

FILED
2017 JUL 19 P 3:21
CIVIL
DISTRICT COURT

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 17-6995

DIVISION "

F-7

DEVON DIAZ AND VICTOR ROBINSON

VERSUS

FREDRICK "FREDDY" BROOKS, AND
THE HONORABLE ARTHUR A. MORRELL

FILED: _____

DEPUTY CLERK

PETITION FOR ACTION OBJECTING TO CANDIDACY

NOW INTO COURT, through undersigned counsel, come Devon Diaz and Victor Robinson (hereinafter collectively referred to as "Plaintiffs"), persons of full age of majority residing and domiciled in the Parish of Orleans, State of Louisiana, who urge this Honorable Court to disqualify the candidacy of Fredrick "Freddy" Brooks for the following reasons, to wit:

I.

Plaintiffs herein, Devon Diaz and Victor Robinson, are registered and qualified voters in the Parish of Orleans. Plaintiffs are qualified electors for the Sheriff of the Parish of Orleans and have standing to bring this candidacy-objection action pursuant to Louisiana Revised Statute §18:491(A) and §18:1401(A).

II.

Defendant herein, Fredrick "Freddy" Brooks, is a person of the full age of majority domiciled in the Parish of Orleans, State of Louisiana.

III.

Also made Defendant herein is the Honorable Arthur A. Morrell, a person of the full age of majority domiciled in the Parish of Orleans, State of Louisiana. As required by Louisiana Revised Statute §18:1402(A)(2), Mr. Morrell is joined as a Defendant to this action in his capacity as the Clerk of Court for Criminal District Court for Orleans Parish, the Chief Election Officer for Orleans Parish, and, upon information and belief, the official before whom Mr. Brooks qualified for the candidacy and election at issue in this action.

IV.

This court has exclusive original jurisdiction over actions objecting to candidacy for elections within its district. See Louisiana Revised Statute §18:1403.

V.

Venue is proper in this Court as this action objecting to a candidate involves an office filled by an Orleans Parish election. See Louisiana Revised Statute § 18:1404.

VI.

This Petition is timely under Louisiana Revised Statute §18:1405(A).

VII.

This action challenges the candidacy of Mr. Brooks for the Sheriff of the Parish of Orleans and seeks to disqualify him from the primary election for that office, which election is scheduled to be held on October 14, 2017.

VIII.

On July 12, 2017, Defendant Fredrick "Freddy" Brooks filed a Notice of Candidacy seeking to qualify for the office of Sheriff for the Parish of Orleans in an election to be held on October 14, 2017. A copy of said Notice of Candidacy form is attached hereto as Exhibit "A".

IX.

As required by Louisiana law and, in particular, Louisiana Revised Statute §18:463(A)(2)(a)(iv), Mr. Brooks certified the following in the Notice of Candidacy: *"If I am a candidate for any office other than United States senator or representative in congress, that for each of the previous five tax years, I have filed my federal and state income tax returns, have filed for an extension of time for filing either my federal or state income tax return or both, or was not required to file either a federal or state income tax return or both."*

X.

Upon information and belief, that certification appearing at paragraph 8 of Mr. Brooks' Notice of Candidacy is false. On July 18, 2017, a public records request was made to the Louisiana Department of Revenue (hereinafter referred to as the "LDR") for information regarding any income tax returns filed by Mr. Brooks for the tax years 2011, 2012, 2013, 2014, 2015 and 2016. In response to the public records request to the LDR, Vanessa C. LaFleur,

Custodian of Records for the LDR, responded to the request by letter stating that the LDR cannot confirm filing for the subject returns for the subject tax periods for Mr. Brooks. A copy of the LDR correspondence is attached hereto as Exhibit "B".

XI.

As provided in Louisiana Revised Statute §18:492(A)(7), a false certification under Louisiana Revised Statute §18:463(A)(2)(a)(iv) serves as a ground to object to a person's candidacy in a primary election. The sanction for such a false certification is disqualification from the primary election under Louisiana Revised Statute §18:494(A).

XII.

On these bases, therefore, Plaintiffs seek a Judgment from this Court disqualifying Mr. Brooks as a candidate in the October 14, 2017 primary election for Sheriff for the Parish of Orleans.

XIII.

