

IN THE CHANCERY COURT FOR KNOX COUNTY, TENNESSEE

IN RE: PETITION OF
KNOX COUNTY PUBLIC DEFENDER

No. 174552-2

MEMORANDUM OPINION

AND

ORDER

ENTERED

JUN 25 2009

HOWARD G. HOGAN

2009 JUN 25 PM 3:58
HOWARD G. HOGAN

FILED

This case is before the Court on motion of the Attorney General, on behalf of the Administrative Office of the Courts (AOC) and in his own right, to dismiss for lack of subject matter jurisdiction. Basically, the Attorney General argued that whatever action was taken by the Judges of the General Sessions Court of Knox County constituted a final order and was, thus, appealable only to the Knox County Circuit Court pursuant to Tenn. Code Ann. §27-5-108.


The Attorney General has also argued that the petition for *Writ of Certiorari* makes no allegations of fraud, contrivance or acts by a court clerk that frustrate a party's attempt to procure an appeal citing State v. Harwell, 124 S.W.3d 629 (Tenn. Crim. App. 2003). The Court agrees with the petitioner that the second ground asserted by the Attorney General would be more appropriately advanced in a Rule 12 motion to dismiss for failure to state a claim. Additionally, the Court is of the opinion that this argument goes more to the issue of whether petitioner is entitled to any relief under the circumstances alleged.

As to whatever action the General Sessions Court took in rendering its opinion, this Court is of the opinion that it was not intended by those judges to be a final determination of the issues. First, they explicitly stated their "mission" to continue to monitor the situation to determine whether the Public Defender might at some point in time become eligible for the relief sought. Secondly, the General Sessions Court upon rendering a final decision loses all jurisdiction of the case. Travelers Indem. Co. v. Callis, 481 S.W.2d 384, 385 (Tenn. 1972). "In the absence of specific statutory authority, the authority of the general sessions court ends when it enters a judgment in the case." Jackson Energy Authority v. Diamond, 181S.W. 3d 375 (Tenn. App. 2005).

It is abundantly clear that the Knox County General Sessions Court Judges did not intend to relinquish their authority over this matter.

Accordingly, the motion to dismiss is denied.

Filed and entered this 25th day of June, 2009.


Chancellor

Certificate of Service

I, the undersigned, hereby certify that I have placed a true and accurate copy of the foregoing Memorandum Opinion and order in the U. s. Mail, postage prepaid, to the parties listed below this 25th day of June 2009.


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