

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CLARENDON COUNTY
Court of Common Pleas
R. Ferrell Cothran, Jr., Circuit Court Judge

Appellate Case No.: 2018-001520

Bucky Mock, Respondent-Appellant,

vs.

Clarendon County Board of Voter Registration
& Elections, Clarendon County Democratic
Party, LaNette Samuels-Cooper, South Carolina
Democratic Party, and South Carolina Election
Commission, Defendants,

Of whom LaNette Samuels-Cooper is Appellant-Respondent.

And Clarendon County Board of Voter Registration
& Elections, Clarendon County Democratic
Party, South Carolina Democratic Party, and
South Carolina Election Commission are Respondents.

FINAL BRIEF OF APPELLANT-RESPONDENT

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STATEMENT OF ISSUES ON APPEAL

- I. DID THE TRIAL COURT ERR IN REFUSING TO DISMISS THE COMPLAINT AFTER HAVING FOUND THAT RESPONDENT-APPELLANT MOCK FAILED TO EXHAUST HIS ADMINISTRATIVE REMEDIES PURSUANT TO §7-17-520, SOUTH CAROLINA CODE OF LAWS?

- II. DID THE TRIAL COURT ERR IN FINDING THAT THE MOTION OF APPELLANT-RESPONDENT SAMUELS-COOPER TO DISMISS THE COMPLAINT BASED ON THE AFFIRMATIVE DEFENSES OF LACHES AND ESTOPPEL WAS MOOT WHERE ALTHOUGH THE COURT GRANTED SAMUELS-COOPER'S MOTION TO DISMISS IN PART ON ANOTHER GROUND, THE COURT ULTIMATELY CONSIDERED AND ADVERSELY RULED UPON MOCK'S CHALLENGE TO THE QUALIFICATIONS SAMUELS-COOPER TO BE CORONER?

- III. DID THE TRIAL COURT MISCONSTRUE TITLE 17, CHAPTER 5 IN ITS ANALYSIS OF WHAT CONSTITUTES A DEATH INVESTIGATION AND IN HOLDING THAT ONLY CORONERS AND DEPUTY CORONERS CAN CONDUCT DEATH INVESTIGATIONS?

- IV. DID THE TRIAL COURT ERR IN FINDING THAT SAMUELS-COOPER DOES NOT MEET THE STATUTORY QUALIFICATIONS TO BE CORONER?

STATEMENT OF THE CASE

On June 14, 2018, respondent-appellant Bucky Mock (hereinafter called Mock) brought this action against appellant-respondent LaNette Samuels-Cooper (hereinafter called Samuels-Cooper or appellant) and Clarendon County Board of Voter Registration & Elections, Clarendon County Democratic Party, South Carolina Democratic Party, and South Carolina Election Commission (hereinafter collectively called respondents) seeking certain declaratory and injunctive relief related to the election of the next Clarendon County Coroner. Specifically, Mock asserted that Samuels-Cooper, who had just defeated him in the Democratic primary election, was unqualified for office and that the trial court should prohibit the respondents from certifying her as their Democratic nominee and from placing her name on the ballot for the general election on November 6, 2018. Samuels-Cooper filed an answer on July 23, 2018, denying the substantive allegations in the complaint. In addition, she along with respondents Clarendon County Democratic Party and South Carolina Democratic Party filed motions to dismiss, asserting that Mock should be precluded from litigating this action because he failed to exhaust his administrative remedies.

At the conclusion of hearings before the Honorable R. Ferrell Cothran, Jr. on July 20, 2018 and July 27, 2018, Samuels-Cooper moved to amend her answer to assert the affirmative defenses of laches and estoppel. The trial court issued its order on August 3, 2018 and ultimately concluded that appellant was not statutorily qualified to serve as of coroner. Respondents South Carolina Democratic Party and Clarendon County Democratic Party filed a motion for reconsideration under Rule 59(e), SCRPC, on August

8, 2018 as to single issue of the court's failure to rule on *their* motion to dismiss the complaint based on the doctrine of laches. Both Samuels-Cooper and Mock filed motions for reconsideration on August 9, 2018 and August 13, 2018, respectively. In his order dated August 13, 2018, Judge Cothran granted the post-trial motions of the county and state Democratic parties but denied the remaining motions.

