

THE STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM CHESTERFIELD COUNTY
Court of Common Pleas

Case No. 2018-CP-13-00621

Appellant Case No. 2019-000147

RECEIVED

MAR 13 2019

S.C. SUPREME COURT

Glenn Odom, ... Respondent,

v.

Town of McBee Election Commission and
Shilon Green, ... Appellants.

RECORD ON APPEAL

SWEENEY, WINGATE & BARROW, P.A.

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INDEX

Order Denying Glenn Odom Appeal Dated November 8, 2018	1
Order Granting extension of time to file motion to alter or amend judgment Dated October 19, 2018	3
Order Granting Odom Motion to Reconsider Dated January 22, 2019	4
Decision of McBee Election Commission	11
Glenn Odom's Notice of Appeal	13
Motion to Dismiss Glenn Odom's Notice of Appeal	18
Amended Notice of Appeal	24
Glenn Odom's Rule 59(a) SCRCP Motion to Reconsider	26
Town of McBee's Memorandum in Opposition to Odom's Motion to Reconsider	37
Shilon Green's Memorandum in Opposition to Odom's Motion to Reconsider	43
Testimony	
Sabrina DeJesus	
Direct Examination by Mr. Parker	54
Cross Examination by Mr. Bowers	61
Re-Direct Examination by Mr. Parker	68
Re-Cross Examination by Mr. Bowers	68
Re-Direct Examination by Mr. Parker	72
Re-Cross Examination by Mr. Bowers	72
Simone Changel Bracee	
Direct Examination by Mr. Parker	75
Cross-Examination by Mr. Bowers	78
Emmette Dixon	
Direct Examination by Mr. Parker	82
Cross-Examination by Mr. Bowers	85
Re-Direct Examination by Mr. Parker	89
Cindy Kirk	
Direct Examination by Mr. Parker	91
Cross Examination by Mr. Bowers	95
Robert Dale Liles	
Direct Examination by Mr. Parker	103
Cross Examination by Mr. Bowers	106
Glenn Odom	
Direct Examination by Mr. Parker	110

Cross-Examination by Mr. Bowers	115
Transcript of Appeal hearing held on October 17, 2018	139
Glenn Odom's Exhibits:	
1. Driver's License of Sabrina DeJesus	161
2. Voter Registration Card of Sabrina DeJesus	162
3. Voter Registration Card of Simone Bracy	163
4. Driver's License of Cindy Kirk	164
Shilon Green's Exhibits	
1. Town of McBee Town Code 17.203	165
Glenn Odom Notice of Contest	166
Certificate of Counsel	167

STATE OF SOUTH CAROLINA
COUNTY OF CHESTERFIELD

IN THE COURT OF COMMON PLEAS
FOURTH JUDICIAL CIRCUIT

CA NO. 2018-CP-40-05370

IN RE: GLENN ODOM

20 18 - CP-13 621

ORDER

Wanda C. Miles
Clerk of Court
Chesterfield County, S.C.

2018 NOV 13 PM 3:27

This matter came before the Court for a hearing on October 17, 2018 in a municipal election appeal filed on behalf of candidate Glenn Odom regarding the decision of the McBee Election Commission ("MEC") filed on October 12, 2018. Mr. Odom filed this appeal despite the fact that the MEC actually found in favor of Mr. Odom and ordered a new election. Mr. Odom asserts that he is entitled not just to a new election, but to be installed as the winning candidate pursuant to Title 7 of the South Carolina Code of Laws, specifically § 7-13-830.

It is true that pursuant to South Carolina Code § 5-15-10, municipal elections are "conducted pursuant to Title 7, mutatis mutandi, *except as otherwise provided for specifically in Chapters 1 through 17 (emphasis added).*" The Court finds that South Carolina Code § 5-15-130 is precisely the type of statute contemplated by the exception found in Section 5-15-10 because it is the specific "statute that delineates the procedure for contesting results of a municipal election (quoting Cole v. Town of Atlantic Beach Election Commission, 393 S.C. 264 (2011))."

