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SPECIAL MEETING/ELECTION PROTEST HEARING
ATLANTIC BEACH ELECTION COMMISSION
APRIL 3, 2023

TIME: 1 PM

LOCATION: TOWN OF ATLANTIC BEACH
COMMUNITY CENTER
ATLANTIC BEACH, SOUTH CAROLINA

REPORTED BY: RONDA K. BLANTON, RPR
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APPEARANCES

COMMISSION MEMBERS PRESENT:

KENNETH MCIVER, Chairman
CAROLYN GORE
DERRICK STEVENS

ON BEHALF OF THE TOWN OF ATLANTIC BEACH:

HAYNSWORTH SINKLER BOYD
BY: RONALD T. SCOTT, ESQ.
JOSEPH D. DICKEY, JR., ESQ.
ALEXANDRA C. GLUNT, ESQ.
1201 Main Street, 22nd Floor
Columbia, SC 29201

ON BEHALF OF JOSEPHINE ISOM:

BOYKIN & DAVIS
BY: KENNETH A. DAVIS, ESQ.
220 Stoneridge Drive, Suite 100
Columbia, SC 29210

ON BEHALF OF JOHN DAVID:

CALLISON TIGHE & ROBINSON
BY: IAN T. DUGGAN, ESQ.
1812 Lincoln Street, Suite 200
Columbia, SC 29201

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EXAMINATION

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PROCEEDINGS

CHAIRMAN MCIVER: It is now 1:03,
and we'll call this to order. My name is Kenneth
McIver. I'm the chair of the Atlantic Beach
Election Commission. And for a roll call, I
would like all the commissioners to introduce
themselves for the court reporter so that she can
get your names.

MR. STEVENS: Derrick Stevens.

MS. GORE: Carolyn Gore.

CHAIRMAN MCIVER: And I'd also like
the attorneys to do the same so the court
reporter can get your names.

MR. SCOTT: Ron Scott with

Haynsworth Sinkler Boyd.

MR. DICKEY: Joseph Dickey,

Haynsworth Sinkler Boyd.

MS. GLUNT: Alexandra Glunt,

Haynsworth Sinkler Boyd.

CHAIRMAN MCIVER: All right. At
this point, if you would, please stand for
invocation.

Good Lord, we want to thank you for
the many blessings that you've given us. Thank
you for this town, for this congregation that's

1 before us today. Dear Lord, please watch over
2 these meetings. Make them pleasing in your
3 sight. In your name. Amen.

4 Counsel, you have -- commissioners,
5 you have agendas before you. At this time can we
6 -- noting that all the requirements for
7 notification has been met, can we please seek an
8 adoption for the agenda?

9 MR. STEVENS: Motion for adopt the
10 agenda.

11 MS. GORE: I second that.

12 CHAIRMAN MCIVER: Motion has been
13 made and second. We will adopt the agenda.
14 Thank you.

15 At this time, commissioners, we
16 will now move into executive session for legal
17 advice. So, apologize for -- okay. I do
18 apologize. I seek a motion that we call for move
19 to executive session.

20 MR. STEVENS: I motion to move into
21 executive section.

22 MS. GORE: I second the motion.

23 CHAIRMAN MCIVER: Motion has been
24 made and seconded. We will now move into
25 executive session. All those in favor?

1 MR. STEVENS: Aye.

2 CHAIRMAN MCIVER: Aye.

3 MS. GORE: Aye.

4 CHAIRMAN MCIVER: Okay. Motion has
5 been made. We'll move into executive session.
6 Thank you.

7 (Commission goes into executive session
8 at this time.)

9 CHAIRMAN MCIVER: Commission, I
10 seek a motion to come out of executive session.

11 MR. STEVENS: Motion to come out of
12 executive session.

13 MS. GORE: I second it.

14 CHAIRMAN MCIVER: All those in
15 favor.

16 MR. STEVENS: Aye.

17 MS. GORE: Aye.

18 CHAIRMAN MCIVER: Aye.

19 And we have come out of executive
20 session. We did receive some legal assistance
21 from our counselors, and we're just going to move
22 on forward with our agenda as we adopted.

23 Item 7 talks about the confirmation
24 of the council race; and we want to just, sort
25 of, confirm those votes with you. I'll read

1 those that we had confirmed, and they're in the
2 minutes from November 9.

3 We have David -- John David and
4 Josephine Isom, two people for mayor's race, John
5 David, 65; Josephine Isom, 64. Those were the
6 total vote. The council's race, Jacqueline Gore,
7 71; Jerry Finney, 62; Shawn Swinson, 48; Carla
8 Taylor, 69.

9 And the minutes will show in
10 accordance with the South Carolina Municipal
11 Election Commission is the commissioners
12 completed the canvassing of the vote.

13 The next step is a certification of
14 those votes. We'll do that again once we finish
15 both hearings.

16 We're now going to move on to the
17 matter at hand, which is the protest hearing by
18 Candidate Josephine Isom. I'd like to read into
19 the minutes her letter.

20 She wrote: "Appeal November 9,
21 2023. Town of Atlantic Beach Board of Elections,
22 Commissioner Kenneth McIver. Dear sir/madam,
23 this letter is to protest the certification of
24 the election of mayor in which I am sworn to
25 have -- which I am shown to have lost by one

1 vote.

2 I have attached a list of 19
3 provisional ballots which were properly
4 challenged in provisional ballot hearing.
5 Accordingly, each of these ballots represent a
6 voter who I believe is not a resident of the Town
7 of Atlantic Beach, including four individuals --
8 Carlisle Cooper, Noble P. Cooper, Jr., Noble P.
9 Cooper, III, and Traci Y. Cooper -- who list the
10 same address as their residence, which is a
11 building under construction for which a
12 Certificate of Occupancy has not been issued.

13 The inclusion of these ballots
14 improperly changed the outcome of the election.
15 In light of the aforementioned, I, therefore,
16 request those ballots be excluded and I be
17 declared the winner of the mayor of the Town of
18 Atlantic Beach.

19 With kind regards, I am sincerely
20 Josephine Isom; and she includes the 19 people
21 that she has listed.

22 (Commissioner and Attorney consult.)

23 CHAIRMAN MCIVER: And she has
24 listed on the top: Fraudulently registered
25 voters listed in Atlantic Beach list. Please

DIRECT EXAMINATION

BY MR. DAVIS:

Q. Can you state your name and full address for the record?

A. Josephine --

MR. DAVIS: Do you mind if she's seated? Please be seated. Probably easier. Sit and we pass the mic, if you don't mind me sitting.

CHAIRMAN MCIVER: That's fine, yes, sir.

Q. Okay. Can you state your name and full address for the record?

A. Josephine H. Isom. I live at 901 29th Avenue, Atlantic Beach.

MR. SCOTT: Do you mind repeating that into the mic.

A. Josephine H. Isom. I reside at 901 29th Avenue, Atlantic Beach.

Q. And how long have you resided there?

A. Ever since 1962.

Q. And how many times have you -- have you voted consistently in Atlantic Beach elections since that time?

A. Yes, I have.

Q. And did you have an occasion to review local property tax records and other building records regarding a number of people who voted in the November '23 election?

A. Yes, I have.

Q. And this is of your -- this is from your own review of those records? You got the information from your own review of those records?

