

SUPREME COURT OF ARKANSAS

Nos. CV-18-722

RANDY ZOOK, INDIVIDUALLY
AND ON BEHALF OF ARKANSANS
FOR COMMON SENSE TERM
LIMITS, A BALLOT QUESTION
COMMITTEE

PETITIONER

V.

MARK MARTIN, IN HIS OFFICIAL
CAPACITY AS SECRETARY OF
STATE OF THE STATE OF
ARKANSAS

RESPONDENT

ARKANSAS TERM LIMITS, A
BALLOT QUESTION COMMITTEE
INTERVENOR

Opinion Delivered: September 7, 2018

AN ORIGINAL ACTION

MOTION FOR APPOINTMENT OF
SPECIAL MASTER GRANTED;
MOTION TO BIFURCATE
PROCEEDINGS GRANTED;
MOTION FOR EXPEDITED
SCHEDULING ORDER GRANTED;
MOTION TO INTERVENE
GRANTED; AND MOTION FOR
ORAL ARGUMENT DENIED.

PER CURIAM

Respondent, Mark Martin, Arkansas Secretary of State, certified a proposed initiated constitutional amendment with the popular name “The Arkansas Term Limits Amendment” to be placed on the November 6, 2018 general election ballot. On September 5, 2018, petitioner, Randy Zook, individually and on behalf of Arkansans for Common Sense Term Limits, a ballot question committee, filed an original action in this court, pursuant to article 5, section 1 of the Arkansas Constitution, as amended by amendment 7 to the Arkansas Constitution, challenging the proposed amendment. The petition contains

two counts. In Count I, petitioner alleges defects in the popular name and ballot title. In Count II, petitioner alleges that the signatures collected are insufficient once invalid petitions and signatures are removed from respondent's count. Petitioner also filed a motion for appointment of special master, for bifurcation of the proceedings, for an expedited scheduling order, for oral argument, and for leave of court to take depositions and shorten discovery deadlines. In response, respondent filed a response to the original action petition as well as a response to the petitioner's motion. Arkansas Term Limits, a ballot question committee and sponsor of the proposed amendment, has filed an unopposed motion to intervene in this action.

As an initial matter, we grant the motion to intervene. Further, in the interests of judicial economy and expediting the proceedings, we grant the motion to bifurcate the proceedings, and we set separate briefing schedules below. Count I of the petition alleges defects in the popular name and ballot title of the proposed amendment, and briefing may commence immediately. In contrast, Count II of this original action raises issues of fact. Arkansas Supreme Court Rule 6-5(c) (2017) provides that evidence on issues of fact will be taken by a special master to be appointed by this court. Therefore, we appoint the Honorable Mark Hewitt as special master and direct him to conduct such proceeding, and hearings subject to, and in accordance with, Rule 6-5(b) and Arkansas Rule of Civil Procedure 53 (2017), as are necessary to determine the questions of facts contained in Count II of the petition.

We further direct the special master to file his report with this court by September 25, 2018. In the discharge of his duties, the special master has the authority to address the

parties' discovery motions. This court has routinely required parties to post a bond in original actions brought under amendment 7 when a master is appointed. *See Stephens v. Martin*, 2014 Ark. 402 (per curiam). Respondent, as the State of Arkansas, is not subject to the payment of costs. *See id.* Petitioner and intervenor are both directed to file a bond to be approved by our clerk in the amount of \$5,000 to secure payment for costs adjudged against them incurred in taking and transcribing proof, including the special master's fee.

We grant petitioner's motion for expedited consideration, and we set the expedited briefing schedules as follows. For Count I, petitioner's brief is due by 4:30 p.m. on September 14, 2018; response briefs are due by 4:30 p.m. on September 21, 2018; and petitioner's reply brief is due by 4:30 p.m. on September 24, 2018. For Count II, simultaneous briefs are due by 4:30 p.m. on October 1, 2018; simultaneous reply briefs are due by 4:30 p.m. on October 8, 2018.

Motion for oral argument denied.

It is so ordered.