Section 5-15-130 provides in its entirety:

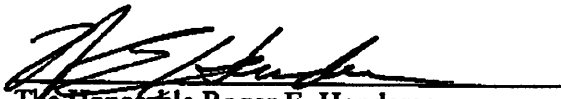
Within forty-eight hours after the closing of the polls, any candidate may contest the result of the election as reported by the managers by filing a written notice of such contest together with a concise statement of the grounds therefor with the

Municipal Election Commission. Within forty-eight hours after the filing of such notice, 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, notify the parties concerned of the decisions made, and when the decision invalidates the election the council shall order a new election as to the parties concerned.

The South Carolina Supreme Court has declared that the "only relief the Commission may order is a 'a new election as to the parties concerned.' S.C. Code Ann. § 5-15-130 (2004). The Circuit court does not have the authority to order any further relief." Armstrong v. Atlantic Beach Municipal Election Commission, 380 S.C. 47 (2008). *See also* Broadhurst v. City of Myrtle Beach Election Commission, 342 S.C. 373 (2000) ("In authorizing a 'new election' pursuant to § 5-15-130, we conclude the General Assembly intended to provide the electorate with a second opportunity to express its will through an election once a municipal election commission invalidates the original election").

The Court finds that the MEC correctly determined that it was bound by § 5-15-130 and by the clear and uncontroverted Supreme Court precedent in ordering a new election. For the foregoing reasons, IT IS ORDERED that the appeal by Mr. Odom is hereby DENIED>

AND IT IS SO ORDERED.


The Honorable Roger E. Henderson
Circuit Court Judge, Fourth Judicial Circuit

Date: November 8, 2018

STATE OF SOUTH CAROLINA
COUNTY OF CHESTERFIELD

IN THE COURT OF COMMON PLEAS
FOURTH JUDICIAL CIRCUIT

CA NO. 2018-CP-40-05370

IN RE: GLENN ODOM

ORDER

2018 OCT 19 PM 12:49
Wanda C. Miles
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.

This matter came before the Court for a hearing on October 17, 2018 in an appeal filed on behalf of candidate Glenn Odom regarding the decision of the McBee Election Commission filed on October 12, 2018. After the hearing concluded, the Court took the matter under advisement and informed the parties that a decision would be forthcoming.

For good cause shown and in the interest of fairness and equity to all parties, the Court orders that the time to file a motion to alter or amend a judgment, and the time to file an appeal, is hereby tolled while this matter is under advisement. Upon the entry and filing of an order in this matter, the parties shall have fifteen (15) days within which to file an appeal or a motion to alter or amend the judgment.

AND IT IS SO ORDERED.


The Honorable Roger E. Henderson
Circuit Court Judge, Fourth Judicial Circuit

Date: October 19, 2018

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHESTERFIELD	)	CASE NO. 2018-CP-13-00621
	)	
IN RE: GLENN ODOM	)	
	)	
	)	ORDER
	)	
	)	
	)	

This matter came before the Court on Glenn Odom's Rule 59(e), SCRCP, Motion to Reconsider the Court's November 13, 2018 Order. After reviewing the parties' submissions, the Court grants the Motion to Reconsider for the reasons stated below and remands these proceedings to the McBee Election Commission to declare Odom the winner of the Town Council election.

STANDARD

"The circuit court, sitting in an appellate capacity, does not conduct a *de novo* hearing or take testimony. The circuit court must examine the decision for errors of law, but it must accept the factual findings of the commission unless they are wholly unsupported by the evidence." *Taylor v. Town of Atl. Beach Election Comm'n*, 363 S.C. 8, 14, 609 S.E.2d 500, 503 (2005).

FINDINGS OF FACT

On September 5, 2018, the Town of McBee held a Town Council election. Seventeen ballots were challenged or provisional and, thus, not counted. (Tr. of Hearing p. 65). Not counting the challenged votes, candidate Shilon Green received 209 votes and Glenn Odom received 208 votes. (Election Comm'n Decision). On September 6, 2018, Odom filed an election contest. (Am. Not. of Contest). Odom contested "the official results of the" election declaring Green the winner on the grounds that some votes should have been counted and other votes should not have been counted. *Id.* He stated that the "contested votes will affect the outcome and results of the election."