A. I gathered the information from my own view of records.

Q. And I think you -- you previously submitted some documentation through counsel to the commission, and it was provided to the attorney for Mr. David?

A. Yes, I think so. I don't know if they was given to Mr. David. I can't answer that.

Q. Okay. In your protest, you identified a number of people who -- residents you believe were not properly determined?

A. Right.

Q. And among those being Carlisle Cooper; Noble Cooper, Jr.; Noble Cooper, III; and Traci Cooper?

A. Yes.

Q. And what did your review of the records show?

A. That the house is under construction. There's no CO on that house, and the records show that they did live in Columbia.

Q. Okay.

A. And they did not -- they had 4 percent in Columbia, not in Horry County.

Q. And in Horry County what is it showing?

A. Just property owner at 6 percent --

Q. 6 percent.

A. -- on the property.

Q. That's from your review of the record, you provided the information for review?

A. Yes.

Q. And you asked that the Cooper records be accepted as Exhibit 1?

A. Yes.

(Commissioner and Attorney consult.)

CHAIRMAN MCIVER: And just for the record, we -- we have the packet here. Are you going by each person individually first, one by one, and then cross-examined by the respondent?

MR. DAVIS: Whatever the commission's pleasure.

CHAIRMAN MCIVER: Okay. And so just for keeping up, I got your packet here. So, you're starting off for the 1 through 19 and I think -- so --

MR. SCOTT: I think the question, for clarity, that he's seeking is you asked for a certain portion of the information submitted to the -- considered an exhibit, and he's just wanting to clarify on where that can be found in the packet with specificity.

MR. DAVIS: Okay. Okay. It is identified --

CHAIRMAN MCIVER: I don't have them numbered, but I think it's right after a list.

MR. DAVIS: There's a business -- there's a list of voters and immediately after that the voter registration list.

CHAIRMAN MCIVER: Just so on advice of counsel, so for the record, you're going to be talking about all 19, and this -- this pamphlet that we have here, you're going to submit this whole thing for -- for -- in the record; is that correct?

MR. DAVIS: Yes, sir.

CHAIRMAN MCIVER: Okay.

1 with another witness.

2 CHAIRMAN MCIVER: Okay.

3 MR. DAVIS: I think Mr. Isom

4 testimony is only going to be limited to the

5 Cooper family, and I'm going to call a second

6 witness after cross-examination to deal with the

7 rest of this. So, we yield now to Mr. Duggan on

8 any questions he may have for Miss Isom.

9 CHAIRMAN MCIVER: All right.

10 Counsel, will you please state your name for the

11 record.

12 MR. DUGGAN: Good afternoon, sir.

13 I'm Ian Duggan with the Callison Tighe Law Firm

14 in Columbia. I'll try to be louder.

15 CHAIRMAN MCIVER: Please speak in

16 the mic.

17 MR. DUGGAN: Yes, sir. I

18 appreciate that. Ian Duggan of Callison Tighe

19 Law Firm in Columbia, and I understand I can go

20 ahead and proceed with cross-examination?

21 CROSS-EXAMINATION

22 BY MR. DUGGAN:

23 Q. Miss Isom, thank you very much for being

24 here this afternoon. I want to start with some

25 questions relating to your protest letter.

1 Q. And you've lived here for how many years
2 again?

3 A. I came in 1962.

4 Q. And care deeply about this town?

5 A. I sure do.

6 Q. And it's your understanding that this
7 commission should declare you the winner of the
8 mayoral race and not Mr. David over there; isn't
9 that right?

10 A. Right.

11 Q. And, again, your letter says -- and
12 correct me if I am wrong -- you be declared the
13 winner of the election for the Town of Atlantic
14 Beach; right?

15 A. Right.

16 Q. And I want to talk about the challenge
17 to your votes here on page 2. Before you
18 submitted this letter, you -- you had the
19 opportunity to talk to your attorney; isn't that
20 right?

21 A. Yes, sir.

22 Q. Okay. And, again, this is something you
23 took very seriously.

24 A. Yes.

25 Q. And you understood the law was that you

1 MR. SCOTT: If you'll share the
2 microphone with her when she responds.

3 MR. DUGGAN: Absolutely.

4 Q. There's a protest letter that appears to
5 have been submitted on November 9 at
6 approximately 4:43 p.m. Do you remember that
7 letter, ma'am?

8 A. Yes.

9 MR. DAVIS: I'm sorry.

10 A. Yes, I do.

11 MR. DUGGAN: How about if I try to
12 keep that -- can everybody hear us okay?

13 MR. DAVIS: Go ahead. It'll be
14 easier.

15 MR. DUGGAN: I promise I won't
16 bite.

17 Q. And before this letter was submitted,
18 this was a very important letter to you; isn't
19 that right?

20 A. Right.

21 Q. And this letter is important because you
22 are -- you are challenging the results of
23 democratic elections here at Atlantic Beach;
24 right?

25 A. Right.

1 had to, in making this protest, submit concise
2 grounds for your challenge; correct?

3 A. Yes.

4 Q. And I want to talk about the precision
5 that was used here because it appears that you
6 have 19 names on -- on the page 2 of this letter.
7 Do you remember that?

8 A. Yes, I do.

9 Q. Okay. Can you help me understand this
10 language that Mr. McIver read into the record?
11 Said, note. Please see astro behind every
12 challenged voter.

13 What did you mean by that?

14 A. Those are the ones that I don't believe
15 live here and that I did the research, along with
16 another witness that will be testifying.

17 Q. Okay. I'm not sure I follow. Why would
18 you have an asterisk behind only certain names
19 but an asterisk not behind other names? You have
20 a copy of this letter in front of you as well.

21 A. Because those are the ones I know
22 personally don't live here.

23 Q. Okay. And so you think that anyone --
24 where does it say that on this letter on page 1
25 or 2 that that -- these are the people you

1 personally know that don't live here?

2 A. It probably doesn't. It included all of
3 them, sir.

4 Q. I see. And who is No. 19 here?
5 Vaughn's daughter?

6 A. That's someone I do not know. I don't
7 know if she lives here or not.

8 Q. Okay. So, you don't -- you don't know
9 her at all?

10 A. No.

11 Q. Okay. Do you know who -- well, who is
12 the Vaughan that you're referencing here? You
13 said Vaughan's daughter. Which Vaughan was --

14 A. I think he owns a piece of property on
15 the waterfront. He's in and out, but he's not a
16 resident. He doesn't live here permanently.

17 Q. Okay. But do you know his name?

18 A. I don't know his first name.

19 Q. Okay. That's Mr. Vaughan?

20 A. Yes.

21 Q. And who is -- who is Nadiyah -- Nadiyah
22 Vaughan, No. 15 on that list?

23 A. No. 15, I assume that may be kin.
24 There's a mother and a father and a daughter.

25 Q. Okay. So, you don't know Naim?

1 referenced that?

2 A. What? The election commission? Sure.

3 Q. Yes, ma'am. And I guess to be more
4 specific, Mr. Montgomery, Joe Montgomery, he used
5 to be a member of the election commission; isn't
6 that right?

