THE STATE OF SOUTH CAROLINA
In The Supreme Court

Tonya Winbush, Appellant,

v.

City of Anderson, South Carolina; Anderson Municipal Election Commission; David Ford, Clara E. Humphrey, and Renee Fields-York, in their Official Capacities as Municipal Election Commissioners; and Darryl Thompson, Respondents.

Appellate Case No. 2026-001506

Appeal from Anderson County
R. Lawton McIntosh, Circuit Court Judge

Opinion No. 28356
Heard October 14, 2026 – Filed November 18, 2026

AFFIRMED

Christopher P. Kenney, of Chris Kenney Law, of Columbia, for Appellant.

Robert E. Tyson, Jr., La'Jessica M. Stringfellow, and Sarah Cameron Frierson, all of Robinson Gray Stepp & Laffitte, LLC, of Columbia; and Rame Lambert Campbell and J. Franklin McClain, both of Anderson City Attorney's Office, of Anderson, all for Respondents City of Anderson; Anderson Municipal Election Commission; David Ford, Clara E. Humphrey, and Renee Fields-York, in their Official Capacity as Municipal Election Commissioners.

Darryl Thompson, of Anderson, pro se, Respondent.

ACTING JUSTICE COURTNEY CLYBURN POPE: This direct appeal arises from the City of Anderson Municipal Election Commission's decision invalidating the results of the April 7, 2026 election for Seat 5 of the Anderson City Council. Appellant Tonya Winbush won the election by a large margin, but her opponent subsequently filed an election protest challenging the result on the basis that Winbush was not a resident of the City and therefore was ineligible to hold office. Following a hearing, the municipal election commission determined Winbush was not a resident of the City and invalidated the results of the election. Winbush appealed, and following a hearing, the circuit court affirmed. Notwithstanding our concerns about the hearing procedures utilized by the City, we affirm.

FACTS AND PROCEDURAL HISTORY

On April 7, 2026, the City of Anderson held a general election to fill various seats on the Anderson City Council. As to City Council Seat 5, Tonya Winbush and Darryl Thompson both appeared on the ballot. Winbush won, receiving 135 votes to Thompson's 68 votes. After losing the election, Thompson filed a written protest with the City of Anderson Municipal Election Commission (MEC) on April 9, 2026, arguing Winbush was not a resident of Ward 5 and was therefore ineligible to run for and hold Seat 5.

This election protest was considered by the MEC at a hearing on April 14, 2026. The record on appeal includes a written motion to dismiss the protest on various legal grounds; however, Winbush made no mention of this motion during the hearing, and it was not referenced in the MEC's written order. At the hearing, Thompson, who appeared pro se, presented a March 12, 2026 deed transferring a parcel of real property located on Kings Road in Anderson. This deed transferred the property from Winbush in her individual capacity to Winbush as trustee of a revocable trust and listed the Kings Road property as Winbush's residence.

Winbush, who was represented by counsel at the hearing, presented sworn testimony and documents indicating she moved from her home on Kings Road to Ward 5 beginning on January 28, 2026—the day before she filed her statement of candidacy seeking election to Seat 5. Specifically, Winbush submitted a signed lease renting a home located on Morris Lane, within Ward 5, beginning January 28, 2026. Winbush changed her voter registration to the Morris Lane address and

had the water and electric utilities connected. However, the utility bills Winbush provided to the MEC, ostensibly in support of her residency, indicate that zero cubic feet of water were used between January 27, 2026, and March 5, 2026, and that only 95 kWh of electricity were used between February 21, 2026, and March 23, 2026.[1]

At some point, Winbush decided to leave Morris Lane, terminating her lease and signing a new lease for a single-family home located on Smith Street, also located in Ward 5, beginning March 20, 2026. Winbush testified this move was prompted by "the renovations [that] were taking so long" at the Morris Lane home, which required that she "move into another place that was more feasible and liveable that [she] could dwell in." Winbush testified she once again changed her voter registration to Smith Street and transferred the utilities. However, Winbush did not submit utility bills for the Smith Street home into evidence. It appears Winbush intended to offer Exhibit 9, a March 2026 water bill, in support of her testimony that she connected the utilities at the Smith Street home. Although that bill lists Smith Street as the billing address, the service address is listed as Kings Road, and the bill reveals 600 cubic feet of water usage at the Kings Road home during the time Winbush claims she resided on Morris Lane. Winbush nevertheless testified that all of her personal belongings are located in the Smith Street home, where she intends to stay. Winbush avers that she no longer resides at the home on Kings Road, although two of her adult daughters consider that home to be their residence.