Pursuant to Louisiana Revised Statute §18:1406(A), upon filing, a copy of this Petition is being posted at a "conspicuous place at the entrance" of the office of the Clerk of this Court.

XIV.

Pursuant to Louisiana Revised Statutes §18:1406(C) and §18:1409(A)(1), this action challenging the candidacy of Mr. Brooks must be tried summarily in open court without a jury. Under statute, the trial shall begin no later than 10:00 a.m. on the fourth day after suit is filed. The fourth day from the date of filing this Petition is Sunday, July 23, 2017. As such, the trial on this Petition shall begin no later than Friday, July 21, 2017, so as to comply with Louisiana Revised Statutes §18:1406(C) and §18:1409(A)(1).

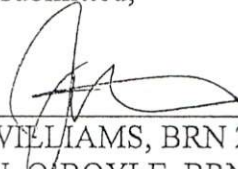
XV.

By operation of law, in filing the Notice of Candidacy, Mr. Brooks appointed the Clerk of this Court, the Honorable Dale N. Atkins, as his agent for service of process in this action challenging his candidacy. See Louisiana Revised Statute §18:1407. Out of an abundance of caution, because there are criminal and civil district courts in the Parish of Orleans, Plaintiff also is serving the Honorable Arthur A. Morrell, Clerk of the Criminal District Court for the Parish of Orleans, as Mr. Brooks' agent for service of process. This Petition and its accompanying citation

are being served on Ms. Atkins and Mr. Morrell, in those capacities, as provided by Louisiana Revised Statute §18:1408(A). Further in accordance with that statute, the Plaintiff also is undertaking a diligent effort to effect personal service on Mr. Brooks at the domiciliary address shown on the Notice of Candidacy.

WHEREFORE, Plaintiffs, Devon Diaz and Victor Robinson, pray that this Petition be deemed good and sufficient, that the Defendants be cited to appear for the trial of this action to commence Friday, July 21, 2017, and that, after due proceedings are had, Judgment be rendered in their favor and disqualifying Fredrick "Freddy" Brooks as a candidate in the primary election for the Sheriff of the Parish of Orleans scheduled for October 14, 2017, along with all other general or equitable relief that this Court may deem just and proper.

Respectfully submitted,



JAMES M. WILLIAMS, BRN 26141
INEMESIT U. O'BOYLE, BRN 30007
PATRICK R. FOLLETTE, BRN 34547
**CHEHARDY, SHERMAN, WILLIAMS, MURRAY,
RECILE, STAKELUM & HAYES, L.L.P.**
One Galleria Blvd., Suite 1100
Metairie, Louisiana 70001
Telephone: (504) 833-5600
Facsimile: (504) 833-8080
Attorneys for Plaintiffs, Devon Diaz and Victor Robinson

PLEASE SERVE:

1. FREDRICK "FREDDY" BROOKS

- A. Through his statutory agent for service of process:
The Honorable Dale N. Atkins
Clerk of Court
Civil District Court for the Parish of Orleans
421 Loyola Avenue
Room 402
New Orleans, Louisiana 70112

AND

- B. Through his statutory agent for service of process:
The Honorable Arthur A. Morrell
Clerk of Court
Criminal District Court for the Parish of Orleans
2700 Tulane Avenue
Suite 114
New Orleans, Louisiana 70119

AND

C. Through personal service at the following address:
2724 Holiday Drive
New Orleans, Louisiana 70131

2. **THE HONORABLE ARTHUR A. MORRELL**
Clerk of Court
Criminal District Court for the Parish of Orleans
2700 Tulane Avenue
Suite 114
New Orleans, Louisiana 70119

FILED
2017 JUL 19 P 3:28
CIVIL
DISTRICT COURT

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO.

DIVISION " "

DEVON DIAZ AND VICTOR ROBINSON

VERSUS

FREDRICK "FREDDY" BROOKS, AND
THE HONORABLE ARTHUR A. MORRELL

FILED: _____

DEPUTY CLERK

RULE TO SHOW CAUSE

Considering the foregoing Petition for Action Objecting to Candidacy filed by the Plaintiffs, Devon Diaz and Victor Robinson:

IT IS ORDERED THAT the Defendants, Fredrick "Freddy" Brooks, and the Honorable Arthur A. Morrell, show cause, if any they can, on the 21st day of July, 2017 at _____ a.m., why Mr. Brooks should not be disqualified as a candidate for the October 14, 2017 primary election for the Sheriff of the Parish of Orleans.

