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Clerk, Supreme Court of Appeals
Richmond, Va.

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Record No. 6127

In the Supreme Court of Appeals of Virginia at Richmond

JACK N. KEGLEY, GENERAL REGISTRAR OF ALBEMARLE COUNTY

v.

DUDLEY DISOSWAY JOHNSON

FROM THE CIRCUIT COURT OF ALBEMARLE COUNTY

RULE 5:12—BRIEFS

§5. Number of Copies. Twenty-five copies of each brief shall be filed with the clerk of this Court and three copies shall be mailed or delivered by counsel to each other counsel as defined in Rule 1:13 on or before the day on which the brief is filed.

§6. Size and Type. Briefs shall be nine inches in length and six inches in width, so as to conform in dimensions to the printed record, and shall be printed in type not less in size, as to height and width, than the type in which the record is printed. The record number of the case and the names and addresses of counsel submitting the brief shall be printed on the front cover.

HOWARD G. TURNER, Clerk.

Court opens at 9:30 a. m.; Adjourns at 1:00 p. m.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 6127

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Monday the 26th day of April, 1965.

JACK N. KEGLEY, GENERAL REGISTRAR OF ALBEMARLE COUNTY, Plaintiff in Error,

against

DUDLEY DISOSWAY JOHNSON, Defendant in Error.

From the Circuit Court of Albemarle County
Lyttelton Waddell, Judge

Upon the petition of Jack N. Kegley, General Registrar of Albemarle County, a writ of error is awarded him to a judgment rendered by the Circuit Court of Albemarle County on the 3rd day of November, 1964, in a certain proceeding then therein depending wherein Dudley Disosway Johnson was plaintiff and the petitioner was defendant; no bond being required.

RECORD

* * * * *

Filed this 8 day of Oct. 1964.

EVA W. MAUPIN, Clerk.

PETITION TO DETERMINE VOTER'S RIGHTS TO REGISTER.

To the Honorable Lyttelton Waddell, Judge of the aforesaid Court:

Your petitioner, Dudley Disosway Johnson, files this his petition in accordance with Title 24, Chapter 6, (Section 24-112) of the 1950 Code of Virginia, and alleges as follows:

(1) That your petitioner is a citizen of the United States, over the age of twenty-one years, who has been a resident of the State of Virginia more than one year; of Albemarle County more than six months; and of the Courthouse voting precinct in said County more than thirty days.

(2) That though he has not paid to the proper officer of this State, any State poll taxes, thereby making him ineligible to vote in any local election, he is otherwise fully qualified to vote in all national elections, said payment of poll taxes not being a qualification of the right of suffrage in said national elections.

(3) That on October 1, 1964, your petitioner made application to register in his own handwriting, without aid, suggestion, or memorandum, in the presence of the general registrar of Albemarle County stating therein his name, and that he was twenty-five years of age, born February 10, 1939, at New York, New York, and that he has resided in the New Copeley Hill Apartments in Albemarle County for the past year (in Building 5, Apartment 8 until June 10, 1964; in Building 9, Apartment B4 since then) and that he has been registered to vote at his previous address in Temple Terrace, Florida but is no longer so registered.

page 2 } (4) That your petitioner proved and made known to said general registrar: (a) that he and his wife moved to Albemarle County on September 11, 1963; (b) that

he and his wife (now a registered voter in said Courthouse voting precinct) have since resided in said home; (c) that his present home and voting residence is his *only* home and voting residence; (d) that his automobile is registered in the State of Virginia with the said above address listed as his home address; (e) that he is registered as a student in the University of Virginia with the said address listed as his home address; (f) that all his mail, business and personal, is sent to this, his home address; (g) that he is assessed for Albemarle County taxes at this, his home address, such taxes being used for the schools, roads, etc. of Albemarle County; (h) that since September 1963 he has been employed by the State of Virginia as a Graduate Assistant in the department of Economics at the University of Virginia; (i) that he, his wife and two children intend to retain their present residence, it being their only home, until at least 1966, when he will graduate from the University of Virginia, and they intend to reside in Albemarle County for at least an indefinite time thereafter, the length of which will depend on the opportunities presented to him in his profession.