Id. Specifically, Odom asked the Municipal Election Commission to count six challenged votes, making him the election winner.

The Commission held a hearing on September 25, 2018, and, after receiving testimony from four of the challenged voters and argument of counsel, it found that four of the votes for Odom should have been counted. (Election Comm'n Decision). The Commission specified its Decision that the votes should have been counted was controlled by and based on Title 7 of the South Carolina Code. *Id.* Instead of counting the votes and declaring Odom the winner, the Commission invalidated the election and ordered a new election under S.C. Code Ann. § 5-15-130. *Id.*

Odom appealed to this Court arguing the Commission should have declared him the winner rather than invalidating the election and ordering a new election. On November 13, 2018, the Court filed an Order upholding the Commission's decision to invalidate and order a new election. The Order relied upon S.C. Code § 5-15-130 to hold that the only relief available is a new election. On November 26, 2018, Odom filed a Rule 59(e), SCRCF, Motion to Reconsider arguing that S.C. Code Ann. § 7-13-830 regarding challenged votes and not § 5-15-130 applies to this case. (Mot. pp. 2-3). He also argued that, even if § 5-15-130 applies, it does not require invalidation of the election and a new election under these circumstances. *Id.* at pp. 2-5. The Commission filed a memorandum in opposition arguing Odom did not preserve a request to be declared the election winner and the only relief available under § 5-15-130 is a new election. Green filed a memorandum in opposition arguing Odom received full relief in the form of a new election and, therefore, does not have standing to appeal, Title 7 applies to County elections, and the only relief available under § 5-15-130 is a new election. Addressing these arguments below, the Court grants the Motion to Reconsider.

ANALYSIS

No party challenged the Commission's finding that four of the challenged votes for Odom should have been counted and that counting them would have resulted in Odom being declared the winner of the election. Therefore, it is the law of this case, and the only issue before me is whether the Commission erred as a matter of law in ordering a new election rather than declaring Odom the winner. *See Shirley's Iron Works*, 403 S.C. at 573, 743 S.E.2d at 785 ("An unappealed ruling is the law of the case and requires affirmance."). Upon reconsideration, I find that Title 7 applies to this election contest based on challenged votes. Further, I find that, even if Title 5 applied, as the Town and Green argue, it does not require a new election under these circumstances.

I. Odom Preserved a Request that the Commission Declare Him the Election Winner

The Court first addresses the Commission's position that Odom did not preserve the argument that it should have declared him the winner of the election. The Commission incorrectly asserts Odom did not seek that relief in his Notice of Election Contest. The Notice plainly states Odom contested the results and his contest "will affect the outcome and results of the election." (Not.). This clearly encompasses a request that the Commission declare Odom the election winner. "Error preservation principles are intended to enable the trial court to rule after it has considered all relevant facts, law, and arguments. The rationale for the rule is that until the trial court considers the matter and makes a ruling, an appellate court is unable to find error." *Queen's Grant II Horizontal Prop. Regime v. Greenwood Dev. Corp.*, 368 S.C. 342, 372-73, 628 S.E.2d 902, 919 (Ct. App. 2006) (internal citation omitted). The Commission knew Odom asked it to declare him the winner and that those opposing him wanted a new election. (Tr. of Hearing pp. 79-81, 84-86). It ruled on the issue by ordering a new election. The issue is preserved.

