

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE
August 16, 2007 Session

**JOSEPH LEE v. ANDERSON COUNTY ELECTION
COMMISSION, ET AL.**

**Appeal from the Chancery Court for Anderson County
No. 06CH6334**

No. E2006-02572-COA-R3-CV - FILED OCTOBER 31, 2007

CHARLES D. SUSANO, JR., dissenting.

I find nothing in the factual allegations of the complaint that, even if true, would warrant the voiding of this election. As with everything else in life, elections are not perfect. Voters — I suppose for various and sundry reasons, *e.g.*, a long ballot, inexperience in voting, lack of familiarity with the voting machine — stay too long in the voting booth. Furthermore, I am sure that there have been instances in the past when voters reflected their choices on paper ballots even though functioning voting machines were available. The statutes instruct that these things should not happen; but there is nothing in any of the subject statutes to indicate the legislature intended that these violations would warrant the voiding of an election. Furthermore, there is nothing in the complaint even remotely suggesting that, had the various votes in question been cast in strict compliance with the statutes, the election result in this case would have been different. To the extent that *Stuart* supports the majority opinion in the instant case, I disagree with *Stuart* — a decision in which I was not involved.

I would affirm the judgment of the trial court. Accordingly, I respectfully dissent.

CHARLES D. SUSANO, JR., JUDGE