

STATE OF SOUTH CAROLINA
In The Supreme Court

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APPEAL FROM JASPER COUNTY
Court of Common Pleas

S.C. SUPREME COURT

Michael G. Nettles, Circuit Court Judge

Appellate Case No.: 2024-000014

Alvin Adkins Appellant,

v.

Jasper County and The Board of Voter Registration and Election of Jasper County . . . Respondents.

INITIAL BRIEF OF APPELLANTS

s/ Joseph O. Thickens
Joseph O. Thickens, S.C. Bar No. 101398
Cavanaugh & Thickens, LLC
1717 Marion Street (29201)
Post Office Box 2409
Columbia, SC 29202
Tel: (803) 888-2200
Fax: (803) 888-2219
Attorneys for Appellant

March 20, 2024

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STATEMENT OF THE ISSUES ON APPEAL

Was Alvin Adkins duly and properly elected to the Jasper County Council pursuant to the controlling Jasper County elections ordinance and state law?

STATEMENT OF THE CASE

This case was brought by Jasper County against Alvin Adkins, one of five elected members of the Jasper County Council, alleging that he must be judicially removed from the council because his residence was not in a particular district at the time he was elected. Complaint, R. p. ____ Specifically, Jasper County claims that it is divided into four voting districts, each of which elects a member of the county council, with one additional at-large council member elected from anywhere in the county. *Id.* Jasper County asserts that Mr. Adkins was elected to represent the Pocotaligo District. *Id.* It is uncontested that Mr. Adkins is and always has been a resident of Jasper County at all times relevant to this action. R. p. ____ At the time of his election in 2020, unbeknownst to both Mr. Adkins and Jasper County, Mr. Adkins' residence was not within the boundary of the purported "Pocotaligo District", although it was annexed into Pocotaligo during 2022 redistricting. R. p. ____ The trial of legal and equitable matters in this action was bifurcated pursuant to the June 9, 2023 Order of the Honorable Carmen T. Mullen. R. p. ____, and the equitable issues that are the subject of this appeal were tried before the Honorable Michael Nettles on Monday, November 13, 2023.

STANDARD OF REVIEW

Factual findings and legal conclusions in an equitable action are reviewed de novo. *Wilson v. Gandis*, 430 S.C. 282, 290, 844 S.E.2d 631, 635 (2020).

ARGUMENT

Mr. Adkins was duly and properly elected the Jasper County Council pursuant to the controlling Jasper County elections ordinance and state law. The ordinance at issue in this case is Section 2-31, Jasper County Code of Ordinances (“Ordinance 2-31”), which provides for the manner of election for members of Jasper County Council. At trial, Respondent Jasper County introduced without objection Exhibit 7 quoting the ordinance. R. p. ____ It states in pertinent part: “[t]he county council shall consist of five members elected at-large; provided, that each member of the council shall be a resident from one of the four townships of the county and one member shall have no residency requirement.” R. p. ____.

Appellant Adkins asserts that he met both conditions for holding office set forth in this ordinance. Specifically:

1. Mr. Adkins was “elected at-large” in 2020; and,
2. Mr. Adkins is “a resident from one of the four townships of the county”.

Mr. Adkins met both requirements for office called for in Ordinance 2-31 based on a literal reading of its contents. At trial, Jasper County’s Elections Commissioner was unable to articulate any way Mr. Adkins failed to satisfy the conditions set forth in Ordinance 2-31. R. p. ____.

Nevertheless, Jasper County maintained through counsel that the ordinance should be read to should be read to establish single-member districts and to require council members to reside within a particular district to run for its representation. As discussed below, to impose the reading urged by Jasper County requires this Court to look past the plain meaning of the ordinance and would additionally frustrate the purpose of the ordinance by placing it in contradiction to state law.

This Court has reiterated general principles of statutory construction in a number of cases, e.g.:

The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature...Under the plain meaning rule, it is not the court's place to change the meaning of a clear and unambiguous statute...Where the statute's language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning... What a legislature says in the text of a statute is considered the best evidence of the legislative intent or will. Therefore, the courts are bound to give effect to the expressed intent of the legislature.

Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000).

S.C. Code § 4-9-10 requires counties to adopt a form of county governance and records the manner of county council election selected by each county in South Carolina. “Council members must be elected from defined single-member election districts unless otherwise determined under the provisions of subsection (a), (b), or (c) of Section 4-9-10”. S.C. Code § 4-9-90. Jasper County falls into the “unless otherwise determined” category as it utilizes one of the alternative forms of county government, “the council-administrator form of government as prescribed in Article 7”. S.C. Code § 4-9-10(b). Article 7 of Title 9 provides:

The council in those counties adopting the council-administrator form of government provided for in this article shall consist of not less than three nor more than twelve members who are qualified electors of the county. Council members shall be elected in the general election for terms of two or four years commencing on the first of January next following their election.

S.C. Code § 4-9-610.

