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S.C. SUPREME COURT

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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF HORRY)	IN THE FIFTEENTH JUDICIAL CIRCUIT
)	
Carla Taylor,)	Civil Action No. 2024-CP-26-02866
)	
Plaintiff,)	
)	
vs.)	
)	
Jake Evans, Jacqueline Gore, Edward)	<u>PLAINTIFF'S MOTION FOR A</u>
Campbell, and John David, in their official)	
capacities as members of the Atlantic)	
Beach Town Council; Benjamin)	
Quattlebaum, in his official capacity as)	
Town Manager of the Town of Atlantic)	
Beach; Kenneth McIver, Caroline Gore,)	
and Derrick Stevens in their official)	
capacities as members of the Town of)	
Atlantic Beach Municipal Election)	
Commission; Josephine Isom; Shaun)	
Swinson,)	
Defendants.)	

TO THE DEFENDANTS NAMED ABOVE:

Pursuant to Rule 65 of the South Carolina Rules of Civil Procedure, Plaintiff Carla Taylor (“Plaintiff Taylor”), hereby moves for a temporary restraining order, preliminary injunction, and permanent injunction preventing Defendants Jake Evans, Jacqueline Gore, Josephine Isom, Shaun Swinson, Kenneth McIver, Caroline Gore, and Derrick Stevens (collectively, the “Defendants”), from depriving Plaintiff, as a duly elected Atlantic Beach Town Council Member, of her right to participate in the business of the Atlantic Beach Town Council.

The grounds for this motion are that, absent such an order, Defendants will continue to prevent Plaintiff Taylor from assuming office and participating in all business of the Town of Atlantic Beach. Without an order, Plaintiff Taylor does not have reasonable or viable means to assume office as an Atlantic Beach Town Council member.

Plaintiff was elected to one of two open council seats on November 7, 2023. No challenge or protest was filed concerning the council election results within 48 hours after the polls closed on November 7, 2023, as required by S.C. Code Ann. Sec. 5-15-130. However, a protest and challenge was filed by Defendant Isom concerning the results of the Mayoral election. The Atlantic Beach Town Municipal Election Commission failed to certify the November 7, 2023 election results for the town council election or timely hear a protest filed by Defendant Isom regarding the mayoral race. Almost five months after the November election on April 3, 2024, the Atlantic Beach Town Municipal Election Commission heard Defendant Isom's protest in the mayoral election. At the April 3, 2024 meeting, the Atlantic Beach Municipal Election Commission certified the election results for the council race. The election results certified that Defendant Gore and Plaintiff Taylor were the winners of the election with 71 and 69 votes, respectively. **See Exhibit A.**

On April 4, 2024, the Atlantic Beach Town clerk, Cheryl Pereira, submitted the certified council election results to the Horry County Voter Registration and Elections Commission. In her affidavit, Sandy Martin, the Director of the Horry County Voter Registration and Elections Commission states the Town of Atlantic Beach's November 7, 2023 certified election results are on file with her office certifying that Carla Taylor and Jacqueline Gore were the winners of the Town Council election. **See Exhibit B.** That same day, Plaintiff Taylor was sworn into office. **See Exhibit C.** There are no additional actions Plaintiff Taylor needs to take in order to be considered and recognized as a duly elected member of the Atlantic Beach Town Council. Thus, it is wholly improper and contrary to the democratic process for Defendants to deprive Plaintiff Taylor from assuming office.

A party seeking a preliminary injunction must demonstrate (1) irreparable harm, (2) a likelihood of success on the merits, and (3) that there is no adequate remedy at law. *Poynter Invs.,*

Inc. v. Century Builders of Piedmont, Inc., 387 S.C. 583, 586-87, 694 S.E.2d 15, 17 (2010). Without a court order, Plaintiff Taylor will not be able to assume the office she was elected to by the Atlantic Beach citizens before the next council meeting on May 6, 2024. Defendant Isom maintains she is the holdover council member due to an untimely filed protest by Defendant Swinson and that she intends to be present and participate as a council member at the May 6, 2024 council meeting and any additional council business until Defendant Swinson's untimely protest is resolved. **See Exhibit D.** Further, Defendant Atlantic Beach Municipal Election Commission Chairperson Kenneth McIver has stated he does not intend to schedule a meeting concerning Defendant's Swinson's untimely protest. **See Exhibit E.**

This injunction is necessary to prevent irreparable harm to Plaintiff Taylor because she has no other recourse available to her to be recognized as a council member. Defendant Isom has stated she intends to remain on Town Council as a holdover status council member. Defendant McIver refuses to hear the untimely filed protest. Plaintiff Taylor is stuck between the proverbial rock and hard place.

Further, actions taken by Defendant Isom, while improperly acting as a holdover council member, may be contrary to the wishes of the Atlantic Beach citizens who elected Plaintiff Taylor as their council member. Plaintiff Taylor is likely to succeed on the merits in this litigation because she was certified as one of the winners of the November 7, 2024 election and she has taken the oath of office. There are no outstanding actions Plaintiff Taylor must complete in order to assume office. Plaintiff Taylor is without an adequate remedy at law to assume the office that she has been duly elected to. Defendant Quattlebaum has failed to complete Plaintiff Taylor's new member orientation and recognize her as an official Town Council member. Defendants McIver, Gore, and Stevens have failed to meet to dispose of Defendant Swinson's untimely protest. And Defendant

Isom has indicated that she intends to remain as an improper holdover council member. As a result of the forgoing, a preliminary injunction is necessary to prevent a miscarriage of this country's democratic values and process.

This Motion is based on the accompanying filed Complaint, the Affidavit of Plaintiff Taylor attached as **Exhibit F**, the South Carolina Rules of Civil Procedure, the applicable statutory and case law, and any other documents that may be filed subsequently with the Court.

ROBINSON GRAY STEPP & LAFFITTE, LLC

By: s/Robert E. Tyson, Jr.

Robert E. Tyson, Jr., SC Bar No. 100820

rtyson@robinsongray.com

La'Jessica M. Stringfellow, SC Bar No. 102376

lstringfellow@robinsongray.com

Post Office Box 11449

Columbia, South Carolina 29211

(803) 929-1400 Telephone

(803) 929-0300 Fax

Attorneys for Plaintiff

Columbia, South Carolina

April 26, 2024

Taylor v. Jake Evans, et al

Civil Action No.: 2024-CP-26-02866

Exhibit A

To Plaintiff's Motion for a Temporary Restraining
Order, Preliminary Injunction, and
Permanent Injunction

Certification of Candidates



TOWN OF ATLANTIC BEACH
2023 ELECTION
CANVASS SHEET
CERTIFICATION OF CANDIDATES

We, the Municipal Election Commission of the Town of Atlantic Beach, hereby certify the following official results for the election of November 7, 2023.
Mayor and Council Seat for term expiring December 31, 2027.

Mayor

Josephine Isom _____

John David _____

Council

Jacqueline Gore 71

Carla Taylor 69

Jerry Finney 62

Shaun Swinson 48

Municipal Election Commissioners



Dated: April 3, 2024



Dated: April 3, 2024



Dated: April 3, 2024

Taylor v. Jake Evans, et al

Civil Action No.: 2024-CP-26-02866

Exhibit B

To Plaintiff's Motion for a Temporary Restraining
Order, Preliminary Injunction, and
Permanent Injunction

Affidavit of Sandy Martin

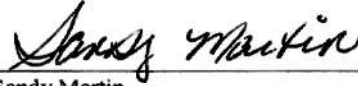
STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF HORRY	)	IN THE FIFTEENTH JUDICIAL CIRCUIT
)	
Carla Taylor,	)	Civil Action No. 2024-CP-_____
)	
Plaintiff,)	
)	
vs.	)	<u>AFFIDAVIT OF</u>
	)	<u>SANDY MARTIN</u>
)	
Benjamin Quattlebaum, in his official)	
capacity as Town Manager of the Town of)	
Atlantic Beach, Jake Evans, Jacqueline)	
Gore, Edward Campbell, and John David,)	
in their official capacities as members of)	
the Atlantic Beach Town Council, and)	
Josephine Isom,)	
Defendants.)	