This appeal follows the trial court's August 13, 2018 order on the motions for reconsideration.

FACTS

Bucky Mock currently serves as the Coroner for Clarendon County. Mock was appointed by the South Carolina Governor to fill the unexpired term of the prior Coroner, Hayes Samuels, Jr. ("decedent"), who died on January 17, 2018. Mock was sworn in on February 28, 2018. Samuels-Cooper worked for thirteen years as an administrative assistant to Coroner Hayes and then-Deputy Coroner Mock (R. p. 149, lines 6-12; p. 284, lines 18-19). During the decedent's tenure, she was paid directly by Mr. Samuels using funds allocated to him as coroner in his secretarial budget with the county. A week after the decedent's death, she was officially hired by Clarendon County to continue working in the Coroner's office and was employed there until her termination by Mock on March 9, 2018 (R. pp. 338-339).

Mock and Samuels-Cooper both sought the Democratic Party's nomination for the office of Coroner of Clarendon County. The filing period for candidates seeking a political party nomination ran from March 16, 2018 to March 30, 2018. Samuels-Cooper filed her affidavit of qualification with the Clarendon County Democratic Party on March 19, 2018 (R. p. 448). On April 3, 2018, Samuels-Cooper received a phone call from South Carolina Democratic Party chairman, Trav Robertson, following the submission of her affidavit of qualification. Mr. Robertson questioned her about her experience, duties and responsibilities at the coroner's office. Following the conversation, Robertson requested that Samuels-Cooper submit an amended affidavit (R. pp. 271-272). The original affidavit had not been checked to indicate Samuels-Cooper's qualifications for

the office of Coroner. The affidavit did indicate that Samuels-Cooper was enrolled in a week-long Medicolegal Death Investigator Training Course to take place from August 13-17, 2018 at St. Louis University in Saint Louis, Missouri. Appellant submitted an amended affidavit on April 4, 2018, after the close of the filing period (R. p. 449). The amended affidavit indicated that Samuels-Cooper was qualified to be Coroner because she has a "four-year baccalaureate degree and one year of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency." Appellant earned a bachelor of science degree in 1971 (R. p. 456). Respondent South Carolina Democratic Party certified both Mock and Samuels-Cooper as qualified candidates for the office of Coroner (R. pp. 452-453).

The Clarendon County Democratic Primary was held on June 12, 2018. Samuels-Cooper received over fifty percent of votes for the office of Coroner. The general election date is slated to be held on November 6, 2018 pursuant to §§7-13-10 and 7-13-20 of the South Carolina Code of Laws. Pursuant to S.C. Code Ann. §7-17-520, Mock had until noon on the Monday following the election to file a protest with the chairman of the Clarendon County Democratic Party. Mock stipulated at the July 20, 2018 hearing that he did not file any protest to the election with the Clarendon County Democratic Party (R. p. 98, lines 4-12).

Mock filed the instant action on June 14, 2018. He alleged that appellant was not qualified to be the Coroner of Clarendon County, and that respondents Clarendon County Board of Voter Registration & Elections and South Carolina Democratic Party had improperly certified Samuels-Cooper as a candidate for Coroner. Mock alleges that

Samuels-Cooper is not qualified to be Coroner because she does not have "one year of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency," and furthermore, that she has not completed a recognized forensic science degree or certification program (R. pp. 27-28). Mock maintained that the forensic training program that Samuels-Cooper had enrolled in is not the forensic science degree and certification program recognized by the Coroner's Training Advisory Committee. Samuels-Cooper testified that she applied to take course on March 1, 2018 after she was directed by the Richland County Coroner to the South Carolina Coroners' Association's website (R. p. 308, lines 1-25) and was led to believe from the website that the course was the one approved by the Coroners' Association for death investigation training or certification (R. pp.312-313).

