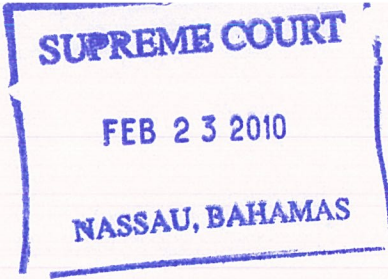


COMMONWEALTH OF THE BAHAMAS
IN THE ELECTION COURT



2010

No: 00221

IN THE MATTER OF The Parliamentary
Elections Act 1992

AND

IN THE MATTER OF an Election for the
Elizabeth Constituency held on the 16 day
of February, 2010

BETWEEN

LEO RYAN PINDER

Petitioner

AND

JACK THOMPSON
(Returning Officer)

First Respondent

ERROL BETHELL
(Parliamentary Commissioner)

Second Respondent

DUANE SANDS

Third Respondent

CASSIUS STUART

Fourth Respondent

ANDRE ROLLINS

Fifth Respondent

AND

RODNEY MONCUR

Sixth Respondent

PETITION

THE PETITION OF LEO RYAN PINDER SHOWS:-

1. That Your Petitioner, Leo Ryan Pinder was a candidate at the above election.
2. That Malcolm E. Adderley the duly elected member of Parliament for the Constituency of Elizabeth tendered his resignation as a member of Parliament effective 6 January 2010.
3. That on 19 January, 2010 the Speaker of The House of Assembly advised His Excellency the Governor General of the resignation and in accordance with Section 33(1) of the Parliamentary Elections Act ("The Act") requested the issue of a Writ of Election for the Constituency of Elizabeth.
4. On 19 January, 2010 the Governor General acknowledged receipt of the Honourable Speaker's communication and advised that in accordance with Article 67(3) of the Constitution and Section 33(1) of the Act a Writ of Election would be issued.
5. That a Writ of Election was issued on 21 January, 2010 fixing the 16 February, 2010 as the day for the holding of the election.
6. That the election was held on the 16 February, 2010 in which the Third, Fourth, Fifth and Sixth Respondents and Your Petitioner were candidates.
7. That after the close of the poll the Presiding Officers in each of the 12 Polling Divisions of the Elizabeth Constituency in the presence of candidates and/or their election agents opened the ballot boxes and counted the regular and protest votes for each candidate and declared the results and provided the agents of your Petitioner with the Form Q as prescribed by the Act. The Ballot Boxes were then sealed in the presence

of the Candidates and/or their agents and delivered to the custody of the First Respondent.

8. That Your Petitioner was notified by the First Respondent that the recount of the ballots required by Section 66 of the Act, would take place on 17 February, 2010 at Thelma Gibson Primary School commencing at 8:00 a.m. Your Petitioner and/or his agents were present for the recount by the First Respondent..

9. That there were six protest ballots cast in the election as follows:

- (a) Polling Division 4 - 1 marked for Your Petitioner
- (b) Polling Division 5 - 1 marked for Your Petitioner
1 marked for Cassius Stuart
- (c) Polling Division 7 - 1 marked for Your Petitioner
- (d) Polling Division 8 - 1 marked for Your Petitioner
- (e) Polling Division 10 - 1 marked for Your Petitioner

10. That the declared results of ballots cast following the recount were:-

Leo Ryan Pinder	1504
Duane Sands	1501
Cassius Stuart	116.
Andre Rollins	72
Rodney Moncur	21

11. That immediately following the recount pursuant to Section 69(2) of the Act, by letter dated 16 February, 2010 Your Petitioner notified the First Respondent in writing of his wish to avail himself of the provisions of Section

69 (1) of the Act so that the protest votes received by all the candidates could be taken into account and their validity determined by this Honourable Court.

12. That the matters aforesaid give Your Petitioner the right to make this application under subsection (2) of Section 69 of the Act.

Your Petitioner prays that this Honourable Court :-

- (i) Determine the validity of the protest votes cast for all candidates in the aforesaid Election;
- (ii) Determine whether any or all of the aforesaid voters were entitled to be properly registered and were entitled to vote in the aforesaid Election;
- (iii) Determine whether if so entitled, the votes of any or all of the aforesaid voters should be allowed;
- (iv) Determine whether it is necessary to order that the register be rectified;
- (v) If the answer to paragraph (iv) is in the affirmative this Honourable Court directs that said Register be rectified accordingly;
- (vi) Certifies in writing to the First Respondent the number of protest votes which it has allowed in respect of each candidate in the said Election;

- (vii) Cause copies of such certificate to be forwarded to His Excellency the Governor-General and to the Clerk of the House of Assembly;

AND THAT

- (viii) The costs of and incidental to these proceedings be provided for; and
- (ix) Your Petitioner may have such further or other remedy as may be just.

Dated this 23rd day of February, 2010



Petitioner

THIS PETITION was presented by DAVIS & CO. whose address for service is c/o Davis & Co. Attn. Philip E. Davis, 700 Bay Street East, Nassau, Bahamas. Attorneys for the Petitioner.

It is proposed to serve a copy of this Petition on the Respondents herein and on the Attorney General.

Received on the 23rd day of February, 2010 at the Registry of the Supreme Court, a Petition to have the validity of the protest votes touching the election for the Elizabeth Constituency determined and purporting to be signed by Leo Ryan Pinder.


REGISTRAR

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P E T I T I O N

2010
No: 00221


DAVIS & CO.
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