

Commonwealth of Kentucky

Court of Appeals

NO. 2007-CA-000488-MR
AND
NO. 2007-CA-000524-MR

BEVERLY MCCLENDON

APPELLANT/
CROSS-APPELLEE

v. APPEAL AND CROSS-APPEAL FROM MONROE CIRCUIT COURT
HONORABLE RON JOHNSON, JUDGE
ACTION NO. 06-CI-00180

JERRY R. HODGES

APPELLEE/
CROSS-APPELLANT

OPINION AND ORDER DISMISSING CROSS-APPEAL

** ** * ** * ** *

BEFORE: ABRAMSON AND TAYLOR, JUDGES; KNOPF,¹ SENIOR JUDGE.

TAYLOR, JUDGE: Beverly McClendon filed a motion to dismiss Cross-Appeal No. 2007-CA-000524-MR for failure of Jerry R. Hodges to execute a supersedeas bond under Kentucky Revised Statutes (KRS) 120.075. For the reasons hereinafter elucidated, we grant the motion and dismiss Cross-Appeal No. 2007-CA-000524-MR.

¹ Senior Judge William L. Knopf sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and Kentucky Revised Statutes 21.580.

An election contest is a statutory proceeding and the mandates of such statutes must be strictly followed. *Brock v. Saylor*, 300 Ky. 471, 189 S.W.2d 688 (1945); *Doe v. Golden & Walters, PLLC*, 173 S.W.3d 260 (Ky.App. 2005). KRS 120.175 grants a party to an election contest the right to file an appeal with the Court of Appeals. To properly file such an appeal, KRS 120.175 requires that the mandates of KRS 120.075 be followed. KRS 120.075 specifically mandates the execution of a supersedeas bond in the circuit court. Without a correctly executed supersedeas bond, the Court of Appeals is without jurisdiction to hear the appeal. *Wheeler v. Rea*, 306 S.W.2d 294 (Ky. 1957). Also, the execution of a supersedeas bond is mandatory in both an appeal and a cross-appeal from an election contest. *Campbell v. Combs*, 273 Ky. 404, 116 S.W.2d 955 (1938)(dismissing cross-appeal in election contest for failure to execute supersedeas bond).

In Appeal No. 2007-CA-000488-MR, McClendon properly executed a supersedeas bond in the circuit court. However, in Cross-Appeal No. 2007-CA-000524-MR, Hodges failed to execute a supersedeas bond in the circuit court. As such, this Court has no jurisdiction to hear Cross-Appeal No. 2007-CA-000524-MR.

Now, therefore, be it ORDERED that McClendon's motion to dismiss Cross-Appeal No. 2007-CA-000524-MR is hereby GRANTED.

ALL CONCUR.

ENTERED: May 11, 2007

/s/ Jeff S. Taylor
JUDGE, COURT OF APPEALS

BRIEF FOR APPELLANT/CROSS-
APPELLEE:

Daniel T. Taylor, III
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BRIEF FOR APPELLEE/CROSS-
APPELLANT:

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