PERSONALLY APPEARED BEFORE ME, Sandy Martin, who first being duly sworn, deposes and state as follows:

1. I am over the age of eighteen (18) years, of sound mind, and make this affidavit based on my personal knowledge.
2. I serve as the Director of the Horry County Voter Registration and Elections Commission. I have held this position since 2000.
3. As Director of the Horry County Voter Registration and Elections Commission, I am responsible for receiving certified election results from municipality election commissions within Horry County whom conduct their own elections.
4. On April 4th, I received the Town of Atlantic Beach's November 7, 2023 certified results from Atlantic Beach Town Clerk Cheryl Perreira.
5. Accordingly, the Town of Atlantic Beach's November 7, 2023 certified election results on file with my office certify that Carla Taylor and Jacqueline Gore were the winners of

the November 7, 2023 election and are the duly-elected council members for the Town of Atlantic Beach.

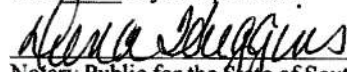
FURTHER AFFIANT SAYETH NOT.



Sandy Martin
Director
Horry County Voter Registration and
Elections Commission

SWORN TO AND SUBSCRIBED BEFORE ME

This 2nd day of April 2024.

 (L.S.)
Notary Public for the State of South Carolina

My Commission Expires: 3/12/2031

Taylor v. Jake Evans, et al

Civil Action No.: 2024-CP-26-02866

Exhibit C

To Plaintiff's Motion for a Temporary Restraining
Order, Preliminary Injunction, and
Permanent Injunction

Oath of Office – Carla Taylor



Town of Atlantic Beach
717 30th Avenue South
Atlantic Beach, SC 29582
Mail PO Box 5285
N Myrtle Beach, SC 29597
Phone No 843-663-2284
Fax No 843-663-0601

Mayor:

Jake Evans

Council Members

Jacqueline Gore

Edward Campbell

John David, Jr.

Carla Taylor

Town Manager:

Benjamin Quattlebaum

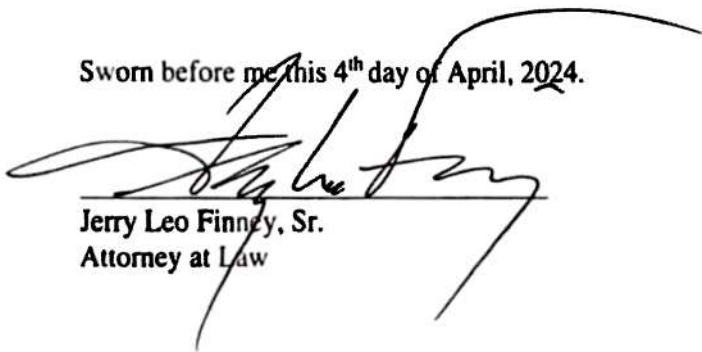
OATH OF OFFICE

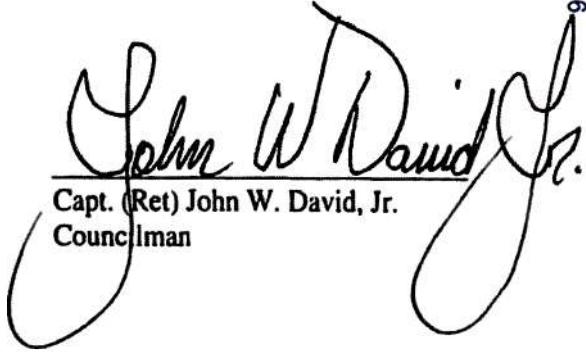
I, Carla Taylor, do solemnly swear that I am duly qualified, according to the constitution of this state to exercise the duties of the office to which I have been elected, and that I will, to the best of my ability, discharge the duties thereof, and preserve, protect and defend the constitution of this State and of the United States. So, help me God.


As Council Member of the Town of Atlantic Beach, I will equally, fairly and impartially, to the best of my ability, and skill, exercise the trust reposed in me, and will use my best endeavor to preserve the peace and carry into effect according to the law the purposes for which I have been elected. So, help me God.


Carla Taylor

Sworn before me this 4th day of April, 2024.


Jerry Leo Finney, Sr.
Attorney at Law


Capt. (Ret) John W. David, Jr.
Councilman


Cheryl Pereira
Town Clerk

Taylor v. Jake Evans, et al

Civil Action No.: 2024-CP-26-02866

Exhibit D

To Plaintiff's Motion for a Temporary Restraining
Order, Preliminary Injunction, and
Permanent Injunction

Isom Response

BOYKIN & DAVIS, LLC

Attorneys and Counselors at Law

220 STONERIDGE DRIVE, SUITE 100
COLUMBIA, SOUTH CAROLINA 29210

TELEPHONE: 803-254-0707
FACSIMILE: 803-254-5609

POST OFFICE BOX 11844
COLUMBIA, SOUTH CAROLINA 29211

Kenneth A. Davis
kdavis@boykinlawsc.com

April 23, 2024

VIA ELECTRONIC MAIL AND U.S. MAIL

Robert F. Tyson, Jr., Esq.
Robinson Gray Stepp & Laffitte, LLC
2151 Pickens St., 5th Floor
Columbia, South Carolina 29201

Dear Mr. Tyson:


This Firm is representing Josephine Isom with respect to her appeal of the Town of Atlantic Beach Election Commission's decision from April 3, 2024. In that regard, your correspondence to Ms. Isom has been forwarded to us for handling.

As we understand it, Shaun Swinson has filed a protest with the Election Commission with respect to the election of Carla Taylor. Whether that protest is timely is a matter subject to adjudication.

Accordingly, our understanding is that Mrs. Isom remains in holdover status until that protest/appeal is resolved. Please see the attached correspondence from attorney Joseph Dickey.

Should you have any questions, please feel free to contact us.

Sincerely,



Kenneth A. Davis

/hhg

Attachment

cc: Josephine Isom
Joseph D. Dickey, Jr.

ELECTRONICALLY FILED - 2024 Apr 26 2:59 PM - Horry - COMMON PLEAS - CASE#2024CP2602866



**ROBINSON
GRAY**

Litigation + Business

April 19, 2024

ROBERT E. TYSON, JR.

DIRECT 803 231.7838

rtyson@robinsongray.com

ELECTRONICALLY FILED - 2024 Apr 26 2:59 PM - Horry - COMMON PLEAS - CASE#2024CP2602866

VIA CERTIFIED MAIL AND E-MAIL

Josephine Isom
901 29th Ave. S
N. Myrtle Beach, South Carolina 29582
Email: js.isom@hotmail.com

Dear Ms. Isom,

My name is Rob Tyson and I am represent Town of Atlantic Beach Councilwoman Carla Taylor. As you know, on April 3, 2024, the Town of Atlantic Beach Municipal Election Commission certified the official results of the November 7, 2023 Town Council election which determined Jacqueline Gore and Carla Taylor were the two top vote recipients and thus duly elected to Town Council. On April 5, 2024, Carla Taylor was sworn in as a member of the Town of Atlantic Beach Council. As a result, Councilwoman Taylor is the duly elected council member for the Town of Atlantic Beach.

It is my understanding that you are denying the legitimacy of Councilwoman Taylor's status as a council member because of candidate Shaun Swinson's untimely protest of the November 7, 2023 election. As I am sure you are aware, candidates must file protests of municipal elections within 48 hours of the polls closing pursuant to S.C. Code Section 5-15-130. Mr. Swinson's belated protest is far beyond the 48-hour deadline. As such, Mr. Swinson's protest has no bearing on Councilwoman Taylor's ability to assume office.

To that end, I ask that you please confirm in writing that you do not intend to improperly act as a holdover Town of Atlantic Beach Council Member. To do so would be improper and run afoul of this country's fundamental democratic process. I ask that you provide your response to this correspondence **no later than 5 p.m. on Tuesday, April 23, 2024**. If I do not receive a response from you by this deadline, I will be forced to take legal action against you in the Court of Common Pleas.

If you would like to discuss this matter further with me, please do not hesitate to contact me.

Sincerely,

Robert E. Tyson, Jr.

