

**ALABAMA STATE DEMOCRATIC EXECUTIVE COMMITTEE**

**EVERETT W. WESS,**

**CHALLENGER,**

**V.**

**KECHIA DAVIS**

**CANDIDATE.**

**MARCH 2020 PRIMARY ELECTION**

**ORDER OF THE CHALLENGE HEARING SUBCOMMITTEE**

Everett W. Wess filed a timely challenge to the candidate qualifications of Kechia Davis, a candidate for the office of judge of the Jefferson County Circuit Court (Place 3). Chair England convened a subcommittee to hear this challenge within the 10-day window. SDEC Bylaws Art. VII, Sec. 9(a). By consent of the parties and for their convenience, the hearing was continued to 1:00 p.m. on Tuesday, November 26, 2019.

Present at the hearing for the challenger were Mr. Wess and his counsel, Ezra Jordan, along with Jacquese Gary. Present for the candidate were Ms. Davis and her counsel, Martin Weinberg. Members of the challenge hearing subcommittee were Jim Sturdivant (chair), Julia Juarez, Sue Thompson, Curtis Travis, and Terri Wiggins-Chapman, all of whom are members of the Alabama State Democratic Executive Committee. A court reporter was present to record the proceedings.

Mr. Wess challenged that Ms. Davis is ineligible to run for the office for which she qualified because she lives in the Bessemer Cutoff area of Jefferson County. There are two divisions to the Jefferson County Circuit Court—the Bessemer Division (or “Bessemer Cutoff”) and the Birmingham Division. In the March 2020 Alabama Democratic Primary election, voters from the Bessemer Division will not be eligible to vote for countywide judgeships; they will be

able to vote for Place 3 during the general election. The challenge states that, because Ms. Davis is ineligible to vote in the primary election for this office, she cannot properly qualify as a candidate for Jefferson County Circuit Judge (Place 3), under Alabama Code section 17-13-6

Ms. Davis responded that, under Alabama Code section 12-17-22, candidates for circuit judge “must have resided in the circuit for which they are elected or appointed for at least 12 months” before the judge’s election or appointment, and that the judge must maintain their residence in that circuit during their term of office. Ms. Davis further cites an opinion of the Attorney General of Alabama that states “district judges in Jefferson County are not required to reside in the geographic territory of the division in which they serve.” Op. of Ala. A.G., *Residence Requirements -- District Judges -- Jefferson County*, No. 2010-093 (Aug. 18, 2010).

Both sides presented their position and their relevant evidence and were allowed to speak on their behalf. After the hearing, the subcommittee convened in executive session to discuss this matter. The hearing subcommittee decided by a vote of 5-0 that the challenge be DENIED and that Ms. Davis is eligible to run as a candidate in the Jefferson County Democratic Primary on March 3, 2020, for District Court Judge, Place 3.

The hearing subcommittee based its ruling on the substantial evidence before it. Substantial evidence is “evidence of such weight and quality that fair-minded persons in the exercise of impartial judgment can reasonably infer the existence of the fact sought to be proved.” *Ex parte Dial Kennels of Ala., Inc.*, 771 So. 2d 419, 421 (Ala. 1999); *West v. Founders Life Assurance Co.*, 547 So. 2d 870, 871 (Ala. 1989). Substantial evidence supports the decision of the challenge hearing subcommittee; indeed, neither party disputes that Davis lives within the Bessemer Cutoff area of Jefferson County. *See Wess Challenge* at 3.

The subcommittee notes that it is also undisputed Ms. Davis is eligible to run for the Place 3 position in the general election and to vote for the position in the general election,. The subcommittee does not view Alabama Code Section 17-13-6 as prohibiting Ms. Davis from running as a Bessemer Cutoff Division candidate since she is eligible to vote in the Jefferson County primary election – the fact that she cannot vote for herself does not change her status as an elector in the Jefferson County primary election to be held on March 3, 2020.

Mr. Wess may appeal this decision within five days of this ruling. Any appeal must be made directly to Chair England at the addresses listed on the statement of service. The only two grounds for appeal are that this decision “was not supported by any substantial evidence or was void as a matter of law.” SDEC Bylaws Art. VII, Sec. 9(b)(8). Any appealing party who states this decision was not supported by substantial evidence must produce a transcript of the hearing proceedings at their own cost. Any appeal would be heard by the SDEC as a whole. Additional security may be required by Chair England if an appeal is filed. SDEC Bylaws Art. VII, Sec. 9(b)(6).

**Dated: November 26, 2019**

Signed,

*s/ Jim Sturdivant*

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Jim Sturdivant

**Chair, SDEC Challenge Hearing  
Subcommittee**