The Coroners Training Advisory Committee previously recognized the certification program for South Carolina coroners that was sponsored by the American Board of Medicolegal Death Investigators ("ABDMI"). In a letter dated February 21, 2012, the then-president of the South Carolina Coroner's Association advised that the Coroners Training Advisory Committee unanimously approved the ABDMI certification program provided by St. Louis University in St. Louis, Missouri as the recognized forensic science degree or certification program pursuant to S.C. Code of Laws, §17-5-130(G) (R. p. 466). The ABDMI certification program requires that the person to be certified: (1) must be at least eighteen years of age at the time of application; (2) must have a high school diploma or equivalent; (3) must currently be employed in a Medical Examiner or Coroner office or equivalent federal authority with the job responsibility to

"conduct death scene investigations" or supervise such investigations at time of application and examination; and (4) must have a minimum of 640 hours of death investigation experience. The ABMDI regulations calculate the amount of death experience hours an individual may be credited based on the nature of the activities he or she performs as part of the investigation.

Mock sought a declaratory judgment from the trial court that appellant was not qualified to be the coroner, that her affidavit outlining her qualifications to be coroner was deficient, that respondents Clarendon County Democratic Party and South Carolina Democratic Party improperly certified Samuels-Cooper as having met the statutory requirements to be a coroner, and that respondent Clarendon County Board of Voter Registration & Elections and the State Election Commission improperly certified Samuels-Cooper as a qualified candidate for general election. Furthermore, Mock sought injunctive relief barring the respondents from certifying Samuels-Cooper as a candidate for coroner and precluding them from placing Samuels-Cooper's name on the general election ballot for November 6, 2018.

An expedited hearing was held on July 3, 2018 pursuant to Mock's request for injunctive relief. Samuels-Cooper filed a motion to dismiss under Rule 12(b)(6), SCRCPP on July 19, 2018, alleging that Mock failed to exhaust his administrative remedies for contesting an election as outlined in §§7-17-520 and -530 of the South Carolina Code of Laws (R. p. 51). Samuels-Cooper filed her answer on July 23, 2018. Respondents South Carolina Democratic Party and Clarendon County Board of Voter Registration & Elections filed their own motions to dismiss. Mock and Samuels-Cooper filed respective

memoranda in opposition to and support of the motion to dismiss. The merits hearing began on July 20, 2018, recessed on that same day, and concluded on July 27, 2018.

During the course of the two-day hearing, testimony was taken from Mr. Mock, Sabrina Gast, who is the York County Coroner and president of the South Carolina Coroner's Association, Mrs. Samuels-Cooper, and Patricia Pringle, who is the chairwoman of the Clarendon County Democratic Party.

Mock testified that he is a registered nurse, had served as deputy coroner in Clarendon County for twenty-one (21) years, and is the current Coroner (R. p. 126, lines 2-12). When asked by his attorney about the basis for his training and understanding as to what constitutes a death investigation, Mock stated:

“I’ve got pretty much the table of contents from the death investigation, the guide from the scene investigator, which is a publication by the U.S. Department of Justice that I have just pulled up to [the] table of contents for which spells the basis categories.” (R. p. 130, lines 1-7).

The guide to which he refers is a death investigation manual promulgated by the U.S. Department of Justice National Institute of Justice (R. p. 197, lines 5-11). Mock further testified that a death investigation entails arriving at and documenting the scene, including taking photographs; evaluating the body and confirming or pronouncing death; gathering information by obtaining the deceased’s medical records and speaking with witnesses, law enforcement, first responders, medical personnel and the deceased’s next-of-kin; determining whether to request an autopsy; establishing chain of custody; collecting and safeguarding evidence; and filing records for the death certificate. (R. pp. 132-136).

