

Serial: **218175**

IN THE SUPREME COURT OF MISSISSIPPI

No. 2017-M-00758

IN RE: ANDRE D. COOLEY

Petitioner

ORDER

This matter is before the Court, en banc, on the Petition for Writ of Mandamus Ordering Respondent to Allow Petitioner to Proceed *Pro Se* in the Chancery Court, filed *pro se* by Andre D. Cooley. Also before the Court are the responses from Chancellor Frank McKenzie and Bart Gavin, Jones County Chancery Clerk. Cooley complains that the Chancery Clerk would not accept his petition for guardianship without representation by legal counsel. The Court finds the Chancery Clerk should have accepted the *pro se* petition for filing. Accordingly, the petition for writ of mandamus should be granted.

IT IS THEREFORE ORDERED that the Cooley's petition for writ of mandamus is hereby granted, and the Jones County Chancery Clerk shall accept Cooley's *pro se* petition for guardianship for filing.

SO ORDERED, this the 3rd day of October, 2018.

/s/ Leslie D. King

LESLIE D. KING, JUSTICE
FOR THE COURT

TO GRANT: WALLER, C.J., KITCHENS, P.J., KING, MAXWELL, BEAM AND
ISHEE, JJ.

TO DISMISS: COLEMAN, J., OBJECTS TO THE ORDER WITH SEPARATE
WRITTEN STATEMENT JOINED BY RANDOLPH, P.J.

NOT PARTICIPATING: CHAMBERLIN, J.

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COLEMAN, J., OBJECTING TO THE ORDER WITH SEPARATE WRITTEN STATEMENT:

¶1. I write the instant separate statement to clarify my point of disagreement with the majority. I do not take any position on the merits of Cooley’s position, *i.e.*, that the clerk of the trial court should accept his proposed filing, because it is not properly before us. Jurisdiction over Cooley’s petition for a writ of mandamus does not lie here. The Mississippi Constitution gives the Legislature explicit authority to set circuit court appellate jurisdiction. Miss. Const. art. VI, § 156. In the exercise of its authority, the Legislature passed Mississippi Code Section 11-41-3. Pursuant to Section 11-41-3, petitions for writs of mandamus or prohibition directed at county officials are to be filed in circuit court. Miss. Code Ann. 11-41-3 (Rev. 2012); *see also* Miss. Code Ann. § 11-41-1 (Rev. 2012).

¶2. We have further acknowledged that the Legislature exercises “plenary power” over the Mississippi Supreme Court’s jurisdiction. *Dialysis Sols., LLC v. Miss. State Dep’t of Health*, 96 So. 3d 713, 716–717 (¶ 8) (Miss. 2012). Despite the above-described constitutional language and clear precedent from the Court itself, the majority decides a petition for a writ of mandamus involving a county official that was filed here in the first instance. If the petition sought to mandate action by a judge, then the outcome would be

different; but the majority, in the absence of authority to do so, purports to command a member of another branch of government to act. See *Miss. Comm'n on Judicial Performance v. Ishee*, 627 So. 2d 283, 288 (Miss. 1993). Accordingly, I cannot agree.

RANDOLPH, P.J., JOINS THIS SEPARATE WRITTEN STATEMENT.