Taylor v. Jake Evans, et al

Civil Action No.: 2024-CP-26-02866

Exhibit E

To Plaintiff's Motion for a Temporary Restraining
Order, Preliminary Injunction, and
Permanent Injunction

McIver Response

From: [Rob Tyson](#)
To: [La"Jessica Stringfellow](#)
Subject: FW: Advisory Letter Concerning Atlantic Beach November 2023 Election and Protest/Appeal Proceedings
Date: Tuesday, April 23, 2024 10:20:31 PM

From: k3840@sc.rr.com <k3840@sc.rr.com>
Sent: Monday, April 15, 2024 4:37 PM
To: 'Dickey, Joseph' <JDickey@hsblawfirm.com>
Cc: 'benjamin.quattlebaum@aol.com' <benjamin.quattlebaum@aol.com>; 'C.D. Rhodes' <cdrhodes@popeflynn.com>; Rob Tyson <rtyson@robinsongray.com>; 'Kenneth Davis' <kdavis@boykinlawsc.com>; 'Ian T. Duggan' <ianduggan@callisontighe.com>; 'Cheryl Pereira' <cheryl@townofatlanticbeachsc.com>; 'johndavid@townofatlanticbeachsc.com' <johndavid@townofatlanticbeachsc.com>; 'elcampbell45@gmail.com' <elcampbell45@gmail.com>; 'gore_jacqui@yahoo.com' <gore_jacqui@yahoo.com>; 'evans.jake1@outlook.com' <evans.jake1@outlook.com>; 'js.isom@hotmail.com' <js.isom@hotmail.com>; 'Scott, Ronald' <rscott@hsblawfirm.com>; 'Glunt, Alex' <aglunt@hsblawfirm.com>; 'Derrick Stevens' <bossderrick25@yahoo.com>
Subject: RE: Advisory Letter Concerning Atlantic Beach November 2023 Election and Protest/Appeal Proceedings

Mr. Dickey:

This email is to acknowledge receipt of your advisory emails dated April 5th, April 12th, and now April 15th. Please see my response below.

Josephine Isoms' Protest Appeal

In accordance with the South Carolina Municipal Elections Handbook (page 23), Ms. Isom has filed an appeal to the Court of Common Pleas. I received a copy on April 12th. As stated in the Handbook, the appeal shall "act as a stay of further proceedings" pending the outcome. Therefore, no further action is required from the Commission.

Shawn Swinson Matter

Mr. Swinson delivered a letter dated April 3rd, 2024 (I received it via text and email on April 4th) with a subject, "Appeal of Decision to Certify Ineligible Voters for Town Council Election and Not for Mayoral Election."

Mr. Swinson's letter is clearly referring to the outcomes of the Mayoral Election protest hearing, asserting that he was an "aggrieved party" to the protest hearing. The Municipal Elections Handbook states "any aggrieved party may appeal to the Court of Common Pleas. Notice of appeal shall be served on the opposing parties or their attorneys and filed in the office of the clerk of court within 10 days." I informed Mr. Swinson he will need to seek assistance from an attorney.

Further, candidates are made aware of protest and appeal processes. A reminder of the appeals process occurred when we counted the unofficial results on November 7th, 2023. Your point regarding the timeliness of Mr. Swinson's notice is well known.

If Mr. Swinson plans to pursue an appeal of the decision to "certify ineligible voters for the town council," we look forward to receiving notice of his filing in the Court of

Common Pleas. Therefore, no further action is required from the Commission.

Certification of Town Council Votes

The Municipal Election Handbook states:

Certifying election results (page 20)

After canvassing, the MEC certifies the final vote totals making them official. Election results are certified by a quorum of the commission (at least two members) signing their names to a canvass sheet. Canvass sheets should contain the name of the municipality, name of the election, election date, signature blanks and certification date. Winners should be marked on the results.

During the April 3rd Municipal Election Commission Meeting, the following occurred:

Confirmation of Certification of November 7th, 2023 Town Council Election was originally listed as item 7 on the published agenda.

Prior to approval of the agenda, the item was moved to follow the protest hearing.

The agenda, including the Confirmation of Certification of November 7th, 2023 Town Council Election, was approved by a unanimous Commission vote.

After the protest hearing, during the fourth-hour in the meeting, I announced we will now certify the Town Council Election, and I re-stated the count.

In accordance with the guiding documents of the South Carolina Law and the Municipal Elections Handbook, a quorum of Commissioners was present, and the canvass sheet, prepared by the Town Clerk containing the names of the Town Council candidates and the total votes received, was circulated for signature.

The canvass sheet read:

We, the Municipal Election Commission of the Town of Atlantic Beach, S. C., hereby certify the following official results for the election of November 7th, 2023

Each Commissioner read and signed the canvassing sheet without questions, indicating their concurrence with the language, the count, and the process. The winners were marked on the signed canvass sheet in the presence of the Commissioners and the public.

Given that all three Commissioners signed the sheet, without question or concern, we have completed the process.

Certification/ affirmation of the election results is by signature not by voice vote or motion. There is no requirement for a motion. The approving action is the signed canvass sheet. In addition, as required, the canvass sheet certifying the Council Election, has been submitted to the Horry County Elections Office in a timely fashion for closure. There is no further action required by the Atlantic Beach Municipal Elections Commission with regard to certification of the November Town Council Election.

Thank you again for your support. I look forward to receiving the draft of your report from our April 3rd Municipal Elections Commission meeting to be shared with the Town Council for informational purposes only. I will report to the Town Council that as a result of the appeal of the protest hearing, we will await the Court's directions as to the next steps rather than request that a new election date be set.

Kenneth McIver, Chairman

From: "Dickey, Joseph"
To: "k3840@sc.rr.com", "benjamin.quattlebaum@aol.com"
Cc: "C.D. Rhodes", "rtyson@robinsongray.com", "Kenneth Davis", "Ian T. Duggan", "Cheryl Pereira", "johndavid@townofatlanticbeachsc.com", "elcampbell45@gmail.com", "gore_jacqui@yahoo.com", "evans.jake1@outlook.com", "js.isom@hotmail.com", Ronald", Alex", "Derrick Stevens"
Sent: Monday April 15 2024 2:12:56PM
Subject: Advisory Letter Concerning Atlantic Beach November 2023 Election and Protest/Appeal Proceedings

Good afternoon all:

Please find attached our firm's advisory letter concerning the current status of the November 2023 municipal elections. I apologize for it not being on letterhead previously.

In addition, it has been brought to my attention that the Town is improperly engaging in public meetings and other business via email. Whether seated or not, the Town using email, personal or Town provided, to conduct Town business and make decisions related to the Town is illegal under FOIA (assuming a quorum existed on the email). Furthermore, the Town is a council-manager form of government where no one member of Council nor the Mayor can make decisions on behalf of the Town. Much like the election commission, actions must be properly taken by the body predicated on a lawfully scheduled and held meeting. For reference, these actions were ruled upon in *Poole v. S.C. Dept. of Disabilities and Special Needs, et. al* where the DDSN commission was held to have acted unlawfully under FOIA in deciding and subsequently terminating the executive director. At a hearing on the FOIA violations, the presiding judge awarded the plaintiff executive director back pay and attorney fees dating back to the DDSN's board of commissioners unlawful actions under FOIA. In short, the Town must act as body and take appropriate votes to make any decisions much like the election commission.

As expressed in the letter, I am concerned about the actions being taken by the Town and felt the need to provide written advisory correspondence. While certainly the Town and individuals can decide to act in contrary to legal advice, those actions, after receiving written correspondence, would be deemed outside the scope of his/her official capacity.

Happy to address any questions you may have but wanted to make sure that we provided this correspondence out of an abundance of caution.

Thanks,

Joseph

Haynsworth Sinkler Boyd P.A.



Joseph D. Dickey, Jr. | Attorney

Direct 803.540.7909 | JDickey@hsblawfirm.com

Haynsworth Sinkler Boyd, P.A.

1201 Main Street, 22nd Floor | Columbia, SC 29201

Main 803.779.3080 | Mobile 864.316.4646 | Fax 803.765.1243

[Web](#) | [Bio](#) | [vCard](#) | [Map](#) | [Linked In](#) | [Blog](#)

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Taylor v. Jake Evans, et al

Civil Action No.: 2024-CP-26-02866

Exhibit F

To Plaintiff's Motion for a Temporary Restraining
Order, Preliminary Injunction, and
Permanent Injunction

Affidavit of Carla Taylor

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF HORRY	)	IN THE FIFTEENTH JUDICIAL CIRCUIT
)	
Carla Taylor,	)	Civil Action No. 2024-CP-_____
)	
Plaintiff,)	
)	
vs.	)	<u>AFFIDAVIT OF</u>
	)	<u>CARLA TAYLOR</u>
)	
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 Manager of the Town of Atlantic)	
Beach; Kenneth McIver, Caroline Gore,)	
and Derrick Stevens in their official)	
capacities as members of the Town of)	
Atlantic Beach Municipal Election)	
Commission; Josephine Isom; Shaun)	
Swinson)	
Defendants.)	