Mock called Sabrina Gast as a witness. Although Mock is not ABDMI-certified, Ms. Gast, who is also a registered nurse, is. She testified that the purpose of a death investigation is to look “into the cause and manner of death of an individual” (R. p. 194, lines 18-19). She expounded her testimony and stated that the process has several elements and generally begins with the death investigator responding to the scene where the individual has died. She went on to say that other duties associated with the investigation may include: (1) gathering relevant information concerning the decedent; (2) working with other agencies that are involved with the investigation, including law enforcement like DSS and SLED; (3) assessing the deceased and the scene, including moving the body, taking photographs, and collecting evidence; (4) talking to witnesses or family members of the deceased; (5) talking with the treating physician or issuing subpoenas for medical records, if necessary; (6) requesting an autopsy, if appropriate; (7) talking with the attending pathologist conducting the autopsy; (8) attending the autopsy; (9) completing a report documenting the death scene; and (10) completing and issuing the death certificate. (R. pp. 194-196; pp. 210-212).

Ms. Gast also testified that while the ABMDI certification program was not specified by statute in South Carolina, the ABMDI program was the program selected by the Coroners Training Advisory Committee pursuant to S.C. Code §17-5-130(G). She further testified that the ABMDI certification is no longer affiliated with St. Louis University, and that currently, the Coroners’ Training Advisory Committee does not recognize any forensic science degree or certification program for prospective South Carolina coroners who are not already employed with a coroner’s office as required by

§17-5-130(G) (R. p. 222, lines 20-25; p. 223, lines 1; pp. 226-242).

When Samuels-Cooper was called to testify in Mock's case-in-chief, his counsel questioned her extensively about her experience, especially in light of Ms. Gast's testimony concerning the approximate eleven factors that can constitute death investigation experience (R. p. 281, lines 18-25). Counsel asked her whether she had ever performed each and every duty cited by Ms. Gast. In response, appellant testified that with the exception of actually declaring the cause and manner of death and signing the death certificate, she has performed every other function identified by Ms. Gast in death investigations (R. pp. 282-295). She also testified that it was her responsibility to complete the information for the death certificate and the execution of the death certificate by the coroner or deputy coroner was largely a ministerial role (R. p. 295, lines 5-23).

Mock also called Patricia Pringle, the Clarendon County Democratic Party chairwoman, as a witness. She testified that prior to the primary election, he voiced his concerns to her about Samuels-Cooper's qualifications for coroner. However, he told her that he would wait until after the primary election to formally challenge the candidacy of Samuels-Cooper, in the event he lost. Samuels-Cooper orally moved to amend her answer at the conclusion of the hearing on July 27, 2018 to assert the affirmative defenses of laches and estoppel. The basis for these motions is that Mock unreasonably delayed in filing his lawsuit until after the primary election and did not exhaust his administrative remedies and should therefore be barred from bringing suit.

The trial court issued its order on August 3, 2018. All post-trial motions were

timely filed and heard. This appeal follows the court's August 13, 2018 order on the post-trial motions. Appellant timely served its notice of appeal.

ARGUMENTS

- I. THE TRIAL COURT ERRED IN REFUSING TO DISMISS THE COMPLAINT AFTER HAVING FOUND THAT RESPONDENT-APPELLANT MOCK FAILED TO EXHAUST HIS ADMINISTRATIVE REMEDIES PURSUANT TO §7-17-520, SOUTH CAROLINA CODE OF LAWS.

The trial court should have granted appellant's Rule 12(b)(6), SCRCF motion in full for failure of the respondent-appellant to exhaust his administrative remedies prior to commencing this action. South Carolina Code of Laws, §7-17-520, governs the practice for challenging a primary election for a county office. The statute reads as follows:

"The protests and contests in the case of county officers and less than county officers *shall be* filed in writing with the chairman of the county party executive committee, together with a copy for each candidate in the race not later than noon Monday following the day of the declaration by the county committee of the result of the election. The protest must contain each ground for the protest stated separately and concisely. The chairman [of the county party executive committee] must forthwith serve upon each candidate in the protested race a copy of the protest, and serve a notice of the time and place of the meeting of the executive committee for the purpose of hearing the protest."