Following Winbush's testimony, the MEC inquired whether City staff "have any information to share at this time." Rame Campbell, a lawyer from the City attorney's office, explained that, upon receipt of Thompson's election protest, the MEC directed the City to investigate the issue of Winbush's residency and present findings to the MEC. Accordingly, Campbell compiled a notebook full of documents, which he presented to the MEC and explained one by one without first being sworn as a witness.[2] At no time did Winbush object to the City's

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[1] It also appears from the "usage snapshot" graph on the Duke Energy bill that all of the electricity usage occurred in February, with both January and March reflecting zero electricity use. This means zero electricity was used during the time Winbush claims she moved into the home ahead of her January 29, 2026 declaration of candidacy.

[2] We reject any contention that, although the court reporter failed to note it in the transcript, Campbell was in fact sworn in before offering documents and statements to the MEC. *See South Carolina State Hwy. Dep't v. Meredith*, 241

investigation or to the MEC's consideration of any of the documents or unsworn statements Campbell presented, nor did Winbush or her attorney seek to cross-examine Campbell at any point during the hearing.

Campbell presented records from the South Carolina Department of Motor Vehicles (DMV) indicating that, as of the date of the hearing, the address listed on Winbush's driver's license was the Kings Road home.[3] Additionally, Campbell submitted DMV documents indicating Winbush's vehicle registration, which was renewed on February 27, 2026, lists Kings Road as the address for both Winbush and where the vehicle is housed. Campbell also presented a water bill for Smith Street indicating zero cubic feet of water were used between March 20, 2026, and March 30, 2026. Lastly, Campbell stated to the MEC that in the time since the Kings Road property was transferred into the trust, the county assessor's office has received no notice that property is no longer entitled to receive the reduced 4% assessment ratio for owner-occupied residences.[4]

Following Campbell's presentation, the MEC deliberated off the record and determined not to certify the election results. The MEC orally announced its decision before concluding the hearing and subsequently issued its written decision three days later on April 17, 2026. In its written decision, the MEC summarized the statements and documents presented at the hearing and found "Winbush had not abandoned her residence and domicile at [] Kings Road at the time she filed to run, or thereafter." In other words, the MEC concluded that Winbush did not reside in Ward 5 and, therefore, was ineligible to run for and hold Seat 5. Accordingly, the MEC invalidated the results of the election.

S.C. 306, 311, 128 S.E.2d 179, 182 (1962) (explaining the transcript is the official record of the proceedings below and therefore this Court will not consider on appeal any claimed occurrence at trial that does not appear in the transcript).

[3] A driver is required to notify the DMV within 10 days of any change of address. S.C. Code Ann. § 56-10-230 (2018). Winbush's last change of address was submitted to the DMV in 2010.

[4] *But see* S.C. Code Ann. § 12-43-220(c) (2014 & Supp. 2026) (providing that if residential real property is held in trust and the income beneficiary of the trust occupies the property as a residence, then the four percent assessment ratio is allowed). The trust documents do not appear in the record, so it is unclear whether the beneficiaries reside in the Kings Road home.

Winbush appealed this decision to the circuit court pursuant to section 5-15-140 of the South Carolina Code. Following a hearing on May 15, 2026, the circuit court issued a Form 4 order on July 7, 2026, affirming the MEC's decision. In the order, the circuit court emphasized its limited standard of review and concluded the MEC's factual findings were supported by evidence and that there were no errors of law. The circuit court's decision was appealed directly to this Court pursuant to section 14-8-200(b)(5) of the South Carolina Code and Rule 203(d)(1)(A)(iv), SCACR, both of which provide that appeals from the circuit court pertaining to elections and election procedures shall be filed with the Clerk of the Supreme Court.

ISSUES ON APPEAL

I. Is the MEC's decision that Winbush did not live in Ward 5 supported by any evidence?

II. Was Thompson required to challenge Winbush's residency prior to the election instead of filing a protest after the election?

