

Rel: October 9, 2026

Notice: This opinion is subject to formal revision before publication in the advance sheets of **Southern Reporter**. Readers are requested to notify the **Reporter of Decisions**, Alabama Appellate Courts, 300 Dexter Avenue, Montgomery, Alabama 36104-3741 ((334) 229-0650), of any typographical or other errors, in order that corrections may be made before the opinion is printed in **Southern Reporter**.

SUPREME COURT OF ALABAMA

OCTOBER TERM, 2026-2027

SC-2026-0540

State of Alabama ex rel. Brook Lynn Dorgan and Justin Jude
LeBlanc

v.

Thomas Hawley Tuberville, individually and in his capacity as
the certified nominee of the Alabama Republican Party for the
office of governor

Appeal from Montgomery Circuit Court
(CV-26-901053)

PER CURIAM.

Article V, § 117, Ala. Const. 2022, provides that, among other qualifications, Alabama's governor "shall have been ... [a] resident citizen[] of this state at least seven years next before the date of [his or her] election." Brook Lynn Dorgan and Justin Jude LeBlanc ("the relators") initiated a quo warranto action in the Montgomery Circuit Court ("the circuit court") against Thomas Hawley Tuberville, the Alabama Republican Party's nominee for the office of governor for the 2026 general election, alleging that Tuberville does not meet § 117's residency requirement. The circuit court dismissed the action, concluding that it lacked subject-matter jurisdiction to consider a quo warranto action as to a party nominee. The relators appealed. For the following reasons, we affirm.

Facts and Procedural History

On May 19, 2026, Tuberville received the majority of votes cast in the Republican primary to be the Republican-party nominee for the office of governor. On May 27, 2026, the Alabama Republican Party certified Tuberville to the Alabama Secretary of State as the party's official nominee for the office of governor. Following the primary election, Tuberville's primary-election opponent filed a primary-election contest

with the Alabama Republican Party, contending that Tuberville did not meet the residency requirement set forth in § 117. The State Executive Committee of the Alabama Republican Party conducted an evidentiary hearing on the contest and, on June 14, 2026, issued a written decision determining that Tuberville met the legal requirements to be governor of Alabama and denying the contest.

On June 17, 2026, the relators initiated a quo warranto action in the circuit court, contending that Tuberville does not meet the residency requirement mandated by § 117. The relators requested that the circuit court "issue a writ of quo warranto finding that Tuberville is not lawfully eligible to be the certified nominee or to hold the office of Governor, award [relators] their costs and attorney's fees, and grant such other, further, or different relief that [the circuit court] deems proper."¹

On June 22, 2026, Tuberville moved to dismiss the relators' action, arguing that circuit court lacked jurisdiction over the action because §

¹The relators also asserted a separate claim for declaratory and injunctive relief, seeking to restrain the Alabama Secretary of State, who was also named as a defendant in the action, from printing Tuberville's name on the general-election ballots. The relators voluntarily dismissed their claim for declaratory and injunctive relief and dismissed the Alabama Secretary of State as a defendant.

17-16-44, Ala. Code 1975, expressly deprives the courts of jurisdiction to "ascertain[] the legality, conduct, or results of any election" without specific statutory authorization, which, Tuberville argued, did not exist. The circuit court concluded that, although bringing a quo warranto action is an authorized method to determine whether a person is usurping a public office, the relators' quo warranto action was unauthorized because Tuberville, as a mere nominee for the office of governor, does not hold public office. Accordingly, the circuit court determined that it did not have jurisdiction and dismissed the action.

Analysis

The question whether Tuberville meets the residency requirement for the office of governor is not before this Court. Rather, the issue before us is whether the circuit court had jurisdiction to entertain a quo warranto action challenging Tuberville's certification as the Republican nominee for the office of governor.

Circuit courts are courts of general jurisdiction. However, that jurisdiction may be limited as "otherwise ... provided by law," Art. VI, § 142(b), Ala. Const. 2022, and, indeed, the legislature has seen fit to "severely restrict[] a court's jurisdiction to hear actions challenging the

conduct or results of elections." Rice v. Chapman, 51 So. 3d 281, 284 (Ala. 2010). Section 17-16-44, Ala. Code 1975, sometimes referred to as the "jurisdiction-stripping statute," provides, in pertinent part:

"No jurisdiction exists in or shall be exercised by any judge or court to entertain any proceeding for ascertaining the legality, conduct, or results of any election, except so far as authority to do so shall be specially and specifically enumerated and set down by statute; and any injunction, process, or order from any judge or court, whereby the results of any election are sought to be inquired into, questioned, or affected, or whereby any certificate of election is sought to be inquired into or questioned, save as may be specially and specifically enumerated and set down by statute, shall be null and void and shall not be enforced by any officer or obeyed by any person."