Notably, section 610 is specifically cited in Jasper County’s Code of Ordinances as the statutory authority for Ordinance 2-31 as reflected in Respondent’s Exhibit 7 introduced at trial.

R. p. _____. In other words, both S.C. Code § 4-9-10(b) *and* Ordinance 2-31 point to § 4-9-610 as the appropriate framework for elections in Jasper County. Nothing in section 610 requires members of the county council to be from single member districts, only that they be “qualified electors of the county” and “shall be elected in the general election ...”. This language aligns exactly with the plain meaning of Ordinance 2-31 in that the council members in Jasper are elected at large and are required to live within the county. Accordingly, in addition to the plain language of the ordinance itself, the cited statutory authority included in Jasper County’s own exhibit quoting Ordinance 2-31 mitigates in favor of upholding Mr. Adkins’ election to his seat on the Jasper County Council.

Further study of Article 9 continues to support Mr. Adkins’ position. Other counties, not including Jasper, *did* opt for single member districts by following the standard method for selection of council members set forth in S.C. Code § 4-9-90. In those counties, election of county council members proceeds much like Jasper County urges in this case:

Council members must be elected from defined single-member election districts unless otherwise determined under the provisions of subsection (a), (b), or (c) of Section 4-9-10 or under the provisions of any plan ordered by a court of competent jurisdiction prior to May 1, 1986. In the event the members of the governing body are required to be elected from defined single-member election districts, *they must be elected by the qualified electors of the district in which they reside*. All districts must be reapportioned as to population by the county council within a reasonable time prior to the next scheduled general election which follows the adoption by the State of each federal decennial census. The population variance between defined election districts shall not exceed ten percent.

S.C. Code § 4-9-90 (emphasis added).

It was uncontested at trial that Jasper County elects its council members at-large. R.p. ____.

Jasper County does not follow the method for election of council members set forth in § 4-9-90. If there were four “single member” districts in Jasper County that are elected at-large pursuant to Ordinance 2-31 as urged by the County, the four council members currently sitting in those seats have *not* been “elected by the qualified electors of the district in which they reside” as required by section 4-9-90; rather, they have been elected at-large. Further, Ordinance 2-31 does not point to § 4-9-90 as the authority from which it is derived, but rather -610, which as previously discussed does utilize the at-large election method employed by Jasper County. To read past the plain language of Ordinance 2-31 and impose the reading urged by Jasper County would potentially further frustrate the purpose of the ordinance by calling into question the validity of Jasper County’s current council members’ elections and its past council elections for the last several decades.

Respondent argues that *Infinger v. Edwards*, 268 S.C. 375, 378, 234 S.E.2d 214, 215 (1977) controls in this case. *Infinger* examined Charleston County’s use of at-large elections conducted for single member county council districts. *Id* at 382, 234 S.E.2d at 217. Like Jasper County, Charleston County was purportedly using the council-administrator form of government prescribed in an earlier version of § 4-9-10(b). However, unlike Jasper County, Charleston County had specifically opted to follow the exact same method of voting that it utilized prior to July 1, 1976. By contrast, Respondent’s Exhibit 7 shows that Jasper County Ordinance 2-31 specifically points to § 4-9-610 as its deriving authority, thereby manifesting the intent of the drafters of the ordinance and supporting the literal reading of the ordinance that indicates at-large elections and a residency requirement only within the County, not within a particular district. R. p. ____.

County's assertion to the effect that it has "always done things this way" does not meet its burden of proof to overcome a literal reading of Ordinance 2-31 and the legislative intent evidenced by its citation of § 4-9-610.

CONCLUSION

For the reasons set forth above, Mr. Adkins is qualified to serve in his elected position on the Jasper County Council because he was elected at large by the people of Jasper County and has at all relevant times been a resident from one of the four townships in Jasper County. To interpret Ordinance 2-31 as urged by Jasper County requires this Court to ignore the plain meaning of the statute and would potentially result in the frustration of the legislative intent evidence by its citation of S.C. Code § 4-9-610.

SIGANTURE PAGE FOLLOWS

s/ Joseph O. Thickers

Joseph O. Thickers, S.C. Bar No. 101398

J. Eric Cavanaugh, S.C. Bar No. 100044

Cavanaugh & Thickers, LLC

1717 Marion Street (29201)

Post Office Box 2409

Columbia, SC 29202

Tel: (803) 888-2200

Fax: (803) 888-2219

Margie Bright Matthews (SC Bar no. 13200)

Bright Matthews Law Firm, LLC

PO Box 499

205 East Washington Street

Walterboro, SC 29488

(843)-549-6028

(843)-549-6107 Fax

Skyler B. Hutto (SC Bar no. 102741)

Williams & Williams

PO Box 1084

1281 Russell Street

Orangeburg, SC 29116

803-534-5218

803-536-6544 Fax

Attorneys for Appellant

March 20, 2024