III. Did the MEC err in failing to apply a presumption in favor of the validity of an election in evaluating the evidence of Winbush's residency?

IV. Did the MEC err in directing City staff to investigate and report on the issue of Winbush's residency?

V. Does the MEC's failure to render its decision within forty-eight hours invalidate its decision overturning the election?

ANALYSIS

As an overarching matter, we observe that most of the issues Winbush raises on appeal are not preserved for appellate review, as they were not raised to and ruled upon by the MEC. "'[A]ll this Court has ever required is that the questions presented for its decision must first have been fairly and properly raised to the lower court and passed upon by that court.'" *State v. Oxner*, 391 S.C. 132, 134, 705 S.E.2d 51, 52 (2011) (alteration in original) (quoting *Hubbard v. Rowe,* 192 S.C. 12, 5 S.E.2d 187 (1939)). A "losing party generally must both present his issues and arguments to the lower court and obtain a ruling before an appellate

court will review those issues and arguments." *I'on, L.L.C. v. Town of Mt. Pleasant*, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000). In an appeal from a municipal election protest, the circuit court sits in an appellate capacity and cannot consider allegations that were not raised to the municipal election commission. *Butler v. Town of Edgefield*, 328 S.C. 238, 248, 493 S.E.2d 838, 843 (1997). "It is axiomatic that 'one cannot present and try his case on one theory and thereafter advocate another theory on appeal.'" *Id.* (quoting *White v. Livingston*, 231 S.C. 301, 306, 98 S.E.2d 534, 537 (1957)).

In this matter, the MEC sat as the trier of fact, and the circuit court sat in an appellate capacity. Thus, in order for an argument to be preserved for this Court's review, Winbush was required to raise it to *and* obtain a ruling from both the MEC and the circuit court. Winbush's arguments to the circuit court largely mirror her arguments to this Court; however, few if any of her arguments were properly raised to the MEC, and the MEC ruled upon only one issue—namely, the factual question of Winbush's residency.

Although Winbush urges this Court to determine that issue preservation rules do not apply in appeals involving a municipal election commission decision, this Court has already decided that issue, and we decline to revisit it. *See Butler*, 328 S.C. at 248, 493 S.E.2d at 843 (reversing a circuit court decision considering claims that were not presented to the municipal election commission). However, because the remaining unpreserved arguments would not change the outcome of this matter and raise issues that commonly confront municipal election commissions, we nevertheless briefly summarize those issues and the relevant law.

I. Is the MEC's decision that Winbush did not live in Ward 5 supported by any evidence?

Winbush argues the MEC's conclusion that she was not a resident of Ward 5 is wholly unsupported by the evidence and should be reversed. Specifically, Winbush argues the documents and information submitted by Campbell on behalf of the City were not properly submitted, do not constitute evidence, and therefore cannot underpin the MEC's decision. Although the procedures utilized by the MEC at the hearing are concerning, we nevertheless find there is ample, properly submitted evidence in the record supporting the MEC's conclusion that Winbush was not a resident of Ward 5.

Section 38-3 of the Anderson City Code requires that "[c]andidates seeking office from a particular district shall be residents of the district at the time they offer for

election and during their entire terms of office." The Anderson City Code does not define "resident" or set forth criteria to be considered in determining someone's residence. Accordingly, we look to several portions of the South Carolina Code to understand this term in the elections context. Title 5, Chapter 15, addresses municipal elections but does not define "resident." That title does, however, provide that, absent a contrary provision therein, municipal elections are to be conducted pursuant to the requirements of Title 7. S.C. Code Ann. § 5-15-10 (2004 & Supp. 2025).

Title 7 establishes that a "person's residence is his domicile," which means "a person's fixed home where he has an intention of returning when he is absent." S.C. Code Ann. § 7-1-25(A) (2019) (establishing that "[a] person has only one domicile"). A change of address qualifies as a change of domicile if the person "(1) has abandoned his prior home and (2) [has] established a new home, has a present intention to make that place his home, and has no present intention to leave that place." *Id*. §7-1-25(B) (2019). This statute also sets forth a list of factors to consider in determining "a person's intention regarding his domicile," including, among other things, a person's real estate interests; mailing address; driver's license address; address listed on legal and financial documents; automobile registration; location of personal property; and residence of immediate family members including parents, spouse, and children. *Id*. § 7-1-25(D) (2019 & Supp. 2026).

