

**SUPREME COURT OF ARKANSAS**

No. CV-12-1076

KAITLIN LOTT

APPELLANT

V.

SUSAN LANGLEY, IN HER OFFICIAL  
CAPACITY AS CITY OF LITTLE  
ROCK CLERK; AND OZELL SNIDER,  
PHIL WYRICK, AND SUSAN INMAN,  
IN THEIR OFFICIAL CAPACITIES AS  
THE PULASKI COUNTY BOARD OF  
ELECTION COMMISSIONERS

APPELLEES

Opinion Delivered June 6, 2013

APPEAL FROM THE PULASKI  
COUNTY CIRCUIT COURT  
[NO. 60CV-12-4025]

HONORABLE JAY MOODY, JUDGE

APPEAL DISMISSED.**CLIFF HOOFFMAN, Associate Justice**

Appellant Kaitlin Lott appeals from the Pulaski County Circuit Court's denial of her petition for writ of mandamus. Because we conclude that the issues presented by Lott on appeal are moot, we dismiss the appeal.

Lott filed a petition for writ of mandamus and injunctive relief on August 23, 2012, alleging that on August 17, 2012, she had submitted a petition for nomination for City Director, Position No. 10, containing the requisite fifty signatures of qualified electors; that on August 20, 2012, Susan Langley, City of Little Rock Clerk, had informed Lott that her petition did not meet the statutory requirement of having fifty qualified electors; and that on August 21, 2012, Lott sent a letter to Langley attaching documentation showing that four of the persons listed on the petition were registered voters in Little Rock. Lott asked that

Langley be compelled to certify her as a candidate for the city director position and requested an injunction to prevent the election board from drawing ballot positions and taking any action that would affect her right to be considered as a candidate.

After a hearing was held on August 24, 2012, the circuit court entered an order on August 30, 2012, denying Lott's petition. The court found that Lott had failed to present the names and resident addresses of fifty qualified electors as required by Arkansas Code Annotated section 14-47-110. The court ordered the election commission to remove her name from the November 2012 election ballot. Lott filed a timely notice of appeal from the court's decision; however, she did not seek expedited review.

As a threshold issue, because the election at issue in this case has already occurred, this court must address whether this case is moot. As a general rule, the appellate courts of this state will not review issues that are moot because to do so would be to render an advisory opinion. *Allison v. Lee Cnty. Election Comm'n*, 359 Ark. 388, 198 S.W.3d 113 (2004). Generally, a case becomes moot when any judgment rendered would have no practical legal effect upon a then existing legal controversy. *Id.* We have, however, recognized two exceptions to the mootness doctrine. *Id.* The first exception involves issues that are capable of repetition, yet evading review, and the second exception concerns issues that raise considerations of substantial public interest which, if addressed, would prevent future litigation. *Id.*

In *Watts v. Searcy County Board of Elections*, 364 Ark. 452, 220 S.W.3d 642 (2005), this court refused to address the merits of an appeal when the election had already been held. The

appellants had filed a writ of mandamus in the circuit court to direct the board of elections to place an initiative on the ballot for the upcoming election. In determining that the case was moot, we concluded that the appellants had failed to seek expedited consideration of the case and that the only relief they had requested in their petition was to have the initiative placed on the ballot. Additionally, we noted that appellants had failed to suggest that their appeal fell within an exception to the mootness doctrine, and we held that the issues presented in the appeal did not raise considerations of substantial public interest that might prevent future litigation. *See also Ball v. Phillips Cnty. Election Comm'n*, 364 Ark. 574, 222 S.W.3d 205 (2006). *But see Kinchen v. Wilkins*, 367 Ark. 71, 238 S.W.3d 94 (2006) (holding that election issue was not moot where injunction applied only to special election and the issue could be presented again at the upcoming general election); *Stilley v. Makris*, 343 Ark. 673, 38 S.W.3d 889 (2001) (reaching the issue presented despite a potential mootness issue where three other appeals on the same issue were expected).

In this case, Lott argues that Langley wrongly refused to certify Lott's nomination for the city director position on the November 2012 ballot because Lott's petition did not contain the statutorily required fifty signatures of qualified electors. Specifically, Lott contends that Langley incorrectly rejected three of the signatures on Lott's petition: two signatures because those signers failed to provide a residential address that matched the address listed on their voter-registration record, and one signature because that signer neglected to list a residential address at all. Lott asserts that the requirement in Arkansas Code Annotated section 14-47-110(a)(3)(A)(ii) that the petition "shall" show the residential address of each signor should be

interpreted as “directory” rather than mandatory. In response, Langley maintains that she correctly refused to certify Lott for the ballot because she failed to present a timely petition containing the names and residential addresses of fifty qualified electors.

We are convinced that the issues presented by this case are moot, that any opinion issued on the merits would be wholly advisory, and that this case does not fall within any of our recognized exceptions. First, the record reflects that the parties did not seek expedited consideration of this case, and the election for the city director position that Lott was seeking took place in November 2012. Second, in Lott’s petition for writ of mandamus, she requested that the circuit court compel Langley to certify her for the ballot and that the circuit court enjoin the election board from drawing positions for the ballot or from taking any action that would affect Lott’s right to be a candidate for city director. Lott’s prayer for relief can no longer be granted, which renders the matter moot. In addition, this case does not present issues that are capable of repetition but evade review. If Lott had sought expedited appellate review of the denial of her petition, the issues in this case could have been examined before the November 2012 election. Finally, this case does not involve the consideration of issues of substantial public interest which, if addressed, would prevent future litigation. Although we have considered the merits of an appeal after the election has been held, we usually do so when the public interest is involved. Lott does not suggest that her case falls within this exception, and we are not persuaded that an exception should be made in this case.

Appeal dismissed.

*David A. Couch PLLC*, by: *David A. Couch*, for appellant.

*Thomas M. Carpenter* and *John M. Pesek*, Office of the City Attorney, for appellee.