7 A. Yes, he was.

8 Q. Okay. And he was an election
9 commissioner on November 9, right, of 2023?

10 A. Yes.

11 Q. Okay. And were you here for the -- the
12 challenge to the provisional ballots hearing that
13 took place on that date?

14 A. Yes.

15 Q. Okay. And then do you remember who made
16 those challenges?

17 A. Yes, I do.

18 Q. Who was that, ma'am?

19 A. Irene Armstrong.

20 Q. Okay. And in connection with municipal
21 election of November 7, 2023, did she have any
22 responsibility or role in connection with your
23 campaign?

24 A. Did she have any responsibility with
25 my -- with me on my campaign?

1 A. Not personally, no.

2 Q. What about Erika Vaughan?

3 A. No, I do not know them personally.

4 Q. All right. Of the -- the list here, I
5 understand -- please correct me if I am wrong --
6 that the Coopers you do know personally?

7 A. I know the older folks Coopers. I know
8 Traci, and that's about all; but I know they
9 don't live here 'cause the house is under
10 construction. They didn't have windows or didn't
11 have some steps. They didn't have -- CO was not
12 issued by the Town of Atlantic Beach.

13 Q. All right. And so it's your
14 understanding, then, that if someone is
15 renovating a home and putting an addition on the
16 home, they can't be domiciled or resident of the
17 town; is that right?

18 A. No, sir.

19 Q. I'm --

20 A. No, I don't know that, sir.

21 Q. Okay. You don't know. All right. Let
22 me change gears here momentarily.

23 We talked -- your counsel spoke about
24 the -- the former makeup of the election
25 commission. Do you remember your attorney

1 Q. Yes, ma'am.

2 A. No, she didn't.

3 Q. Was she your designated poll watcher?

4 A. Yes, she was.

5 Q. Okay. All right. Thank you for
6 answering that for me.

7 And so she made several challenges to
8 the provisional ballots cast by many of the folks
9 that are in your protest letter; isn't that
10 right?

11 A. Yes.

12 Q. And on November 9, the commission --
13 this Municipal Election Commission, they
14 considered those challenges, took evidence
15 regarding those challenges, and ultimately
16 decided to deny all of those challenges to
17 ballots; right?

18 A. The commission -- yes. They denied them
19 and accepted those ballots.

20 Q. Yes, ma'am. And then at that point,
21 Mr. McIver, he shuffled them in -- all those
22 ballots together; right?

23 A. I can't answer that. I don't know what
24 he did with the ballots.

25 Q. Were you here?

1 having been first duly sworn, was examined and
2 testified as follows:
3 THE WITNESS: Yes.
4 DIRECT EXAMINATION
5 BY MR. DAVIS:
6 Q. Could you state your name and address
7 for the record?
8 A. Irene Armstrong.
9 Q. Address?
10 A. 505 32nd Avenue South, Atlantic Beach.
11 Q. And did you have a chance to work as the
12 poll watcher for Miss Isom in the November
13 election?
14 A. And for the record, no, I did not. I
15 was in school as the poll watcher. Initially I
16 was not -- no, I was not your --
17 MS. ISOM: I'm sorry.
18 A. I was Miss Gore's poll watcher, and I am
19 the challenger of this 16 or 19 or 16.
20 Q. Right.
21 A. Yes.
22 Q. So, you were challenging votes on behalf
23 of Miss Gore originally?
24 A. I -- I challenged these voters on behalf
25 of Irene Armstrong. I had to have -- in order to

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1 be at the poll to -- that date to challenge
2 anyone, I had to come under one of the
3 candidates.
4 Q. Okay.
5 A. So, Miss Gore asked me to -- to
6 represent her here.
7 Q. But you reviewed the records regarding
8 the individuals that were listed?
9 A. I reviewed the records and -- and I did
10 identify them.
11 CHAIRMAN MCIVER: Counsel, I'm
12 sorry. If you will state Jacqueline Gore; is
13 that correct? You're talking about Jacqueline
14 Gore?
15 THE WITNESS: Miss Gore, yes.
16 Excuse me, yes. Jacqueline Gore, yes.
17 Q. So, you had the opportunity to review
18 the record regarding James Chapel?
19 A. He did not vote.
20 Q. Okay. But --
21 A. He did not vote in the election.
22 Q. Okay. So, we will withdraw any --
23 A. Yeah, yeah. And I wish someone had told
24 me that I was expected to do this today 'cause I
25 don't like to be unprepared. I really don't

4 appreciate this. I've been put on the spot.
2 Q. Okay. And then did you have a chance
3 to --
4 CHAIRMAN MCIVER: Just a question.
5 How are you -- are you still wanting to be here
6 or do you --
7 THE WITNESS: Well, I -- I'm -- I
8 didn't know that I was supposed to be here. No
9 one ever told me that I needed to be here.
10 Although I'm the one who challenged all of these
11 voters, no one has contacted me and told me that
12 I needed to be here today.
13 That is very wrong. 'Cause with
14 all these counselors in here, you know, someone
15 should have contacted me. Again, I don't like to
16 be put on the spot.
17 CHAIRMAN MCIVER: I think the
18 protester is -- is asking you as a witness. We
19 didn't have knowledge that you were going to be
20 here. So just --
21 THE WITNESS: I wish Miss Isom
22 said, "You got to be there. You're going to be a
23 witness for me." I didn't hear any of that so --
24 CHAIRMAN MCIVER: Okay. Well, it
25 didn't come from us.

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1 THE WITNESS: That is for the
2 record. That is for the record because I really
3 do not appreciate it.
4 CHAIRMAN MCIVER: Just in terms of,
5 counselor, do you feel comfortable with Miss Isom
6 still being represented if she doesn't appreciate
7 being here? Or how do you --
8 THE WITNESS: I don't know where
9 this is going. I don't know what the questions
10 are. I have no problem with the questions, but I
11 just don't like to be thrust into something that
12 I had -- I did not see coming or was not privy to
13 knowing before today.
14 CHAIRMAN MCIVER: And for the
15 record, again, you were a protester for Mrs. --
16 Councilman Jacqui Gore, not Councilman Josephine
17 Isom?
18 THE WITNESS: Yes, yeah. Hold --
19 CHAIRMAN MCIVER: Got you. Okay.
20 Continue if you -- if she is willing.
21 THE WITNESS: And that's fine. So
22 what -- you know --
23 Q. That's what we're doing. Going through
24 the list and then validating the records that
25 were -- that were submitted on there -- in your

1 challenge with regard to those people.
 2 A. Okay.
 3 Q. Right. Just asking you questions
 4 that -- the same documents that was submitted in
 5 the Gore challenge in the provisional ballot
 6 hearing and -- and they're, basically, what was
 7 presented regarding the tax records and -- and
 8 the COs for those people.

9 A. I -- I did challenge them, and it was on
 10 the premise of what was found in the county
 11 records for each one. Let's just back up. Let's
 12 back up for a minute because I don't want this
 13 body to be confused nor anyone else to be
 14 confused in this setting.

15 I'm a resident of Atlantic Beach for
 16 longer than Miss Isom has been here. I came in
 17 '65. I became the Mayor of Atlantic Beach in
 18 1995 and served 12 years.

19 During that point in time, I made it my
 20 business to get an election printout from the
 21 election commission in Columbia to send me a
 22 printout of all the election -- all the -- all
 23 the voters on the election list for the Town of
 24 Atlantic Beach, and I've been doing that since
 25 '95.