(Emphasis added.) This Court has repeatedly recognized that "in enacting § 17-16-44 the legislature restricted the jurisdiction of the circuit courts in regard to elections." Bryan v. Hubbard, 6 So. 3d 491, 503 (Ala. 2008); see also Smith v. Burkhalter, 28 So. 3d 730, 735-36 (Ala. 2009) (quoting Ethridge v. State ex rel. Olson, 730 So. 2d 1179, 1182 (Ala. 1999)) ("'[A] court does not have jurisdiction to interfere in an election result unless a statute authorizes it to do so. The Legislature has made this abundantly clear.'").²

²An exception to the rule is when the election itself is void. See Dennis v. Prather, 212 Ala. 449, 452-53, 103 So. 59, 61-62 (1925); King v.

Furthermore, the legislature has established a special process for challenging the eligibility of party nominees determined by primary election. See §§ 17-13-70 through 17-13-89, Ala. Code 1975 ("the primary-election contest statutes"). The primary-election contest statutes authorize an election contest when the winner of a primary election "was not eligible to the office sought at the time of the declaration of nomination." § 17-13-71(2), Ala. Code 1975. Such a contest of a primary election for a statewide office is to be "heard and tried" by a party's state executive committee. § 17-13-70, Ala. Code 1975.

In conducting a primary-election contest, party committees are authorized to summon witnesses and subpoena documents necessary to determine the contest. See § 17-13-74 and § 17-13-84, Ala. Code 1975.

With regard to primary-election contests, this Court has observed:

"For over 50 years, the courts in this state have adhered to the legislative mandate that political parties are empowered to settle their own disputes in primary elections. The same rules apply regardless of the office involved. The statutory scheme was first enacted in 1931 and bestowed on political parties in primary election contests subpoena power and prehearing discovery authority which the circuit courts did not have for 40-odd years thereafter. The legislature recognized that these disputes require an early resolution and

Campbell, 988 So. 2d 969, 977-78 (Ala. 2007). That exception is not applicable in this case.

it gave the political parties the tools to resolve them. It vested in political parties in primary disputes quasi-judicial authority and such discretion as courts of limited jurisdiction exercise."

Ex parte Baxley, 496 So. 2d 688, 693 (Ala. 1986). Furthermore, we have long recognized that, "when a party committee's jurisdiction to hear a contest of a primary election has been invoked, the committee acquires exclusive jurisdiction to hear the contest, and the circuit court is without power to invade or defeat such jurisdiction." Ex parte Skidmore, 277 Ala. 221, 223, 168 So. 2d 483, 484 (1964). Additionally, there is no statutory right to appeal a committee's decision to the circuit court or to this Court. See Ex parte Graddick, 495 So. 2d 1367, 1369-70 (Ala. 1986).

This Court has explained the purpose for granting political parties the power to decide primary-election contests as follows:

"In the matter of contests of primary elections the Legislature has deemed it wise to commit same to party tribunals. This is in recognition of the interests and concern which the party, the associated group of citizens acting together as such, have in the selection of their political representatives, put forward as nominees, recommended for election to public office. The courts scrupulously avoid interfering with political action of this sort."

Ex parte State ex rel. Bragg, 240 Ala. 80, 85, 197 So. 32, 36 (1940).

In light of the above, our decisions in such cases have generally adhered to the rule that a primary-election contest brought under the primary-election contest statutes is the exclusive method authorized by law to challenge a party nominee's qualification for office before the general election. For example, in Roper v. Rhodes, 988 So. 2d 471 (Ala. 2008), the losing candidate in the Democratic primary for county board of education, Roper, commenced an action in the circuit court seeking, among other relief, a writ of quo warranto against the winning candidate, Rhodes. Roper contended that Rhodes was ineligible to be elected in the general election and sought to have Rhodes's certificate of nomination revoked and his name removed from the general-election ballot. This Court noted that Roper's action was essentially a primary-election contest because, if successful, "the results of the primary and runoff elections would be affected -- indeed they would be negated." 988 So. 2d at 477. Citing the predecessor to § 17-16-44, this Court reasoned that the circuit court lacked jurisdiction over Roper's action:

"[Roper was] contesting [the primary and runoff elections] on the basis that Rhodes was allegedly ineligible to be a candidate in those elections. A procedure for contesting primary and runoff elections is set forth in [the predecessor to the primary-election contest statutes], and [those statutes] include[] the ineligibility of a candidate as a ground for

contesting a primary or runoff election. However, [Roper] did not follow the procedure outlined in [the predecessors to the primary-election statutes], and [Roper has] not cited another statutory provision authorizing [his] action to the extent it contested the primary and runoff elections on the basis that Rhodes was allegedly ineligible to be a candidate in those elections. Consequently, the trial court did not have jurisdiction to hear [Roper's] claims."

