

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

---

APPEAL FROM SUMTER COUNTY  
Court of Common Pleas  
George M. McFaddin Jr., Circuit Court Judge

---

Case No. 2022-CP-43-01870

Order filed August 10, 2023 S.C. Supreme Court Dismissing Rehearing, Order dismissing  
Appeal on June 8, 2023

---

Reginald Evans

Appellant,

v.

Sumter County Registration Election Board

Respondent,

---

**PETITION TO REINSTATE**

---

Danny C. Crowe,  
SC BAR #1480 CROWE LAFAVE GARFIELD & BAGLEY  
2019 Park Street  
Columbia, South Carolina 29201  
(803) 724-5728  
danny@crowelafave.com  
Attorney for Respondent

**RECEIVED**  
AUG 22 2023  
S.C. SUPREME COURT

Reginald Evans  
Appellant  
PO Box 3388  
Sumter, SC 29150  
reggevans@gmail.com  
(803) 847-6196

**INDEX**

Certificate of Counsel.....1

Questions Presented.....1

Statement of the Case.....1

**Arguments**

1. THE SOUTH CAROLINA SUPREME COURT SHOULD HAVE HELD THAT THIS ACTION DEPRIVED THE APPELLANT’S RIGHTS UNDER CONSTITUTION’S FIRST AMENDMENT:.....6

2. THE SOUTH CAROLINA SUPREME COURT SHOULD HAVE HELD THAT THIS ACTION DEPRIVED THE APPELLANT’S RIGHTS UNDER CONSTITUTION’S FOURTEENTH AMENDMENT:.....6

3. THE SOUTH CAROLINA SUPREME COURT SHOULD HAVE HELD THAT THIS ACTION DEPRIVED THE APPELLANT’S RIGHTS UNDER CONSTITUTION’S FIFTEENTH AMENDMENT:.....6

4. THE SOUTH CAROLINA SUPREME COURT SHOULD HAVE HELD THAT THIS ACTION DEPRIVED THE APPELLANT’S RIGHTS UNDER VOTING RIGHTS ACT OF 1965:.....7

Conclusion .....7

## **CERTIFICATE OF COUNSEL**

The Petitioner certifies that the Petition for Rehearing was made and finally ruled on by the South Carolina Supreme Court on August 10, 2023 and Court Order Dismissing the Appeal filed June 8, 2023.

### **QUESTIONS PRESENTED**

1. Are there novel questions of law?
2. Was the decision South Carolina Supreme Court in conflict with a prior decisions of the United States Supreme Court and Federal Laws?
3. Are there substantial constitutional issues directly involved?
4. Where federal questions included and the decision of the South Carolina Supreme Court that conflicts with a decision of the United States Supreme Court and Federal Laws?

### **STATEMENT OF THE CASE**

This is an election protest case. Appellant Reginald Evans (“Evans” or “Appellant”) was a candidate for two public offices in a public election held in Sumter County on November 8, 2022. He was one of two candidates for Sumter County School District Board Area Nine, and one of five candidates for Sumter City Council District One. Evans lost both races, receiving 62 of 999 votes cast in the five-candidate race for City Council. Evans received 652 vote in the School Board race. Evans’ notice of contest of the election results was filed with the Sumter County Registration/Election Board (referred to in the caption of this action as the Sumter County Election Commission) on November 10, 2022. The notice of contest cited S.C. Code § 5-15-30 and stated that it was a contest of the elections for both the School District Board Area Nine and Sumter City Council District One. The notice specified two reasons for the contest: (1) information that persons outside of Council District One and School District Board Area Nine were allowed to vote, and (2) two precincts (Morris College and Folsom Park)

showed “undervotes” for City Council compared to total votes. Evans contends that receiving 652 in one election and 62 in the other election is too big of difference and is requesting the ballots be recounted. There may have a been a computer error because of appearing on two ballots.

The Sumter County Registration/Election Board (“Election Board”) held a hearing on the notice of contest on November 21, 2022, and denied Evans’ protest for both elections. The transcript of the hearing and related documents is contained in the Election Board’s Record of Proceedings.

While an Appeal filed the Defendant-Respondents held a runoff election between the top two vote-getters for the City Council seat was held on November 22, 2022. Evans was not a candidate in the runoff election. On the runoff election date, at 3:29 p.m., Evans filed with the Court of Common Pleas a “Notice Appeal” from the “order and judgment of the Sumter County Election Commission Dated November 21, 2022.” (Notice of Appeal showing Clerk of Court recorded stamp for November 22, 2022, the Notice of Appeal was given at the hearing.) The Notice contained no grounds for appeal, asserted no allegations or specifications of errors by the Election Board, and asserted no other basis for relief.