Upon receipt of an election protest, a municipal election commission, sitting in a quasi-judicial capacity, conducts a hearing at which the protestant and the other candidates have a right to be present, to be represented by counsel, to cross-examine witnesses, and to present evidence. *Id*. § 7-17-570 (2019). "The chairman of the [presiding election] committee shall provide for and conduct the hearing as nearly as possible in accordance with the procedures and rules of evidence observed by the circuit courts of this State." *Id*. § 7-17-570. Following the hearing, the commission must decide the issues raised, file a written report along with all recorded testimony and exhibits, and notify the parties. *Id.* § 5-15-130 (2004)[5]; *see Taylor v. Town of Atl. Beach Election Comm'n*, 363 S.C. 8, 15, 609 S.E.2d 500, 503-4 (2005) (establishing that a municipal election commission is not required to issue a decision that includes specific findings of fact and

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[5] As discussed *infra*, this section was amended effective May 19, 2026; however, those amendments do not affect our consideration of this issue, as they were enacted after Thompson's protest was filed and did not impact the portions of section 5-15-130 discussed here.

conclusions of law).

In reviewing municipal election disputes, "[t]his Court has adopted the 'any evidence' standard of review" for factual findings. *Gantt v. Selph*, 423 S.C. 333, 341, 814 S.E.2d 523, 527 (2018) (citations omitted); *see Taylor*, 363 S.C. at 12, 609 S.E.2d at 502 (observing this Court's "review does not extend to findings of fact unless those findings are wholly unsupported by the evidence"). "Under this deferential standard, the findings of fact reached by the lower tribunal cannot be disturbed if there is any probative evidence in the record supporting the findings." *Gantt*, 423 S.C. at 341, 814 S.E.2d at 528.

In concluding that Winbush did not reside in the City, the MEC relied upon the statements and documents submitted by Campbell, which indicate that even after declaring her candidacy for Seat 5, Winbush considered her address to be the Kings Road property for various purposes. Although Winbush raised no objection to Campbell's presentation during the hearing,[6] she now argues none of the statements made or documents submitted by Campbell were properly presented, and therefore, the MEC committed reversible error in relying upon them to conclude Winbush did not meet the residency requirement.

Although we reject Winbush's argument that the MEC's decision must be reversed due to the irregularities of Campbell's presentation, we nevertheless decline to consider Campbell's unsworn statements and related documents as evidence in reviewing the record.[7] However, given the highly deferential standard of review, we need only look to the evidence submitted by Winbush to affirm the MEC's

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[6] *See State v. Wannamaker*, 346 S.C. 495, 499, 552 S.E.2d 284, 286 (2001) (holding a contemporaneous objection is required to preserve for appeal an issue regarding the admissibility of evidence); *Holroyd v. Requa*, 361 S.C. 43, 60, 603 S.E.2d 417, 426 (Ct. App. 2004) (explaining a party's "[f]ailure to object to the introduction of evidence at the time the evidence is offered constitutes a waiver of the right to have the issue considered on appeal").

[7] The fact that Campbell appears as an attorney of record in this appeal lends further credence to our view that Campbell was functioning as a lawyer rather than a witness during the hearing before the MEC. *See* Rule 3.7, RPC, Rule 407, SCACR (explaining that a lawyer serving as both an advocate and a witness creates confusion as to whether the lawyer's statements should be taken as evidentiary proof or commentary on and analysis of evidentiary proof).

decision. Specifically, the water and electricity bills Winbush submitted as exhibits to her testimony demonstrate zero water and zero electricity were consumed during January 2026 —the time at which Winbush was required to reside in Ward 5 to be eligible to declare her candidacy for Seat 5. Further, the March 2026 water bill Winbush offered as Exhibit 9 reflects thirty-day water usage of 600 cubic feet (approximately 4,488 gallons) at the Kings Road home during the relevant time period. Taken together, these documents support the MEC's conclusion that, at the time she filed her statement of candidacy on January 29, 2026, Winbush had not abandoned her prior home on Kings Road or established a new home on Morris Lane.

