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S.C. SUPREME COURT

**STATE OF SOUTH CAROLINA
IN THE
SUPREME COURT**

Appeal from the Court of Common Pleas
For Horry County
Honorable William H. Seals, Jr. Circuit Judge
Civil Action Nos.: 2024-CP-26-07182
Appellate Case No.: 2024-001889

Carla Taylor,

Respondent,

v.

Kenneth McIver, Carolina Gore, and Derrick Stevens
in their official capacities as members of the Town of
Atlantic Beach Municipal Election Commission,

Appellants.

**AFFIDAVIT OF
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*Attorneys for the Appellants,
Kenneth McIver, Carolina Gore, and Derrick
Stevens in their official capacities as members
of the Town of Atlantic Beach Municipal Election
Commission*

6. I further submit this affidavit in opposition to the Motion to Dismiss previously filed by the Respondent, Carla Taylor (“Ms. Taylor”), on or about 20 November 2024.

7. On 7 November 2023, Atlantic Beach held its municipal general election for the Office of Mayor and for two open seats on the Town of Atlantic Beach Town Council (the “Town Council”)¹ with all elected positions and designated candidates appearing on a single solitary election ballot.²

8. The election ballot for the 7 November 2023, Atlantic Beach municipal general election listed Josephine Isom (“Ms. Isom”) and John David (“Mr. David”) as mayoral candidates,³ as well as Ms. Taylor, Jacqueline Gore a/k/a Jacqui Gore (“Ms. Gore”), Jerry Finney (“Mr. Finney”), and Shaun Swinson, Sr. (“Mr. Swinson”) as candidates for the two open Town Council seats.⁴

9. On 7 November 2023, 18 “ballots were challenged, and one mail-in ballot was reviewed [and all] were accordingly deemed provisional ballots.”⁵

¹ Atlantic Beach Public Notice, p.1, paras. 2-3. See Public Notice Town of Atlantic Beach Non-Partisan General Election State of South Carolina County of Horry (the “Atlantic Beach Public Notice”). A copy of the Atlantic Beach Public Notice is attached as **Exhibit “A”**.

² 2024.10.17 MEC Hearing, p.10, line 13 – p.11, 2, p.22, lines 8-14. See Town of Atlantic Beach Municipal election Commission Meeting Transcript dated 17 October 2024 (the “2024.10.17 MEC Hearing”). Copies of the relevant pages from the 2024.10.17 MEC Hearing are collectively attached as **Exhibit “B”**.

³ 2024.05.03 MEC Decision, p.1, para. 1; p.4, para. 1. See Decision of the Town of Atlantic Beach Municipal Election Commission dated 3 May 2024 (the “2024.05.03 MEC Decision”). A copy of the 2024.05.03 MEC Decision is attached as **Exhibit “C”**.

⁴ 2024.04.03 MEC Canvas Sheet, p.1. See Town of Atlantic Beach 2023 Election Canvas Sheet Certification of Candidates dated 3 April 2024 (the “2024.04.03 MEC Canvas Sheet”). A copy of the 2024.04.03 MEC Canvas Sheet is attached as **Exhibit “D”**.

⁵ 2024.05.03 MEC Decision, p.5, para. 2.

10. On 7 November 2023, the “poll managers initially determined that, excluding the [challenged] provisional ballots, [Ms.] Isom received [62] votes and [Mr.] David received [49] votes.”⁶

11. Prior to 9 November 2023, the Election Commission published a meeting agenda indicating the Election Commission would meet on 9 November 2023, to consider, as New Business, any challenged ballots from the 7 November 2023 municipal election, as well as to certify the mayoral and Town Council elections.⁷

12. On 9 November 2023, the Election Commission “held a hearing to address the provisional ballot challenges[,] denied each challenge[,] accepted [all] provisional ballots and [then] comingled [the provisional ballots] with the remaining ballots to determine the final [e]lection count.”⁸

13. Based upon to total votes cast, including the provisional ballots, the Election Commission determined Mr. David received 65 votes and Ms. Isom received 64 votes.⁹

14. On 9 November 2023, at 4:43 p.m., Ms. Isom filed a letter of protest with the Election Commission attaching a list of 19 individuals whom Ms. Isom contended had improperly voted in the 7 November 2023 municipal election as they were not residents of Atlantic Beach at the time each cast their respective votes.¹⁰

⁶ 2024.05.03 MEC Decision, p.5.para. 3.

⁷ 2023.11.09 MEC Agenda, p.1. See Town of Atlantic Beach Municipal Election Commission Meeting – Challenged Ballots and Certification of the Elections dated 9 November 2023 (the “2023.11.09 MEC Agenda”). A copy of the 2023.11.09 MEC Agenda is attached as **Exhibit “E”**.

⁸ 2024.05.03 MEC Decision, p.5, para.4.

⁹ *Id.*

¹⁰ 20-23.11.09 Isom Letter, pp.1-2; 2024.05.02 MEC Decision, p.1, para. 1. See Letter from Josephine Isom to the Town of Atlantic Beach Board of Election Commission dated 9 November 2023 (the “2023.11.09 Isom Letter”). A copy of the 2023.11.09 Isom Letter is attached as **Exhibit “F”**.

15. Prior to 10 November 2023, the Election Commission published a meeting agenda indicating the Election Commission would meet on 9 November 2023, to consider, as Old Business, an election recount relating to the 7 November 2023 Atlantic Beach municipal election, as well as certification of the results of the mayoral and Town Council elections.¹¹

16. On 10 November 2023, the Election Commission “convened to recount the votes cast in the [7 November 2023] [e]lection after provisional ballots were accepted and to certify the election” but were unable to continue due to the lack of a court reporter to record the proceedings as was required by South Carolina state law.¹²

17. On 10 November 2023, the Town Council held an emergency meeting in which it removed and/or dissolved the Election Commission.¹³

18. On 28 November 2023, “[d]ue to circumstances surrounding the [7] November [2023] election . . .” the Town Council held another emergency meeting in which the Town Council rescinded its prior decision to remove and/or dissolve the Election Commission.¹⁴

See generally S.C. Code Ann. § 5-15-130 (Thomson Reuters West 2022). See also S.C. Code Ann. § 7-5-610 (Thomson Reuters West 2022).

¹¹ 2023.11.10 MEC Agenda, p.1. See Town of Atlantic Beach Municipal Election Commission Meeting – Recount and Certification of the Elections dated 10 November 2023 (the “2023.11.10 MEC Agenda”). A copy of the 2023.11.10 MEC Agenda is attached as **Exhibit “G”**.

¹² 2024.05.03 MEC Decision, pp.1-2. See generally S.C. Code Ann. § 5-15-130.

¹³ 2023.11.10 Town Council Minutes, p.5, line 1 – p.9, line 14; 2024.05.03 MEC Decision, p.2, para. 1.. See Town of Atlantic Beach Town Council Emergency Called Meeting Minutes dated 10 November 2023 (the “2023.11.10 Town Council Minutes”). Relevant pages of the 2023.11.10 Town Council Minutes are collectively attached as **Exhibit “H”**.

¹⁴ 2023.11.28 Town Council Minutes, p.3, line 20 -p. 4, line 18. See Town of Atlantic Beach Town Council Emergency Called Meeting Minutes dated 28 November 2023 (the “2023.11.28”).

19. Also on 28 November 2023, the Town Council voted to remove Election Commissioner Joe Montgomery for cause,¹⁵ leaving the normally three-member Election Commission with only two voting members.¹⁶

20. On 11 December 2023, the Town Council voted to appoint Derrick Stevens as an MEC Election Commissioner,¹⁷ thereby filling out the three-person Election Commission.

