

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
FRANKFORT

CIVIL ACTION NO. 3:06-36-KKC

MARCUS CAREY,

PLAINTIFF,

v.

OPINION AND ORDER

STEPHEN D. WOLNITZEK,
in his Official Capacity
as Chairperson of the Kentucky Judicial
Conduct Commission, et al.

DEFENDANTS.

* * * * *

This matter is before the Court on the Plaintiff's Motion to Expedite Disposition (Rec. No. 4). In his Verified Complaint (Rec. No. 1), the Plaintiff, Marcus Carey, argues that various provisions of the Kentucky Code of Judicial Conduct as set forth in Kentucky Supreme Court Rule 4.300 violate his rights under the First Amendment of the United States Constitution.

In his Verified Complaint, Carey states that he is a candidate for election to the Kentucky Supreme Court for the Sixth Appellate District of the Commonwealth of Kentucky. (Rec. No. 1). He states that he wants to answer certain questions announcing his views on disputed legal and political issues by posting his responses on his website. He states he also wants to pose those questions to other judicial candidates.

Carey states that he wants to state his political party affiliation, seek endorsements from other political officials and solicit individuals for contributions during his campaign. Carey states that he cannot engage in any of this conduct without risking an allegation that such conduct constitutes a violation of the Kentucky Code of Judicial Conduct. Carey asks the Court to declare unconstitutional and prohibit the Defendants from enforcing the allegedly offending provisions of the Kentucky Code of Judicial Conduct as well as KRS § 26A.015(2)(e). Carey has also filed a Motion for Preliminary Injunction (Rec. No. 2).

In his Motion to Expedite Disposition (Rec. No. 4), Carey asks that the Court order an expedited

briefing schedule on the Motion for Preliminary Injunction because “citizens have an interest in knowing the judicial candidate’s political and legal views on disputed issues, and judicial candidates have a constitutional right to announce those views before the general election scheduled for November 7, 2006.” Carey’s Verified Complaint and Motion for Preliminary Injunction were filed on June 9, 2006. Carey asks that the Defendants be required to respond to the Motion for Preliminary Injunction by June 19, 2006.

Carey’s Complaint and Motion for Preliminary Injunction raise serious and complex constitutional issues. The Court recognizes that the general election will occur in a little less than five months and understands that Carey would like this issue resolved as expeditiously as possible. Nevertheless, to the extent that the Defendants have already been served with the Motion for Preliminary Injunction and Complaint, under the local rules, their response to the motion will be due within fifteen days, not much later than the expedited schedule Carey requests. To the extent that any defendant has not yet been served with the motion, imposing a June 19, 2006 deadline for a response would be unfair.

The response time provided by the local rules adequately addresses the need for expeditious resolution of this case while permitting all parties a fair opportunity to respond to the charges made in the Verified Complaint and Motion for Preliminary Injunction.

Accordingly, the Court hereby ORDERS that Carey’s Motion to Expedite Disposition (Rec. No. 4) is DENIED.

Dated this 13th day of June, 2006.



Signed By:

Karen K. Caldwell

Handwritten signature of Karen K. Caldwell, consisting of stylized initials "KKC".

United States District Judge