1 Getting a printout of all the folks
 2 listed on the election lists for the Town of
 3 Atlantic Beach because folks used to be purged
 4 off of our lists, and they lived in Atlantic
 5 Beach; but sometime they just disappear off of
 6 our list because they used to purge voters.
 7 So, I became very conscious of that with
 8 my tenure as mayor. So, I've made it my business
 9 to get that voter's registration list every year
 10 that there was an election; and I thoroughly
 11 combed through it so that I could recognize and
 12 be able to recognize the voters that was on our
 13 list.

14 We're only four streets, and I've been
 15 here since '65. I know who lives in Atlantic
 16 Beach and who doesn't. I could throw a stone to
 17 any one of them's home, you know. So, I got this
 18 list; and I looked through this list. And, you
 19 know, I'm going, like, I recognize names that I
 20 knew were not listed. I knew that, and I wanted
 21 to challenge that.

22 So, that's how I became Jacqui's or
 23 Miss Gore's poll watcher because I could not
 24 challenge them unless I came under the auspices
 25 of one of the candidates.

1 Miss Isom had hers. Jacqui had her --
 2 Jacqui asked that I be her poll worker, but I
 3 identified all of these names on this sheet based
 4 on what the voters registration list pointed out
 5 because it was under that list for the November 7
 6 election. And I did not recognize -- I was
 7 wondering why these names were on the voter's
 8 registration list that I've been looking at for
 9 20 years, you know.

10 CHAIRMAN MCIVER: Okay. Miss -- if
 11 you can get to the point. Do you have a question
 12 for her specifically?

13 MR. DAVIS: I do.

14 Q. If you're comfortable going forward, I
 15 was going to ask you about the names.

16 A. Yes.

17 Q. And give the documents.

18 A. And I will tell you the names, yes.

19 Q. So, you looked at the records for a
 20 Glynnes Cheatham?

21 A. Yes.

22 Q. And you found that Miss Cheatham had a
 23 vacation property in Atlantic Beach?

24 A. Absolutely.

25 Q. And that she appears to be a resident of

1 Richmond, Virginia?

2 A. Absolutely.

3 MR. DAVIS: And so we ask that the
 4 documents for Miss Cheatham be presented as
 5 Exhibit 3 on behalf of Miss Isom.

6 CHAIRMAN MCIVER: Okay.

7 MR. DAVIS: But then for seven and
 8 eight --

9 MR. SCOTT: You don't have to ask
 10 anything further about the exhibits.
 11 Everything's --

12 MR. DAVIS: Okay. Perfect. Okay.

13 Q. And then you looked at the records for
 14 K. G. Divine and Kamage (phonetic) Divine?

15 A. Every last one of them that's on the
 16 list.

17 Q. All right.

18 A. The same thing.

19 Q. And you believe that they live in
 20 Philadelphia, and they don't reside in Atlantic
 21 Beach?

22 A. Those were the records that were pulled.

23 Q. Okay. And that's the same, then, for
 24 Jamar McLaurin (phonetic)?

25 A. Yes.

1 Q. Okay. And you then looked at the
2 records for Julianna Hines, and it shows that she
3 had 4 percent residence in Georgetown; and any
4 property that she have in Atlantic Beach is a
5 6 percent nonresidential property?
6 A. Yes.
7 Q. Okay. And then for Nadiyah Vaughan, you
8 determined that she's -- your records review
9 determined that she is not a resident of Atlantic
10 Beach?
11 A. Erika, Nadiyah, and Naim.
12 Q. Okay.
13 A. The family of three.
14 Q. Okay. And then Diane Hill, same thing?
15 A. Diane, yes. The same thing. Although
16 she's lived in Atlantic Beach, but she's never
17 became a resident according to the voter's
18 registration list of -- until 2023 and based on
19 the registration of her vehicle that she was, you
20 know, using in Atlantic Beach for the past 15
21 years.
22 Q. Okay. And then Marvirstine Briggs-
23 Fisher.
24 A. Same. She's not a resident of Atlantic
25 Beach.

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1 MR. DAVIS: And so, again, we ask
2 that the documents previously discussed be
3 accepted as exhibits. Have no further questions
4 for Miss Armstrong at this time.
5 CHAIRMAN MCIVER: Okay. Respondent
6 attorney, do you have any questions cross-
7 examining for Mrs. Armstrong?
8 CROSS-EXAMINATION
9 BY MR. DUGGAN:
10 Q. Mrs. Armstrong, good afternoon, ma'am.
11 I'm the attorney for John David, and I don't know
12 if you were in here earlier. I'm going to ask
13 you several questions, and I'm going to hand the
14 mic to you; and if you won't mind handing the mic
15 back to me once you've responded.
16 You were the poll watcher for
17 Miss Jacqueline Gore; is that right?
18 A. Uh-huh, uh-huh.
19 Q. I'm sorry.
20 A. Yes, yes.
21 Q. Thank you, ma'am. And Miss Jacqueline
22 Gore, who does she reside with?
23 A. Who does she reside with?
24 Q. Yes, ma'am. Does anyone live in her
25 house with her?

1 I don't have any issue with the...
2 with. I know her significant other is
3 Mr. Stevens.
4 Q. And that's Derrick Stevens?
5 A. Yes.
6 Q. Who's sitting here with us today?
7 A. Yes.
8 Q. And this election November 7 of 2023 is
9 something you cared very deeply about; is that
10 right?
11 A. Every election. Every election. More
12 particularly this one because I recognized names
13 on the list that I knew were not residents in
14 Atlantic Beach.
15 Q. And you're married, correct, ma'am?
16 A. Yes.
17 Q. And I'm not asking the substance of any
18 conversations you may have had with your husband,
19 but something that he cared deeply about as well?
20 A. I suppose so.
21 Q. Yes, ma'am. And he was charged with --
22 A. What does that got to do with anything?
23 Q. Excuse me, ma'am. If you'll let me
24 finish my question.
25 MR. DAVIS: Object. That's beyond

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1 the scope.
2 MR. DUGGAN: This goes directly --
3 if I may respond, sir, this goes directly to this
4 witness' credibility here today.
5 (Commissioner and Attorney consult.)
6 CHAIRMAN MCIVER: Mr. Duggan, if
7 you'll please just ask specific questions about
8 this election to Mrs. Armstrong; and we're not
9 talking about her husband. I don't know if he's
10 even here.
11 THE WITNESS: No, huh-uh.
12 MR. DUGGAN: I don't know if he's
13 here either, sir, but I -- I think it is
14 something to consider that -- that this witness'
15 husband was charged with interfering with this
16 election.
17 MR. DAVIS: Objection. This is not
18 the -- this person is not a party.
19 MR. DUGGAN: If I could please
20 continue my expression to the commission.
21 CHAIRMAN MCIVER: We're going to on
22 the advice of counsel that we're just going to go
23 ahead and please direct your questions to
24 Mrs. Armstrong.
25 BY MR. DUGGAN:

1 Miss Isom's counsel did.
 2 You know, I'm not aware and -- and
 3 counsel for Miss Isom cannot point to any rule
 4 that says that y'all can't consider affidavits/
 5 sworn statements by folks that this commission
 6 has, in large part, already heard from on
 7 November 9.
 8 This testimony's consistent with
 9 what they provided back on November 9 in the
 10 affidavit. As I understand, that's the practice
 11 been for many years in Atlantic Beach. It would
 12 be a pretty fundamental change and a very
 13 different interpretation of what we've had in the
 14 past.
 15 And, again, I think it's just
 16 fundamentally unfair to not consider these
 17 affidavits and other evidence that we've
 18 presented in documented form when this commission
 19 has already said that they didn't need to lay a
 20 foundation. They were just going to consider all
 21 the material that Miss Isom produced.
 22 I just got that stuff today. I
 23 couldn't go through all that stuff today. So,
 24 the commission wanted to consider it, let's put
 25 it all out. Let's have a **good fair fight, again,**

1 nearly as possible in enforcement of the
 2 procedures and Rules of Evidence observed by
 3 Circuit Court to this date.
 4 MR. DUGGAN: And we routinely
 5 submit affidavits in connection with questions
 6 like this.
 7 CHAIRMAN MCIVER: Thank you.
 8 Commissioners, I seek a motion that we go into
 9 executive.
 10 MR. STEVENS: I motion we go into
 11 executive session.
 12 MS. GORE: I second that motion.
 13 CHAIRMAN MCIVER: Motion has been
 14 made and seconded. All those in favor?
 15 MR. STEVENS: Aye.
 16 MS. GORE: Aye.
 17 CHAIRMAN MCIVER: Aye. We'll be
 18 back in a second.
 19 (Commission goes into executive session
 20 at this time.)
 21 CHAIRMAN MCIVER: Commission, I
 22 seek a motion that we come out of executive
 23 section.
 24 MR. STEVENS: Motion that we come
 25 out of executive session.

1 with the understanding that to respond briefly, I
 2 understand judges can review decisions. What
 3 counsel for Miss Isom has not given any view or
 4 any authority that speaks to this election
 5 commission reconsidering its final decision.
 6 So, if that's an issue for the
 7 courts, that's an issue for the courts; but, you
 8 know, she has a right to go to court, I suppose.
 9 But this decision was final, and there's no
 10 provision of the law that -- that grants the
 11 authority to this commission, however it's
 12 constituted, to reconstitute and reconsider its
 13 final decisions.
 14 CHAIRMAN MCIVER: Thank you.
 15 MR. DUGGAN: I'm going to go ahead
 16 and hand the exhibits we had -- y'all already
 17 have them. I'm sorry. Just to summarize, the
 18 transcript of the November 9 hearing, a copy of
 19 my letter; and I'm going to go ahead and hand the
 20 court reporter the other exhibits we have, if
 21 that's all right.
 22 MR. DAVIS: Mr. Chair, just note
 23 for the record Section 7-17-570 provides that --
 24 with regards to conduct of election protest
 25 hearing provides for and conduct a hearing as

1 MS. GORE: Second that motion.
 2 CHAIRMAN MCIVER: The motion's been
 3 made that we come out of executive session. All
 4 those in favor.
 5 MR. STEVENS: Aye.
 6 MS. GORE: Aye.
 7 CHAIRMAN MCIVER: Aye.
 8 So, we have come out of executive
 9 session. Just, again, I want to thank you all
 10 for waiting and being here. Again, I want to
 11 thank -- personally thank the commissioners for
 12 your volunteer work and your participation in
 13 this very important process of -- of your duties.
 14 There was a -- I'd like to seek a
 15 motion that we accept the packet of counsel --
 16 Councilwoman Josephine Isom and we also accept
 17 the packet of Councilman John David's, that they
 18 were presented to the MEC, and we will present --
 19 we will consider both of them as we make our
 20 decisions, and I make a motion that we accept
 21 that motion.
 22 Along with the -- I'm sorry. Along
 23 with the agenda, the packet that were presented
 24 by counsel, that we consider all of that and
 25 accept all of that into the record.

1 MR. STEVENS: Make a motion to
 2 accept it.
 3 MS. GORE: I second the motion.
 4 CHAIRMAN MCIVER: It's been moved
 5 that we accept all the information that was
 6 presented and for the record, we keep all that
 7 information; and all those in favor?
 8 MR. STEVENS: Aye.
 9 MS. GORE: Aye.
 10 CHAIRMAN MCIVER: Aye. Motion has
 11 been carried.
 12 All right. Couple of motions.
 13 Finding of fact. Motion one. I move that the
 14 Municipal Election Commission of the Town of
 15 Atlantic Beach make a finding of fact based on
 16 records before us at this protest hearing that
 17 Ms. Julianna Hines was not a resident of the Town
 18 of Atlantic Beach at the time of the mayoral
 19 election of November 7, 2023, and that votes cast
 20 by such individual is deemed to be fraudulent
 21 votes and shall not be considered in the final
 22 vote counted for the mayoral race.
 23 MR. STEVENS: Motion to --
 24 MR. SCOTT: That was a motion. We
 25 just need a second.

1 are Carlisle Cooper; Noble Cooper, Jr.; Noble
 2 Cooper, III; Traci Cooper; Glynes Cheatham;
 3 Knowledge G. Divine; Kamage Divine; Jamar
 4 McLaurin; Naim Vaughan; Marvirstine Briggs-
 5 Fisher; Diane Hill; and Erika Vaughan.
 6 Commissioners, the motion's been made.
 7 MR. STEVENS: Second the motion.
 8 CHAIRMAN MCIVER: Motion has been
 9 seconded. All those in favor?
 10 MS. GORE: Aye.
 11 MR. STEVENS: Aye.
 12 CHAIRMAN MCIVER: And I oppose.
 13 Decision motion. I make a motion
 14 that based on the forgoing findings of fact and
 15 the fact that the now invalid votes are no longer
 16 segregated, the final vote count of the
 17 November 7, 2023, mayoral election is deemed
 18 significantly doubtful; and the mayoral election
 19 is hereby deemed invalid.
 20 I further move that the Atlantic
 21 Beach Town Council order a special election for
 22 the position of town mayor specific to
 23 Ms. Josephine Isom and Mr. John David as soon as
 24 possible. Can be -- as soon as possibly can be
 25 scheduled.