II. Odom has Standing to Seek a Remedy that the Commission Declare Him the Election Winner

Green argues that because Odom received a new election, he does not have standing to seek a different remedy. This argument is based on Green's assertion that a new election is the only remedy available. This is not an issue of standing but of what remedies are available to Odom. "Standing refers to a party's right to make a legal claim or seek judicial enforcement of a duty or right and is a fundamental prerequisite to instituting an action. As a general rule, to have standing, a litigant must have a personal stake in the subject matter of the litigation." *S.C. Dep't of Soc. Servs. v. Smith*, 423 S.C. 60, 88, 814 S.E.2d 148, 162 (2018) (internal quotation marks and citation omitted). Odom, as an election candidate, has a right to make a legal claim or seek judicial enforcement of a right to contest the election based on challenged votes. He has a personal stake in whether the votes are counted and the result of that determination. Odom has standing regarding the subject matter of this election contest litigation, including the available remedies for relief.

III. S.C. Code Ann. § 7-13-830 Applies to this Case

The provisions of Title 7, not Chapter 5, apply to the relief awarded in this case. "Title 7 of the South Carolina Code (1976) is known as the 'South Carolina Election Law;' and is applicable to *all* elections in South Carolina." *Taylor v. Roche*, 271 S.C. 505, 509, 248 S.E.2d 580, 582 (1978) (emphasis added) (citing S.C. Code Ann. § 7-1-40 ("***This Title shall apply to and control all elections***, including elections for the issuance of bonds and other elections in which any question or issue is submitted to a vote of the people.") (emphasis added)). Section 5-15-10 states "Municipal primary, general and special elections shall be conducted pursuant to Title 7, mutatis mutandi, except as otherwise provided for *specifically* in Chapters 1 through 17" of Title 5. (emphasis added). In other words, "Municipal elections must be conducted pursuant to the South Carolina Election Law contained in Title 7, with any necessary changes in points of detail." *George v. Municipal Election Comm'n*, 335 S.C. 182, 190, 516 S.E.2d 206, 210 (1999) (citing

S.C. Code Ann. § 5-15-10). This case involves a vote challenge, which is specifically provided for in Title 7 under § 7-13-830 and not Title 5.

Section 7-13-830 provides the “Procedure when voter challenged” and requires that “each ballot whose challenge was decided in favor of the voter must be removed from the envelope, mingled, and *counted and the totals added to the previously counted regular ballot* total of all precincts without attribution to a particular precinct.” § 7-13-830 (emphasis added). This language applies to this voter challenge case and dictates that the four votes the Commission determined should have been counted are added to the previously counted ballots. The result of following this plain language is that Odom is the election winner and the Commission erred in ordering a new election rather than declaring him a winner.

To apply § 5-15-130 to invalidate an election and require a new election when challenged votes are decided in favor of the voter would render § 7-13-830 meaningless because its remedy of counting the votes would never be used. *See Ranucci v. Crain*, 409 S.C. 493, 500, 763 S.E.2d 189, 192-93 (2014) (“This Court will not construe a statute in a way which leads to an absurd result or renders it meaningless.”).

IV. S.C. Code Ann. § 5-15-130 Does Not Require a New Election in this Case

As an alternative and separate ground for declaring Odom the election winner, even if § 5-15-130 applies, it does not require a new election under these circumstances. “In the absence of fraud, a constitutional violation, or a statute providing that an irregularity or illegality invalidates an election, [the Court] will not set aside an election for a mere irregularity.” *Taylor v. Town of Atl. Beach Election Comm’n*, 363 S.C. 8, 12, 609 S.E.2d 500, 502 (2005). This case does not involve fraud or a constitutional violation. The only statute that allegedly invalidates the election is § 5-15-130. It requires a new election only “*when* the [election commission’s] decision

invalidates the election.” S.C. Code Ann. § 5-15-130 (emphasis added). The Election Commission’s decision was that four votes should have been counted. This does not invalidate an election but only counts votes that were previously provisional. That counting the votes would result in one candidate being declared the winner does not mandate invalidation or a new election.

The Election Commission takes issue with Odom’s citation to *Trapp v. S.C. Board of State Canvassers*, 273 S.C. 163, 255 S.E.2d 670 (1979), in his Motion to Reconsider. However, the Election Commission misses the point. It is irrelevant that *Trapp* involved a County election and this case involves a Municipal election. The point is that both cases involve challenged votes, and that procedure and remedy are provided for in Title 7.