21. For various reasons, including (a) threatened litigation by Mr. David (unsuccessful mayoral candidate, (b) requests for assistance to the Office of the South Carolina Governor seeking the involvement of the South Carolina State Election Commission, (c) Horry County's refusal to exercise retro-active jurisdiction over Atlantic Beach's 7 November 2023, election, (d) the Election Commission's efforts to compile relevant documentation as to the challenged voters residence via subpoena and open-source information, (e) the Election Commission's inability to obtain a voting quorum, and (f) the unauthorized provision of confidential attorney-client privileged information and documentation to Mr. David, the Election Commission was unable to hold a hearing to address Ms. Isom's election protest during the time period after 11 December 2023, until 3 April 2024.¹⁸

Town Council Minutes”). Relevant pages of the 2023.11.28 Town Council Minutes are collectively attached as Exhibit “I”. See also generally 2024.05.03 MEC Decision, p.2, para. 2.

15 *Id.*, at p.6, line 17. See also generally 2024.05.03 MEC Decision, p.2, para. 2.

16 2023.12.11 Town Council Minutes, p.10, line 6 – p.13, line 3; 2024.05.03 MEC Decision, p.2, para. 2. See Town of Atlantic Beach Town Council Special Session Meeting Minutes dated 11 December 2023 (the “2023.12.11 Town Council Minutes”). Relevant pages of the 2023.12.11 Town Council Minutes are collectively attached as Exhibit “J”.

17 *Id.*, at p.13, line 4 – p.14, line 11.

18 2024.05.03 MEC Decision, p.2, para. 3 – p.4, para. 1.

22. Prior to 3 April 2024, the Election Commission published a meeting agenda indicating the Election Commission would meet on 3 April 2024, to consider, among other matters, Ms. Isom’s election protest and certification of the results of the 7 November 2023, mayoral and Town Council elections.^{**19**}

23. On 3 April 2024, the Election Commission conducted an in-person and recorded hearing to address Ms. Isom’s 9 November 2023 mayoral election protest.^{**20**}

24. The Election Commission took sworn testimony from Ms. Isom^{**21**} and from Irene Armstrong (“Ms. Armstrong”) a poll watcher present at the polls for Ms. Gore.^{**22**}

25. Based upon the testimony and documents submitted by both Ms. Isom and Mr. David during the 3 April 2024 election protest hearing, the Election Commission concluded 13 individuals, namely: (a) Julianna Hines, (b) Carlisle Cooper (c) Noble Cooper, Jr.; (d) Noble Cooper, III; (e) Traci Cooper, (f) Glynes Cheatham, (g) Knowledge G. Divine, (h) Kamage Divine, (i) Jamar McLaurin, (j) Naim Vaughn, (k) Marvistine Briggs-Fisher, (l) Diane Hill, and (m) Erkia Vaughn; were not residents on Atlantic Beach and, therefore, ineligible to vote in the 7 November 2023 municipal election.^{**23**}

^{**19**} 2024.04.03 MEC Agenda, pp.1-2. See Town of Atlantic Beach Municipal Election Commission Meeting dated 3 April 2024 (the “2024.04.03 MEC Agenda”). A copy of the 2024.04.03 MEC Agenda is attached as Exhibit “K”.

^{**20**} 2024.04.03 MEC Hearing Minutes, p.7, line 16 – p.12, line 5; p.12, line 23 – p.16, line 15; 2024.05.03 MEC Decision, p.4, para. 2. See Special Meeting/Election Protest Hearing Atlantic Beach Election Commission dated 3 April 2024 (the “2024.04.03 Hearing Minutes”). Copies of the relevant pages from the 2024.04.03 Hearing Minutes are collectively attached as Exhibit “L”.

^{**21**} *Id.*, at p.16, line 20 – p.36, line 7; p.41, line 5 – p.43, line 22. See also generally 2024.05.03 MEC Decision, p.4, para. 2; p.6, para. 10.

^{**22**} *Id.*, at p.44, line 20 – p.57, line 9. See also generally 2024.05.03 MEC Decision, p.4, para. 2; p.5, para.2; pp.6-7, para. 120.

^{**23**} *Id.*, at p.97, line 12 – p.99, line 13. See also 2024.05.03 MEC Decision, p.1, para. 1 fn.1; pp.7-8, paras. 13-22; p.9., para. 1.

26. Based upon the testimony and documentary evidence submitted by both Ms. Isom and Mr. David during the 3 April 2024 election protest hearing, the Election Commission concluded the votes of the 13 ineligible voters were illegal, invalid, and fraudulent and, therefore, should not be considered as proper and legal for consideration in the mayoral election.**24**

27. On 3 April 2024, due to the inclusion of the 13 invalid votes, the Election Commission voted to declare the 7 November 2023 mayoral election “significantly doubtful” and, therefore, invalid.**25**

28. On 3 April 2024, due to the inclusion of the 13 invalid votes which resulted in the invalidation of the 7 November 2023 mayoral election, the Election Commission voted to order a special election for the position of Atlantic Beach mayor “as soon as possibly can be scheduled”.**26**

29. On 3 April 2024, the Election Commission certified the results of the two open Town Council seats noting (a) Jacqui Gore received 71 votes, (b) Carla Taylor received 69 votes, (c) Jerry Finney received 62 votes, and (d) Shaun Swinson received 48 votes.**27**

30. The Election Commission certified the election for the two open Town Council seats in which Ms. Gore and Ms. Taylor respectively received the winning number of votes cast even though the Election Commission had contemporaneously ordered a

24 *Id.*, at p.97, line 12 – p.99, line 13. *See also* [2024.05.03 MEC Decision](#), p.1, para. 1 fn.1; pp.7-8, paras. 13-22; p.9., para. 1.

25 *Id.*, at p.99, line 13 – p.100, line 8. *See also* [2024.05.03 MEC Decision](#), pp.9-10.

26 *Id.* *See also* [2024.05.03 MEC Decision](#), p.101.

27 *Id.*, at p.100, lines 9-17.

special election in the mayoral race due to the Election Commission having invalidated 13 votes cast by individuals demonstrably not residents of Atlantic Beach and ineligible to vote in the 7 November 2023 election.

31. The Election Commission certified the election for the two open Town Council seats in which Ms. Gore and Ms. Taylor respectively received the winning number of votes cast was done even though the 13 votes which the Election Commission had contemporaneously invalidated were cast on a single election ballot containing both the election voting for mayoral race, as well as for the Town Council race.

32. By letter dated 3 April 2024, Mr. Swinson, one of the four candidates for the two contested Town Council seats, sent an election protest letter to the Election Commission based upon the grounds the Election Commission had determined at least nine individuals had illegally voted in the Atlantic Beach mayoral election and, in turn, had invalidated the mayoral election and directed a special election for mayor be held.²⁸

33. Mr. Swinson further stated he believed “[a]ll ineligible votes cast in the [Atlantic Beach] town election should be invalidated” and “it [wa]s deeply concerning that th[o]se ineligible voters were allowed to participate in the [Atlantic Beach] town council election while[, at the same time,] being excluded from the [Atlantic Beach] mayoral race.”²⁹

²⁸ 2024.04.03 Swinson Letter, pp.1-2. See Letter from Shaun Swinson, Sr. to Town of Atlantic Beach Election Commission dated 3 April 2024 (the “2024.04.03 Swinson Letter”). A copy of the 2024.04.03 Swinson Letter is attached as **Exhibit “M”**.

