

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2009

DR. BRENDA C. SNIPES, in her official capacity as Broward County
Supervisor of Elections,
Petitioner,

v.

FLORIDA ELECTIONS COMMISSION,
Respondent.

No. 4D09-1450

[October 21, 2009]

PER CURIAM.

The petition for writ of prohibition directed to the Florida Elections Commission is denied on the merits. Petitioner seeks to prevent the Florida Elections Commission from investigating an election code violation based upon a complaint filed against petitioner. Prohibition lies to prevent a lower tribunal from acting in excess of its jurisdiction, but not to prevent an erroneous exercise of jurisdiction. *See English v. McCrary*, 348 So. 2d 293 (Fla. 1977). The Elections Commission has the power to investigate election code violations. *See* § 106.25(1), Fla. Stat. (2009). Here, petitioner complains that the Elections Commission is erroneously exercising its investigatory powers based upon a legally insufficient complaint. The Commission held that the complaint is legally sufficient based upon the requirements of the Administrative Code. *See* Fla. Admin. Code R. 2B-10025. If the Commission erroneously exercises its jurisdiction, it may be remedied on appeal. It is not the proper subject of a petition for writ of prohibition. *See Resolution Trust Corp. v. Mayor & City Comm'n of City of S. Miami*, 633 So. 2d 1119 (Fla. 1st DCA 1994).

GROSS, C.J., WARNER and CIKLIN, JJ., concur.

* * *

Petition for writ of prohibition to the State of Florida, Florida Elections Commission; L.T. Case No. 08-416.

Burnadette Norris-Weeks of Burnadette Norris-Weeks, P.A., Fort Lauderdale, for petitioner.

Bill McCollum, Attorney General, Tallahassee, and Jonathan A. Glogau, Assistant Attorney General, Tallahassee, for respondent.

Not final until disposition of timely filed motion for rehearing.