988 So. 2d at 478.

Similarly, in Ex parte Skidmore, supra, this Court held that, because "[t]he legislature has deemed it wise to commit primary election contests to party tribunals," the circuit court had no jurisdiction over mandamus proceedings that sought to have a candidate declared the lawful winner of a party primary. 277 Ala. at 223, 168 So. 2d at 484. This Court further held that "[t]he obvious effect of such proceeding, if entertained by the circuit court, would be to oust the [party tribunal] of its jurisdiction, given by statute, to determine the contest" and that "[t]hat would be contrary to the statutes ... providing for party contests." Id.; see also Ex parte Baxley, 496 So. 2d at 693; Bragg, 240 Ala. at 85, 197 So. at 36.

Turning back to this case, Tuberville's qualification to be the party nominee for the office of governor based on the duration of his residency in Alabama has been put before the executive committee of the Alabama

Republican Party by way of a primary-election contest brought under the primary-election contest statutes and has been adjudicated in favor of Tuberville. The question is whether, before the general election, the circuit court has subject-matter jurisdiction to entertain a quo warranto action addressing the precise issue raised in that contest.

The relators argue that the jurisdiction-stripping statute does not apply to their quo warranto action because they are not challenging the results or conduct of the primary election. However, their claim that Tuberville is ineligible to be elected to the office of governor falls within an enumerated category for contesting a primary election. See § 17-13-71(2). Further, as we observed in Roper, if the relators are successful, the results of the primary election and the subsequent primary-election contest "would be affected -- indeed they would be negated." 988 So. 2d at 477. Regardless, the relators argue that their action is expressly authorized by the quo warranto statutes.

The quo warranto statutes authorize a quo warranto action "[w]hen any person usurps, intrudes into or unlawfully holds or exercises any public office, civil or military, ... within this state." § 6-6-591(a)(1), Ala. Code 1975 (emphasis added). We have explained that "'[t]he writ of quo

warranto is a common law writ used to determine whether one is properly qualified and eligible to hold a public office.'" Hudson v. Ivey, 383 So. 3d 636, 639 (Ala. 2023) (quoting Ex parte Sierra Club, 674 So. 2d 54, 56 (Ala. 1995)). This Court has never directly answered whether a quo warranto action may be used to oust a party nominee between a primary election and a general election. See State ex rel. Norrell v. Key, 276 Ala. 524, 526, 165 So. 2d 76, 78 (1964) ("We make no decision whether quo warranto is an appropriate remedy to oust a nominee from that office."), and Johnson v. Roberson, 682 So. 2d 58, 60 n.3 (Ala. 1996) (noting that Norrell did not answer that question and stating that "we do not decide it either").

This Court has, however, held that a quo warranto action will not lie against a person who is not exercising "public office." State ex rel. Gray v. King, 395 So. 2d 6, 7 (Ala. 1981). The relators contend that a party nominee is a "quasi-officer," see, e.g., Norrell, 276 Ala. at 526, 165 So. 2d at 78 ("The holder of a certificate of nomination has the status of a quasi officer."), and they, therefore, posit that party nominees should be treated as "public officers" for the purpose of a quo warranto action. The term "public office" has been defined as

"the right, authority, and duty, created by law, by which for a given period, either fixed by law or enduring at the pleasure

of the creating power, an individual is invested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public."

Gray, 395 So. 2d at 7; see also State ex rel. Burdette v. Coats, 500 So. 2d 1, 2 (Ala. 1986). Further, "the term 'public office' implies an authority to exercise some portion of the sovereign power, either by enacting, executing or administering the laws." Gray, 395 So. 2d at 7. Alabama law does not vest a party nominee "with some portion of the sovereign functions of the government." Id. Accordingly, we hold that a party's nominee for election to public office does not exercise any public office. Thus, a quo warranto action is not authorized against a party nominee.³

Conclusion

We conclude that the circuit court lacked subject-matter jurisdiction to consider the relators' action and that it, therefore, properly dismissed the action. See State v. Property at 2018 Rainbow Drive, 740 So. 2d 1025, 1029 (Ala. 1999) (quoting Beach v. Director of Revenue, 934 S.W.2d 315, 318 (Mo. Ct. App. 1996)) ("'Lacking subject matter

³We further note that § 6-6-598, Ala. Code 1975, restricts the use of a quo warranto action when an election contest is available. That section provides that "[t]he validity of an election which may be contested under this Code cannot be tried under [the quo warranto statutes]."

jurisdiction [a court] may take no action other than to exercise its power to dismiss the action.'").

The judgment of the circuit court is affirmed.

AFFIRMED.

Stewart, C.J., and Wise, Bryan, Sellers, Mendheim, McCool, and Parker, JJ., concur.

Shaw and Cook, JJ., recuse themselves.