²⁹ *Id.*, at p.1, para. 2; p.2, para. 1.

34. On 4 April 2024, Ms. Taylor executed the **OATH OF OFFICE** as a Town Council member.**30**

35. On 12 April 2024, Ms. Isom, appearing *pro se*, filed her Notice of Civil Appeal with the Horry County Court of Common Pleas lodging her appeal of the Election Commission’s 3 April 2024 decision to invalidate the 7 November 2023, Atlantic Beach mayoral election and, in turn, to request the Town Council to order a special election be held as rapidly as possible.**31**

36. By letter dated 15 April 2024, Joseph D. Dickey, Jr., Esquire (“Attorney Dickey”) of Haynsworth Sinkler Boyd sent a letter to Ken McIver (“Mr. McIver”) chairman of the Election Commission and Benjamin Quattlebaum (“Mr. Quattlebaum”), Atlantic Beach’s Town Manager indicating “there appear[ed] to be many questions surrounding the current composition and status of [the Atlantic Beach] Town Council as well as question regarding how the appeals process w[ould] proceed following the November 2023 Municipal; Election Protest Hearing held on April 3, 2024.”**32**

30 2024.04.04 Taylor Oath Of Office, p.1. See Town of Atlantic Beach Oath Of Office for Carla Taylor sworn to on 4 April 2024 (the “2024.04.04 Taylor Oath Of Office”). A copy of the 2024.04.04 Taylor Oath Of Office is attached as **Exhibit “N”**.

31 Isom Appeal Notice, p.1. See Notice of Civil Appeal dated 12 April 2024 filed in the Isom v. MEC Litigation (the “Isom Appeal Notice”). A copy of the Isom Appeal Notice is attached as **Exhibit “O”**. See Josephine Isom v. Town of Atlantic Beach Election Commission (Civil Action No. 2024-CP-26-02537, filed 12 April 2024) (the “Isom v. MEC Litigation”).

32 2024.04.15 Dickey Letter, p.1, para. 1. See Letter from Joseph D. Dickey, Jr., Esquire to Ken McIver and Benjamin Quattlebaum dated 15 April 2024 (the “2024.04.15 Dickey Letter”). A copy of the 2024.04.15 Dickey Letter is attached as **Exhibit “P”**.

37. Attorney Dickey also acknowledged Mr. Swinson's filed election protest and indicated the Election Commission needed to "take formal action to deny, accept, or otherwise adjudicate [Mr. Swinson's filed] protest" in a public meeting so the Election Commission could "publicly vote on whether it will proceed to hear the election protest or . . . summarily dismiss the protest as untimely filed."³³

38. Attorney Dickey further noted, in summation:

the composition of [the Atlantic Beach] Town Council should remain as it has [been] until the November 2023 election, protests, and appeals, if any, regarding the same are resolved. Presently, there is [Mr. Swinson's] pending protest regarding the [Town] [C]ouncil seats [which] prevents those presumed winners from being seated. Similar to the Mayor's seat, those [Town] [C]ouncil seats will remain in a holdover status until the November 2023 election and all proceedings are resolved. This is no different than the procedure the Town followed regarding the special election of January 2023. It is unclear as to why there would be any question on these types of proceedings and the holdover status of Town Council members in office prior to the November 2023 election, given the Town's recent experience with the same situation. To be clear, it is our opinion that any efforts to seat new Town Council members until the above election protests have been resolved would be unlawful. [We] further note that South Carolina law prohibits the mayor or any member of [Town] [C]ouncil from voting on issues arising in any contest in which he [or she] is a party. See S.C. Code [Ann.] § 5-15-130. We believe this exclusion expressly prohibits the affected Town Council members from weighing in on any of the associated issues and from deciding upon any matters or steps taken by Town Council to resolve the foregoing protests.³⁴

³³ *Id.*, at p.2, para. 1

³⁴ *Id.*, at para. 3 (Emphasis added).

39. Attorney Dickey concluded, noting he hoped his letter “provide[d] some clarity to all involved and that matters related to the November 2023 election c[ould], for now, move forward **absent any continued acts to distort the integrity of the process and the election.**”³⁵

40. By e-mail dated 15 April 2024, Mr. McIver responded to Attorney Dickey’s letter stating the Election Commission (a) did not intend to take any further action on Mr. Swinson’s appeal as Mr. McIver believed the appeal was untimely and (b) had properly certified the 7 November 2023 election results and no further action was needed concerning the certification.³⁶

41. On 26 April 2024, Ms. Taylor filed a *Complaint* against the members of Town Council, the Town Manager, and the members of the Election Commission³⁷ seeking a declaratory judgment as to her status as a member of Town Council, as well as seeking a temporary restraining order and injunction authorizing her to serve as a member of Town Council.³⁸

³⁵ *Id.*, at p.3, para.1 (Emphasis added).

³⁶ 2024.04.15 McIver E-Mail, pp.1-3. See E-Mail Correspondence from Kenneth McIver to Joseph Dickey, Esquire dated 15 April 2024 (the “2024.04.15 McIver E-Mail”). A copy of the 2024.04.15 McIver E-Mail is attached as **Exhibit “Q”**.

³⁷ See Carla Taylor v. Jake Evans, Jacqueline Gore, Edward Campbell, and John David, in their official capacities as members of the Atlantic Beach Town Council; Benjamin Quattlebaum, in his official capacity as Town Managers of the Town of Atlantic Beach; Kenneth McIver, Carolina Gore, and Derrick Stevens in their official capacities as members of the Town of Atlantic Beach Municipal Election Commission; Josephine Isom; Shaun Swinson (Civil Action No. 2024-CP-26-02866, Horry County Court of Common Pleas, filed 26 April 2024) (the “Taylor v. Evans Litigation”).

³⁸ Taylor v. Evans Complaint, paras. 1-53. See Complaint filed on 26 April 2024 (the “Taylor v. Evans Complaint”). A copy of the Taylor v. Evans Complaint (with referenced exhibits) is attached as **Exhibit “R”**.

42. On 26 April 2024, Ms. Taylor filed a *Motion for a Temporary Restraining Order, Preliminary Injunction, and Permanent Injunction* in the *Taylor v. Evans* Litigation Circuit Court seeking a TRO, preliminary injunction, and permanent injunction authorizing her to serve as a member of Town Council.³⁹

43. By written order dated and filed on 23 May 2024, the Circuit Court denied Ms. Taylor's request for either a TRO, a preliminary injunction, and/or a permanent injunction.⁴⁰

44. By letter dated 27 July 2024, Chairman McIver, ostensibly speaking for the entire Election Commission, requested Mr. Swinson to provide the Election Commission notice within seven business days of Mr. Swinson's intentions to either pursue or abandon his 3 April 2024 election protest as the Election "Commission [wa]s prepared to resolve the [election protest] issue quickly".⁴¹

45. Mr. Swinson responded on 5 August 2024, advising Mr. McIver he was still pursuing his election protest and questioning why the other two Election Commissioners were not copied on the 2024.07.27 McIver Letter.⁴²

³⁹ Motion for Injunction, pp.1-4. See Plaintiff's Motion for a Temporary Restraining Order, Preliminary Injunction, and Permanent Injunction dated 26 April 2024 in the *Taylor v. Evans* Litigation (the "Motion for Injunction"). A copy of the Motion for Injunction (with referenced exhibits) is attached as Exhibit "S".