1 MR. STEVENS: Second the motion.
 2 I'll second the motion.
 3 CHAIRMAN MCIVER: So, the motion
 4 was made and accepted.
 5 Question about that. This -- was
 6 Miss Hines' one of the people that was also
 7 presented to us for the -- the affidavit hearing,
 8 and we didn't accept her then. We're not going
 9 to accept her at this time. All those in favor.
 10 MR. STEVENS: Aye.
 11 MS. GORE: Aye.
 12 CHAIRMAN MCIVER: And aye. We're
 13 not considering Mrs. Julianna Hines' vote.
 14 Finding of fact, Motion 2, I move
 15 that the Municipal Election Commission of the
 16 Town of Atlantic Beach make a finding of fact
 17 based on the record before us at this protest
 18 hearing that the following individuals were not
 19 residents of the Town of Atlantic Beach at the
 20 time of the mayoral election November 7, 2023,
 21 and votes cast by such individuals are deemed to
 22 be fraudulent votes and shall not be considered
 23 in the final votes specific for their -- the
 24 mayoral election.
 25 Those specific named individuals

1 Commissioners --
 2 MR. STEVENS: I second the motion.
 3 CHAIRMAN MCIVER: It's been moved
 4 and seconded. All those in favor?
 5 MS. GORE: Aye.
 6 MR. STEVENS: Aye.
 7 CHAIRMAN MCIVER: Aye. The motion
 8 carried.
 9 So, at this time we're going to
 10 certify the council election since that was not
 11 part of the protest hearing where Jacqui Gore,
 12 71; Carla Taylor, 69; Jerry Finney, 62; Shawn
 13 Swinson, 48 votes dated November the 3rd, 2024.
 14 MR. DUGGAN: I'm sorry, sir.
 15 April 3?
 16 CHAIRMAN MCIVER: April 3, 2024.
 17 Thank you.
 18 The MEC will prepare, with the
 19 assistance of our attorney, a written order
 20 setting out this decision and direction. We will
 21 provide copies of this order to all parties
 22 involved in the protest.
 23 And I seek a motion.
 24 Commissioners, I need a second, please.
 25 MS. GORE: Second. I second the

1 motion.
 2 CHAIRMAN MCIVER: All those in
 3 favor?
 4 MR. STEVENS: Aye.
 5 MS. GORE: Aye.
 6 CHAIRMAN MCIVER: And aye.
 7 MR. DUGGAN: I do have one
 8 administrative matter, sir, that I think it's
 9 important to draw the commission's attention to.
 10 I'd be referencing page 78 of the November 9,
 11 2023, transcript.
 12 By record, sir, I believe this is
 13 regarding Miss Julianna Hines; and as I
 14 understood, sir, you to say that Ms. Hines' vote
 15 was challenged and that challenge was granted on
 16 November 9 hearing.
 17 I -- I'm just looking at the
 18 transcript here. This is page -- bottom of
 19 page 78, and Chairman Montgomery seconds the
 20 motion that you brought and it -- both Miss Gore
 21 and Mr. Montgomery voted in favor of counting
 22 that vote; and I understand it was counted.
 23 It's a little bit hard to tell from
 24 the transcript here; but I just would just draw
 25 your attention, I guess, in making this opinion

1 CERTIFICATE OF REPORTER
 2 STATE OF SOUTH CAROLINA
 3 COUNTY OF HORRY
 4 I, Ronda K. Blanton, a Registered
 5 Professional Reporter and Notary Public for the
 6 State of South Carolina at Large, do hereby
 7 certify that the witnesses in the foregoing
 8 hearing were by me duly sworn to testify to the
 9 truth, the whole truth, and nothing but the truth
 10 in the within-entitled cause; that the
 11 proceedings in the foregoing hearing were taken
 12 at the time and location therein stated; that the
 13 testimony of all witnesses and all statements
 14 made at the time of the hearing were recorded
 15 stenographically by me and were thereafter
 16 transcribed by computer-aided transcription; that
 17 the foregoing is a full, complete, and true
 18 record of the hearing and of all statements made
 19 at the time of the hearing.
 20 I further certify that I am neither related
 21 to nor counsel for any party to the cause pending
 22 or interested in the events thereof.
 23 Witness my hand, I have hereunto affixed my
 24 official seal on April 15, 2024, at Myrtle Beach,
 25 Horry County, South Carolina.

Ronda K. Blanton
 NCRA REGISTERED PROFESSIONAL
 REPORTER, RPR
 Notary Public,
 State of South Carolina at Large
 My Commission expires:
 May 15, 2028.

1 here. Because I read that in a different fashion
 2 than I understand you've stated today.
 3 (Commissioner and Attorney consult.)
 4 CHAIRMAN MCIVER: Thank you.
 5 MR. DUGGAN: Yes, sir.
 6 CHAIRMAN MCIVER: All right. And
 7 what you've all been waiting for. Counsel, I
 8 move we adjourn this hearing November (SIC) 3,
 9 2024.
 10 MR. STEVENS: I second the motion.
 11 CHAIRMAN MCIVER: Motion has been
 12 seconded. All those in favor?
 13 MS. GORE: Aye.
 14 MR. STEVENS: Aye.
 15 CHAIRMAN MCIVER: And I agree. And
 16 this protest hearing is adjourned.
 17 (Proceedings concluded at 5:55 p.m.)
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Shaun Swinson S
Town Council Candidate
Town of Atlantic Beach
Shaunswinsonsr@gmail.com
(843)732-4247



April 3, 2024

Town of Atlantic Beach Election Commission
Atlantic Beach, SC 29582

Subject: Appeal of Decision to Certify Ineligible Voters for Town Council Election and Not for Mayoral Race

Dear Atlantic Beach Election Commission,

I am writing to appeal the decision made by the Election Commission to certify ineligible voters for the town council election but not for the mayoral race. I believe that this decision is unjust and goes against the principles of fair and democratic elections.

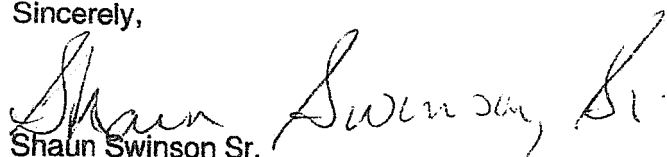
It has come to my attention that 9 voters who are not eligible to vote in the town council election due to residency requirements have been allowed to cast their votes. This is a clear violation of election laws and undermines the integrity of the electoral process. Furthermore, it is deeply concerning that these ineligible voters were allowed to participate in the town council election while being excluded from the mayoral race.

It is imperative that all elections are conducted in a fair and transparent manner, and that the integrity of the electoral process is upheld. All voters should be held to the same standards and eligibility requirements, regardless of the specific race they are voting in. Allowing ineligible voters to participate in one election while excluding them from another sets a dangerous precedent and erodes public trust in the electoral system.

I respectfully request that the Election Commission reevaluate its decision and take immediate action to rectify this situation. All ineligible votes cast in the town council election should be *invalidated*, and measures should be put in place to prevent similar incidents from occurring in the future.

I trust that the Election Commission will act swiftly and decisively to address this matter and ensure that all future elections are conducted in a fair and impartial manner. Thank you for your attention to this appeal.

Sincerely,


Shaun Swinson Sr.


Tracie Steele (witness)

Sent from my iPhone

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TOWN OF ATLANTIC BEACH
MUNICIPAL ELECTION COMMISSION MEETING

BEFORE: KENNETH McIVER, Chairman
DERRICK STEVENS, Commissioner
CAROLYN GORE, Commissioner

DATE: OCTOBER 17, 2024

TIME: 4:00 p.m.

