

THE STATE OF SOUTH CAROLINA

In the Supreme Court

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SEP 22 2017

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.

PETITION FOR REHEARING

Pursuant to the provision of Rule 221(a), Appellant, through her undersigned counsel, respectfully petitions this Court for a rehearing based on arguments overlooked or misapprehended as set forth herein.

The Court's decision, a per curiam opinion affirming the Circuit Court, was based in part on the Appellant's failure to request a rehearing when the Circuit Court did not rule specifically on certain issues. Appellant filed a Reply Brief in this case addressing

the Rule 59 issues. This brief was inadvertently not included in the Appellant's Final Brief, and thus may not have been considered by the Court. Appellant has filed a Motion contemporaneously with this Petition to request the Court to allow such brief to be filed out of time, so that the Court may consider the arguments on the issue.

It is important to note the distinction that certiorari under Rule 242 is a matter of grace. This case has not come to this court because it was granted Certiorari. It has come to this court under a notice of appeal as a right under statute because it is related to the integrity of our electoral process. In cases such as this, there is no authority providing that a motion for reconsideration is a mandatory step to error preservation in these cases.

Appellant contends that the Court's decision was in error because the statutes governing election appeals do not have a similar requirement to Rule 242(d)(2), SCACR, which states that the Court will not consider any point on certiorari that is not contained in a petition for rehearing to the Court of Appeals. This case is before this Court under a notice of appeal as of right under statute. There is no authority providing that a motion for reconsideration is a mandatory step to error preservation in election cases.

Respondent argued that Appellant was required to file a Rule 59(e), SCRCP, Motion to Alter or Amend the Judgment of the Circuit Court as a prerequisite to arguing issues of fraud in this case. However, as discussed in Appellant's Reply Brief, which was inadvertently not included in the Final Brief, the record at every level from the Election Commission presentation to the Circuit Court appeal is replete with allegations, arguments, and evidence of fraud on the part of Linda Blackmon-Brace and her campaign staff. The Trial Court clearly ruled on this issue, and a Rule 59(e) Motion was not required.

In order to prevent this Court from considering the voluminous evidence of fraud committed by Respondent Linda Blackmon-Brace, Respondent argued that this Court cannot consider such fraud because Appellant did not file a Rule 59(e) Motion “to afford the circuit court an opportunity to reconsider the issues” (Respondent’s Brief Page 6). However, there is nothing in statute requiring that Appellant return to the Circuit Court to ask, basically, “are you sure?” before proceeding with her appeal.

A Rule 59 motion is required to preserve an issue only when (1) an issue was not raised below; (2) the trial court failed to rule on an issue that was raised; or (3) the trial judge’s order addresses a matter that no party has raised. A Rule 59 motion is permitted in any case, but is only required when one of those three circumstances applies. Clearly, Appellant raised the issue of fraud throughout her brief at the Circuit Court level appeal, throughout the exhibits presented at each level, and throughout her oral arguments at both the original protest hearing and the Circuit Court. Clear also is the fact that the Circuit Court Judge denied all of Appellant’s grounds, as they were clearly presented and ruled upon.

It would certainly be in the best interest of the Respondent for this Court to ignore the mountain of evidence showing Blackmon-Brace’s fraud, including 102 requests for paper absentee ballots on Ms. Blackmon-Brace’s forms that had been filed with the elections office, the vast majority of which were in City Council District 3, including the forty-eight (48) of those ballots that were for City Council District 3 and were mailed *directly* to Ms. Blackmon-Brace’s “foundation” at 701 E Arch Street – an address Ms. Blackmon-Brace owns and controls [39 in exhibit 7, 1 in exhibit 6, and 8 in exhibit 9].¹

¹ All exhibits made reference to herein are part of the Record on Appeal, pages 210-412, and referenced by number in the index.

Certainly, Respondent would like for this court to ignore the fact that an additional thirty-one (31) of those requests for paper absentee ballots were filled out and witnessed by Ms. Blackmon-Brace herself. [29 in exhibit 6, and 2 in exhibit 9], that six were witnessed by her assistants, [Exhibit 9], and that six (6) more requests for paper absentee ballots within City Council District 3 contained an authorization clearly in Ms. Blackmon-Brace's handwriting but signed by the voter, stating that Ms. Blackmon-Brace herself was authorized to help the voter complete the ballot [4 in exhibit 7, and 2 in exhibit 9], while three (3) gave her assistants that authority [Exhibit 9]. And certainly Ms. Blackmon-Brace hopes that this Court will not consider the fact that she maintains that a full thirteen (13) unrelated adult voters lived with her in her alleged residence and the adjacent building at 104 and 103 Rose Lane. The only way to keep out such evidence of fraud on her part is to claim that the issue of fraud was never raised or ruled upon. However, the record is clear that fraud has been the primary issue in this case since its beginning, and that every ruling at every level addresses the Appellant's arguments.

It appears that the Circuit Court, like the County Election Commission (and like the Respondent), did not *understand* the distinction between (1) fraud and (2) election irregularities, and that confusion on the part of lower tribunals is the primary basis of this appeal. However, Appellant was under no obligation to ask the Circuit Court if it was absolutely sure of its ruling before filing her Appeal.

These arguments were contained in the Appellant's Reply Brief, but were not ultimately presented to the Court due to an error in the finalization of the Briefs and the Appellant requests a Rehearing so that such arguments may be presented. Furthermore, this record is replete with examples of elections fraud, and even testimony by the

Respondent herself that she has been doing this in elections for many years. As a matter of public policy, such blatantly illegal and fraudulent actions should be addressed to send a message that South Carolina does not tolerate flagrant and blatant elections fraud.

Respectfully Submitted,

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September 22, 2017

PROOF OF SERVICE

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SEP 22 2017

Jackie Harris, Appellant,
vs. S.C. SUPREME COURT
Lancaster County Election Commission, Lancaster Municipal Election Commission, and
Linda Blackmon-Brace, Respondents

Appellate Case No. 2017-000423
Case No. 2016-CP-29-1418

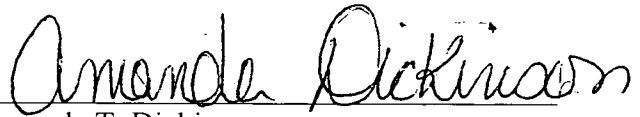
The undersigned hereby certifies that an copy of the **Appellant's Motion to File Out Of Time and Petition for Rehearing** in the above case were served upon Robert E. Tyson, Esq., John L. Weaver, Esq. and Mitchell A. Norrell, Esq. the Respondents in the referenced case, by depositing a copy in the United States Postal Mail Services on September 22, 2017, with sufficient postage annexed thereto, addressed as follows:

Robert E. Tyson, Jr.
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Mailed on this 22nd day of September, 2017.

A handwritten signature in cursive script that reads "Amanda Dickinson". The signature is written in black ink and is positioned above a horizontal line.

Amanda T. Dickinson

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