Furthermore, we reject Winbush's argument that the MEC was required to accept as conclusive Winbush's testimony as to her own subjective intent regarding establishing a residence in Ward 5. Not only was her testimony undermined by the documentary evidence she submitted, but also a trier of fact "is not required to accept undisputed evidence as establishing the truth where there is reason for disbelief." *Okatie River, L.L.C. v. Se. Site Prep, L.L.C.*, 353 S.C. 327, 338, 577 S.E.2d 468, 474 (Ct. App. 2003) (citing *Johnson v. Painter,* 279 S.C. 390, 392, 307 S.E.2d 860, 861 (1983)). In other words, even if Winbush's testimony that she resided at the properties on Morris Lane and Smith Street was not contradicted by the utility bills she submitted, her testimony itself was vague and difficult to follow, especially as to the timing of events and reasons underlying her two moves in quick succession for no apparent purpose other than being able to run for Seat 5. Given her testimony's internal incoherence, the MEC as the trier of fact was free to find it not credible and decline to accept it as conclusive proof of her intent or residency. Accordingly, we affirm as to this issue.

II. Was Thompson required to challenge Winbush's residency prior to the election instead of filing a protest after the election?

Essentially, Winbush argues that election protests are reserved for challenges and irregularities involving the manner in which the election itself was conducted—not for challenging a candidate's eligibility to appear on a ballot.[8] We disagree.

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[8] Although this issue was included in Winbush's motion to dismiss, the MEC did not acknowledge that motion or rule upon this issue. *See I'on*, 338 S.C. at 422, 526 S.E.2d at 724 (noting a party must not only present an argument but also obtain a ruling to preserve an issue for appellate review).

In support of her argument, Winbush cites this Court's decision in *Anderson v. South Carolina Election Commission*, 397 S.C. 551, 725 S.E.2d 704 (2012), in which this Court considered in its original jurisdiction a declaratory judgment action regarding whether various political candidates were eligible to appear on primary election ballots across the state despite their failure to contemporaneously file a statement of economic interests at the time they declared their candidacy. In finding the question presented in *Anderson* was ripe for judicial review, even though no injury had occurred because no unqualified candidate had yet been elected, the Court acknowledged the existence of post-election remedies (i.e. challenges preventing an unqualified primary candidate from being certified as the candidate on the ballot in the general election). However, the Court concluded those post-election remedies were not exclusive and therefore did not preclude this Court's pre-election consideration of candidate eligibility. *Id*. at 556, 725 S.E.2d at 706 (emphasizing the "foundational" importance of integrity in public elections). Thus, although *Anderson* permitted a pre-election challenge to a candidate's qualifications for office, we discern nothing in that decision that *requires* a challenge to a candidate's eligibility to be brought before the election.

Additionally, this Court has previously considered a case in which a candidate's eligibility was challenged via an election protest filed after the election. *See Blair v. City of Manning*, 345 S.C. 141, 546 S.E.2d 649 (2001) (involving an election protest challenging residency of winning candidate). This Court has also decided other cases arising from election protests disputing aspects other than irregularities involving the manner in which the election itself was conducted. *See, e.g.*, *Sims v. Ham*, 275 S.C. 369, 271 S.E.2d 316 (1980) (finding election protest filed after the election was a procedurally proper method to challenge the form of the ballot and rejecting the argument that the challenger was estopped from raising the objection by not raising it prior to or during the election); *cf. Taylor v. Roche*, 271 S.C. 505, 248 S.E.2d 580 (1978) (finding post-election challenge to the form of the ballot filed in circuit court was procedurally improper because it should have been filed as an election protest and raised to the county board of canvassers). Accordingly, we affirm as to this issue.

III. Did the MEC err in failing to apply a presumption in favor of the validity of an election in evaluating the evidence of Winbush's residency?

Winbush next argues that in deciding the protest, the MEC erred in failing to apply a legal presumption in favor of the regularity of an election. We disagree.

In various decisions over the years, this Court has observed that it will "employ every reasonable presumption to sustain a contested election[] and will not set aside an election due to mere irregularities or illegalities unless the result is changed or rendered doubtful." *E.g.*, *Cole v. Town of Atlantic Beach Election Comm'n*, 393 S.C. 264, 271, 712 S.E.2d 440, 444 (2011) (quoting *George v. Mun. Election Comm'n of Charleston*, 335 S.C. 182, 186, 516 S.E.2d 206, 208 (1999)). Winbush argues this presumption required the MEC to accept her testimony and "place[] the burden on Thompson to overcome that presumption."