LOCATION: ATLANTIC BEACH COMMUNITY CENTER
1010 32nd AVENUE SOUTH
ATLANTIC BEACH, SC

REPORTED BY: CAROL T. LUCIC, RPR, RMR

CLARK BOLEN COURT REPORTING & VIDEO CONFERENCING
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A P P E A R A N C E S

ON BEHALF OF THE MUNICIPAL ELECTION COMMISSION:

THE PFLUG LAW FIRM, LLC
BY: DWAYNE M. GREEN, ESQ.
211 Scott Street
Mt. Pleasant, SC 29464

ON BEHALF OF SHAUN SWINSON, SR.:

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BY: KENNETH A. DAVIS, ESQ.
220 Stoneridge Drive
Columbia, SC 29210

ON BEHALF OF WILLIAM BOOKER, LYNDA BOOKER, ELAINE
FINNEY, TERRY FINNEY, SARAH BLAIR, LINDA CHEATHAM,
and HAROLD CHEATHAM:

MONCKTON, HEMBREE & HUMPHRIES, P.A.
BY: WILLIAM H. MONCKTON, VI, ESQ.
1300 Professional Drive
Suite 102
Myrtle Beach, SC 29577

1 ON BEHALF OF CARLA TAYLOR:

2 ROBINSON GRAY STEPP & LAFITTE

3 BY: ROBERT E. TYSON, JR., ESQ.

4 2151 Pickens Street

5 Suite 500

6 Columbia, SC 29211

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(Exhibits attached.)

1 issue. I only presented on the continuance. I
2 have a couple of passages regarding the timeliness
3 issue.

4 MR. GREEN: Mr. Chair, just to get
5 everything on the record and in light of everything
6 we do want to get everything on the record. There
7 was no vote yesterday on the timeliness, but both
8 sides can present arguments as to the timeliness,
9 and that will be part of the vote. So there will
10 be a vote taken, but in terms of timing, if both of
11 you all will present your arguments on that, and
12 then the Commission will make a vote on that.

13 MR. MONCKTON: A point of order,
14 Mr. Chairman. In order to hear a protest the
15 Commission has to decide before you have a protest
16 hearing whether or not it is timely because there
17 is an issue with the timeliness. You can't just go
18 right into a protest hearing. The Commission is
19 going to have to vote to decide whether or not
20 Mr. Swinson's protest was timely before you can go
21 into a protest hearing.

22 That's the first thing you have to do is
23 to decide whether or not it is timely and it's a
24 valid protest before you can hear it. That is a
25 requirement of the Commission to make that vote.

1 It's not a hear it and we argue about it later.
2 You have to do that presumptively. Before you have
3 any protest hearing you have as a Commission to
4 decide whether or not it is a timely protest.

5 CHAIRMAN McIVER: Again, the whole nature
6 of our meeting was not to be a hearing. So I do
7 seek a motion that we listen -- that we vote on the
8 timeliness of Mr. Swinson's protest.

9 MR. DAVIS: There is going to be a record
10 from this proceeding, and I have not presented on
11 the timeliness issue. I would like to point the
12 Commission to the case law which supports going
13 forward with this protest.

14 MR. GREEN: Just a point of order again.
15 Once again, we're hearing from both attorneys. As
16 the attorney for the town we have to set the
17 procedure. So the procedure we're going to do is
18 to hear from both sides before we take a vote, and
19 that will include any argument that either side has
20 on timeliness.

21 To your point, the vote on timeliness
22 could be taken after we hear from both of you, and
23 that could be the first vote heard, and then the
24 second vote can be on the protest itself.

25 MR. MONCKTON: So I understand to be

1 important issue. I'm Kenneth Davis from the law
2 firm of Boykin & Davis. We represent Mr. Shaun
3 Swinson with regard to this protest.

4 We believe the protest to be timely based
5 upon the manner in which the election results were
6 certified; i.e., in November of 2023 there was an
7 interruption in the process based upon some alleged
8 wrongdoing of a prior Commission member. That
9 prior Commission member was removed from the
10 Commission, and then there was a time period the
11 Town Council spent trying to reconstitute a
12 Commission to go forward, and that was no fault of
13 Mr. Shaun Swinson. After various machinations a
14 hearing was ultimately set for April 3 at which
15 time -- completion of the process including a
16 hearing on the protest were all set for April 3,
17 and at said time the results of the election were
18 certified, but also at the same time the Commission
19 determined that 13 voters who participated in the
20 process had their votes thrown out after they had
21 been allegedly commingled with the other ballots.

22 So at that point is when Mr. Swinson
23 understood that there were ineligible voters who
24 had been originally counted in the voting polls.
25 Specifically the facts were raised in the mayoral

1 portion protest; however, it's one election, one
2 ballot. So after-acquired evidence that
3 Mr. Swinson learned about from the mayoral protest
4 hearing justified him making his protest, and I
5 think the case law Gecy vs. Bagwell supports the
6 notion that after-acquired evidence; i.e., evidence
7 which was learned after the election has occurred
8 can be the basis for a protest, and if that
9 evidence is not learned until April because of the
10 process employed by the Commission, Mr. Swinson has
11 to exercise his rights for what was put before him.

12 I think we hear from conversations about
13 statutes and mandatory timelines. Well, in the
14 case of Cole versus Town of Atlantic Beach, a 2011
15 case, our Supreme Court in the State of South
16 Carolina visited this notion of how mandatory
17 timelines can be. In particular, the Court said:
18 "Courts generally consider the provisions of
19 election laws mandatory when the statute expressly
20 declares that a particular act is essential to the
21 validity of an election or when a party seeks
22 enforcement of the law in a direct proceeding
23 before the election takes place. In the interest
24 of avoiding the disenfranchisement of voters after
25 an election has taken place a statute that uses

1 seemingly mandatory terms such as "shall" or "must"
2 will be considered directory if the party seeking
3 enforcement alleges no fraud or if that party fails
4 to prove fraud."

5 To my understanding the issue regarding
6 timeliness is a straight statutory interpretation
7 challenge and is not a challenge based upon any
8 alleged fraud by anyone, nor has there been put
9 forth any evidence of fraud in any delay. So our
10 Supreme Court said in that circumstance language
11 that appears mandatory like "shall" or "must" is
12 not mandatory; you look at the common sense and the
13 facts of the particular case.

14 Again, the Court said: "Courts justly
15 consider the main purpose of an election law,
16 namely, the obtaining of a fair election and an
17 honest return as paramount in importance to the
18 minor requirements which prescribe the formal steps
19 to reach that end, and in order not to defeat the
20 general design are frequently led to ignore such
21 innocent irregularities of election officers as are
22 free of fraud and have not interfered with a full
23 and fair expression of the voters' choice."

24 So, again, the Court reiterates this
25 notion that the processes are there, but more

1 important than the processes is the fairness to the
2 voters in the election process, and if there is no
3 allegation of fraud by the election officers, then
4 time frame irregularities can be set aside in
5 making a determination as to matters of timeliness
6 of a protest.

7 I guess my final point from that Cole
8 case, the Court said: "5-15-130 requires the
9 Municipal Election Commission to take a number of
10 actions within 48 hours of the candidates filing
11 protests - conduct a hearing, decide the issues,
12 file a report that includes the transcribed
13 testimony and exhibits with the County Clerk,
14 notify the parties of the decision and order a new
15 election if necessary. We believe the main purpose
16 of this law is to expeditiously finalize protested
17 municipal elections in the interest of realizing
18 the voters' will and seamlessly transitioning
19 governmental offices. Therefore, insubstantial
20 deviations from these provisions would not
21 ordinarily"; i.e., 5-15-130, "require a Court to
22 nullify a protest hearing decision."