CONCLUSION

The Court grants Odom’s Motion to Reconsider and holds the Municipal Election Commission erred in invalidating the election and ordering a new election. Odom was the winner of the Town Council Election. The Court remands these proceedings to the Municipal Election Commission to count the contested votes and declare Odom the winner of the Town Council Election consistent with the provisions of this Order.

AND IT IS SO ORDERED.

Dated: _____

The Honorable Roger E. Henderson
Circuit Court Judge



Chesterfield Common Pleas

Case Caption: Glenn Odom VS Linda Sterling

Case Number: 2018CP1300621

Type: Order/Other

So Ordered

s/Roger E. Henderson 2754

Electronically signed on 2019-01-21 10:33 44 page 7 of 7

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

)
) MCBEE MUNICIPAL ELECTION
) COMMISSION

) **2018 - CP-13621**

)
) IN RE: GLENN ODOM CONTEST OF
) SEPTEMBER 5, 2018 ELECTION
)
)
)
)
)

DECISION

Wanda C. Miles
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.

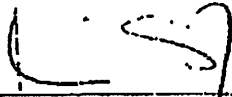
2018 OCT 12 AM 11:28

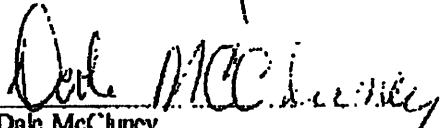
Glenn Odom filed a notice and amended notice to contest the results of the McBee Town Election for Town Council on September 6, 2018. The election was September 5, 2018. A hearing on the contest was held on September 25, 2018 at the McBee Town Hall. Testimony was taken from four voters whose votes were protested on the day of the election and these votes were not counted in the election results and Shilon Greene was initially determined to be the winner by a vote of 209 votes for Shilon Greene and 208 votes for Glenn Odom..

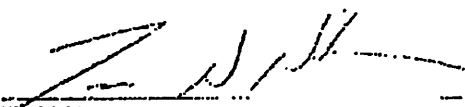
The commission, based on the testimony taken, finds that Simone Bracey, Sabrina De Jesus, Cindy Kirk, and Robert Liles were domiciled in the Town of McBee more than thirty (30) days before the September 5, 2018 election as required by S.C. Code Ann. § 7-5-610, S.C. Code Ann. § 7-5-230(B) and S.C. Code Ann. § 7-1-25, and therefore, were voters eligible to vote in the September 5, 2018 election.

Because adding the four votes to the total for Glenn Odom would have changed the outcome of the election, the Municipal Election Commission hereby invalidates the September 5, 2018 election and orders a new election as is required under S.C. Code Ann. § 5-15-130.

(Signature Page Following)


Linda Sterling
Chairperson, McBee Municipal Election Commission


Dale McCluney
Member, McBee Municipal Election Commission


Todd Horton
Member, McBee Municipal Election Commission

2018 OCT 12 AM 11:28
Wanda L. Miles
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.

STATE OF SOUTH CAROLINA
COUNTY OF CHESTERFIELD
IN RE: GLENN ODOM

2018 OCT -4 PM 1: 23

2018 - CP-13 661

Wanda C. Miles
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.

**NOTICE
OF APPEAL**

TO: LINDA STERLING, CHAIRPERSON OF THE TOWN OF MCBEE ELECTION COMMISSION, AND THE MCBEE ELECTION COMMISSION:

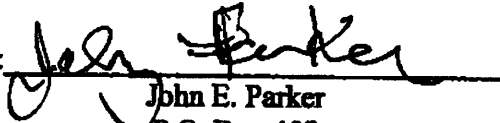
You will please take notice that Glenn Odom hereby appeals the decision of the McBee Election Commission on September 25, 2018, which determined that four voters whose votes were contested were eligible voters and had properly cast their ballots for Glenn Odom but were not initially counted. The Commission in error did not declare Glenn Odom elected. Had the contested votes been counted, Odom would have been elected to the McBee Town Council, and instead the commission ordered a new election. The four votes should have been initially counted and should have been counted at the hearing on Mr. Odom's protest resulting in the election of Glenn Odom to Town Council.