New Orleans, Louisiana, this _____ day of July, 2017.

DISTRICT JUDGE

PLEASE SERVE:

1. FREDRICK "FREDDY" BROOKS

A. Through his statutory agent for service of process:
The Honorable Dale N. Atkins
Clerk of Court
Civil District Court for the Parish of Orleans
421 Loyola Avenue
Room 402
New Orleans, Louisiana 70112

AND

B. Through his statutory agent for service of process:
The Honorable Arthur A. Morrell
Clerk of Court
Criminal District Court for the Parish of Orleans
2700 Tulane Avenue
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New Orleans, Louisiana 70119

AND

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2724 Holiday Drive
New Orleans, Louisiana 70131

2. **THE HONORABLE ARTHUR A. MORRELL**
Clerk of Court
Criminal District Court for the Parish of Orleans
2700 Tulane Avenue
Suite 114
New Orleans, Louisiana 70119



STATE OF LOUISIANA - NOTICE OF CANDIDACY (QUALIFYING FORM)

This Notice of Candidacy must be signed by the candidate before a notary public or witnessed by two people. If the candidate is serving outside the state with the armed forces of the United States, the Notice of Candidacy shall be witnessed by a commissioned officer in the armed forces of the United States. This Notice of Candidacy must be filed with the appropriate qualifying official. If this Notice of Candidacy is being filed by an agent on behalf of the candidate, the Agent Affidavit required by La. R.S. 18:463(A)(1)(c) shall also be filed with the qualifying official.

SECTION 1: CANDIDATE INFORMATION

Candidate Name: **FREDRICK DONNELL BROOKS**

Domicile Address: **2724 Holiday Dr., New Orleans, LA 70131**

Mailing Address, if different:

Telephone (Public Record): **(504) - 226 - 5015**

I am presently the incumbent: **N** Y=Yes, N=No

STATISTICAL INFORMATION (OPTIONAL)

Race: **B** W=White, B=Black, O=Other Sex: **M** M=Male, F=Female

SECTION 2: CERTIFICATION

I HEREBY CERTIFY THAT:

- 1) I will be a candidate in the Primary Election to be held on **October 14, 2017**
for the election to the office of **Sheriff**

INSTRUCTIONS FOR BALLOT NAME ON LINE 1: (Failure to follow these instructions may result in your being disqualified as a candidate) La. R.S. 18:463 provides that you may designate your given, first and middle name or initials, a nickname, or any combination thereof, but you cannot designate a title, designation or deceptive name including an occupation or professional description or abbreviation. If your nickname is used in place of your first name (e.g. "Tony") or with your first name (e.g. Anthony "Tony") it must be in quotation marks in the "First Name" field below. You must include your last name in your designation. Include your suffix, if any (e.g. Sr., Jr., or III).

- 2) I designate that my name be printed on the ballot as follows:

First: **Fredrick "Freddy"**

Last: **Brooks**

Suffix:

- 3) I have attached:

(Choose One) ☒ Cash

☐ Certified/Cashier's Check/Money Order from a state or national bank or credit union.

☐ U.S. Postal Money Order

☐ Nominating Petition OR ☐ U.S. armed forces stationed/deployed outside the U.S.

TOTAL AMOUNT RECEIVED:

\$ **5450.00**

- 4) I am a duly qualified elector of the following: Parish: **ORLEANS** Ward: **15** Precinct: **14B**
- 5) My Party affiliation is: **Democrat** (Specify party name if affiliated with a recognized political party, "other" if affiliated with a political party that is not a recognized political party or "no party" if not affiliated with any political party.)
- 6) I have read this Notice of Candidacy and I meet the qualifications of the office for which I am qualifying.
- 7) If I am a candidate for any office other than United States senator or representative in congress, that I am not currently under an order of imprisonment for conviction of a felony pursuant to La. R.S. 18:451.
- 8) If I am a candidate for any office other than United States senator or representative in congress, that for each of the previous five tax years, I have filed my federal and state income tax returns, have filed for an extension of time for filing either my federal or state income tax return or both, or was not required to file either a federal or state income tax return or both.
- 9) I acknowledge that I am subject to the provisions of the Campaign Finance Disclosure Act if I am a candidate for any office other than United States senator, representative in congress, or member of a committee of a political party and that I do not owe any outstanding fines, fees, or penalties pursuant to the Campaign Finance Disclosure Act.
- 10) If I am a candidate for a major or district office as defined in La. R.S. 18:1483, I have filed each report that I have been required to file by the Campaign Finance Disclosure Act, if any were previously due.
- 11) I do not owe any outstanding fines, fees, or penalties pursuant to the Code of Governmental Ethics.
- 12) I certify that I am knowledgeable of the laws governing election offenses as provided in Chapter 10 of Title 18 and the prohibitions relative to creating, displaying, or posting political campaign signs on any highway right-of-way, publicly owned property or right-of-way, or to or on any public utility pole or stanchion, as provided in La. R.S. 48:347(D), La. R.S. 30:2544(A), and La. R.S. 18:1470.
- 13) All the statements contained herein are true and correct.

SECTION 3: SIGNATURES

WITNESSES:

Signature of Candidate:

Sworn to and subscribed before me, Notary Public, this

12th day of **JULY**, **2017**

Michael C. Dornsey
Notary Public
Printed Name and Notary Number

NOTICE: Copies of the Agent Affidavit required by La. R.S. 18:463(A)(1)(c) are available from the Clerk of Court or the Secretary of State. Copies of the forms and pamphlets of explanation and instruction which are distributed by the Supervisory Committee on Campaign Finance Disclosure are available from the Clerk of Court or the Committee, and the information contained in this notice of candidacy may be posted on the website of the Secretary of State, at his discretion.

RECEIVED: **7/12/17** qualifying fee and \$ **115.00** additional fee (DU) no fee on this 12 day of **July 2017** at **09:11** to elect **A M**
Signature of Officer: **Cheryl D. Green** Title of Officer: **Deputy Clerk**

JUL/18/2017/TUE 03:27 PM

FAX No.

P. 002

FILED

State of Louisiana
Department of Revenue

2017 JUL 19 P 3:28

JOHN BEL EDWARDS
Governor



CIVIL
DISTRICT COURT
KIMBERLY LEWIS ROBINSON
Secretary

July 18, 2017

CeCe Cordova
10001 Lake Forest Blvd, Suite 502
New Orleans, Louisiana 70127

Re: Public Records Request received July 18, 2017

Dear Ms. Cordova:

The Louisiana Department of Revenue has received your Public Records Request pursuant of La. R.S. 44:1 et seq as to whether there are any Louisiana Individual Income tax returns on file for Fredrick D. Brooks for tax periods 2011, 2012, 2013, 2014, 2015, and 2016. The Department cannot confirm filing for the subject returns for the subject tax periods.

Sincerely,

Vanessa Coston LaFleur

Vanessa C. LaFleur, Esq.
Custodian of Records
Director, Policy Services Division

FILED
2017 JUL 19 P 3:20

CIVIL DISTRICT COURT

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 2017-6995

DIVISION "C-6"

DEVON DIAZ AND VICTOR ROBINSON

VERSUS

FREDRICK "FREDDY" BROOKS, AND
THE HONORABLE ARTHUR A. MORRELL

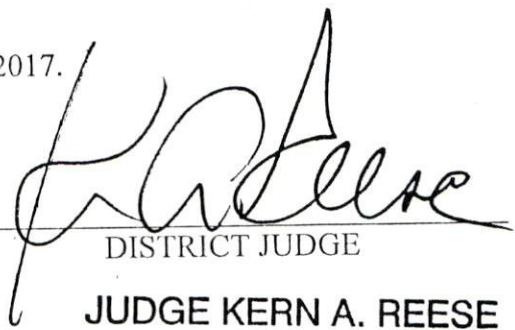
FILED: _____
DEPUTY CLERK

RULE TO SHOW CAUSE

Considering the foregoing Petition for Action Objecting to Candidacy filed by the Plaintiffs, Devon Diaz and Victor Robinson:

IT IS ORDERED THAT the Defendants, Fredrick "Freddy" Brooks, and the Honorable Arthur A. Morrell, show cause, if any they can, on the 21st day of July, 2017 at 10:00 a.m., why Mr. Brooks should not be disqualified as a candidate for the October 14, 2017 primary election for the Sheriff of the Parish of Orleans.