23 So, again, the Court is saying that absent
24 this fraud the concerns for the voters' decision is
25 paramount, and matters such as timelines and

1 whether a particular function was done may be set
2 aside if there is no allegation or evidence of
3 fraud, and there is nothing that we've heard that
4 is suggestive of any fraud by any party in causing
5 the delay in the certification of the results from
6 November until April.

7 On that basis we ask that the Commission
8 find that this protest is timely. Thank you for
9 your time.

10 CHAIRMAN McIVER: Thank you. At this time
11 we ask the other party present their case.

12 MR. TYSON: Good afternoon, Members of the
13 Commission. I'm Rob Tyson. I'm the attorney for
14 Carla Taylor, the duly elected Town Council person
15 that for some reason people don't want to see, and
16 so hopefully we're here today and she will be
17 positively seated.

18 Just a couple of comments. Mr. Monckton
19 is going to finish up, but just a couple of points
20 just real quick. I wanted to read you the statute
21 just so that we're real clear, and these are facts.
22 This isn't me arguing; these are facts.

23 The section is 5-15-130 of the state law,
24 and it says: "Procedures for contesting results of
25 the election." So that's the title. So if you

1 from both sides is to first hear whether or not
2 it's timely and then secondly go into the matter.
3 So thank you both for all that. I just want to
4 make sure we have a clear record for any judicial
5 review.

6 CHAIRMAN McIVER: Thank you. We're going
7 to close out the hearing part of it and turn over
8 to discussion by the Commissioners, and if there is
9 a motion to be made, we're going to go ahead and do
10 that if there is any discussion. Again, we're
11 talking about the timeliness of Mr. Swinson's
12 protest.

13 MR. STEVENS: I would like to make a
14 motion to hear Mr. Shaun Swinson's appeal.

15 CHAIRMAN McIVER: We just heard it. We're
16 just going to take a vote whether or not
17 Mr. Swinson appeal was timely.

18 MR. STEVENS: Timely. I make a motion
19 that it was timely.

20 CHAIRMAN McIVER: A motion has been made
21 to agree that Mr. Swinson's motion was timely. Do
22 we have a second?

23 MS. GORE: I second that motion.

24 CHAIRMAN McIVER: The motion has been
25 seconded. All those in favor that Mr. Swinson's

1 motion was timely vote in the affirmative.

2 MR. STEVENS: Aye.

3 MS. GORE: Aye.

4 CHAIRMAN McIVER: I vote no, and the
5 motion has carried.

6 We are here only to discuss the timeliness
7 of Mr. Swinson's appeal. I'm glad you made it in.
8 Commissioners, I seek a motion for adjournment.

9 MR. GREEN: You heard the second part.
10 That first motion was requested by the plaintiff.
11 Now the second part is hearing what you were
12 starting to hear, which was the arguments on
13 substance. So you all can hear that, and that's
14 what the judge asked us to make a decision on that,
15 not merely the timeliness, but the substance of
16 those.

17 MR. McIVER: I thought it was just the
18 timeliness.

19 MR. GREEN: So you will be hearing briefly
20 from both sides, and then you can make a vote on
21 that as well.

22 CHAIRMAN McIVER: So we hear their
23 arguments, whatever arguments on the other issues.

24 MR. GREEN: You hear from both sides. So
25 the request was from Mr. Monckton to first hear the

1 motion of timeliness, so that motion was first
2 heard, and now the second is to hear the substance
3 of both sides as to the protest. So that's the
4 next part.

5 CHAIRMAN McIVER: Okay. We're going to
6 sort of shorten up that time period to listen to
7 the other parts of it. My understanding until we
8 got advice from our counsel was that we're just
9 listening to the timeliness, but, Mr. Davis, if you
10 would present other supporting evidence that you
11 would like to present.

12 MR. DAVIS: Again, thank you all for
13 agreeing to hear from Mr. Swinson in this important
14 matter affecting the Town of Atlantic Beach.

15 On April 3 the Commission made a
16 determination in a protest in the mayoral challenge
17 that 13 voters were deemed ineligible based upon
18 not having sufficient residency to qualify as
19 voters for the purpose of election, and that was
20 specifically provided in the mayoral protest, and
21 the Commission decided that a new election would be
22 ordered, the outcome being in doubt. There was a
23 one point gap and 13 votes, and a one point gap in
24 an election makes a difference; however, the
25 Commission had a similar doubtful result -- even

1 MR. MONCKTON: May it please the
2 Commission, since we're doing a hearing, I would
3 like to call Mr. Swinson as a witness.

4 CHAIRMAN McIVER: Mr. Swinson.

5 MR. MONCKTON: He can stand at the
6 microphone. I'm loud enough.

7 CHAIRMAN McIVER: If you would please
8 state your full name.

9 MR. SWINSON: Shaun Swinson, Sr.

10 CHAIRMAN McIVER: Go ahead.

11 EXAMINATION

12 BY MR. MONCKTON:

13 Q. Mr. Swinson, you ran for City Council on
14 the November 7, 2023, election; is that correct?

15 A. Correct.

16 Q. Did you file a protest on November 9,
17 2023?

18 A. No, I didn't.

19 Q. When did you file a protest?

20 A. It was filed in April.

21 Q. April 3 or April 4 of 2024?

22 A. Yes.

23 Q. I have to ask you these questions,
24 Mr. Swinson.

25 Were you convicted of a drug offense in

1 MR. STEVENS: I would like to make a
2 motion to uphold Mr. Swinson's protest.

3 CHAIRMAN McIVER: A motion has been made.
4 Do we get a second?

5 MS. GORE: I'll second it.

6 CHAIRMAN McIVER: A motion has been made
7 and seconded. All those in favor?

8 MR. STEVENS: Aye.

9 CHAIRMAN McIVER: Ms. Gore, did you vote?

10 MR. STEVENS: She said aye.

11 CHAIRMAN McIVER: I vote no. We have
12 voted to uphold Mr. Swinson's protest.

13 Commissioners, I seek a motion for
14 adjournment.

15 MR. STEVENS: I second.

16 CHAIRMAN McIVER: A motion has been
17 properly made. Do we get a second?

18 MS. GORE: Second.

19 CHAIRMAN McIVER: All those in favor?

20 MR. STEVENS: Aye.

21 MS. GORE: Aye.

22 CHAIRMAN McIVER: And aye. The motion
23 carries. Thank you all very much.

24 (The meeting adjourned at 5:15 p.m.)

25

1 CERTIFICATE OF REPORTER
2 STATE OF SOUTH CAROLINA
3 COUNTY OF CHARLESTON

3

4 I, Carol T. Lucic, Registered Professional
5 Reporter and Notary Public for the State of South
6 Carolina at Large, do hereby certify that the
7 foregoing meeting was taken at the time and
8 location therein stated; that the meeting was
9 recorded stenographically by me and thereafter
10 transcribed by computer-aided transcription; and
11 that the foregoing is a full, complete, and true
12 record of the meeting.

9

10 I further certify that I am neither
11 related to nor counsel for any party to the cause
12 pending or interested in the events thereof.

12

13 Witness my hand, I have hereunto affixed
14 my official seal on October 21, 2024, at
15 Charleston, Charleston County, South Carolina.

14

15 Carol T. Lucic
16 NCRA MERIT REPORTER
17 REGISTERED PROFESSIONAL REPORTER

17

18 My Commission expires: November 27, 2027

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