

IN THE UTAH COURT OF APPEALS

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Brian K. Stack,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Petitioner and Appellant,)	
)	Case No. 20080237-CA
v.)	
)	F I L E D
Clark A. Harms,)	(June 12, 2008)
)	
Respondent and Appellee.)	2008 UT App 228

Third District, Salt Lake Department, 070916604
The Honorable Robert K. Hilder

Attorneys: Brian K. Stack, Draper, Appellant Pro Se
Mark L. Shurtleff and Brent A. Burnett, Salt Lake
City, for Appellee

Before Judges Bench, Davis, and McHugh.

PER CURIAM:

Brian K. Stack appeals the trial court's dismissal of his action for removal against Clark A. Harms. This is before the court on its own motion for summary disposition based on the absence of a substantial question for review.

Harms is a member of the Board of Pardons and Parole (Board). It is clear that Harms is an officer of the state as a Board member. Stack filed an action seeking to remove Harms from office pursuant to Utah Code section 77-6-1, which states that "all officers of any city, county or other political subdivision of this state not liable to impeachment shall be subject to removal as provided in this chapter for high crimes and misdemeanors or malfeasance in office." Utah Code Ann. § 77-6-1 (2003). The trial court dismissed the action, finding that Harms was not within the scope of the statute.

It is well settled that state officers are not subject to section 77-6-1 because it is expressly limited to officers of cities, counties, or other political subdivisions. See People ex rel. Smith v. Lewis, 939 P.2d 176 (Utah 1996) (stating that "Title 77, Chapter 6 does not provide for the removal of state officers"); Estes v. Talbot, 597 P.2d 1324, 1326 (Utah 1979)

(holding that state officers are not subject to the removal statute because they are not officers of any city, county, or other political subdivision of the state). As an officer of the state, Harms is beyond the reach of this statute. Accordingly, the trial court properly dismissed Stack's action for removal.

Affirmed.

Russell W. Bench, Judge

James Z. Davis, Judge

Carolyn B. McHugh, Judge