS, THEREFORE, HEREBY ORDERED AND ADJUDGED** that:

A.       The motion to dismiss filed by SPRUILL is not well taken and is, therefore, denied.

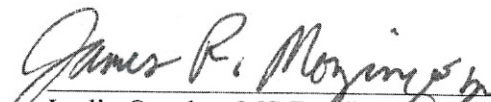
B. The request of SPRUILL to pursue an interlocutory appeal of this decision is approved, and the matter is stayed pending the timely filing of that appeal and its outcome.

**IT IS FURTHER ORDERED AND ADJUDGED** that the request of the Plaintiff to review the ballot boxes presently in the custody of the City Clerk of Starkville and make copies of items therein is granted to the limited extent that the Plaintiff shall be entitled to make copies of the nine (9) affidavit ballots and their envelopes he has identified and copies of all of the absentee ballots and their envelopes, and the voter receipt books. All other requests of the Plaintiff for inspection of the ballot boxes and the copying of their contents are denied. Petitioner Moore or his counsel shall contact the Municipal Clerk, counsel opposite and the Court to arrange a mutually convenient time for the inspection and copying. At such time as the examination of the ballots and copying is to be made, the Court shall be notified sufficiently in advance so that the Court may be present for the inspection and copying.

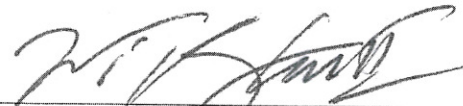
SO ORDERED the 16<sup>th</sup> day of August, 2017.

  
The Honorable Barry Ford  
Special Circuit Judge

Approved as to form:

  
Lydia Quarles, MS Bar # 4582  
James R. Mozingo, MS Bar #3638  
MOZINGO|QUARLES PLLC  
ATTORNEYS FOR RESPONDENT

*permission WPS*

  
William P. Starks, II, MS Bar #100072  
STARKS LAW FIRM  
ATTORNEY FOR PETITIONER