PERSONALLY APPEARED BEFORE ME, Carla Taylor, who first being duly sworn, deposes and state as follows:

1. I am over the age of eighteen (18) years, of sound mind, and make this affidavit based on my personal knowledge.
2. On September 1, 2024, I filed as a candidate for Atlantic Beach Town Council for one of two open council seats.
3. The Atlantic Beach election was held on November 7, 2023. After the polls closed, the unofficial election results indicated that I was the second top vote recipient.
4. On November 9, 2023, the Atlantic Beach Municipal Election Commission held a hearing to determine the legitimacy of provisional ballots. After the hearing and the ballots

deemed legitimate were counted, the updated unofficial election results indicated I was still the second top vote recipient.

5. Thereafter, Josephine Isom, a mayoral race candidate, filed a protest regarding the updated unofficial mayoral election results.

6. Then, for several reasons, including that the Atlantic Beach Town Council voted to absolve the Atlantic Beach Municipal Election Commission, the Commission did not certify the November 7, 2023 election results or hear Josephine Isom's timely filed protest of the updated unofficial mayoral election results.

7. Almost four months later, on April 3, 2024, the Atlantic Beach Municipal Election Commission finally heard Josephine Isom's challenge to the updated unofficial mayoral election results and ultimately recommended to the Atlantic Beach Town Council that a new mayoral election be ordered. The Atlantic Beach Municipal Election Commission also certified the town council seat election results. The certified results indicate that I was one of two winners of the town council election.

8. On April 5, 2024, I was sworn in as an Atlantic Beach Town Council Member. See **Exhibit A**.

9. On April 8, 2024, Atlantic Beach Town Manager, Benjamin Quattlebaum, was scheduled to meet with me at 5:00 pm as part of my new council member orientation. He texted me on April 8, 2024, at 9:54 am, to reschedule for April 11, 2024, at 5:00 pm.

10. On April 11, 2024, Town Manager Benjamin Quattlebaum called me to cancel the second scheduled new council member orientation. He said he wanted to wait until after the tenth day following the April 3, 2024 Atlantic Beach Municipal Election Hearing and therefore rescheduled it for April 16, 2024, at 5:00 pm. Town of Atlantic Beach Town Clerk, Cheryl

Pereira, called me on the morning of April 16, 2024 to tell me the Mr. Quattlebaum was canceling our scheduled orientation for the third time and that he would call me to explain. He did not call me to explain.

11. On April 18, 2024, I attended a League of Cities community event with other Atlantic Beach Town Councilmembers. Atlantic Beach Mayor Jake Evans refused to recognize me as a councilmember while introducing the other councilmembers present at the event.

12. Based upon Mr. Quattlebaum's previous actions, I believe he intends to recognize former council member Josephine Isom as a holdover council member until further notice.

13. Based upon Mayor Evans' previous actions, I believe he will continue to improperly refuse to recognize me as a duly elected Atlantic Beach Town council member.

14. I am a duly elected councilmember of the Atlantic Beach Town Council.

15. There is no legitimate reason why I should not be able to assume the duties of the office for which I have been elected.

16. I believe that any efforts to deprive me or divest me from serving as an Atlantic Beach Town councilmember is the very antithesis of the democratic ideals upon which this country was founded. The Atlantic Beach citizens elected me to serve as one of their town representatives and the defendants identified in my complaint are attempting to subvert the will of the people.

FURTHER AFFIANT SAYETH NOT.


Carla Taylor

SWORN TO AND SUBSCRIBED BEFORE ME

This 25th day of April 2024.

Zipporah Nishee (L.S.)
Notary Public for the State of South Carolina

My Commission Expires: 07/16/2031

**E
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she has no adequate remedy at law. *Id.* The remedy of an injunction is a drastic one and ought to be applied with caution. *Strategic Res. Co. v. BSC Life Ins. Co.*, 367 S.C. 540, 627 S.E.2d 687, 689 (2006).

Motion for Preliminary Injunction

In this regard, Plaintiff alleges Defendants will continue to prevent her from assuming office and participating in all business of the Town of Atlantic Beach. Plaintiff also argues that without an injunction, she does not have reasonable or viable means to assume office as an Atlantic Beach Town Council member. However, the Court is inclined to conclude Plaintiff suffers no personalized injury or harm while the proper legal proceedings, as prescribed by statute, are employed to determine the proper outcome of the November 7, 2023 municipal election.

As to the second element required for an injunction, the Court cannot find the Plaintiff has established a likelihood of success on the merits when there is a legitimate pending investigation into the validity of the November 7, 2023 municipal election, specifically as to whether non-resident members of the community wrongly contributed votes in the November 7, 2023 municipal election. While the Complaint asserts that Defendant Swinson's election protest was untimely, these filings fail to establish a likelihood of success on the merits.

In this regard, there is a sufficient legal process in place to determine the outcome of contested elections and that remedy at law is being pursued by all parties involved in this litigation.

Conclusion

After careful consideration of the memoranda and exhibits submitted to the Court, hearing from the parties, and abiding by the tenets of Rule 65 of the South Carolina Rules of

Civil Procedure, Plaintiffs' motion for a preliminary injunction is hereby **DENIED. IT IS SO ORDERED.**



Horry Common Pleas

Case Caption: Carla Taylor VS Jake Evans , defendant, et al

Case Number: 2024CP2602866

Type: Order/Other

IT IS SO ORDERED

s/ The Honorable William H. Seals Jr. #2157

Electronically signed on 2024-05-23 10:36:28 page 4 of 4

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Atlantic Beach Election Commission
707-30th Avenue South
Atlantic Beach, SC 29582

July 27, 2024

Mr. Shaun Swinson
shawnswinson@gmail.com

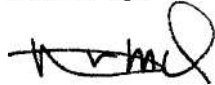
Mr. Swinson:

As chair of the Atlantic Beach Municipal Election Commission, I am writing regarding your April 3, 2024, Letter of Appeal concerning certification of voters for the Town Council Election.

Since this letter, there has been no further communication with the Commission nor has any legal filings been made. Please notify me within the next 7 business days of your intentions as well as any extenuating circumstances which preclude you from taking any further action.

The Commission is prepared to resolve this issue quickly. I look forward to hearing from you by August 6, 2024.

Sincerely,



Kenneth McIver
Chair, Atlantic Beach Municipal Election Commission
Certified SC Election Commissioner

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< Shawn Swinson

1:19 PM, Aug 5

Mr McIver:

Yes I am still running and Legal filings were made on behalf of my attorney.

However, how is the commission ready to quickly resolve this matter when the other commissioners were not made aware of this correspondence? Is there any extenuating circumstance as to why the other 2 commissioners were not included in this correspondence?

Copy text

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Town of Atlantic Beach
Election Commission Informational Meeting- 3:00 pm
Monday, August 19, 2024
Atlantic Beach Community Center
1010 32nd Avenue South, Atlantic Beach, SC 29582

AGENDA

FOIA: This meeting was posted at least 24 hours in advance at the Town Hall and Community Center, faxed to the following media North Myrtle Beach Times, Sun News, WBTW, WMBF, WPDE, WMIR, TOAB WEBSITE:
: <https://boxcast.tv/channel/hriov7yurwsygzbggzi>

1. Call to Order
2. Roll Call
3. Invocation
4. Approval of Agenda
5. Review of Election Challenge Process
 - a. Overview of Election Challenge Procedures
 - b. Timeline of Events Since November 7, 2023 Election
6. Old Business
 - a. Minutes from April 3, 2024 "Election Hearing"
 - b. Mayoral Race Update
 - c. Court Decisions Update
7. New Business
 - a. Letter from Mr. Shawn Swinson, April 3, 2024
 - b. Letter to Mr. Shawn Swinson, July 25, 2024
 - c. Procedures Moving Forward Regarding Mr. Swinson
8. Adjournment

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STATE OF SOUTH CAROLINA
COUNTY OF HORRY

Carla Taylor,

Plaintiff,

vs.