Initially, we note this issue was not raised to or ruled upon by the MEC. Further, this presumption of validity applies only when *reasonable* and only to election challenges involving minor irregularities that do not affect the overall outcome of an election. Here, to the contrary, Winbush's ineligibility to hold office due to her failure to actually live in Ward 5 is a substantial irregularity that necessarily affects the outcome of the election, as she is ineligible to hold office. Thus, it is not reasonable to presume away this illegality. Accordingly, the MEC did not err in failing to employ this presumption. *Cf. Tempel v. South Carolina State Election Comm'n*, 400 S.C. 374, 735 S.E.2d 453 (2012) (finding an unopposed election where the candidate was not qualified was properly invalidated). We therefore affirm as to this issue.

IV. Did the MEC err in directing City staff to investigate and report on the issue of Winbush's residency?

Winbush argues the MEC improperly directed City staff to "investigate and prosecute" Thompson's election protest, which wrongly shifted the burden of proof away from Thompson as the challenger, in violation of section 5-15-130 of the South Carolina Code and various provisions of the state and federal constitutions. Essentially, Winbush's complaint is that the MEC acted in both an investigative and adjudicative role in deciding the election protest. Although we reject Winbush's arguments for the reasons explained below, we nevertheless clarify the relevant contours of the law to enable election commissions across the state to ensure future election protests are well-handled.

To be qualified to seek and hold Seat 5, Winbush was required by section 38-3 of the Anderson City Code to be a resident of Ward 5 at the time she offered for election and during the entire term of office. The legislature has established a detailed framework governing ballots, including the names of qualified candidates to be listed. S.C. Code Ann. §§ 7-13-310 to -460 (2019 & Supp. 2026). In the case of a nonpartisan municipal election, like the one at issue in this case, a

candidate seeking election merely files a statement of candidacy, affirming in writing that she "meets or will meet by the time of the election, or as otherwise required by law, the qualifications for the office sought." *Id*. § 7-13-352. Section 7-13-352 further provides:

> The authority with whom statements of candidacy are filed must verify that each candidate meets, or will meet by the time of the general election, or as otherwise required by law, the qualifications for the office sought. Any candidate who does not, or will not by the time of the general election, or as otherwise required by law, meet the qualifications for the office sought shall not have his name placed on the ballot.

Id. In other words, at the time Winbush filed her statement of candidacy, it was incumbent upon the City, as the authority with whom it was filed, to verify her qualifications to seek and hold office, including that Winbush was a resident of Ward 5.

In filing her statement of candidacy on January 29, 2026, Winbush affirmed that she met the qualifications for office and attached a copy of her driver's license and a copy of the rental agreement for the Morris Lane home, along with a signed water utility contract for that property.[9] It appears that, based on this showing by Winbush, the MEC concluded Winbush met the residency requirement and listed her name on the ballot as a qualified candidate. It was only after the passage of time revealed that Winbush had not abandoned her prior residence that the basis of her ineligibility became apparent.

The parties have not identified, and our research has not revealed, any statute or other provision of law limiting a municipal election commission's authority to verify a candidate's eligibility to hold office when it is discovered after an election that a candidate is not qualified to hold office. Although Winbush points to the text of section 5-15-130 in arguing the MEC's authority was limited to hearing and deciding the protest, not investigating or prosecuting it, we decline to interpret the language of that statute in such a restrictive way, particularly in light of Winbush's

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[9] Although Winbush's driver's license listed her address as the Kings Road home, because the purported move to Morris Lane was so recent, Winbush had until February 7, 2026, to update her address with the DMV pursuant to section 56-10-230.

failure to raise this issue to the MEC. However, "'[t]hat is not to say there is nothing to the argument that those who have investigated should not then adjudicate,'" as future situations may arise in which such dual roles are impermissible. *Garris v. Governing Bd. of S.C. Reinsurance Facility*, 333 S.C. 432, 444-45, 511 S.E.2d 48, 54 (1998) (quoting *Withrow v. Larkin*, 421 U.S. 35, 51-58 (1975)).

