

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION SIX

JERMOND L. MOSLEY,)	ED104847
)	
Appellant,)	Appeal from the Circuit Court of
)	St. Louis County
v.)	16SL-CC03255
)	
KEITH A. ENGLISH,)	Honorable Joseph S. Dueker
)	
Respondent.)	Filed: October 14, 2016

This expedited appeal involves an election contest filed by Jermond Mosley ("Contestant Mosley") challenging the qualifications of incumbent State Representative Keith English ("Contestee English") to appear as a candidate on the November 8, 2016 general election ballot. Contestant Mosley appeals the trial court's judgment dismissing his election contest petition. For reasons explained herein, we reverse and remand.

REVERSED AND REMANDED.

Division One Holds: First, the trial court had jurisdiction and this court has jurisdiction to entertain this appeal. Although filed on September 3, 2016, Contestant Mosley's Petition was to be deemed filed on September 6, 2016, the next Court business day. As such, the summons was issued "immediately," on September 6, 2016, in strict compliance with Section 115.533.1.

Second, as to the merits of the appeal, this court finds Section 115.401, not Section 115.333, dictates the timeframe for a contestant to file a petition challenging a general election contest under Section 115.526.2. The deadline, or "latest date" for the Secretary to issue his or her statement of "certification" that Contestee English qualified as a candidate is ten weeks prior to the general election, or August 30, 2016. Under Section 115.526.2, Contestant Mosley was required to file his Petition "not later than five days after" August 30, 2016. Here, Contestant Mosley's Petition was timely filed, and the trial court erred in dismissing the Petition as untimely.

Opinion by: Lisa P. Page, J.

Roy L. Richter, P.J. and James M. Dowd, J., concur.

Attorney for Appellant: Elbert A. Walton, Jr.

Attorney for Respondent: R. Ryan Harding and Lowell D. Pearson

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.