⁴⁰ Order Denying Injunction, pp.1-4. See Order Denying Motion for Injunction in the Taylor v. Evans Litigation dated 23 May 2024 (the "Order Denying Injunction"). A copy of the Order Denying Injunction is attached as Exhibit "T". The *Taylor v. Evans* Litigation was eventually dismissed by Stipulation of Dismissal dated 26 November 2024.

⁴¹ 2024.07.27 McIver Letter, p.1. See Letter from Kenneth McIver to Shaun Swinson dated 27 July 2024 (the "2024.07.27 McIver Letter"). A copy of the 2024.07.27 McIver Letter is attached as Exhibit "U".

⁴² 2024.08.05 Swinson Response, p.1 See Electronic Response from Shaun Swinson to Kenneth McIver dated 5 August 2024 (the "2024.08.05 Swinson Response"). A copy of the 2024.08.05 Swinson Response is attached as Exhibit "V".

46. At the time Election Commission Chairman Mclver sent out the 2024.07.27 Mclver Letter the Election Commission was comprised of three voting members, namely (a) Kenneth Mclver (“Mr. Mclver”), (b) Derrick Stevens (“Mr. Stevens”), and (c) (Carolyn Gore (“Ms. Gore”).

47. Prior to 19 August 2024, the Election Commission published a meeting agenda indicating the Election Commission would meet on 19 August 2024, to consider, as Old Business, among other matters, the minutes of the 3 April 2024, election protest hearing and an update on the mayoral race.⁴³

48. Prior to 19 August 2024, the Election Commission published a meeting agenda indicating the Election Commission would meet on 19 August 2024, to consider, as New Business, among other matters, (a) Mr. Swinson's 3 April 2024 election protest letter, (b) the 2024.07.27 Mclver Letter, and (c) “[p]rocedures [m]oving [f]orward [r]egarding Mr. Swinson.”⁴⁴

49. The Election Commission met on 19 August 2024, solely in an informational meeting, to consider the proper method by which to move forward on reaching a decision and/or otherwise addressing Mr. Swinson’s election protest.

⁴³ 2024.08.19 MEC Agenda, p.1, at para. 6. See Town of Atlantic Beach Municipal Election Commission Informational Meeting Agenda dated 19 August 2024 (the “2024.08.19 MEC Agenda”). A copy of the 2024.08.19 MEC Agenda is attached as Exhibit “W”.

⁴⁴ *Id.*, at para. 7.

50. On 3 September 2024, Ms. Taylor filed a *Petition for Writ of Mandamus* against the members of the Election Commission⁴⁵ in the *Taylor v. McIver* Litigation (5995) asking the Circuit Court to require the Election Commission to meet and resolve and/or otherwise address Mr. Swinson’s pending election protest as soon as possible.⁴⁶

51. The Circuit Court considered Ms. Taylor’s *Petition for Writ of Mandamus* during a 9 October 2024, hearing, and by *Order* dated and filed on 14 October 2024, the Circuit Court granted Ms. Taylor’s a *Writ of Mandamus* in the *Taylor v. McIver* Litigation (5995).⁴⁷

52. The Circuit Court specifically directed the Election Commission “to meet and rule on [Mr.] Swinson’s election protest on or before October 19, 2024 at 4 p.m.” or be subject to the Circuit Court’s use of “its power of contempt”⁴⁸

53. Prior to 16 October 2024, the Election Commission published a meeting agenda indicating the Election Commission would meet on 16 October 2024, to consider Mr. Swinson’s 3 April 2024 election protest.⁴⁹

⁴⁵ See Carla Taylor v. Kenneth McIver, Carolina Gore, and Derrick Stevens in their official capacities as members of the Town of Atlantic Beach Municipal Election Commission; (Civil Action No. 2024-CP-26-05995, Horry County Court of Common Pleas, filed 3 September 2024) (the “*Taylor v. McIver* Litigation (5995)”).

⁴⁶ Petition for Writ of Mandamus, paras.1-44. See Petition for Writ of Mandamus in Taylor v. McIver Litigation (5995) dated 3 September 2024 (the “Petition for Writ of Mandamus”). A copy of the Petition for Writ of Mandamus is attached as Exhibit “X”.

⁴⁷ Order Granting Mandamus, pp.1-6. See Order Granting Petitioner[s] Writ of Mandamus dated and filed on 14 October 2024 (the “Order Granting Mandamus”). A copy of the Order Granting Mandamus is attached as Exhibit “Y”.

⁴⁸ *Id.*, at pp.4-5.

⁴⁹ 2024.10.16 MEC Agenda, p.1, at para. 4. See Town of Atlantic Beach Municipal Election Commission Meeting Agenda dated 16 October 2024 (the “2024.10.16 MEC Agenda”). A copy of the 2024.10.16 MEC Agenda is attached as Exhibit “Z”.

54. The Election Commission met on 16 October 2024, to comply with the *Order Granting Writ of Mandamus*, but due to certain issues regarding proper notice of the hearing to Mr. Swinson and his legal counsel⁵⁰ and the Election Commission voted to reschedule the meeting to address Mr. Swinson's protest for 17 October 2024.⁵¹

55. Prior to 17 October 2024, the Election Commission published a meeting agenda indicating the Election Commission would meet on 17 October 2024, to consider Mr. Swinson's 3 April 2024 election protest.⁵²

56. The Election Commission met on 17 October 2024, to comply with the *Order Granting Writ of Mandamus* and to specifically address the letter of protest Mr. Swinson filed with the Election Commission on or about 3 April 2024.⁵³

57. The Election Commission took sworn testimony from Mr. Swinson,⁵⁴ as well as heard extensive legal arguments from the respective lawyers for both Mr. Swinson and Ms. Taylor on the dual issues of the timeliness of Mr. Swinson's protest, as well as the merits of the protest as a whole.⁵⁵

⁵⁰ Video Recording of 16 October 2024 Election Commission Meeting at 12.50 to 115.55 minutes. See Town of Atlantic Beach Election Commission Meeting of 16 October 2024 (found at Town of Atlantic Beach Council Meetings (boxcast.tv)). (*Transcript was not available*).

⁵¹ *Id.*, at 21:50 – 24.38 minutes.

⁵² 2024.10.17 MEC Agenda, p.1, at para. 3. See Town of Atlantic Beach Municipal Election Commission Meeting Agenda dated 17 October 2024 (the "2024.10.17 MEC Agenda"). A copy of the 2024.10.17 MEC Agenda is attached as Exhibit "AA".

⁵³ 2024.10.17 Meeting Minutes, p.9, lines 17-23. See Minutes of the Town of Atlantic Beach Municipal Election Commission Meeting dated 17 October 2024 (the "2024.10.17 Meeting Minutes"). Copies of the relevant pages from the 2024.10.17 Meeting Minutes are collectively attached as Exhibit "AB".

⁵⁴ *Id.*, at p.31, line 1 – p.38, line 5.

⁵⁵ *Id.*, at p.9, line 24 – p.14, line 8; p.14, line 12 – p.25, line 12; p.28, line 12 – p.30, line 24; p.39, line 24 – p.42, line 1; p.42, line 19 – p.43, line 12; p.44, line 17 – p.45, line 22; p.46, lines 5-21; p.46, line 25 – p.47, line 23.