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

) IN THE COURT OF COMMON PLEAS
)
) IN THE FIFTEENTH JUDICIAL CIRCUIT

) Civil Action No. 2024-CP-26-

5995

**PETITION FOR WRIT OF
MANDAMUS**

RENEE L. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

2024 SEP -3 P 1:37

FILED
HORRY COUNTY

Petitioner, Carla Taylor, requests this Court to grant a writ of *mandamus* directed to the Respondents, Kenneth McIver, Carolina Gore, and Derrick Stevens as members of the Town of Atlantic Beach Municipal Election Commission (“MEC”). In support, Petitioner Taylor would show as follows:

PARTIES, JURISDICTION, AND VENUE

1. Petitioner Carla Taylor is a citizen and resident of the Town of Atlantic Beach. She was a candidate in the November 7, 2023 town council race and received the second highest amount of votes, thus winning one of two eligible council seats. Notwithstanding winning one of the two eligible council seats, the MEC has failed to resolve an untimely filed protest to the town council race in order for Petitioner Taylor to assume office.

2. As such, Petitioner Taylor is interested in, and her interests are affected, as described in greater detail below, by the actions and omissions of the MEC following the November 7, 2023 municipal election, that have denied, or at least indefinitely delayed, Petitioner

Taylor's Constitutional and statutory right to pursue public office, have her vote counted, and complete the process to affirm her as one of two winners of the November 7, 2023 election.

3. In the alternative, Petitioner Carla Taylor has standing to bring this claim under the "public importance" doctrine because she is an interested citizen and the matters raised in this action are "significant public importance to ensure accountability and the concomitant integrity of government action," *S.C. Pub. Int. Found. v. S.C. Dep't of Transportation*, 421 S.C. 110, 118, 804 S.E.2d 854, 858 (2017) (cleaned up), in the Town of Atlantic Beach and across the State.

4. This Petition for relief is brought against Respondents Kenneth McIver, Carolyn Gore, and Derrick Stevens only in their official capacities as members of the MEC.

5. This Court possesses personal jurisdiction over the parties to this Petition and subject matter jurisdiction to hear this Petition and venue is appropriate before this Court.

FACTS & REQUEST FOR RELIEF

6. On November 7, 2023, the Town of Atlantic Beach held elections for mayor and two council seats.

7. After the polls closed on November 7, 2023, the unofficial election results indicated Jacqueline Gore and Petitioner Taylor were the winners of the council race with 69 and 53 votes, respectively.

8. On November 9, 2023, the Atlantic Beach Municipal Election Commission met to hear challenges to several provisional ballots cast in the November 7, 2023 election. After a hearing to determine the legitimacy of the provisional ballots, Jacqueline Gore and Petitioner Taylor were still the top vote recipients with 71 and 69, respectively.

9. After the MEC hearing, pursuant to S.C. Code Ann. § 5-15-130, Josephine Isom filed a protest to the updated unofficial election results pertaining solely to the mayoral election.

10. S.C. Code Ann. § 5-15-100 requires the MEC to “declare the results [of this municipal election] not later than three days following the election.” The MEC failed to comply with this statutory requirement.

11. Additionally, S.C. Code Ann. § 5-15-80 requires the MEC to timely conduct a protest hearing on Josephine Isom’s filed protest regarding the outcome of the mayoral race. The MEC failed to comply with this statutory requirement.

12. From November 7, 2023, to April 3, 2024, the MEC failed to administer its ministerial duties to certify the November 7, 2023 election results or to hear Josephine Isom’s protest of the unofficial mayoral election results pursuant to S.C. Code Ann. §§ 5-15-100 and 5-15-130.

13. The MEC’s failure to perform its duties forced mayoral candidate John David to file an action seeking a writ of mandamus to require the MEC to meet and certify the results of the election. *See David v. McIver et al.*, Case No. 2024-CP-26-02042.

14. After John David filed his writ of mandamus, on April 3, 2024, the MEC held a protest hearing, nearly five months after the election in November 2023, to hear Josephine Isom’s protest. The MEC determined thirteen (13) ballots were inappropriately counted and recommended the Town of Atlantic Beach Council order a new mayoral election.

15. Also at the April 3, 2024 MEC meeting, the MEC certified the town council election results. The final votes certified that Jacqueline Gore, Petitioner Taylor, Jerry Finney, and Shaun Swinson each received 71, 69, 62, and 49 votes, respectively. Thus, Gore and Petitioner Taylor were the winners of the two council seats. Each member of the MEC signed and officially certified the final results. *See Exhibit A.*

16. Thereafter on April 4, 2024, the certified election results were forwarded to the Horry County Voter Registration and Election Commission. *See Exhibit B.*

17. Also on April 4, 2024, Petitioner Taylor was sworn into office. *See Exhibit C.*

18. On either April 4, 2024, or April 5, 2024, Shaun Swinson filed an untimely protest of the certified election results for the town council election.

19. Pursuant to S.C. Code Ann. § 5-15-80, election protests must be filed within forty-eight hours after the polls close. Therefore, Swinson's protest does not meet the statutory requirement of a timely filed protest.

20. Arguably, Shaun Swinson should not have been eligible to file a protest as he should not have been a candidate for Atlantic Beach Town Council as he is a convicted felon who served six years in federal prison after a 2007 conviction. *See* WBTW News 13 article at <https://www.wbtw.com/news/grand-strand/atlantic-beach-town-council-candidate-was-convicted-and-spent-prison-time-in-virginia-is-he-eligible-for-a-seat/>

21. Section 1 of Article VI of the South Carolina Constitution states, “[n]o person may be popularly elected to and serve in any office in this State or its political subdivisions unless he possesses the qualifications of an elector, is not disqualified by age as prescribed in this Constitution, and has not been convicted of a felony under state or federal law” S.C. Const. art. VI, § 1.

22. Thus, the MEC should not even have to entertain Shaun Swinson's untimely protest to the November 7, 2023 election in the first instance.

23. Respondent McIver, Chairperson of the MEC, advised on April 15, 2024, that he would not convene a MEC meeting to resolve Shaun Swinson's election protest because the protest was untimely. *See Exhibit D.*

24. Thereafter, despite the MEC electing not to act on Shaun Swinson's untimely filed protest, Petitioner Taylor has been unable to assume her rightful office as Atlantic Beach Town Council Member.

25. As a result, Petitioner Taylor filed an injunction to enjoin the named Defendants from refusing to recognize her as a properly serving Town Council Member. *See Taylor v. Jake Evans et al.*, Case No. 2024-CP-2602866.

26. In its response and at oral argument the Town of Atlantic Beach and MEC argued there was a process already in place before the MEC and that Petitioner Taylor had to wait until the conclusion of that process before appealing to this Court.

27. This Court denied Petitioner Taylor's injunction request on May 23, 2024, and held "there is a sufficient legal process in place to determine the outcome of contest elections and that remedy at law is being pursued by all parties involved in this litigation." *Id.*

28. On July 18, 2024, counsel for Petitioner Taylor requested the MEC to convene to dispose of and/or hear Shaun Swinson's election protest. *See Exhibit E.*

29. On August 19, 2024, the MEC held an information meeting and Atlantic Beach Town attorney, Dwayne Green, advised the MEC not to act on Shaun Swinson's protest until after the conclusion of Josephine Isom's mayoral election appeal and an alleged State Law Enforcement Division ("SLED") investigation into the November 7, 2023 election. *See Town of Atlantic Beach MEC Informational Session at <https://boxcast.tv/channel/hri0v7yurwsygzbggzi>*

30. Also on August 21, 2024, SLED indicated that it does not have an investigation into the November 7, 2023 Town of Atlantic Beach election. *See Exhibit F.*

31. On August 21, 2024, counsel for Petitioner Taylor again requested the MEC to immediately convene to dispose of and/or hear Shaun Swinson's election protest. *See Exhibit G.*

32. On August 26, 2024, counsel for the MEC responded and stated the MEC will not act on Shaun Swinson's election protest until the MEC has an opportunity to consider "after-discovered" evidence from Josephine Isom's protest appeal and SLED's investigation. *See Exhibit H.*

33. The MEC's interpretation of after-discovered evidence is flawed.

34. No result from Josephine Isom's appeal will impact the outcome of Shaun Swinson's appeal. Moreover, Josephine Isom has not appealed any evidentiary findings made by the MEC. Josephine Isom has only appealed the MEC's remedy from her protest hearing; thus, the appellate process of Isom's appeal will not impact Petitioner Taylor's council race.

35. Further, SLED has unequivocally stated it is not investigating the November 2023 Atlantic Beach election. Thus, there is no after-discovered evidence that would impact the MEC's ability to resolve Shaun Swinson's protest.