In the election held on September 5, 2018, the tentative results before counting the contested ballots were Shilon Greene, 209, and Glenn Odom, 208. Glenn Odom filed a timely protest on September 6, 2018, contending that the following voters votes had not been counted. Simone Bracey, Sabrina De Jesus, Cindy Kirk, and Robbie Lyles each testified they voted for Glenn Odom and their votes were protested and not counted. Had their votes been counted as the law requires, Mr. Odom would have been elected with a vote of 212 to Shilon Greene's, 209.

Glenn Odom request the court to overturn the decision of the McBee Election Commission which held that even though eligible voters sufficient for him to win the election voted for him that a new election should be held.

Respectfully submitted,

PETERS, MURDAUGH, PARKER, ELTZROTH
& DETRICK, P.A.

BY: 

John E. Parker
P.O. Box 457
101 Mulberry Street East
Hampton, SC 29924
(803) 943-2111
jparker@pmped.com

ATTORNEYS FOR PLAINTIFF

October 4, 2018
Hampton, South Carolina

2018 OCT -4 PM 1:23
Peters, Murdaugh, Parker, Eltzroth & Detrick, P.A.
CLERK OF COURT
HAMPSON COUNTY, S.C.

I, Linda Sterling, accept Mr. Odom's notice of appeal on October 4, 2018.

A handwritten signature in black ink, appearing to be 'L. Sterling', written over a horizontal line.

Linda Sterling

October 4, 2018

3:10 PM

2018 OCT -5 PM 12:29
Wanda C. Hines
CLERK OF COURT
WESTFIELD COUNTY, GA.

STATE OF SOUTH CAROLINA

MCBEE MUNICIPAL ELECTION
COMMISSION

IN RE: GLENN ODOM CONTEST OF
SEPTEMBER 5, 2018 ELECTION

) IN THE COURT OF COMMON PLEAS
)
)
)

) **20 18 - CP-13 621**
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DECISION

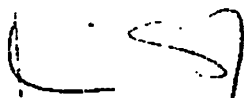
2018 OCT 12 AM 11:28
Wanda C. Miles
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.

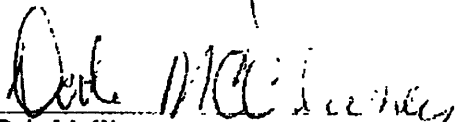
Glenn Odom filed a notice and amended notice to contest the results of the McBee Town Election for Town Council on September 6, 2018. The election was September 5, 2018. A hearing on the contest was held on September 25, 2018 at the McBee Town Hall. Testimony was taken from four voters whose votes were protested on the day of the election and these votes were not counted in the election results and Shilon Greene was initially determined to be the winner by a vote of 209 votes for Shilon Greene and 208 votes for Glenn Odom..

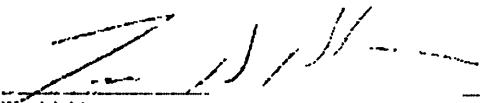
The commission, based on the testimony taken, finds that Simone Bracey, Sabrina De Jesus, Cindy Kirk, and Robert Liles were domiciled in the Town of McBee more than thirty (30) days before the September 5, 2018 election as required by S.C. Code Ann. § 7-5-610, S.C. Code Ann. § 7-5-230(B) and S.C. Code Ann. § 7-1-25, and therefore, were voters eligible to vote in the September 5, 2018 election.

Because adding the four votes to the total for Glenn Odom would have changed the outcome of the election, the Municipal Election Commission hereby invalidates the September 5, 2018 election and orders a new election as is required under S.C. Code Ann. § 5-15-130.

(Signature Page Following)


Linda Sterling
Chairperson, McBee Municipal Election Commission


Dale McCluney
Member, McBee Municipal Election Commission


Todd Horton
Member, McBee Municipal Election Commission

2019 OCT 12 AM 11:28
Wanda C. Miles
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHESTERFIELD)

IN RE: GLENN ODOM,) Civil Action No.: 2018CP1300621

Defendants.)