(5) That the above facts stated to the general registrar were at that time and still are true, and that your petitioner is entitled to register in the said Courthouse voting precinct.

(6) That the said general registrar refused to register your petitioner and still refuses to register him.

(7) That the general registrar for Albemarle County is Jack N. Kegley.

(8) That no previous application has been made for the relief sought herein.

Wherefore, your petitioner prays that his right to register be determined in accordance with the statute in such case made and provided.

DUDLEY DISOSWAY JOHNSON
Petitioner.

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ANSWER.

Comes now Jack N. Kegley, Registrar, and represents as follows:

1. That none of the allegations of the petitioner are denied, except the conclusion of paragraph 5, and except that the petitioner, if entitled to registrar, would have to be registered for all elections, and not just national elections as alleged in paragraph 2.

JACK N. KEGLEY
Registrar of Voters of Albemarle County, Virginia.

GEORGE P. SMITH, JR.
Counsel
Palmyra, Virginia.

Filed this 22 day of Oct. 1964.

EVA W. MAUPIN, Clerk.

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ORDER.

This proceeding came on this day to be heard in accordance with Section 24-112 of the 1950 Code of Virginia; upon the petition heretofore filed by Dudley D. Johnson; upon the answer of Jack N. Kegley, General Registrar of Albemarle County; upon the appearance of George P. Smith, Jr., who appeared by special arrangement in the place of the Commonwealth's Attorney of Albemarle County, who appeared and defended against the petition in behalf of the state; upon evidence *ore tenus* presented in support of the allegations in the pleadings and the issues raised by reason thereof; and was argued pro se.

Upon consideration whereof Judgment is rendered in favor of the Petitioner, Dudley Disosway Johnson, and it is ORDERED, ADJUDGED, and DECREED that he is entitled to be registered as a voter in this County in accordance with the law in such case made and provided.

To all of which, the Defendant by counsel excepts and objects as being contrary to the law and the evidence.

Enter.

LYTTELTON WADDELL, Judge.

We ask for this:

DUDLEY DISOSWAY JOHNSON

Seen and excepted to:

GEORGE P. SMITH, JR.
Counsel for Defendant.

This 3 day of Nov. 1964.

* * * * *

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NOTICE OF APPEAL AND ASSIGNMENT OF ERROR.

NOTICE OF APPEAL.

Notice of Appeal is hereby given by the above-named Defendant from an order entered in this proceeding by the Circuit Court of Albemarle County on the 3rd day of November, 1964, adjudging and ordering that the Petitioner Dudley Disoway Johnson was entitled to be registered as a voter in the County of Albemarle, State of Virginia.

ASSIGNMENT OF ERROR.

The Defendant assigns as error the action of the Court in adjudging and ordering that the Petitioner was entitled to be registered as a voter in the County of Albemarle, said ruling being contrary to the law and evidence, and specifically being contrary to the provisions of Section 24 of the Constitution of Virginia of 1902 and the statutes of Virginia enacted pursuant thereto.

JACK N. KEGLEY
By Counsel.

GEORGE P. SMITH, JR., p. d.
Palmyra, Virginia.

Filed this 27 day of Nov. 1964.
EVA W. MAUPIN, Clerk.

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STATEMENT OF THE FACTS.

In addition to the facts alleged in the petition, which were not denied in the defendant's answer, the petitioner testified in his own behalf in open court on October 29, 1964, as follows:

That he came to Albemarle County solely to be a student, that he had no plans to remain in the County after he completed his studies.

That he was married May 25, 1959, and has children. His wife does not work. He pays out-of-state rates at school. He works as a student teacher but that income is not sufficient to support himself and family. He has other income and is not dependent on his parents at all. His parents live in Florida.

That he went to school until 1959. Prior to his marriage he had lived in New Jersey and Florida. After his marriage he sold insurance and worked on construction, both outside the State of Virginia; he also worked in the British Indies; all before becoming a student at the University of Virginia. He was registered to vote in Florida.

Tendered and signed this 22nd day of Dec., 1964.

LYTTELTON WADDELL.

Signed:

GEORGE P. SMITH, JR.
Counsel for Defendant.

* * * * *

A Copy—Teste:

H. G. TURNER, Clerk.

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