

FILED
CIVIL INTAKE
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JOHN T. FREY
CLERK, CIRCUIT COURT
FAIRFAX, VA

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

DONTE T. TANNER

Petitioner,

v.

Civil Action No

2017 16794

TIMOTHY D. "Tim" HUGO

Respondent.

PETITION FOR RECOUNT

1. Pursuant to Va. Code §24.2-801, Donte T. Tanner ("Tanner") petitions this Court for a recount of the ballots cast for the Fortieth District of the Virginia House of Delegates ("Fortieth District ") in the November 7, 2017 General Election ("Election").

2. Jurisdiction and venue for this petition is in this Court pursuant to Virginia Code §24.2-801.

3. Tanner was a candidate for delegate for the Fortieth District in the Election.

4. The Respondent was the other candidate for delegate in that Election.

5. Pursuant to Va. Code §24.2-679, on November 20, 2017, the State Board of Election ("Board") ascertained what appears to be the result of the election for the Fortieth District, certified the number of votes given to each candidate and certified the apparent winner of that election.

6. More specifically, the Board certified the result of the election in the Fortieth District to be:

Timothy D. "Tim" Hugo – 15,110 votes

Donte T. Tanner – 15,004 votes

Total Votes for the two candidates – 30,114 votes

7. As shown by the foregoing figures, the Board certification reveals a difference of only 106 votes between the votes cast for Timothy D. "Tim" Hugo and the votes cast for Donte T. Tanner which is 0.35% of the total votes cast for those two candidates.

8. Va. Code §24.2-800(B) provides:

When there is between any candidate apparently . . . elected and any candidate apparently defeated a difference of not more than one percent of the total vote cast for the two such candidates as determined by the State Board . . . , the defeated candidate may appeal from the determination of the State Board . . . for a recount of the vote as set forth in this article.

9. Moreover, Va. Code §24.2-802(E) provides, in relevant part, that the several Counties of the Commonwealth shall be responsible for the costs of the recount when:

. . . there was between the candidate apparently . . . elected and the candidate petitioning for the recount a difference of not more than one-half of one percent of the total vote cast for the two such candidates as determined by the State Board . . . prior to the recount.

10. Tanner hereby appeals the Board's November 20, 2017 certification and petitions for a recount of the votes and redetermination of the election results as provided by Va. Code §24.2-800 *et seq.*

WHEREFORE, the Petitioner prays that:

A. A Recount Court be appointed to have the ballots in the Fortieth District of the Virginia House of Delegates in the November 7, 2017 General Election recounted pursuant to Va. Code §24.2-800 *et seq.* and that such Court sit in all respects as a court appointed and sitting under Va. Code §24.2-805 and 24.2-806;

B. The Chief Judge of this Court call a preliminary hearing, pursuant to Va. Code §24.2-802 at which:

(i) the Chief Judge may dispose of motions and fix procedural rules both subject to review by the full Recount Court;

(ii) the Chief Judge shall review all security measures taken for all ballots and voting devices and direct, as it deems necessary, all appropriate measures to ensure proper security to conduct the recount;

(iii) the Chief Judge, subject to review by the full Recount Court, set the Fairfax County Courthouse as the place for the recount and order deliver of election materials to this Courthouse and the transportation of voting devices to this Courthouse under appropriate safeguards; and

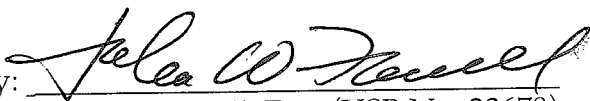
(iv) Chief Judge enter such other orders as he deems appropriate.

C. The Recount Court hold such other hearings and address such other matters as provided by Va. Code §24.2-802;

D. The Recount Court determine and certify to the State Board of Elections the vote given to each candidate and declare the person who received the higher number of votes to be elected to the Fortieth District of the Virginia House of Delegates pursuant to Va. Code §24.2-802; and

E. The Recount Court grant such other relief as it may deem appropriate and just.

Donte T. Tanner

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