

The Supreme Court of South Carolina

Peggy Moseley, Appellant,

v.

Charleston County Republican Party (Lin Bennett, as Chairman); South Carolina Republican Party (Matt Moore as Executive Director & Chad Connolly as Chairman); Charleston County Board of Elections and Voter Registration (Joseph L. Debney as Director and Dan Martin as Chairman); South Carolina State Election Commission (Marci Andino as Executive Director & Chris Whitmire as Director of Public Information and Training); Paul Gawrych; and David Engelman, Respondents.

Appellate Case No. 2012-212759

ORDER

Appellant filed a protest of the Republican Party primary election in Charleston County with the Charleston County Republican Party (County Committee). In her protest, she alleged respondent Gawrych failed to file his Statement of Economic Interests (SEI) at the same time he filed his Statement of Intention of Candidacy (SIC) as required by S.C. Code Ann. § 8-13-1356(B) (Supp. 2011), and interpreted by this Court in *Anderson v. S.C. Election Comm'n*, 397 S.C. 551, 725 S.E.2d 704 (2012), and *Florence Cnty. Democratic Party v. Florence Cnty. Republican Party*, 398 S.C. 124, 727 S.E.2d 418 (2012). The protest was denied by the County Committee, and appellant did not appeal that decision to the party's State Executive Committee (State Committee).


Appellant then filed this action for declaratory judgment, a writ of mandamus, and injunctive relief in the circuit court seeking to have Gawrych removed as the Republican candidate for Charleston County Auditor. The grounds for this action were identical to the grounds for her protest before the County Committee. The

circuit court bifurcated the matter and found Gawrych was a public official who had a current SEI on file at the time he filed his SIC and, therefore, was exempt from the requirement of simultaneous filing of the SEI and SIC under § 8-13-1356(A).

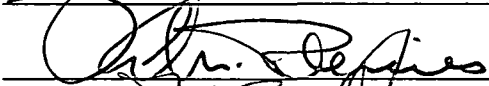
Appellant appealed the order of the circuit court. Gawrych now moves to dismiss the appeal.

Pursuant to S.C. Code Ann. § 7-17-520 (Supp. 2011), all protests or challenges to primary elections for county officers must be filed with the County Committee no later than noon on the Monday following the Committee's declaration of the election result. Section 7-17-550 provides for appeals from the County Committee's decision to the State Committee.


Appellant failed to exhaust the remedies set forth by the General Assembly for protesting a primary election before initiating this action in the circuit court. Where an adequate administrative remedy is available to determine a question of fact, one must pursue the administrative remedy or be precluded from seeking relief in the courts. *Hyde v. S.C. Dep't of Mental Health*, 314 S.C. 207, 442 S.E.2d 582 (1994). Declaratory relief is not generally available to one who has not exhausted administrative remedies. *Garris v. Governing Bd. of S.C. Reinsurance Facility*, 319 S.C. 388, 461 S.E.2d 819 (1995). See also *Brackenbrook N. Charleston, LP v. County of Charleston*, 360 S.C. 390, 602 S.E.2d 39 (2004) (because taxpayers had an administrative refund remedy available to them, the circuit court erred in refusing to dismiss the action filed in circuit court for tax refunds without prejudice). Because petitioner's failure to exhaust the remedies set forth by the General Assembly precludes her from challenging the primary results in circuit court, we dismiss this appeal.



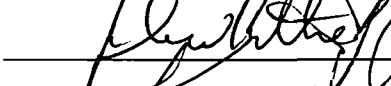
C.J.



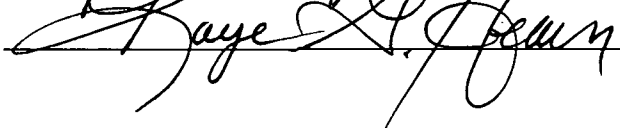
J.



J.



J.



J.

Columbia, South Carolina

September 5, 2012

cc:

Joel W. Collins, Jr.

Jerome Bennett Crites, III

Logan McCombs Wells

Robert J. Wyndham

Gedney M. Howe, III

Alvin J. Hammer

Mary Elizabeth (Liz) Crum

Amber B. Martella

Ariail Burnside Kirk

Karl Smith Bowers, Jr.

Matthew Todd Carroll

Ashley Anne Kutz

Samuel W. Howell, IV

Alan Boyd Linkous