36. Regardless the outcome of either of these events, the fact remains Petitioner Taylor was the second highest vote recipient from the November 7, 2023 election and is a duly elected council member.

37. Despite nearly four months to do so, Respondents have failed to carry out their foregoing official obligations under S.C. Code Ann. §§ 5-15-100; 5-15-130; and 7-17-280.

38. Even if Shaun Swinson's protest was timely filed, the MEC has failed to carry out its statutory requirements to hold a hearing within forty-eight hours of a filed protest. *See S.C. Code Ann. §5-15-130.*

39. Thus, the MEC is derelict in its duties even if Shaun Swinson's April 2024 protest was timely filed.

40. The South Carolina Legislature has provided for short election protest deadlines to ensure election results and protests are promptly resolved and the will of the people is recognized.

41. Respondents have a definite and ministerial duty to perform these functions.

42. As a candidate and voter in this election, Petitioner Taylor has a specific legal right that requires Respondents to perform their ministerial functions.

43. Petitioner Taylor lacks any other legal remedy that will cure the deficiencies brought upon by Respondents' failure to perform their responsibilities and mandatory obligations under the law.

44. This Petition does not ask that the Court direct that the Respondents reach any particular decision in the conduct of their mandatory obligations. Instead, this Court has the authority to and should issue a writ of mandamus directing the Respondents to abide by the plain and unambiguous language of the South Carolina code of laws and require the MEC to perform its ministerial obligations referenced above.

CONCLUSION

For these reasons, Petitioner requests that this Court issue a writ of *mandamus* to Respondents to carry out the obligations of the Municipal Election Commission S.C. Code Ann. §§ 5-15-100; 5-15-130; and 7-17-280 as soon as possible, award Petitioner her attorney's fees and costs, and grant such other and further relief as is just and warranted.

(Signature Page Follows)

ROBINSON GRAY STEPP & LAFFITTE, LLC

By: s/Robert E Tyson, Jr.

Robert E. Tyson, Jr., SC Bar No. 10820

rtyson@robinsongray.com

La'Jessica M. Stringfellow, SC Bar No. 102376

lstringfellow@robinsongray.com

Post Office Box 11449

Columbia, South Carolina 29211

(803) 929-1400 Telephone

(803) 929-0300 Fax

Attorneys for Plaintiff

Columbia, South Carolina
August 29, 2024

Taylor v. McIver, et al

EXHIBIT A

to Petition for Writ of Mandamus



TOWN OF ATLANTIC BEACH
2023 ELECTION

CANVASS SHEET
CERTIFICATION OF CANDIDATES

Whereas the Town Commission of the Town of Atlantic Beach, hereby certify the following official results for the election of November 7, 2023.
Mayor and Council Seat for term expiring December 31, 2027.

Mayor

Josephine Isom _____

John David _____

Council

Jacqueline Gore 71

Carla Taylor 69

Jerry Finney 62

Shaun Swinson 48

Municipal Election Commissioners

Dated: April 3, 2024

Dated: April 3, 2024

Dated: April 3, 2024

Taylor v. McIver, et al

EXHIBIT B

to Petition for Writ of Mandamus

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY) IN THE FIFTEENTH JUDICIAL CIRCUIT

Carla Taylor,) Civil Action No. 2024-CP-_____

Plaintiff,)

vs.)

**AFFIDAVIT OF
SANDY MARTIN**

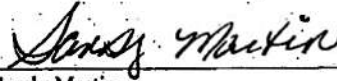
Benjamin Quattlebaum, in his official)
capacity as Town Manager of the Town of)
Atlantic Beach, Jake Evans, Jacqueline)
Gore, Edward Campbell, and John David,)
in their official capacities as members of)
the Atlantic Beach Town Council, and)
Josephine Isom,)
Defendants.)

PERSONALLY APPEARED BEFORE ME, Sandy Martin, who first being duly sworn,
deposes and state as follows:

1. I am over the age of eighteen (18) years, of sound mind, and make this affidavit based on my personal knowledge.
2. I serve as the Director of the Horry County Voter Registration and Elections Commission. I have held this position since 2000.
3. As Director of the Horry County Voter Registration and Elections Commission, I am responsible for receiving certified election results from municipality election commissions within Horry County whom conduct their own elections.
4. On April 4th, I received the Town of Atlantic Beach's November 7, 2023 certified results from Atlantic Beach Town Clerk Cheryl Perreira.
5. Accordingly, the Town of Atlantic Beach's November 7, 2023 certified election results on file with my office certify that Carla Taylor and Jacqueline Gore were the winners of

the November 7, 2023 election and are the duly-elected council members for the Town of Atlantic Beach.

FURTHER AFFLIANT SAYETH NOT.



Sandy Martin
Director
Horry County Voter Registration and
Elections Commission

SWORN TO AND SUBSCRIBED BEFORE ME

This 9th day of April 2024.

 (L.S.)
Notary Public for the State of South Carolina

My Commission Expires: 3/12/2031

Taylor v. McIver, et al

EXHIBIT C

to Petition for Writ of Mandamus



Town of Atlantic Beach
717 30th Avenue South
Atlantic Beach, SC 29582
Mail PO Box 5285
N Myrtle Beach, SC 29597
Phone No. 843-663-2284
Fax No. 843-663-0601

Mayor:

Jake Evans

Council Members:

Jacqueline Gore

Edward Campbell

John David, Jr.

Carla Taylor

Town Manager:

Benjamin Quattlebaum

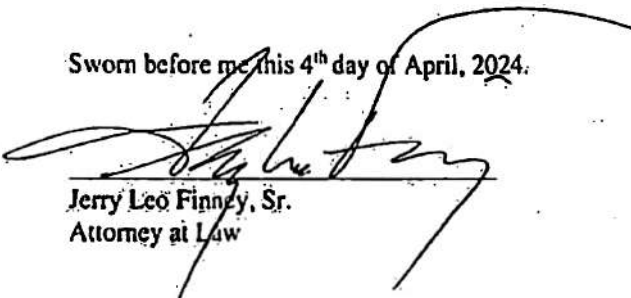
OATH OF OFFICE

I, Carla Taylor, do solemnly swear that I am duly qualified, according to the constitution of this state to exercise the duties of the office to which I have been elected, and that I will, to the best of my ability, discharge the duties thereof, and preserve, protect and defend the constitution of this State and of the United States. So, help me God.

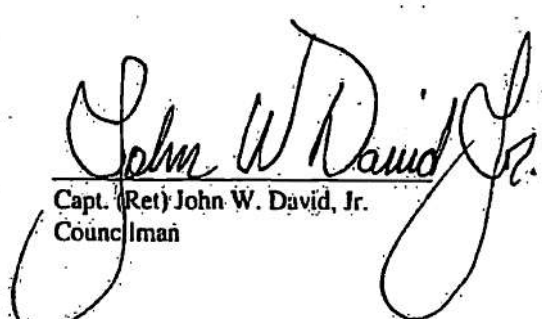
As Council Member of the Town of Atlantic Beach, I will equally, fairly and impartially, to the best of my ability, and skill, exercise the trust reposed in me, and will use my best endeavor to preserve the peace and carry into effect according to the law the purposes for which I have been elected. So, help me God.


Carla Taylor

Sworn before me this 4th day of April, 2024.


Jerry Leo Finney, Sr.
Attorney at Law


Cheryl Pereira
Town Clerk


Capt. (Ret) John W. David, Jr.
Councilman

Taylor v. McIver, et al

EXHIBIT D

to Petition for Writ of Mandamus

From: k3840@sc.rr.com <k3840@sc.rr.com>

Sent: Monday, April 15, 2024 4:37 PM

To: 'Dickey, Joseph' <JDickey@hsblawfirm.com>

Cc: 'benjamin.quattlebaum@aol.com' <benjamin.quattlebaum@aol.com>; 'C.D. Rhodes' <cdrhodes@popeflynn.com>; Rob Tyson <rtyson@robinsongray.com>; 'Kenneth Davis' <kdavis@boykinlawsc.com>; 'Ian T. Duggan' <ianduggan@callisontighe.com>; 'Cheryl Pereira' <cheryl@townofatlanticbeachsc.com>; 'johndavid@townofatlanticbeachsc.com' <johndavid@townofatlanticbeachsc.com>; 'elcampbell45@gmail.com' <elcampbell45@gmail.com>; 'gore_jacqui@yahoo.com' <gore_jacqui@yahoo.com>; 'evans.jake1@outlook.com' <evans.jake1@outlook.com>; 'js.isom@hotmail.com' <js.isom@hotmail.com>; 'Scott, Ronald' <rscott@hsblawfirm.com>; 'Glunt, Alex' <aglunt@hsblawfirm.com>; 'Derrick Stevens' <bossderrick25@yahoo.com>

Subject: RE: Advisory Letter Concerning Atlantic Beach November 2023 Election and Protest/Appeal Proceedings

Mr. Dickey:

This email is to acknowledge receipt of your advisory emails dated April 5th, April 12th, and now April 15th. Please see my response below.