Indeed, the actions of a municipal commission acting in a quasi-judicial capacity are limited by the requirements of due process and, more specifically, by article I, section 22 of the South Carolina Constitution, which prohibits a quasi-judicial decision-maker from acting as both prosecutor and adjudicator.[10] "[T]he purpose of article 1, section 22 is to ensure adjudications are conducted by impartial [] bodies." *Ross v. Med. Univ. of S.C.*, 328 S.C. 51, 69, 492 S.E.2d 62, 72 (1997) (citation omitted). Accordingly, individuals "who participate in the investigation or prosecution of a case must distance themselves from the adjudicatory process and should refrain from even discussing that case with future adjudicators." *Garris*, 333 S.C. at 446, 511 S.E.2d at 55.

The crux of Winbush's argument here relates to the City's directive for its attorneys to investigate the issue of Winbush's residency and Campbell's involvement in the hearing. Although it is not entirely clear what Campbell's specific role was, it appears he was not participating in the capacity of a witness, as he was not sworn before making statements and offering documents; instead, his participation appears to be more appropriately characterized as that of an advisor rather than a witness offering evidence, and there is no proof or argument that Campbell participated in the MEC's decision of the matter.

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[10] Although the South Carolina Administrative Procedures Act (APA) does not apply to a municipal board or commission exercising quasi-judicial authority, this Court has taken a more functional approach to interpreting the language of article I, section 22 of the South Carolina Constitution, determining that provision is more widely applicable. *Compare Housing Authority of Charleston v. Olasov*, 282 S.C. 603, 607 n.3, 320 S.E.2d 478, 480 n.3 (1984) (finding a municipal housing board is not subject to the APA), *with Kurschner v. City of Camden Planning Commission*, 376 S.C. 165, 656 S.E.2d 346 (2008) (applying article I, section 22 to a municipal planning commission's decision on a subdivision application); *and Garris*, 333 S.C. at 438-47, 511 S.E.2d at 51-56 (applying article I, section 22 to a private organization acting as a statutory agent for the automobile industry).

Although we are concerned that these functions were blurred in the hearing before the MEC, we nevertheless conclude there was no reversible error, particularly in light of our decision not to consider the documents and statements presented by Campbell in evaluating this appeal. We emphasize that municipal boards and commissions must, in situations like this, strive to ensure that each participant's role is clearly delineated—that an attorney is differentiated from a witness and an adjudicator is distanced from a prosecutor—to avoid running afoul of article I, section 22 of the South Carolina Constitution.

V. Does the MEC's failure to render its decision within forty-eight hours invalidate its decision overturning the election?

Winbush argues this Court should vacate the MEC's decision because it was not rendered within forty-eight hours after the election protest was filed. We disagree.

At the time of the election, the statute governing procedures for municipal election protests provided:

> Within forty-eight hours after the filing of [a] notice [of an election protest], the Municipal Election Commission shall, after due notice to the parties concerned, conduct a hearing on the contest, decide the issues raised, file its report together with all recorded testimony and exhibits with the clerk of court of the county in which the municipality is situated, [and] notify the parties concerned of the decisions made . . . .

S.C. Code Ann. § 5-15-130 (2004 & Supp. 2025).[11]

"[T]he main purpose of this law is to expeditiously finalize protested municipal elections in the interest of realizing the voters' will and seamlessly transitioning governmental offices." *Cole*, 393 S.C. at 274, 712 S.E.2d at 446. However, this Court "recognizes that perfect compliance with an election statute is, in many cases, unlikely. Therefore, we hesitate to vacate a decision of a municipal election commission based on minor violations of technical requirements." *Id*. at 273, 712 S.E.2d at 445. "[I]nsubstantial deviations from these provisions would not

[11] As noted above, the Legislature amended this statute effective May 19, 2026, to eliminate the requirement that a hearing be conducted and a decision be rendered within forty-eight hours of notice of an election protest. 2026 Act. No. 213, §11, effective May 19, 2026.

ordinarily require this Court to nullify a protest hearing decision." *Id*. at 274, 712 S.E.2d at 446. Where no fraud has been alleged or proved to result from minor or insubstantial noncompliance with election laws, this Court will interpret statutory requirements as directory rather than mandatory, including the requirement that a protest hearing be conducted and a decision rendered within forty-eight hours of the protest. *Id*.