Upon the timely and proper filing, the executive committee will hear the protest or contest on the Thursday following the deadline for filing the protest or contest. At such hearings, the challenger has the right to be represented by counsel, to examine and cross-examine witnesses, and to produce evidence relevant to the grounds of protest. *See* S.C. Code Ann., §7-17-530. The law further provides the challenger the right to appeal the decision of the executive committee.

Where an adequate remedy at law is available to determine a question of fact, one must pursue that administrative remedy or be precluded from seeking relief in the courts.

See Hyde vs. S.C. Dept. of Mental Health, 314 S.C. 207, 442 S.E.2d 582 (1994); *see also*

Brackenbrook N. Charleston, L.P. vs. County of Charleston, 360 S.C. 390, 602 S.E.2d 39 (2004)). The issues raised in this complaint concerning Samuels-Cooper's qualifications as a candidate for coroner and sufficiency of her filing affidavit are questions of fact that must be first addressed by Mock by way of protest or challenge to the primary election. It is undisputed that Mr. Mock freely and voluntarily chose not to file any challenge to the primary election. Moreover, he made the conscientious decision to delay challenging her qualifications in court until after the primary election was held and then, only in the event she defeated him. Consequently, this action should have been barred.

In addition, Mock's assertion that a protest challenge with the Clarendon County Democratic Party and the South Carolina Democratic Party would have been futile is without merit. Although the chairpersons of the county and state democratic committees properly certified Samuels-Cooper as a candidate, the executive committee did not address the issues asserted by Mr. Mock as to the propriety of appellant's candidacy because Mock never filed a protest. Only the executive committee, and not the chairperson, can decide a question of fact relative to an individual's candidacy as set forth in §7-17-520, S.C. Code Ann. Mr. Mock willingly and knowingly elected not to pursue the remedies available to him in the statute, and his attempts to seek redress in the circuit court should have been denied.

II. THE TRIAL COURT ERRED IN FINDING THAT THE MOTION OF APPELLANT-RESPONDENT SAMUELS-COOPER TO DISMISS THE COMPLAINT BASED ON THE AFFIRMATIVE DEFENSES OF LACHES AND ESTOPPEL WAS MOOT WHERE ALTHOUGH THE COURT GRANTED SAMUELS-COOPER'S MOTION TO DISMISS IN PART ON ANOTHER GROUND, THE COURT CONSIDERED AND ADVERSELY RULED UPON MOCK'S CHALLENGE TO THE QUALIFICATIONS SAMUELS-COOPER TO BE CORONER.

Laches is defined as neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done. Muir v. C.R. Bard, Inc., 336 S.C. 266, 296, 519 S.E.2d 583, 598 (Ct.App.1999) (citations omitted). If a party who knows his rights does not timely assert them, and by his delay, causes another party to incur expenses or otherwise detrimentally change his position, then equity steps in and refuses to enforce those rights. *Id.* at 296, 519 S.E.2d at 599. The party asserting laches has the burden of showing negligence, the opportunity to act sooner, and material prejudice [emphasis added]. *Id.* at 297, 519 S.E.2d at 599; Kelley v. Kelley, 368 S.C. 602, 606; 629 S.E.2d 388, 391 (Ct. App. 2006).

Here, Mock deliberately chose to waive any rights he had to file for injunctive relief prior to the primary election and to file a protest with the Democratic party after the primary election. As a result of Mock's unreasonable delay, the respondents have incurred additional expenses in holding a special election. More importantly to appellant, she has been adjudged to be unqualified to serve as coroner, even though she won the majority vote at the Democratic primary. The net result is that appellant was precluded from running in the special election and may suffer irreparable harm even if the judgment of the circuit court is reversed.