On December 9, 2022, the Election Board filed in the circuit court case a Record of Proceedings before the Election Board. The Election Board filed a Return to the Notice on December 14, 2022. The Return, among other things, denied any error of law or unsupported findings by the Election Board, and denied any showing by Evans of any election illegalities or irregularities sufficient to require a new election (the request to recount the ballots).

The Return also asserted that the City of Sumter previously had transferred total responsibility for conducting municipal elections (including responsibility for election contests) to the Election Board pursuant to S.C. Code § 5-15-145, and that appeals from Election Board decisions on the results of municipal elections were to be taken to the circuit court. The Return further asserted that the circuit court lacked subject matter jurisdiction of an appeal from a County School District Board election. (the Defendant-Respondent made a judicial ruling)

A hearing on the merits of Evans' appeal to circuit court was held before the Honorable George M. McFaddin, Jr., Circuit Court Judge, on January 6, 2023. Following the hearing, Judge McFaddin issued, on January 11, 2023, an Order dismissing the appeal concerning the School Board seat based on lack of subject matter jurisdiction, and dismissing on the merits the appeal concerning the City Council seat. (Order filed January 11, 2023.) A motion "to reconsider" was filed by Evans on January 17, 2023. The motion alleged that the circuit court "erred in its ruling" on each of the election appeals. (Motion filed January 17, 2023.) An Order by Judge McFaddin denying the motion without a hearing was filed on February 7, 2023. (Order filed February 7, 2023.) The Circuit Court did not allow Plaintiff -Appellant to file an Initial Brief or required the Respondent to file a brief. The Circuit Court did not have or review the transcript of the Sumter Election Commission hearing.

Evans filed his notice of appeal to The South Carolina Supreme Court on March 8, 2023. Based on the operation of S.C. Code § 5-15-120 (which provides, in part, that "and in the case a contest is finally filed the incumbents shall hold over until the contest is finally determined.") and S.C. Code § 5-15-40 (which provides, in part, that "The notice of appeal [from the municipal election commission to the court of common pleas] shall act as a stay of further proceedings pending the appeal."), the successful candidate in the runoff election for Sumter City Council

District One has been unable to be sworn into office. The School Board swore in the candidate while election is on appeal and elected the candidate to be vice-chairperson of the Sumter County School Board. Currently the City of Sumter is allowing the candidate to act as the informal Ward One City Councilman and attend executive sessions.

The incumbent of Ward One passed away before the run-off election. The seven thousand citizens of Ward One are paying taxes and city is conducting business without any representation for Ward One of the City Council.

Appellant Reginald Evans has become aware that the Defendant have decided to move forward and swear in the Candidate to take office of City Council Ward One on August 29, 2023. The Defendant has sworn in the Candidate to take the Office of Sumter County School Board. The above is still on appeal, which deprive the Appellant's right to a fair hearing.

### ARGUMENT

1. Appellant rights under the Constitution First Amendment:  
The prohibition of abridgment of the "right to petition" originally referred only to the Congress and the U.S. federal courts. The incorporation doctrine later expanded the protection of the right to its current scope, over all state and federal courts and legislatures, and the executive branches of the state and federal governments.
2. Plaintiff-Appellant rights under the Constitution Fourteenth Amendment: "A state shall not violate a citizen's privileges or immunities; shall not deprive any person of life, liberty, or property without due process of law; and must guarantee all persons equal protection of the laws. **The question is did the state follow the federal and state of South Carolina election laws?**
3. Appellant rights under the Constitution Fifteenth Amendment: prohibits the use of race, color, or previous condition of servitude in determining which citizens may vote. **The question is did the Defendant-Respondent properly counted the votes in the election? And did the Defendant-Respondent redraw the voting line to dilute the Black Citizens vote.**


4. Appellant rights under the Voting Rights Act of 1965. The Court declared that the Fifteenth Amendment "commands that the right to vote shall not be denied or abridged on account of race or color, and it gives Congress the power to enforce that command. The Amendment is not designed to punish for the past; its purpose is to ensure a better future." **The question is because the Defendant-Respondent was not required to get pre-clearance of their changes in District boundaries was the Plaintiff-Respondent, other candidates and the citizens of Sumter had their voting rights abridged?**

### CONCLUSION

For the reasons stated, petitioner asks the Court to grant the petition to Reinstate under SCRCP 242. And in the interest of justice and election allow the Appellant to deliver the transcript and move forward with the appeal to have it judge on the merits.

Respectfully submitted

**Dated:** August 22, 2023



Reginald Evans  
P.O. Box 3388  
Sumter, SC 29150  
[reggevans@gmail.com](mailto:reggevans@gmail.com)  
803-847-6196