Nevertheless, in at least one case, this Court has found that a municipality's noncompliance with the timing requirements of section 5-13-130 required its decision to be vacated. In *Cole v. Atlantic Beach Election Commission*, this Court reversed the municipal election commission's decision ordering a new election, finding the commission's protracted and inexcusable delay constituted "a direct attempt by the [commission] to interfere with the full and fair expression of the voter's choice." *Id*. at 275, 712 S.E.2d at 446. The Court emphasized that, despite the statutorily mandated forty-eight-hour timeline, the commission convened and continued the protest hearing three separate times over a thirteen-day period and did not issue its written decision until eighty-three days after the hearing was first convened. Further, the commission did not timely order the transcript of proceedings and did not produce the transcript until fifty-one days after issuing its written order—134 days after the protest hearing first was convened. *Id*. at 269-73, 712 S.E.2d at 443-45 (noting evidence that the commission also instructed the court reporter not to provide a copy of the transcript to a candidate's spouse upon request). Viewing the facts as a whole, the Court determined the municipality's delay in *Cole* represented "complete disregard of the provisions of section 5-15-130" and consciously undermined the legislative purpose behind requiring election disputes to be expeditiously handled; accordingly, reversal of its decision was required. *Id*. at 275, 712 S.E.2d at 446.

Turning to the present case, Winbush contends the MEC's failure to hear and decide this election protest within forty-eight hours constitutes similar "lawlessness," which resulted in some unidentified prejudice to Winbush. To briefly revisit the relevant timeline, the election was conducted on April 7, 2026, and the protest was filed on April 9, 2026. Thus, strict application of the then-operative version of section 5-15-130 required the protest hearing to be conducted and the MEC's decision to be issued by Saturday, April 11, 2026. It is undisputed that this did not occur.

On April 10, 2026, the MEC issued notice to the candidates that a hearing was scheduled for Tuesday, April 14, 2026, at 9:30 a.m. The MEC announced its decision at the conclusion of the April 14, 2026 hearing and issued its written

decision on Friday, April 17, 2026. Winbush received notice of the MEC's decision on Monday, April 20, 2026—twelve days after the protest was filed—and she timely filed her appeal in circuit court on April 27, 2026. The MEC's written decision and supporting materials were filed with the Anderson County Clerk of Court on May 4, 2026.

Winbush argues that the MEC's delay in holding the hearing was intentional and designed to allow City staff to improperly conduct a "fishing expedition" into the issue of her residency. Essentially, it appears Winbush is attempting to draw a parallel between the MEC's delay in this case and the Atlantic Beach Municipal Election Commission's conduct and delay in *Cole*. However, we find this comparison is inapposite, given the twelve-day timeline here compared to *Cole'*s eighty-five-day delay between the filing of the protest and the commission's written decision. Additionally, *Cole* involved numerous other irregularities, including repeatedly convening and continuing the hearing, delaying the transcript, and engaging in other actions designed to frustrate the aggrieved party's ability to appeal the commission's decision.

Here, the record demonstrates that the MEC and the City made diligent efforts to promptly hear and decide the election protest, even if these efforts did not result in perfect compliance with the compressed timeline set forth in the prior version of section 5-15-130. We view this delay as an insubstantial deviation that does not require us to nullify the MEC's decision. Further, we believe the Legislature's subsequent amendment of section 5-15-130 to eliminate the forty-eight-hour requirement was done in apparent recognition of the unlikelihood of perfect compliance with such an onerous requirement. *See Duvall v. South Carolina Budget & Control Bd.*, 377 S.C. 36, 46, 659 S.E.2d 125, 130 (2008) (observing that legislative amendments are presumed to change existing law but "may also be interpreted as clarifying original legislative intent").

In sum, because the MEC's delay in rendering its decision in this matter was insubstantial and Winbush failed to demonstrate any resulting prejudice, we affirm as to this issue.

CONCLUSION

For the foregoing reasons, we affirm the MEC's decision invalidating the April 7, 2026 election for Seat 5 on the Anderson City Council. Nevertheless, we reiterate the well-established requirement that all arguments must be preserved for appellate review, even in the context of an election appeal, and we emphasize that a

municipal board or commission acting in a quasi-judicial capacity must avoid acting as both a prosecutor and an adjudicator.

AFFIRMED.

KITTREDGE, C.J., JAMES, HILL, and VERDIN, JJ., concur.