Mock in essence asks this Honorable Court to allow him to thwart the will of the Clarendon County electorate, which is particularly egregious in light of the facts that he fired Mrs. Samuels-Cooper from the coroner's office in order to undermine her campaign efforts, he disparaged her to the county Democratic party chairwoman, and he made the deliberate decision to forgo challenging her qualifications prior to the primary election. As previously noted, he elected to waive his right to statutory, administrative remedies in the form of a protest with the county or state Democratic party. This Court should find that Mock freely and knowingly waived his right to challenge the issue of appellant's qualifications for coroner.

III. THE TRIAL COURT MISCONSTRUED TITLE 17, CHAPTER 5 IN ITS ANALYSIS OF WHAT CONSTITUTES A DEATH INVESTIGATION AND IN HOLDING THAT ONLY CORONERS AND DEPUTY CORONERS CAN CONDUCT DEATH INVESTIGATIONS.

In ultimately concluding that appellant was not qualified to be coroner, Judge Cothran inherently found that South Carolina law grants exclusive authority to coroners and duly appointed deputy coroners to conduct death investigations, and thus acquire death investigation experience. In support of the ruling, the trial court erroneously relied on §17-5-510, which states that "in counties which have both a coroner and a medical examiner, the coroner has the ultimate responsibility for carrying out the duties required by this article." There was no evidence that Clarendon County has both a coroner and a medical examiner. However, even if Clarendon County does have both offices, the statute gives the coroner the *ultimate responsibility*, not the *exclusive authority* to carry out certain duties of the office. The trial court also relies on §17-5-530 as authority for its

position; however, subsection (A) concerns *the obligation of certain persons or entities to notify the coroner's office in the event of those deaths outlined in the statute*. Moreover, subsection (B) requires the coroner to make an immediate inquiry into the cause and manner of death only in instances of particular deaths or stillbirths. The trial court's broad reliance on these statutes to support the conclusions reached is misplaced.

In his order, Judge Cothran also cites the portion of the testimony of Sabrina Gast whereby she erroneously states that only coroners and deputy coroners can perform death investigations. Inexplicably, within the same paragraph, the court acknowledges that contrary to Ms. Gast's bold assertions, medical examiners and elected solicitors (in certain circumstances) may also perform death investigation activities. Ms. Gast gravely misinterpreted the law during the following exchange with Mock's counsel:

“Q: Can anybody else [other than coroners and deputy coroners] perform *any* of the responsibilities of a coroner?”

A: Not by statute.” (R. p. 192, lines 18-20)

She continues:

“Q: Could an administrative assistant do death investigation experience?”

A: Not by statute.” (R. p. 193, lines 1-3)

To the contrary, the law specifically allows for individuals other than coroners to perform activities commonly associated with death investigations (See §44-63-72, licensed physician in charge, funeral director and attending pathologist may certify death certificate; §17-7-10, elected solicitors may order an autopsy; and §17-5-535, staff of coroner's office and law enforcement officers may view autopsy photographs for training

purposes). Most importantly, §17-5-130(A)(2) allows for persons to acquire the necessary experience in death investigation from a law enforcement agency, coroner or medical examiner.

While South Carolina law does not define what constitutes a death investigation, the evidence was not contested in this specific regard. Testimony of the current Clarendon County Coroner and the President of the South Carolina Coroners' Association established that death investigations may encompass numerous factors, including but not limited to: (1) responding to the scene where the individual has died; (2) gathering relevant information concerning the decedent; (3) working with other agencies that are involved with the investigation, including law enforcement like DSS and SLED; (4) assessing the deceased and the scene, including moving the body, taking photographs, and collecting evidence; (5) talking to witnesses or family members of the deceased; (6) talking with the treating physician or issuing subpoenas for medical records, if necessary; (7) requesting an autopsy, if appropriate; (8) talking with the attending pathologist conducting the autopsy; (9) attending the autopsy; (10) completing a report documenting the death scene; and (11) completing and issuing the death certificate.

