

THE STATE OF SOUTH CAROLINA

In the Supreme Court

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S.C. SUPREME COURT

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

Brian Gibbons, Circuit Court Judge

Case No. 2016-CP-12-1418

Jackie HarrisAppellant,

v.

Lancaster County Election Commission, Lancaster Municipal Election Commission, and
Linda Blackmon-Brace Respondents.

APPELLANT’S MOTION TO SEAL THE RECORD ON APPEAL

Pursuant to this Court’s Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings, 2014-04-15-02, Appellant hereby moves to seal the Record on Appeal in this case, as the redaction necessary to comply with the Order would render the Record inconsequential to the arguments in the appeal.

The matter before the Court involves an election protest alleging various instances of fraud on behalf of the Respondent, Linda Blackmon-Brace. The underlying facts of the case contemplate fraudulent actions based on irregularities in voter change of address forms, absentee ballot applications, absentee ballot return authorizations, address queries

for certain voters living in Respondent Linda Blackmon-Brace's home, and city utility bills. The identifying information in these forms, including addresses of non-parties, and even the handwriting on some of the exhibits, are essential elements of the Appellant's case. These exhibits comprise more than half of the 412 page Record on Appeal, and voters are referred to by name and address in the transcripts.

In *Ex parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 630 S.E.2d 464 (2006), this Court recognized the factors to be met in deciding to seal a court document.

The court must consider the following factors, pursuant to recently enacted Rule 41.1, SCRPC: (1) ensuring the parties' right to a fair trial or hearing; (2) the need for witness cooperation; (3) the reliance of the parties upon expectations of confidentiality of the proceeding; (4) the public or professional significance of the proceeding; (5) the perceived harm to the parties from disclosure; (6) why alternatives other than sealing the documents are not available to protect legitimate private interests; and (7) why the public interest, including, but not limited to, the public health and safety, is best served by sealing the documents.

In addition, the court may consider (8) public interest in the proceeding; (9) the private or public status of the litigants and case generally; (10) whether release would enhance the public's understanding of an important historical event; (11) whether the public already has access to information contained in the records; (12) whether a particular decision will sustain or offend the fundamental interests of public access, and any other relevant factors. *See Davis*, 304 S.C. at 505-06, 405 S.E.2d at 603-04 (requiring court to make specific factual findings, on the record, when deciding whether to seal court records); *Ex parte Columbia Newspapers, Inc.*, 286 S.C. 116, 333 S.E.2d 337 (1985) (vacating order closing transfer hearing because family court judge erred in failing to make specific findings that closure was necessary to protect rights of juveniles charged with murder); *Steinle v. Lollis*, 279 S.C. 375, 307 S.E.2d 230 (1983) (vacating magistrate's order excluding members of press from preliminary hearing in criminal case without specific findings upon the record to justify closing the proceeding); *Virginia Dept. of State Police*, 386 F.3d at 575 (listing factors).

Id. at 12.

In this appeal, Appellant is seeking to seal the Record solely to protect the innocent voters in this case, not to assert any personal privacy interests or interests of the

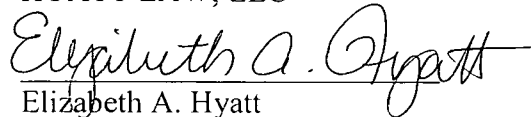
Respondents: This Court has made it clear that privacy of non-parties is more important than the privacy of the litigants, and rightly so. These voters are not themselves a part of this litigation, but the forms filled out on their behalf are a large part of this case. In order for Appellant to have a fair review of the evidence presented, the documents need to be reviewed in their original state, without redaction of personal identifiers. In fact, the personal identifiers, addresses in particular, are the crux of the case.

Here, we are not seeking to deny access to any information relating to the parties, but to the voters whose personal information is a large part of this case. The Court's Order requires redaction of this information specifically to protect non-parties and others, but redaction would render the probative value of the information contained in the Record unrecognizable.

Because the Record is replete with identifiers that are essential to the Appellant's arguments, Appellant respectfully requests that the Supreme Court seal the Record on Appeal.

Respectfully Submitted,

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June 30, 2017

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

Brian P. Gibbons, Circuit Court Judge

Case No. 2016-CP-29-1418

Jackie Harris,

Appellant,

v.

Lancaster County Election Commission,
Lancaster Municipal Election
Commission, and Linda Blackmon-Brace,

Respondents.

PROOF OF SERVICE

I certify that I have served the Motion to Seal the Record on all parties by depositing a copy of it in the United States Mail, postage prepaid, on July 3, 2017, addressed as follows:

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