

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 17-7090

September Term, 2017

FILED ON: MARCH 23, 2018

JANICE MURRAY AND ALNETT TIMOTHY QUEEN,
APPELLANTS

v.

AMALGAMATED TRANSIT UNION,
APPELLEE

Appeal from the United States District Court
for the District of Columbia
(No. 1:14-cv-00378)

Before: KAVANAUGH, *Circuit Judge*, and EDWARDS and SENTELLE, *Senior Circuit Judges*.

J U D G M E N T

This case was considered on the record from the United States District Court for the District of Columbia, and on the briefs and oral arguments of the parties. The Court has afforded the issues full consideration and has determined that they do not warrant a published opinion. *See* Fed. R. App. P. 36; D.C. Cir. R. 36(d). It is

ORDERED and **ADJUDGED** that the judgments of the District Court against Murray and Queen be **AFFIRMED**.

This case arises out of a transit-worker union's election of its officers. The union is Local 1300 in Baltimore, Maryland. Murray ran for President of the union. Queen ran for Vice President. But the parent union, Amalgamated Transit Union, deemed both Murray and Queen ineligible for those positions. Unhappy that they were deemed ineligible, Murray and Queen then sued the Amalgamated Transit Union in the U.S. District Court, and raised a variety of federal and state claims. We will address their two appeals in turn.

As to Murray, the District Court concluded that Title IV of the Labor-Management Reporting and Disclosure Act preempted Murray's claims. *See Local No. 82, Furniture & Piano Moving, Furniture Store Drivers, Helpers, Warehousemen & Packers v. Crowley*, 467 U.S. 526, 541 (1984). We agree.

Title IV requires complainants challenging certain union elections to petition the Secretary of Labor, who then has discretion over whether to file suit against the union. *See* 29 U.S.C. § 482(a)-(c). For local unions such as Local 1300 that are composed of *public* employees, Title IV's preemption provision applies to those union elections in which the elected union officials will represent the local union at a parent-union convention. *See Wildberger v. American Federation of Government Employees, AFL-CIO*, 86 F.3d 1188, 1192-93 (D.C. Cir. 1996). Under the Amalgamated Transit Union's constitution and Local 1300's bylaws, Local 1300's elected President also serves as a delegate to the Amalgamated Transit Union's international convention. Local 1300's election for President was thus covered by Title IV. Therefore, Murray was required to raise any claims challenging the election with the Secretary of Labor, not in the District Court.

Murray argues that flaws in the administration of the election render Title IV inapplicable to this election. That argument is incorrect.

The relevant question for Title IV purposes is whether the election was covered by the Act. Here, Murray's election was covered because it is undisputed that the election was intended to elect a person to fill the office of President. Local 1300's mistaken omission of the Delegate Notice was a technical deficiency in the election, but the error did not change the purpose of the election.

We have considered all of Murray's arguments, and we affirm the District Court's judgment against Murray.

Unlike Murray's case, Queen's case was not preempted by Title IV because Queen was running for Vice President, and the Vice President of Local 1300 does not serve as a delegate to the Amalgamated Transit Union's international convention. Queen's case therefore went forward in the District Court and ultimately proceeded to a jury trial. The jury ruled against Queen. We affirm.

The relevant facts are these: Queen was deemed ineligible to be Vice President of Local 1300 because he had not timely repaid a transit subsidy that he had impermissibly obtained from the union. Queen countered that he had attempted to repay the transit subsidy, but that Local 1300 had thwarted his attempt. Specifically, he claimed that he had forgotten how much he owed and that Local 1300 had refused to disclose the sum to him.

The District Court concluded that Queen's allegations required a jury trial on certain disputed material facts: Did Queen attempt to repay? Did he actually forget how much he owed? Did he inquire into the amount owed? Did Local 1300 ignore his inquiry or otherwise prevent him from repaying?

At trial, the jury was presented with the relevant evidence on those questions. The jury concluded that Local 1300 had lawfully deemed Queen ineligible due to his failure to repay the transit subsidy.

On appeal, Queen argues that the District Court erred in denying his motion for summary

judgment. But summary judgment orders are typically not reviewable after a trial has been conducted. *See Feld v. Feld*, 688 F.3d 779, 781-82 (D.C. Cir. 2012). We have acknowledged a rare exception to that rule where the claim is “purely legal.” *Id.* at 783. Queen’s claim does not fall into that exception: The claim depended on the resolution of disputed facts and is not “purely legal.”

We have considered all of Queen’s arguments, and we affirm the District Court’s judgment against Queen.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. *See* Fed. R. App. P. 41(b); D.C. Cir. Rule 41(a)(1).

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Ken Meadows
Deputy Clerk