Josephine Isoms' Protest Appeal

In accordance with the South Carolina Municipal Elections Handbook (page 23), Ms. Isom has filed an appeal to the Court of Common Pleas. I received a copy on April 12th. As stated in the Handbook, the appeal shall "act as a stay of further proceedings" pending the outcome. Therefore, no further action is required from the Commission.

Shawn Swinson Matter

Mr. Swinson delivered a letter dated April 3rd, 2024 (I received it via text and email on April 4th) with a subject, "Appeal of Decision to Certify Ineligible Voters for Town Council Election and Not for Mayoral Election."

Mr. Swinson's letter is clearly referring to the outcomes of the Mayoral Election protest hearing, asserting that he was an "aggrieved party" to the protest hearing. The Municipal Elections Handbook states "any aggrieved party may appeal to the Court of Common Pleas. Notice of appeal shall be served on the opposing parties or their attorneys and filed in the office of the clerk of court within 10 days." I informed Mr. Swinson he will need to seek assistance from an attorney.

Further, candidates are made aware of protest and appeal processes. A reminder of the appeals process occurred when we counted the unofficial results on November 7th, 2023. Your point regarding the timeliness of Mr. Swinson's notice is well known. If Mr. Swinson plans to pursue an appeal of the decision to "certify ineligible voters for the town council," we look forward to receiving notice of his filing in the Court of

Common Pleas. Therefore, no further action is required from the Commission.

Certification of Town Council Votes

The Municipal Election Handbook states:

Certifying election results (page 20)

After canvassing, the MEC certifies the final vote totals making them official. Election results are certified by a quorum of the commission (at least two members) signing their names to a canvass sheet. Canvass sheets should contain the name of the municipality, name of the election, election date, signature blanks and certification date. Winners should be marked on the results.

During the April 3rd Municipal Election Commission Meeting, the following occurred:

Confirmation of Certification of November 7th, 2023 Town Council Election was originally listed as item 7 on the published agenda.

Prior to approval of the agenda, the item was moved to follow the protest hearing.

The agenda, including the Confirmation of Certification of November 7th, 2023 Town Council Election, was approved by a unanimous Commission vote.

After the protest hearing, during the fourth-hour in the meeting, I announced we will now certify the Town Council Election, and I re-stated the count.

In accordance with the guiding documents of the South Carolina Law and the Municipal Elections Handbook, a quorum of Commissioners was present, and the canvass sheet, prepared by the Town Clerk containing the names of the Town Council candidates and the total votes received, was circulated for signature.

The canvass sheet read:

We, the Municipal Election Commission of the Town of Atlantic Beach, S. C., hereby certify the following official results for the election of November 7th, 2023

Each Commissioner read and signed the canvassing sheet without questions, indicating their concurrence with the language, the count, and the process. The winners were marked on the signed canvass sheet in the presence of the Commissioners and the public.

Given that all three Commissioners signed the sheet, without question or concern, we have completed the process.

Certification/ affirmation of the election results is by signature not by voice vote or motion. There is no requirement for a motion. The approving action is the signed canvass sheet. In addition, as required, the canvass sheet certifying the Council Election, has been submitted to the Horry County Elections Office in a timely fashion for closure. There is no further action required by the Atlantic Beach Municipal Elections Commission with regard to certification of the November Town Council Election.

Thank you again for your support. I look forward to receiving the draft of your report from our April 3rd Municipal Elections Commission meeting to be shared with the Town Council for informational purposes only. I will report to the Town Council that as a result of the appeal of the protest hearing, we will await the Court's directions as to the next steps rather than request that a new election date be set.

Kenneth McIver, Chairman

From: "Dickey, Joseph"
To: "k3840@sc.rr.com", "benjamin.quattlebaum@aol.com"
Cc: "C.D. Rhodes", "rtyson@robinsongray.com", "Kenneth Davis", "Ian T. Duggan", "Cheryl Pereira", "johndavid@townofatlanticbeachsc.com", "elcampbell45@gmail.com", "gore_jacqui@yahoo.com", "evans.jake1@outlook.com", "js.isom@hotmail.com", Ronald", Alex", "Derrick Stevens"
Sent: Monday April 15 2024 2:12:56PM
Subject: Advisory Letter Concerning Atlantic Beach November 2023 Election and Protest/Appéal Proceedings

Good afternoon all:

Please find attached our firm's advisory letter concerning the current status of the November 2023 municipal elections. I apologize for it not being on letterhead previously.

In addition, it has been brought to my attention that the Town is improperly engaging in public meetings and other business via email. Whether seated or not, the Town using email, personal or Town provided, to conduct Town business and make decisions related to the Town is illegal under FOIA (assuming a quorum existed on the email). Furthermore, the Town is a council-manager form of government where no one member of Council nor the Mayor can make decisions on behalf of the Town. Much like the election commission, actions must be properly taken by the body predicated on a lawfully scheduled and held meeting. For reference, these actions were ruled upon in *Poole v. S.C. Dept. of Disabilities and Special Needs, et. al* where the DDSN commission was held to have acted unlawfully under FOIA in deciding and subsequently terminating the executive director. At a hearing on the FOIA violations, the presiding judge awarded the plaintiff executive director back pay and attorney fees dating back to the DDSN's board of commissioners unlawful actions under FOIA. In short, the Town must act as body and take appropriate votes to make any decisions much like the election commission.

As expressed in the letter, I am concerned about the actions being taken by the Town and felt the need to provide written advisory correspondence. While certainly the Town and individuals can decide to act in contrary to legal advice, those actions, after receiving written correspondence, would be deemed outside the scope of his/her official capacity.

Happy to address any questions you may have but wanted to make sure that we provided this correspondence out of an abundance of caution.

Thanks,

Joseph

Haynsworth Sinkler Boyd P.A.



Joseph D. Dickey, Jr. | Attorney
Direct 803.540.7909 | JDickey@hsblawfirm.com

Haynsworth Sinkler Boyd, P.A.
1201 Main Street, 22nd Floor | Columbia, SC 29201
Main 803.779.3080 | Mobile 864.316.4646 | Fax 803.765.1243

[Web](#) | [Bio](#) | [vCard](#) | [Map](#) | [Linked In](#) | [Blon](#)

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Taylor v. McIver, et al

EXHIBIT E

to Petition for Writ of Mandamus



ROBINSON
GRAY

Litigation + Business

ROBERT E. TYSON, JR.

DIRECT 803 231.7838

rtyson@robinsongray.com

July 18, 2024

VIA EMAIL

Ken McIver, Chairman
Town of Atlantic Beach
Municipal Election Commission

Re: Municipal Election Commission Meeting re: November 2023
Town Council Election

Dear Mr. McIver:

I represent Ms. Carla Taylor. We request you schedule a Town of Atlantic Beach Election Commission meeting to dispose of the untimely election protest filed by Shaun Swinson on April 3, 2024.

As you know, on April 3, 2024, the Atlantic Beach Municipal Election Commission certified Ms. Taylor as one of the two winners in the November 7, 2023 election for Town Council. Unfortunately, the Mayor, Town Administrator, and some members of Town Council refuse to recognize her as a member of Town Council. Even though the Town's attorney has opined the "protest" was untimely, these persons refuse to recognize her legal right to serve as a Member of Town Council.

Given their refusal to officially recognize her as a Town Council member, Ms. Taylor was forced to file a Complaint and seek an injunction requiring these persons to recognize her. On May 14, 2024, a hearing was held before Judge William Seals on the Motion for a Preliminary Injunction. On May 23, 2024, Judge Seals denied the Motion. His Order is attached.

