

FINAL COPY

282 Ga. 865

S07A1355. ALLEN v. YOST.

Hunstein, Presiding Justice.

Appellant Carolyn C. Allen contested the results of the November 8, 2005 election for Ward 5 of the City Council of Dawson, Georgia. More detailed facts surrounding the contested election are set forth in a prior appeal, in which this Court reversed the trial court's initial dismissal of the case. Allen v. Yost, 281 Ga. 102 (636 SE2d 517) (2006).

Following remand, the trial court, after conducting two evidentiary hearings, denied Allen's petition on February 23, 2007. Allen filed a timely notice of appeal, and the appeal was docketed in this Court on May 23, 2007. Oral argument was scheduled for September 11, 2007. Despite the approaching expiration of her opponent's term of office with the next election scheduled for November 6, 2007, Allen did not move to expedite this Court's consideration of her appeal. Allen eventually, on September 7, 2007, moved for supersedeas, seeking a stay of the Ward 5 November 6, 2007 election to prevent her appeal

from becoming moot. That motion was denied, and the November 6 election has now taken place.

“We take this opportunity to re-emphasize that the party seeking review of an election has the obligation to exercise the mechanisms available to produce a timely result.” Kendall v. Delaney, 282 Ga. 482, 483 (651 SE2d 685) (2007). Because Allen only belatedly sought a stay of the November 6, 2007 election and never sought to expedite review in this Court, and because the term of office for the seat Allen had sought has now expired, see Ga. L. 1970, p. 3121, § 2.2, Allen’s appeal is moot. See McCreary v. Martin, 281 Ga. 668, 670 (642 SE2d 80) (2007) (election challenge dismissed as moot where party “did not timely exercise his statutory right to seek a stay of [the] election or to petition this Court for expedition in entertaining his appeal”). As such, the appeal must be dismissed.

Appeal dismissed. All the Justices concur.

Decided January 8, 2008.

Election contest. Terrell Superior Court. Before Judge Altman from Southern Circuit.

Moore, Clarke, DuVall & Rodgers, Kim M. Minix, for appellant.

Hodges, Erwin, Hedrick & Coleman, Franklin T. Coleman IV, Maurice L. King, Jr., Collier & Gamble, Edward R. Collier, for appellees.