58. Mr. Swinson’s election protest was characterized as arising due to the:

unique circumstance where . . . there [wa]s one ballot in Atlantic Beach [with the] mayor[al] and [Town] [C]ouncil [races] on the same ballot. [I]n the mayoral race th[e] [Election] Commission threw out 13 votes, but the [Election Commission still] allowed the] same [13] ineligible voters participate[] in the [Town] [C]ouncil [election] decision.**56**

59. After hearing Mr. Swinson’s testimony and counsels’ arguments, the Election Commission, with Mr. Stevens and Ms. Gore in favor and Mr. McIver against, voted in a 2-1 decision and concluded Mr. Swinson’s 3 April 2024 election protest was timely made even though the election protest was lodged more than 48-hours after the close of the polls .**57**

60. Once the Election Commission determined Mr. Swinson timely asserted his election challenge, the Election Commission then moved on to the merits of Mr. Swinton’s protest appeal concluding, again in a 2-1 vote (Mr. Stevens and Ms. Gore in favor and Mr. McIver against), to uphold Mr. Swinson’s election appeal.**58**

61. On 18 October 2024, the Election Commission filed its mandamus compliance notification with the Circuit Court in the *Taylor v. McIver* Litigation indicating the Election Commission had meet prior to 19 October 2024, at 4:00 p.m. to address Mr. Swinson’s election protest.**59**

56 *Id.*, at p.22, lines 8-14.

57 *Id.*, at p.26, line 6 – p.27, line 5.

58 *Id.*, at p.48, line 19 – p.49, line-12.

59 2024.10.18 MEC Compliance Notice, pp.1-3. See Defendants’ Notification of Compliance with Writ of Mandamus dated and filed 18 October 2024 (the “2024.10.18 MEC Compliance Notice”). A copy of the 2024.10.18 MEC Compliance Notice is attached as Exhibit “AC”.

62. Under South Carolina law the Election Commission was required to prepare and “file [a] report [of its decision arising from the election protest hearing,] together with all recorded testimony and exhibits with the clerk of court of the county in which the municipality is situated”⁶⁰

63. Instead of affording the Election Commission the opportunity to comply with the requirements of S.C. Code Ann. § 5-15-130 and submit the required written report/decision, Ms. Taylor immediately filed an appeal of the Election Commission’s decisions concerning Mr. Swinson’s election protest with the Circuit Court.⁶¹

64. Ms. Taylor asked the Circuit Court to reverse the Election Commission’s dual decisions finding Mr. Swinson’s election protest was timely and, in turn, upholding Mr. Swinson’s protest.⁶²

65. The Circuit Court heard Ms. Taylor’s appeal on 30 October 2024, and, by order dated 4 November 2024, and filed 5 November 2024, reversed the Election Commission’s decisions on the grounds (a) Mr. Swinson’s election protest was untimely asserted, (b) the Election Commission improperly considered after-discovered evidence, and (c) Mr. Swinson was ineligible to run for one of the two open Town Council seats.⁶³

⁶⁰ See S.C. Code Ann. § 5-15-130 (Thomson Reuters West 2020)

⁶¹ 2024.10.18 Notice of Appeal, pp.1-8. See Notice of Appeal dated 18 November 2024 in Taylor v. McIver Litigation II (7182) (the “2024.10.18 Notice of Appeal”). A copy of the 2024.10.18 Notice of Appeal is attached as Exhibit “AD”. See Carla Taylor v. Kenneth McIver, Carolina Gore, and Derrick Stevens in their official capacities as members of the Town of Atlantic Beach Municipal Election Commission; (Civil Action No. 2024-CP-26-07182, Horry County Court of Common Pleas, filed 18 October 2024) (the “Taylor v. McIver Litigation II (7182)”).

⁶² 2024.10.18 Notice of Appeal, pp.1-8 (with attachments).

⁶³ 2024.11.05 Reversal Order, pp.1-10. See Order of the Honorable William H. Seals, Jr., Circuit Judge, dated 4 November 2024, and filed 5 November 2024 (the “2024.11.05 Reversal Order”). A copy of the 2024.11.05 Reversal Order is attached as Exhibit “AE”. This is the order currently under appeal in this appellate matter.

66. The Circuit Court also ordered that since Ms. “Taylor ha[d] already signed the Oath of [O]ffice and [had] been recognized by the Horry County Commission on Voter Registration and Elections as the duly elected member of [the Atlantic Beach] Town Council, she should [t]hereby immediately begin serving on Town Council and have all the same rights as other members of the [Town] [C]ouncil.”⁶⁴

67. Atlantic Beach retained me as legal counsel with a specific mandate to handle all election-related matters involving the Election Commission and/or Atlantic Beach through the final resolution of those proceedings, including any appeals from such election-related matters to the Circuit Court and beyond.

68. Atlantic Beach and I entered into a legal services contract which provided, in pertinent part, as follows:

Period of Engagement: This agreement shall commence upon the date of execution, after approval by a vote of the Town Council, and shall continue for a term of one year or until the conclusion of all legal matters being handled by the firm on behalf of the Town, whichever terminates sooner. Contract may be extended but only upon the agreement of both parties and for a set period of time which would require an addendum, once approved.

69. Prior to 9 May 2024, the Town Council published a meeting agenda indicating the Town Council would meet on 9 May 2024, to consider, as New Business, among other matters, consideration for the contracts for Interim Town Manager and Town Legal Counsel.⁶⁵

⁶⁴ *Id.*, at p.9.

⁶⁵ 2024.05.09 Town Council Agenda, p.1, at para. 6. See Town of Atlantic Beach Town Council Special Called Meeting Agenda dated 5 May 2024 (the “2024.05.09 Town Council Agenda”). A copy of the 2024.05.09 Town Council Agenda is attached as Exhibit “AF”.

70. On 9 May 2024, the Town Council was comprised of (a) Edward Lamar Campbell (“Mr. Campbell”), (b) Jacqueline Gore (“Ms. Gore”), and (c) John David (“Mr. David”), as well as Chairman/Mayor Jake Evans (“Mayor Evans”) and Mayor *Pro Tem* Josephine Isom (“Mayor *Pro Tem* Isom”).⁶⁶

71. On 9 May 2024, the Town Council voted on and approved the legal services contract between Atlantic Beach and me by a majority vote as set forth and maintained in the official records of Atlantic Beach.⁶⁷

72. On 9 May 2024, Town Council also approved the contract of Orton Bellamy to serve as the Interim Town Manager/Administrator for Atlantic Beach.⁶⁸

73. As part of my representation of Atlantic Beach regarding election matters I associated Stephen P. Groves, Sr., Esquire of the Charleston Office of Butler Snow LLP (“Attorney Groves”) to assist me in prosecuting and/or defending any election matters which were pursued by any party to one or more of South Carolina’s state appellate courts.

74. On 5 November 2024, I filed an appeal of the 2024.11.05 Reversal Order with this Supreme Court at the specific direction of Mayor Evans, Interim Town Manager/Administrator Bellamy, Election Commissioner Stevens, and Election Commissioner Gore.

⁶⁶ 2024.05.09 Council Meeting Minutes, p.2, ; 4, line 22 – p.5, line 5. See Minutes of the Town of Atlantic Beach Special Session Town Council Meeting held on 9 May 2024 (the “2024.05.09 Council Meeting Minutes”). Copies of the relevant pages of the 2024.05.09 Council Meeting Minutes are collectively attached as **Exhibit “AG”**.

⁶⁷ *Id.*, at p.11, line 16 – p.13, line 18.

⁶⁸ *Id.*, at p.9, line 25 – p.10, line 16.

75. Previously, on 4 November 2024, Attorney Groves and I collectively filed appeals in two companion cases, namely the Booker v. McIver Litigation (6062)⁶⁹ and the Booker v. McIver Litigation (7193),⁷⁰ both of which involved essentially the same orders as the Circuit Court issued in the 2024.11.05 Reversal Order.

