

IN THE CIRCUIT COURT OF HINDS COUNTY  
FIRST JUDICIAL DISTRICT

BOB HICKINGBOTTOM

PLAINTIFF

VS

CAUSE NO. 23-249

THE MISSISSIPPI STATE DEMOCRATIC PARTY

DEFENDANT

**MOTION FOR SUMMARY JUDGMENT OF DEFENDANT**  
**THE MISSISSIPPI STATE DEMOCRATIC PARTY**

COMES NOW the Defendant, the Executive Committee of the Democratic Party of the State of Mississippi (hereinafter “Movant,” the “State Executive Committee” or the “State Democratic Party”), by and through its undersigned attorney, pursuant to Rule 56, Miss. R. Civ. P., and moves for summary judgment in its favor on the grounds that there is no dispute in the material facts in this cause and is entitled to summary judgment in its favor as a matter of law, and in support thereof would show the following:

1. The Defendant State Executive Committee of the Mississippi Democratic Party is responsible for determining the qualifications of candidates entering the election for party nomination for statewide and state district offices, including the office of Governor. Miss. Code Ann. § 23-15-299(7).

2. On February 1, 2023, the Plaintiff Bob Hickingbottom filed a Qualifying Statement of Intent with the State Executive Committee declaring his candidacy for the Democratic Party nomination for Governor in the Primary Election to be held on Tuesday, August, 8, 2023. Exhibit 1.<sup>1</sup>

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<sup>1</sup> The deadline for a candidate for governor seeking party nomination to file his or her qualifying papers and pay the filing fee with the state executive committee is by 5:00 p.m. on February 1, 2023. Miss. Code Ann. § 23-15-299. Mr. Hickingbottom filed for office on the deadline day.

3. On Friday, February 10, 2023, Mr. Jim Newman timely filed with the State Executive Committee his petition contesting Mr. Hickingbottom's qualifications. Exhibit 2.<sup>2</sup>

4. On Monday, February 13, 2023, Tyree Irving, the Chairman of the State Executive Committee notified Mr. Hickingbottom, by email to [bogh299@gmail.com](mailto:bogh299@gmail.com) sent at 3:13 p.m., that a hearing on Mr. Newman's contest petition would be conducted by the State Executive Committee the next day, on Tuesday, February 14, 2023, at 6:30 p.m., via a zoom call meeting. Exhibit 3. Chairman Irving's email to Mr. Hickingbottom included Mr. Newman's contest petition as an attachment. *Id.*

5. On Tuesday February 14, 2013, Andre J. Wagner, the Executive Director of the State Executive Committee, transmitted to Mr. Hickingbottom, by email to [bogh299@gmail.com](mailto:bogh299@gmail.com) sent at 2:44 p.m., a message from Chairman Irving stating the following:

*Good Afternoon, please a message from our chair, Mr. Tyree Irving:*

*I have rescheduled the meeting that was initially set for tomorrow Tuesday, February 14, 2023, to consider the challenges to the qualifications of several of the candidates running to become the Party's nominee for Governor, and for House of Representatives, District 64. The new meeting date is Thursday, February 16, 2023, at 6:30 PM. The meeting will be virtually via Zoom. You may access the meeting via the following link:*

*Join Zoom Meeting*

*<https://us06web.zoom.us/j/82324012190?pwd=KzV5cGcwTjFXQit5VnFNbXNlUa01ZZz09>*

*Sincerely,*

*Tyree Irving*

*Chairman, Mississippi Democratic Party*

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<sup>2</sup> "Any person desiring to contest the qualifications of another person as a candidate for nomination in a political party primary election shall file a petition [with the executive committee with whom the candidate in question qualified] specifically setting forth the grounds of the challenge within ten (10) days after the qualifying deadline for the office in question." Miss. Code Ann. § 23-15-961(1).

Exhibit 4.

6. Mr. Hickingbottom attended the zoom meeting of the State Executive Committee on February 16, 2023, but failed to respond when Chairman Irving called for Mr. Hickingbottom to put forth evidence or testimony in support of his qualifications and/or in rebuttal to Mr. Newman's contest. Affidavit of Andre J. Wagner, Exhibit 5. Thereafter, Chairman Irving asked all non-committee members to leave the zoom meeting so that it could continue as an executive session among the committee members only. *Id.*

7. Once the February 16, 2023 zoom meeting continued to an executive session, Mr. Hickingbottom rejoined the zoom meeting in the middle of the executive session and was allowed to offer testimony on his own behalf. Mr. Hickingbottom then left the zoom meeting once again. *Id.*

8. The State Executive Committee voted during the aforesaid zoom meeting to grant Mr. Newman's contest petition and to not certify Mr. Hickingbottom's candidacy. *Id.*

9. On Friday, February 17, 2023, Mr. Wagner notified Mr. Hickingbottom, via email sent at 9:42 a.m., regarding that body's non-certification decision. Exhibit 6.

10. Seventy-seven (77) days later, on May 3, 2023, Mr. Hickingbottom filed with this court his PETITION TO CONTEST AND OVERTURN THE MISSISSIPPI STATE DEMOCRATIC EXECUTIVE COMMITTEE'S DISQUALIFICATION OF BOB HICKINGBOTTOM. Mr. Hickingbottom stated therein that the circuit court petition was filed pursuant to Miss. Code Ann. § 23-15-961 and Miss. Code Ann. § 23-15-299.

11. Mr. Hickingbottom's petition for judicial review was untimely filed with the circuit court under Miss. Code Ann. § 23-15-961(4).

12. The State Executive Committee, the only defendant named in Plaintiff Hickingbottom's election contest petition, is not a proper defendant.

13. Movant State Executive Committee incorporates herein the pleadings heretofore filed in this cause, the attached exhibits and affidavit of Andre Wagner, along with its memorandum of authorities in support of this motion.

14. As there is no dispute in the material facts, Movant State Executive Committee is entitled to summary judgment in its favor as a matter of law.

WHEREFORE Movant State Executive Committee prays for summary judgment in its favor with costs taxed to the Plaintiff Bob Hickingbottom pursuant to Miss. Code Ann. § 23-15-961(5).

Respectfully submitted, this the 8th day of May, 2013.

/s/ Gerald A. Mumford  
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*Attorney for The Executive Committee of the  
Democratic Party of the State of Mississippi*

**CERTIFICATE OF SERVICE**

I certify that on this day I electronically filed the foregoing notice with the Clerk of the Court using the MEC system which will send notification of such filing to all counsel of record. I further certify that I will be sending this notice via email to the Honorable Forrest A. Johnson, Jr., Specially Appointed Circuit Judge at [johnsonforrest730@gmail.com](mailto:johnsonforrest730@gmail.com).

Certified, this the 8th day of May, 2023.

/s/ Gerald A. Mumford  
Gerald A. Mumford, Esq.