Judge Seals impliedly ruled that the protest must be dealt with pursuant to South Carolina law. As you know, S.C. Code Ann. Sec. 5-13-130 requires that a candidate contest the results of an election "within forty-eight hours after the closing of the polls..." Clearly, this protest does not meet the statutory deadline. The statute further requires the Municipal Election Commission "to conduct a hearing on the contest within forty-eight hours after the filing of such notice [protest]..." Even though the alleged "protest" missed the statutory deadline, the Court is requiring the Municipal Election Commission rule on this "protest."



ROBINSON
GRAY

July 18, 2024
Page: 2

Litigation + Business

Thus, Ms. Taylor requests you schedule a meeting to dispose of this "protest" within 7 days of receipt of this letter.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Robert E. Tyson, Jr.

cc: Dwayne M. Green, Esq. (via email)

Taylor v. McIver, et al

EXHIBIT F

to Petition for Writ of Mandamus

From: [Wunderlich, Renee](#)
To: [Holland Jacobs](#)
Cc: [Rob Tyson](#)
Subject: RE: Atlantic Beach Town Council Investigation
Date: Wednesday, August 21, 2024 2:57:30 PM
Attachments: [image007.png](#)
[image008.png](#)

Good afternoon,

I responded to The Sun News and any other media inquiries on this matter with this sentence:

SLED does not have an investigation.

Best,
Renée

Renée Wunderlich
Director of Public Information
South Carolina Law Enforcement Division
(803) 260-3020
rwunderlich@sled.sc.gov
www.sled.sc.gov



From: Holland Jacobs <[hjacobson@robinsongray.com](mailto:hjacobs@robinsongray.com)>
Sent: Wednesday, August 21, 2024 2:41 PM
To: Wunderlich, Renee <RWunderlich@sled.sc.gov>
Cc: Rob Tyson <rtyson@robinsongray.com>
Subject: Atlantic Beach Town Council Investigation

You don't often get email from [hjacobson@robinsongray.com](mailto:hjacobs@robinsongray.com). [Learn why this is important.](#)

CAUTION: This email originated from outside of SLED. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon,

Our firm represents Carla Taylor in an election dispute involving Atlantic Beach Town Council. I am reaching out to you regarding Atlantic Beach and a statement you gave to The Sun News. You stated that the agency does not have an investigation related to Atlantic Beach's Election. Please provide us with the statement or the correspondence you had with The Sun News?

Please let me know if you have any questions or concerns as it relates to this matter.

Kind regards,
Holland



**ROBINSON
GRAY**

Litigation + Business

HOLLAND JACOBS, LEGAL ASSISTANT

DIRECT 803.231.7844

VCARD


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215 1/2 Pickens Street

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Columbia, SC 29201

 **MERITAS** LAW FIRM



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Taylor v. McIver, et al

EXHIBIT G

to Petition for Writ of Mandamus



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ROBERT E. TYSON, JR.

DIRECT 803 231.7838

rtyson@robinsongray.com

August 21, 2024

VIA EMAIL

Dwayne M. Green, Esquire
Green Law Offices
720 Magnolia Road, Suite 24
Charleston, SC 29407
dwayne@greenlawsc.com

Re: Atlantic Beach Municipal Election Commission

Good afternoon, Dwayne,

I've been made aware that you presented at an Atlantic Beach Municipal Election Commission information session on August 19, 2024. During this information session, you advised the Atlantic Beach Municipal Election Commission not to act on Shaun Swinson's April 5, 2024 protest to the November 7, 2023 town council election. I believe this advice is incorrect and a misinterpretation of the applicable municipal election statutes and case law.

Pursuant to South Carolina Code Section 5-15-130, it is clear that a candidate must contest the results of an election within **forty-eight** hours of the polls closing. Thereafter, within forty-eight hours of the filed protest, the municipal election commission must conduct a hearing to decide the issues raised in the protest. *Id.*

Mr. Swinson did not file his protest until 150 days after the polls closed on November 7, 2023. It is abundantly clear that Mr. Swinson's election protest is untimely. The Atlantic Beach Municipal Election Commission has a duty to declare the results of the election no later than three days following the election. *See* S.C. Code § 5-15-100. Failing to immediately dispose of Mr. Swinson's untimely protest is simply a delay tactic at this juncture. Further, the Atlantic Beach Municipal Election Commission's failure to act is a grave dereliction of its duties.

In the event the Atlantic Beach Municipal Election Commission erroneously decides to hear Mr. Swinson's protest, the commission must hear Mr. Swinson's protest immediately. In fact, South Carolina Code Section 5-15-130 mandates the Municipal Election Commission conduct a hearing "within forty-eight hours after the filing of such 'notice'". The Atlantic Beach Election Commission has failed to comply with state law and therefore, must act immediately.

Additionally, I believe you have misinterpreted *Geey v. Bagwell* and use of the after-discovered evidence rule. If I understand your position, you maintain that the Municipal Election



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August 21, 2024
Page: 2

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Commission cannot act on Swinson's untimely "protest" until there is a final decision in Ms. Isom's appeal of the election commission's decision pertaining to the mayoral election and the South Carolina Law Enforcement Division completes its investigation. This is a gross misrepresentation of the law on election protests. No result in Ms. Isom's appeal or the SLED investigation will impact Mr. Swinson's untimely filed "protest." These cases should not be treated as related or intertwined with one another. Most importantly, the after-discovered evidence rule must be applied consistently with the time constraints set out in the municipal election code. See S.C Code § 5-15-130.

To this end, please accept this correspondence as my official request that the Atlantic Beach Municipal Election Commission meet no later than Monday, August 26, 2024 to determine whether the commission will dispose of Mr. Swinson's untimely protest or conduct a hearing on the merits of his untimely protest. In the event the commission chooses to conduct a hearing on the merits of Mr. Swinson's untimely protest, I request that the hearing be held no later than Friday, August 30, 2024.

Finally, please forward a copy of Mr. Swinson's election protest as soon as possible.

I look forward to hearing from you in the next three days.

Very truly yours,

Robert E. Tyson, Jr.

cc: Kenneth Davis, Esq.

Taylor v. McIver

Exhibit H

To Petition for Writ of Mandamus

From: [Dwayne Green](#)
To: [Holland Jacobs](#)
Cc: k3840@sc.rr.com; [Rob Tyson](#); [La"Jessica Stringfellow](#)
Subject: Re: Letter from Robinson Gray In Regard to November 2023 Town Council Election (8437-1500) Taylor v. Quattlebaum
Date: Monday, August 26, 2024 3:43:36 PM
Attachments: [Screen Shot 2020-07-22 at 1.04.19 PM.png](#)

Dear Holland:

Please allow this email to serve as a formal response to Mr. Tyson's letter of August 21, 2024.

There will not be a meeting on or before August 30, 2024 as I am traveling out of state for the Labor Day weekend.

Additionally, I disagree with Mr. Tyson's interpretation of the law and the Election Commission's ability to consider after-discovered evidence. As noted in my previous correspondence, this marks at least the third time in which attorneys retained by the Town have had different legal opinions from those of Mr. Tyson.

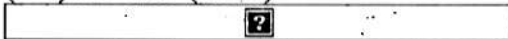
On the previous two occasions which I have been involved(denial of motion for preliminary injunction and motion to reconsider), the court ruled in the Town's favor. We are not inclined to change our opinion because Mr. Tyson has a different opinion once again.

Mr. Tyson is free to file a writ of mandamus with the Supreme Court if his client does not have the patience to await the Commission's timely consideration of the 'after-discovered' evidence it is entitled to consider.

Have a safe and pleasant week and Labor Day weekend and thank you for forwarding the previous correspondence.

Kind regards,

Dwayne Green
(843)480-0168 (direct)



On Jul 18, 2024, at 5:07 PM, Holland Jacobs <[hjacobson@robinsongray.com](mailto:hjacobs@robinsongray.com)> wrote:

Good afternoon,

Please see the attached letter from Rob Tyson regarding the above matter. Please let us know if you have any questions or concerns.

Thank you,
Holland Jacobs

<image001.png>

HOLLAND JACOBS LEGAL ASSISTANT

DIRECT 803.231.7844

[VCARD](#)

[ROBINSONGRAY.COM](#)

2151 Pickens Street

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Columbia, SC 29201

<image003.jpg>

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<image006.jpg>

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<Letter to Ken McIver requesting meeting on Swinson.Protest(39247265.1).pdf>