76. On 5 November 2024, each of the afore-mentioned individuals were lawfully and validly serving in their respective governmental positions for Atlantic Beach at the time the appeal in this matter was filed with this Supreme Court.

77. On 5 November 2024 Mr. Stevens and Ms. Gore comprised a voting majority of the Election Commission.

78. The Election Commission is an independent governmental body created by South Carolina law whose authority to investigate election irregularities exists separate, distinct, and apart from control by Town Council.

79. The appeal involves substantial evidence of voter fraud which potentially could significantly affect the outcome of the 7 November 2023 Town Council, specifically considering 13 individuals have been determined to have cast invalid and ineligible votes in an election decided by a 20-vote margin.

⁶⁹ See William Booker, Lynda Booker, Elaine Finney, Sarah Blair, and Linda Cheatham v. Kenneth McIver, Carolina Gore, and Derrick Stevens in their official capacities as members of the Town of Atlantic Beach Municipal Election Commission (Civil Action No. 2024-CP-26-06062, Horry County Court of Common Pleas, filed 4 November 2024) (the "Booker v. McIver Litigation (6062)").

⁷⁰ See William Booker, Lynda Booker, Elaine Finney, Sarah Blair, and Linda Cheatham v. Kenneth McIver, Carolina Gore, and Derrick Stevens in their official capacities as members of the Town of Atlantic Beach Municipal Election Commission (Civil Action No. 2024-CP-26-07193, Horry County Court of Common Pleas, filed 4 November 2024) (the "Booker v. McIver Litigation (7193)").

80. Election Commissioners Stevens and Gore authorized me to appeal the 2024.11.05 Reversal Order to this Supreme Court.**71**

81. Prior to 6 November 2024, Town Council published a meeting agenda indicating Town Council was scheduled to meet on 6 November 2024, to consider, as Old Business, any election updates, and as New Business, among other matters, consideration (a) of the contract for Interim Town Manager, (b) of contract for Town Legal Counsel, (c) of nomination for Mayor *Pro Tem*, (d) to appoint and/or reappoint members of the Atlantic Beach Planning Commission, and (e) to appoint and/or reappoint members of the Election Commission.**72**

82. Prior to 6 November 2024, Town Council published a notice cancelling the scheduled 6 November 2024, Town Council meeting and rescheduling the Town Council meeting for 2 December 2024.**73**

83. On 6 November 2024, Ms. Taylor assumed her court-ordered position as a member of Town Council**74** (apparently replacing Mayor *Pro Tem* Gore), together Mr.

71 2024.11.06 Appeal Authorization, p.1. See E-mail from Derrick Stevens and Orton Bellamy dated 6 November 2024 (the "2024.11.06 Appeal Authorization"). A copy of the 2024.11.06 Appeal Authorization is attached as **Exhibit "AH"**.

72 2024.11.06 Town Council Agenda, p.1, at paras. 5-6. See Town of Atlantic Beach Town Council Special Called Meeting Agenda dated 6 November 2024 (the "2024.11.06 Town Council Agenda"). A copy of the 2024.11.06 Town Council Agenda is attached as **Exhibit "AI"**.

73 2024.11.06 Cancellation Notice, p.1. See Town of Atlantic Beach Town Council Cancellation and Rescheduled Notice dated 6 November 2024 (the "2024.05.09 Town Council Agenda"). A copy of the 2024.05.09 Town Council Agenda is attached as **Exhibit "AJ"**.

74 2024.11.06 Video Minutes, p.10, line 22 – p.11, line 5; 2024.11.08 Meeting Minutes, p.11, lines 5-18. See Town of Atlantic Beach Town Council Meeting Video Recording Minutes dated 6 November 2024 (the "2024.11.06 Video Minutes"). Copies of the relevant pages from the 2024.11.06 Video Minutes are collectively attached as **Exhibit "AK"**. See Town of Atlantic Beach Town Council Meeting Minutes dated 8 November 2024 (the "2024.11.08 Meeting Minutes"). Copies of the relevant pages from the 2024.11.08 Meeting Minutes are collectively attached as **Exhibit "AL"**.

Campbell and Mr. David (the “Rogue Town Council”) collectively “c[a]me to the conclusion that for dereliction of duty and . . . Orton Bellamy and [I] [we]re relieved of [our respective] duties for cause, again, [for] dereliction of duties . . .”⁷⁵

84. On 6 November 2024, the Rogue Town Council voted to remove [me as] the [T]own [A]ttorney . . . and [Mr. Bellamy as] the interim [T]own [M]anager from [our respective] roles and capacity[ies] within the Town of Atlantic Beach for cause.”⁷⁶

85. On 7 November 2024, at my request, Attorney Groves filed an *Amended Notice of Appeal* in this appellate matter on behalf of the Election Commission.

86. On 7 November 2024, again at my request, Attorney Groves filed an *Amended Notice of Appeal* in the *Booker v. McIver* Litigation (6062) matter on behalf of the Election Commission, as well as an *Amended Notice of Appeal* in the *Booker v. McIver* Litigation (7193) matter on behalf of the Election Commission.

87. Prior to 8 November 2024, the Rogue Town Council published a meeting agenda indicating the Rogue Town Council was scheduled to meet on 8 November 2024, to consider, as Old Business, any election updates, and as New Business, among other matters, consideration (a) of the contract for Interim Town Manager, (b) of contract for Town Legal Counsel, (c) of nomination for Mayor *Pro Tem*, (d) to appoint and/or reappoint members of the Atlantic Beach Planning Commission, and (e) to appoint and/or reappoint members of the Election Commission.⁷⁷

⁷⁵ *Id.*, at p.2, line 1 – p.3, line 16.

⁷⁶ *Id.*, at p.9, line 5 – p.10, line 6.

⁷⁷ 2024.11.08 Town Council Agenda, p.1, at paras. 5-6. See Town of Atlantic Beach Town Council General Session Meeting Agenda dated 8 November 2024 (the “2024.11.08 Town Council Agenda”). A copy of the 2024.11.08 Town Council Agenda is attached as Exhibit “AM”.

88. During the 8 November 2024, Rogue Town Council meeting, again involving Ms. Taylor, Mr. David, and Mr. Campbell, (a) reaffirmed hiring Linda Cheatham (“Ms. Cheatham”) as Town Manager, (b) authorized Ms. Cheatham to obtain a contract for Town Attorney, (c) voted Mr. Davis as Mayor *Pro Tem*, (d) removed some members of and reappointed other members of the Planning Commission, and (e) removed Mr. Stevens from the Election Commission and elected Joe Montgomery (“Mr. Montgomery”) as Mr. Stevens’ replacement on the Election Commission.⁷⁸

89. As of 8 November 2024, Mr. Montgomery, Mr. McIver, and Ms. Gore constituted the new appointed Election Commissioners (the “Rogue Election Commission”).

90. On 8 November 2024, William U. Booker, Jr. (“Mr. Booker”), Atlantic Beach’s Interim Assistant Town Manager sent a letter to Attorney Groves advising him (a) he was not authorized to represent the Rogue Election Commission in any legal matters, (b) the Rogue Town Council had voted to terminate my contract with Atlantic Beach on 6 November 2024, (c) I was not authorized to appeal the 2024.11.05 Reversal Order, and (d) he should withdraw the appeal filed in this appellate matter.⁷⁹

91. On 11 November 2024, Mr. Booker sent me letter advising (a) Attorney Groves was not authorized to represent the Rogue Election Commission in any legal matters, (b) the Rogue Town Council had voted to terminate my contract with Atlantic Beach on 6 November 2024, (c) there was no evidence I was authorized to appeal the

⁷⁸ *Id.*, at p.11, line 19 – p.14, line 21.

