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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

STEVEN SCHREINER,

Plaintiff and Appellant,

v.

DEAN LOGAN, as Registrar-  
Recorder/County Clerk, etc.,

Defendant and Respondent;

DEBRA R. ARCHULETA,

Real Party in Interest.

B277065

(Los Angeles County  
Super. Ct. No. BS161525)

APPEAL from a judgment of the Superior Court of Los Angeles County, Mary H. Strobel and Amy D. Hogue, Judges. Dismissed.

Reed & Davidson and Stuart L. Leviton for Plaintiff and Appellant.

Nicole Davis Tinkham and Rene Caldwell Gilbertson,  
County Counsel, for Defendant and Respondent.

Strumwasser & Woocher and Fredric D. Woocher for Real  
Party in Interest.

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Plaintiff, Steven Schreiner, appeals from a July 25, 2016 judgment in favor of defendant, Dean Logan. According to the parties: defendant was sued in his capacity as the Los Angeles County Registrar-Recorder/County Clerk; the real party in interest, Debra R. Archuleta, and plaintiff were opponents in a judicial election; the real party listed her occupation as a “Violent Crimes Prosecutor” on the ballot; plaintiff challenged her designation as a violent crimes prosecutor because that was not her principal occupation (Elec. Code, § 13107, subd. (a)(3); Cal. Code Regs., tit. 2, § 207117, subd. (c)); defendant accepted the real party’s violent crimes prosecutor ballot designation; and on July 25, 2016, Judge Mary H. Strobel denied plaintiff’s mandate petition challenging defendant’s approval of the real party’s violent crimes prosecutor designation.

The July 25, 2016 judgment involved the June 7, 2016 primary election. According to an August 26, 2016 ruling by Judge Amy D. Hogue, plaintiff filed a new mandate petition on August 16, 2016. Plaintiff has failed to provide a copy of the August 16, 2016 mandate petition. According to Judge Hogue, plaintiff’s August 16, 2016 mandate petition challenged the real party’s violent crimes prosecutor ballot designation for the November 8, 2016 general election. Judge Hogue eventually granted the real party’s verbal motion to abate the proceedings in connection with the August 16, 2016 petition pursuant to Code of

Civil Procedure section 597. Judge Hogue's abatement order was filed August 26, 2016. The August 18, 2016 notice of appeal makes no reference to any of Judge Hogue's orders. Nor does the August 18, 2016 notice of appeal state that this is an election matter.

On August 26, 2016, plaintiff filed a preference motion with the Acting Administrative Presiding Justice of this appellate district. The preference motion concedes that defendant had indicated the last day to make changes to the ballot materials was September 2, 2016. The opposition was filed August 26, 2016. Plaintiff filed a reply to the opposition on September 1, 2016. On September 2, 2016, the preference motion was denied.<sup>1</sup>

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1 The order denying the preference motion states: "Petitioner and appellant Steven Schreiner has filed a motion for calendar preference under rule 8.240 of the California Rules of Court. Rule 8.240 provides: 'A party seeking calendar preference must promptly serve and file a motion for preference in the reviewing court. As used in this rule, "calendar preference" means an expedited appeal schedule, which may include expedited briefing and preference in setting the date of oral argument.' Real party in interest Debra Archuleta opposes the motion. [¶] The judgment on appeal was entered on July 25, 2016. The notice of appeal from that judgment was not filed until August 18, 2016. The instant motion for calendar preference was filed eight days later, on August 26, 2016. Even assuming that in this election law case Schreiner was justified in delaying filing the notice of appeal until August 18, 2016, it was incumbent upon Schreiner to file the motion for calendar preference promptly after August 18, 2016. Given that it appears to be agreed that a decision on the merits of the appeal must be rendered on or before September 2, 2016 if it is to be effectuated by the Registrar for the general election, the motion for calendar preference was not filed promptly after the filing of the notice of appeal. As a

On October 18, 2016, plaintiff filed another calendar preference motion and the opening brief. The opening brief makes no reference to any of Judge Hogue's orders.

On Thursday, October 20, 2016, the case was assigned to this division. On Monday, October 24, 2016, we issued an order to show cause concerning possible dismissal because the appeal was moot. We did so because the September 2, 2016 date had passed and the general election was to occur on November 8, 2016. And we have a duty to raise issues concerning our own jurisdiction on our own motion. (*Jennings v. Marralle* (1994) 8 Cal.4th 121, 126; *Olson v. Cory* (1983) 35 Cal.3d 390, 398.) We allowed the parties the opportunity to orally argue the dismissal issue.

We agree with the real party that plaintiff's appeal is moot. Plaintiff's appeal is moot as there is no effectual relief we can provide to him. (*Eye Dog Foundation v. State Board of Guide Dogs for the Blind* (1967) 67 Cal.2d 536, 541; *In re B.L.* (2012) 204 Cal.App.4th 1111, 1117.) Further, there is no merit to the plaintiff's argument that there are recurring issues of broad public interest. No doubt, this is a recurring issue. But this is a routine dispute over a ballot designation--no matter of broad public interest is being litigated. Given our resolution of the mootness issue, we need not address other matters including: whether we have jurisdiction over this case because the notice of appeal makes no reference to Judge Hogue's orders; the adequacy

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direct result of the delay in the filing of the motion for calendar preference, it is not possible to prepare and file the record, make provision for a briefing schedule and oral argument, review the briefs, hear argument and decide the appeal on the merits on or before September 2, 2016. [¶] The motion for calendar preference is denied."

of the record as the relevant August 16, 2016 mandate petition has not been provided; the absence of a reporter's transcript of the proceedings involving plaintiff's August 16, 2016 mandate petition; and the effect of the failure to challenge any of Judge Hogue's orders.

The appeal is dismissed. All parties are to bear their own costs incurred on appeal.

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TURNER, P. J.

We concur:

KRIEGLER, J.

KIN, J.\*

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\*Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.