Mock argues and the trial court erroneously found that notwithstanding the abundance of knowledge and experience Samuels-Cooper gained during the combined thirteen years she worked from him and the previous coroner, she could not have possibly acquired the requisite death investigation experience under §17-5-130(A)(2), of the South Carolina Code of Laws simply because she was did not hold the title of coroner or deputy coroner. This assertion belies both the letter and spirit of the statute. Had the General Assembly

intended to so limit the ability of candidates who did not otherwise qualify under §17-5-130(B) to run for office, the legislators would have clearly said so or would have defined death investigation. Appellant respectfully submits that the trial court's findings of fact and conclusions of law in this regard are unsupported by the law or the evidence.

Although coroners have the ultimate responsibility under the law to carry out the duties of their office, they do not have *exclusive* authority to engage in death investigations. The trial court erred in accepting the testimony of Mr. Mock and Ms. Gast that death investigations may only be performed by coroners and their duly appointed deputy coroners. There is no support in the law for their assertions, which are mere expressions of their opinions and amount to improper legal conclusions.

IV. THE TRIAL COURT ERRED IN FINDING THAT SAMUELS-COOPER DOES NOT MEET THE STATUTORY QUALIFICATIONS TO BE CORONER.

In order for an individual to serve as coroner in South Carolina under §17-5-130(A)(1), he or she must satisfy the following conditions:

- (a) be a citizen of the United States;
- (b) be a resident of the county in which the person seeks the office of coroner for at least one year before qualifying for the election to the office;
- (c) be a registered voter;
- (d) have attained the age of twenty-one years before the date of qualifying for election to the office;
- (e) have obtained a high school diploma or its recognized equivalent by the State Department of Education; and
- (f) and have not been convicted of a felony offense or an offense involving

moral turpitude contrary to the laws of this State, another state, or the United States.

In addition to the aforementioned requirements, under §17-5-130(A)(2) a coroner must have at least one of the following qualifications:

- (a) have at least three years of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency;
- (b) have a two-year associate degree and two years of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency;
- (c) have a four-year baccalaureate degree and *one year of experience in death investigation* with a law enforcement agency, coroner, or medical examiner agency;
- (d) be a law enforcement officer, as defined by §23-23-10(E)(1), who is certified by the South Carolina Law Enforcement Training Council with a minimum of two years of experience;
- (e) have completed a recognized forensic science degree or certification program or be enrolled in a recognized forensic science degree or certification program to be completed within one year of being elected to the office of coroner;
- (f) be a medical doctor; or
- (g) have a bachelor of science degree in nursing.

It is uncontroverted that appellant holds a four-year bachelor's degree and meets the qualifications to be coroner under §17-5-130(A)(1). In addition, appellant submits that there is overwhelming evidence in the record that she has the requisite one year of experience in death investigation.

Samuels-Cooper testified that during the thirteen (13) years she worked for the Clarendon County Coroner, she received countless phone calls reporting deaths and was

responsible for dispatching the Coroner or deputy coroner to the scene of deaths. She gathered information from the next-of-kin and prepared numerous coroner's reports, death certificates and subpoenas for medical records. While appellant concedes that these specific duties are administrative in nature, her knowledge and experience far exceed anything that can reasonably be relegated to just that of an administrative assistant. In addition to serving in an administrative role, appellant routinely scheduled autopsies and exchanged substantive information with the attending pathologists to aid the investigation (R. p. 288, lines 3-24). When pressed by Mock's counsel to give examples of this, appellant estimated that she has engaged in discussions with pathologists and provided them with various records, including medical records, police reports, toxicology report, and SLED reports concerning deceased persons at least fifty (50) occasions (R. p. 289, lines 1-7). She was able to name four pathologists employed at the Medical University in South Carolina with whom she communicated regarding death investigations (R. p. 317, lines 12-21). She also cited the name of a pathologist in Columbia and another in Newberry with whom she communicated regarding death investigations (R. p. 318, lines 1-10). She attended an autopsy in Columbia and took photographs of the deceased at the request of Coroner Samuels. The photographs were necessary because the individual had been beaten severely but did not pass away until several months later (R. p. 291, lines 1-25). On a separate occasion, she traveled to MUSC to deliver a quantity of a deceased person's blood to the attending pathologist. On at least one occasion, she responded to a death scene as an investigator when the coroner or deputy coroner was unavailable and a local magistrate was dispatched and had to act as