⁷⁹ 2024.11.08 Booker Letter, p.1. See Letter from William U. Booker, Jr. to Stephen P. Groves, Sr., Esquire dated 8 November 2024 (the “2024.11.08 Booker Letter”). A copy of the 2024.11.08 Booker Letter is attached as Exhibit “AN”.

2024.11.05 Reversal Order, and (d) I should withdraw the appeal filed in this appellate matter, as well as the ones filed in the Booker v. Mclver Litigation (6062) and the Booker v. Mclver Litigation (7193).⁸⁰

92. On 13 November 2024, I responded to Mr. Booker noting the following:

I respectfully disagree with your characterization of my authority to represent the Municipal Election Commission (MEC) in this appeal. Please note:

1. My representation of the [Election Commission] stems from the proper authorization of Commissioners Gore and Stevens, who constitute a majority of the [Election] Commission and who provided written approval for the appeal prior to November 5, 2024.
2. The appeal [to the Supreme Court] was properly filed on November 5, 2024, while I was counsel of record and with majority [Election] Commission authorization. The termination of my town contract [as Town Attorney] on November 6, 2024, does not retroactively invalidate properly authorized actions taken before that date.
3. The validity of the appeal and any questions about ongoing representation are now properly before the South Carolina Supreme Court. Having timely raised these issues with the [Supreme] Court, it is within their jurisdiction, not yours, to determine how to proceed.
4. The underlying issue remains the [Election Commission]'s statutory duty to investigate credible evidence of voter fraud that could affect election outcomes, as authorized by S.C. Code Ann. § 7-13-810 and Gecy v. Bagwell.

As this matter is now pending before the Supreme Court, any questions about the appeal's status should be directed to that forum.⁸¹

⁸⁰ 2024.11.11 Booker Letter, p.1. See Letter from William U. Booker, Jr. to Dwayne Green, Esquire dated 11 November 2024 (the "2024.11.11 Booker Letter"). A copy of the 2024.11.11 Booker Letter is attached as Exhibit "AO".

⁸¹ 2024.11.13 Green E-Mail, p.1. See E-Mail from Dwayne M. Green, Esquire to Cheryl Pereira dated 13 November 2024 (the "2024.11.13 Green E-Mail"). A copy of the 2024.11.13 Green E-Mail is attached as Exhibit "AP".

93. On 13 November 2024, the Circuit Court, by order dated 12 November 2024, and filed 13 November 2023, in the Isom v. MEC Litigation, affirmed the Election Commission’s decision to invalidate the 7 November 2023, Atlantic Beach mayoral election and request Town Council to hold a new election due to the inclusion of votes cast by individuals not Atlantic Beach residents.⁸²

94. On 21 November 2024, Reese R. Boyd, III, Esquire (“Attorney Boyd”) sent Attorney Groves and me an e-mail indicating he had been retained by Atlantic Beach to represent the town and the Election Commission “regarding the implementation of [the 2024.11.13 Affirmance Order], calling for a special election to be held in the Town [of Atlantic Beach] for the office of Mayor.”⁸³

95. Attorney Boyd further stated Atlantic Beach “ha[d] provided [him] with [a copy of the 2024.11.11 Booker Letter] sent to [me] on December (*sic*) 11 directing that the [appeals] be withdrawn. [Are] the [a]ppeal[s] being withdrawn, or what is [their] status?”⁸⁴

⁸² 2024.11.13 Affirmance Order, pp.1-11. See Order issued by the Honorable William H. Seals, Jr., Circuit Judge, dated 12 November 2024 and filed 13 November 2024 (the “2024.11.13 Affirmance Order”). A copy of the 2024.11.13 Affirmance Order is attached as Exhibit “AQ”. By Notice of Appeal filed 27 November 2024 Ms. Isom appealed the 2024.11.13 Affirmance Order to this Supreme Court (Appellate Case No. 2024-002023).

⁸³ 2024.11.21 Boyd E-Mail, p.1, para. 1. See E-Mail from Reese R. Boyd, III, Esquire to Dwayne M. Green, Esquire and Stephen P. Groves, Sr., Esquire dated 21 November 2024 (“the 2024.11.21 Boyd E-Mail”). A copy of the 2024.11.21 Boyd E-Mail is attached as Exhibit “AR”.

⁸⁴ *Id.*, at para. 3.

96. I responded to Attorney Boyd's e-mail correspondence the same day noting "[a]mong the issues to be decided [in the appeals], based on the challenges raised by the [R]espondents, is whether [Mr. Swinson's] appeal was timely filed and whether the [Election Commission] had . . . the authority to appeal the [2024.11.05 Reversal Order] by majority request."⁸⁵

97. Prior to 25 November 2024, the Rogue Election Commission published a meeting agenda indicating the Rogue Election Commission would meet on 25 November 2024, to consider, as New Business, among other matters, (a) "Review: Notice of Appeals to Court of Common Pleas and the State Supreme Court, Attorney Dwayne Green" and (b) "Respond to Appeals of Dwayne Green."⁸⁶

98. On 25 November 2024, the Rogue Election Commission conducted a meeting with a quorum, although Ms. Gore was not in attendance, noting, in Old Business, that during the 17 October 2024 meeting the pre-8 November 2024 Election Commission (the "Old Election Commission") had voted Mr. Swinson's election protest was timely and, in turn, voted during the subsequent protest hearing that Mr. Swinson's appeal should go forward.⁸⁷

⁸⁵ 2024.11.21 Green E-Mail, p.1, para. 2 See E-Mail from Dwayne M. Green, Esquire to Reese R. Boyd, III, Esquire dated 21 November 2024 (the "2024.11.21 Green E-Mail"). A copy of the 2024.11.21 Green E-Mail is attached as **Exhibit "AS"**.

⁸⁶ 2024.11.25 MEC Agenda, p.1. See Town of Atlantic Beach Municipal Election Commission Meeting Agenda dated 25 November 2024 (the "2024.11.25 MEC Agenda"). A copy of the 2024.11.25 MEC Agenda is attached as **Exhibit "AT"**.

⁸⁷ Video Recording of 25 November 2024 Election Commission Meeting at 02:12 – 3:07minutes. See Town of Atlantic Beach Election Commission Meeting of 25 November 2024 (found at Town of Atlantic Beach Council Meetings (boxcast.tv)). (*Transcript was not available*).

99. On 25 November 2024, the Rogue Election Commission specifically noted I had obtained the permission of Mr. Stevens and Ms. Gore from the Old Election Commission to appeal the 2024.11.05 Reversal Order and, by implication, to appeal the orders issued in the Booker v. Mclver Litigation (6062) and the Booker v. Mclver Litigation (7193) as those latter appeals involved essentially the same wording and relief set forth in the 2024.11.05 Reversal Order.⁸⁸

100. On 25 November 2024, the Rogue Election Commission asserted I did not have proper and/or valid permission to appeal the 2024.11.05 Reversal Order and/or to appeal the orders issued in the Booker v. Mclver Litigation (6062) and the Booker v. Mclver Litigation (7193).⁸⁹

101. On 25 November 2024, the Rogue Election Commission voted 2-0 (both Chairman Mclver and Mr. Montgomery in favor) to instruct me to withdraw the appeals pending in this Supreme Court.⁹⁰

102. Attorney Boyd sent Attorney Groves and me a letter dated 26 November 2024, in which he stated:

- (1) Pursuant to their request, I attended a meeting of the Atlantic Beach Municipal Election Commission on 25 November 2024], which was held at the Atlantic Beach Community Center in Atlantic Beach;
- (2) While I have not yet received formal meeting minutes of the meeting, I can report that at the meeting, the [Election Commission] voted unanimously to withdraw the present appeal captioned Kenneth Mclver, et al., Appellants, vs. Carla Taylor, Respondent (Amended Notice filed Nov. 7, 2024) (herein, the “Appeal”);

88 *Id.*, at 05:11 – 6:49 minutes.