New Orleans, Louisiana, this 20th day of July, 2017.


DISTRICT JUDGE
JUDGE KERN A. REESE


PLEASE SERVE:

1. FREDRICK "FREDDY" BROOKS

A. Through his statutory agent for service of process:
The Honorable Dale N. Atkins
Clerk of Court
Civil District Court for the Parish of Orleans
421 Loyola Avenue
Room 402
New Orleans, Louisiana 70112

AND

B. Through his statutory agent for service of process:
The Honorable Arthur A. Morrell
Clerk of Court
Criminal District Court for the Parish of Orleans
2700 Tulane Avenue
Suite 114
New Orleans, Louisiana 70119

TRUE COPY

DEPUTY CLERK, CIVIL DISTRICT COURT
PARISH OF ORLEANS
STATE OF LOUISIANA

VERIFIED
Barbara Gaudet
Deputy Clerk

Civil District Court for the Parish of Orleans
STATE OF LOUISIANA

No. 2017 - 06995

Section: 06 - L

DIAZ, DEVON ET AL
versus
BROOKS, FREDRICK "FREDDY" ET AL

Date Case Filed: 7/19/2017

NOTICE OF SIGNING OF JUDGMENT

TO:

Patrick R Follette Esq 34547
1 Galleria Blvd Ste 1100
Metairie LA 70001

Robin L Saizan Esq 22150
303 S. Broad St.
New Orleans LA 70119

Arthur A Morrell Esq 01494
P.O.Box 26306
New Orleans LA 70186

In accordance with Article 1913 C.C.P., you are hereby notified that Judgment
in the above entitled and numbered cause was signed on July 24, 2017
New Orleans, Louisiana.
July 24, 2017


MINUTE CLERK

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO.:2017-6995

DIVISION "L"

SECTION "6"

DEVON DIAZ AND VICTOR ROBINSON

VERSUS

FREDRICK "FREDDY" BROOKS, AND THE HONORABLE ARTHUR A. MORRELL

FILED: _____

**_____
DEPUTY CLERK**

JUDGMENT

This matter came for hearing before the Court on Monday, July 24, 2017 at 10:00 a.m. on Plaintiffs, Devon Diaz and Victor Robinson, Petition for Action Objecting to Candidacy.

PRESENT: Patrick R. Follette and Matthew A. Sherman
Attorneys for Plaintiff, Devon Diaz and Victor Robinson

Robin Lawrence Saizan
Court Appointed Attorney for Defendant, Fredrick "Freddy" Brooks

The Honorable Arthur A. Morrell
Clerk of Criminal District Court

After considering the pleading filed herewith, and the attached exhibits, hearing the arguments of counsel, hearing the testimony of witnesses, considering the evidence, as well as, the entire record and the applicable law, and after contradictory hearing, the Court renders the following judgment:

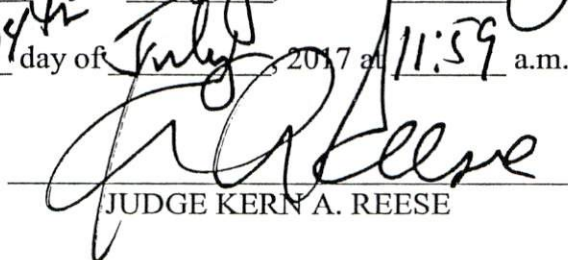
IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Plaintiffs', Devon Diaz and Victor Robinson, Petition for Action Objecting to Candidacy is hereby **GRANTED.**

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Defendant, Fredrick "Freddy" Brooks, has violated La. R.S. §18:463 (A)(2)(a)(iv) by falsely certifying on his Notice of Candidacy that he has filed his state income tax returns for the years of 2011, 2012, & 2013.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the sanction for such a false certification is disqualification from the primary election under La. R.S. §18:464(A).

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Fredrick
"Freddy" Brooks' name be stricken from the ballot for the election for the Sheriff of the Parish
of Orleans, set to take place October 14, 2017.

JUDGEMENT RENDERED on the 24th day of July, 2017 at 11:30 a.m./p.m., and
READ AND SIGNED on the 24th day of July, 2017 at 11:59 a.m./p.m.


JUDGE KERN A. REESE