coroner pursuant to §17-7-20, SC Code of Laws and responded to death scenes at hospitals five or six times. Over the years, she learned to read and interpret medical records to assist the coroner in determining the cause of death (R. pp. 283-286).

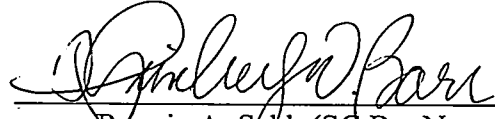
Moreover, as part of the death investigation process, Samuels-Cooper worked with various law enforcement agencies, including police officers, SLED agents, members of South Carolina Highway Patrol's MAIT (multi-disciplinary accident investigation team), and DSS case workers investigating infant deaths and child homicides. She recalled going to the scene of a motor vehicle fatality on Highway 521 and to the site of an accidental death on the lake. (R. p. 319, lines 2-9). She provided aid and comfort to family members of the deceased and took charge to collect and safeguard evidence or the deceased's personal effects for delivery to the family or to law enforcement. Neither Mock nor Gast offered any rebuttal evidence to dispute appellant's testimony.

Based upon the evidence in the record and the applicable law, appellant submits that she was properly certified as the Democratic nominee for the Clarendon County Coroner.

CONCLUSION

For the reasons stated above, this Court should reverse the judgment of the trial court and dismiss the complaint, with costs assessed to the respondent-appellant, and further find that appellant-respondent has the statutory qualifications to be Coroner for Clarendon County. Appellant further asserts that she is entitled to an order requiring the respondents to remove Mock's name from the general election ballot on November 6, 2018 and certify as the sole Democratic nominee.

RESPECTFULLY SUBMITTED:

A handwritten signature in cursive script, appearing to read "Kimberly V. Barr", is written over a horizontal line.

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September 28, 2018

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THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CLARENDON COUNTY
Court of Common Pleas
R. Ferrell Cothran, Jr., Circuit Court Judge

Appellate Case No.: 2018-001520

Bucky Mock, Respondent-Appellant,

vs.

Clarendon County Board of Voter Registration
& Elections, Clarendon County Democratic
Party, LaNette Samuels-Cooper, South Carolina
Democratic Party, and South Carolina Election
Commission, Defendants,

Of whom LaNette Samuels-Cooper is Appellant-Respondent.

And Clarendon County Board of Voter Registration
& Elections, Clarendon County Democratic
Party, South Carolina Democratic Party, and
South Carolina Election Commission are Respondents.

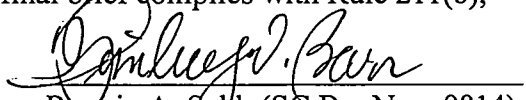
CERTIFICATE OF COUNSEL

The undersigned certifies that appellant's final brief complies with Rule 211(b),
SCACR.

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S.C. SUPREME COURT
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**CERTIFICATE OF SERVICE OF
FINAL BRIEF OF APPELLANT-RESPONDENT**

The undersigned attorney for the appellant-respondent hereby certifies that the final brief was served on all parties to this action on September 28, 2018 by depositing a copy of the same in the U.S. mail, with sufficient postage attached, and addressed to their respective attorneys of record as follows:

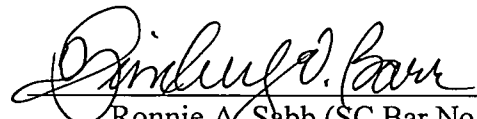
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