89 *Id.*, at 6:58 – 10:52 minutes.

90 *Id.*, at 10:52 – 12:17 minutes.

- (3) There was various discussion on the record at yesterday's meeting that there had never been a meeting of the [Election] Commission nor any formal action of the [Election] Commission to approve the filing of the Appeal, and a general lack of understanding of how this Appeal was (apparently) being prosecuted without the authorization or support of the Atlantic Beach Municipal Election Commission.

I have been authorized, in keeping with the above, to instruct you both that the Appeal, as described above, should be WITHDRAWN, and without delay.⁹¹

103. Prior to 2 December 2024, the Rogue Town Council published a meeting agenda indicating the Rogue Town Council was scheduled to meet on 2 December 2024, to consider, as New Business, a "Report from the Municipal Election Commission and [the] setting of [the new] Mayoral Election."⁹²

104. On 2 December 2024, the Rogue Town Council met and, as a matter of New Business, indicated it was prepared to schedule a date for the new Mayoral Election, but due to Ms. Isom's 27 November 2024 appeal of the 2024.10.13 Affirmance Order, the Rogue Town Council would defer the issue until such time as this Supreme Court issued a decision on Ms. Isom's appeal.⁹³

⁹¹ 2024.11.26 Boyd Letter, pp.1-2 (Emphasis in original). See Letter from Reese R. Boyd, III, Esquire to Dwayne M. Green, Esquire and Stephen P. Groves, Sr., Esquire dated 26 November 2024 (the "2024.11.26 Boyd Letter"). A copy of the 2024.11.26 Boyd Letter is attached as **Exhibit "AU"**.

⁹² 2024.12.02 Town Council Agenda, p.1, at para. 6. See Town of Atlantic Beach Town Council General Session Meeting Agenda dated 2 December 2024 (the "2024.12.02 Town Council Agenda"). A copy of the 2024.12.02 Town Council Agenda is attached as **Exhibit "AV"**.

⁹³ Video Recording of 2 December 2024 Election Commission Meeting at 13:39 – 13:54 minutes. See Town of Atlantic Beach Election Commission Meeting of 2 December 2024 (found at Town of Atlantic Beach Council Meetings (boxcast.tv)). (*Transcript was not available*).

105. The alleged legitimacy and validity of the member composition of the Rogue Town Council has depended solely on the inclusion of the 13 ineligible and fraudulent ballots which the Old Election Commission determined were cast by individuals who were not residents of Atlantic Beach.

106. The alleged legitimacy and validity of the member composition of the Rogue Election Commission, whose members were appointed or removed by the Rogue Town Council, also depended solely on the inclusion of the 13 ineligible and fraudulent ballots which the Old Election Commission determined were cast by individuals who were not residents of Atlantic Beach.

107. My original legal services engagement with Atlantic Beach specifically contemplated I would continue my legal representation through the resolution of all election challenges and appeals of those challenges and, therefore, any attempt by the Rogue Town Council and/or, by implication, the Rogue Election Commission, to terminate my legal representation of Atlantic Beach by individuals who gained their positions through the disputed orders now on appeal to this Supreme Court should not override this prior contractual obligation.

108. Ms. Isom has appealed the Circuit Court's affirmance (2024.11.13 Affirmance Order) of the Old Election Commission's decision finding there were 13 ineligible and fraudulent ballots cast by individuals who were not residents of Atlantic Beach thereby invalidating the 7 November 2023 mayoral election and requiring a new election.

109. The Old Election Commission has appealed the Circuit Court's reversal (2024.11.05 Reversal Order and its companion orders in the consolidated Booker v. Mclver Litigation matters) of the Old Election Commission's decisions finding Mr. Swinson's election protest was asserted timely and to uphold his election protest as valid based on the inclusion of the 13 ineligible and fraudulent ballots in the final tally of the 7 November 2023 Town Council election.

110. A reversal and/or modification of any of the several orders on appeal in favor of the appellants could very likely invalidate the composition of the Rogue Town Council and, by implication, the Rogue Election Commission and return the Atlantic Beach government to the status existing as of 1 November 2024.

111. The Rogue Town Council and the Rogue Election Commission have both attempted in multiple ways to terminate my legal representation of Atlantic Beach and the Old Election Commission, as well as to require me (and Attorney Groves) to withdraw the appeal of the 2024.11.05 Reversal Order, as well as and the attendant appeals filed in the consolidated Booker v. Mclver Litigation (6062) and Booker v. Mclver Litigation (7193) matters.

112. I believe the Rogue Town Council's and the Rogue Election Commission's multiple attempts to cause the withdrawal of the two pending appeals herein have been initiated by individuals who gained their current governmental positions solely as a result of the various orders on appeal to this Supreme Court.

113. I believe the Rogue Town Council's and the Rogue Election Commission's multiple attempts to cause the withdrawal of the pending appeals herein is specifically and singularly intended to divest this Supreme Court of any jurisdiction over these appeals and to, in turn, prevent this Supreme Court from exercising any possibility of judicial review over the documented and demonstrated election irregularities and voter fraud which took place during the 7 November 2023 Atlantic Beach municipal single-ballot mayoral and Town Council election.

114. I believe dismissal of these appeals (2024.11.05 Reversal Order and its companion orders in the consolidated Booker v. McIver Litigation matters) prior to this Supreme Court's consideration of the merits of those appeals, as well as other appellate matters involving the 7 November 2023 Atlantic Beach municipal single-ballot mayoral and Town Council election, would create a very dangerous precedent by implicitly authorizing election candidates to totally evade judicial review of election irregularities and/or election fraud simply through strategic appeals and/or applications for relief to Circuit Court from decisions rendered by Municipal Election Commissions.

115. I believe dismissal of these appeals (2024.11.05 Reversal Order and its companion orders in the consolidated Booker v. McIver Litigation matters) prior to this Supreme Court's consideration of the merits of those appeals, as well as other appellate matters involving the 7 November 2023 Atlantic Beach municipal single-ballot mayoral and Town Council election, would create a very dangerous precedent by implicitly authorizing municipal governing bodies to totally evade judicial review of election irregularities and/or election fraud simply through strategic personnel demotions, replacements, dismissals, and/or terminations.


116. Regardless of which candidates and or political positions an individual may support, the sanctity and reliability of our election process is basic to our democratic principles and the electorate's faith in an elected government.

117. Again, I personally drafted many sections and/or paragraphs of this affidavit and as to any sections and/or paragraphs which I did not personally draft, I have read each line of those sections and/or paragraphs and I agree with those sections and/or paragraphs and I attest to, agree with, and specifically and fully approve the contents of this affidavit as if I had prepared it in full myself.

FURTHER AFFIANT SAYETH NOT.

Signed: 
Dwayne M. Green

SWORN to before me this 6TH day of January 2025.


Notary Public for South Carolina

My Commission Expires on 12-18-33