MOTION TO DISMISS GLENN ODOM'S
NOTICE OF APPEAL

2018 OCT 13 AM 9:08
Wanda C. Miles
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.

The Town of McBee Municipal Election Commission ("MEC") respectfully moves, pursuant to Rule 12(b)(6), SCRCPP, to dismiss Glenn Odom's Notice of Appeal on the grounds that as of the date of filing his notice of appeal, October 4, 2018, the MEC has not entered any order from which Odom can appeal.

South Carolina Code Ann. § 5-15-140 provides a party aggrieved by the decision of a municipal election commission may appeal from such decision to the court of common pleas "within ten days after the notice of the decision of the municipal election commission."

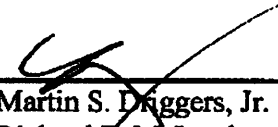
A hearing on Odom's protest was held on September 25, 2018. As a result of the evidence heard at the hearing, the MEC determined that four prior votes that were excluded should have been counted. As a difference in four votes could have changed the outcome of the election, the MEC indicated it would find that a new election needed to be ordered. (Transcript of Hearing, p. 87:19-88:14, Exhibit 1.). At the hearing, the commissioner of the MEC, Linda Sterling, asked counsel for Odom to draft a proposed order that would serve as ruling from which any aggrieved party could appeal. (Exhibit 1). On October 4, 2018, counsel for Odom e-

mailed the MEC a draft of the proposed order. (Exhibit 2) On that same date, Odom appealed the order which has not even been signed or filed by the MEC.

Because no final order has been issued from which Odom can appeal, his current appeal is premature and the Court of Common Pleas for South Carolina in Chesterfield County lacks jurisdiction to hear the appeal as a result. The MEC, therefore, asks this Court to dismiss Odom's appeal until such a time as an order has been filed from which he may appeal.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.



Martin S. Duggers, Jr.
Richard E. McLawhorn, Jr.
115 Cargill Way, Suite B
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(803) 256-2233
**ATTORNEYS FOR TOWN OF MCBEE
MUNICIPAL ELECTION COMMISSION**

Hartsville, South Carolina
October _____, 2018

2018 OCT 16 AM 9:08
Wanda C. Miles
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.

STATE OF SOUTH CAROLINA

COUNTY OF CHESTERFIELD

IN RE GLENN ODOM

IN THE COURT OF COMMON PLEAS
JUDICIAL CIRCUIT

CASE NO.: 2018CP1300621

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney: John E. Parker PO Box 457 101 Mulberry St. East Hampton, SC 29924 (803) 943-2111 jparker@pmped.com		Attorney for Town of McBee Municipal Election Commission Martin S. Driggers, Jr., Bar No. 13668 115 Cargill Way, Ste B Hartsville, SC 29550 Phone: (843) 878-0390 x7181 Fax E-mail: msd@swblaw.com Other:	
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)			
SECTION I: Hearing Information			
Nature of Motion: <u>Motion to Dismiss</u> Estimated Time Needed: <u>20 min</u> Court Reporter Needed: ☒ YES/ ☐ NO			
SECTION II: Motion/Order Type			
☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order. Signature of Attorney for ☐ Plaintiff/☐ Defendant 10/9/18 Date submitted			
SECTION III: Motion Fee			
☐ PAID - AMOUNT: \$ ☐ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRPC) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____			
JUDGE'S SECTION			
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____		JUDGE CODE _____ Date: _____	
CLERK'S VERIFICATION			
Collected by: <u>ANT</u> Date Filed: _____ ☒ MOTION FEE COLLECTED: \$ <u>25.00</u> ☐ CONTESTED - AMOUNT DUE: \$ _____			

2018 OCT 6 AM 9:08
Wanda C. Miles
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.

1 by several votes and y'all have the right to do
2 that and to declare him the winner and, in my
3 opinion, because there never has been a hearing
4 prior to this at which testimony was taken that
5 I'm aware of. I'll stand corrected if there was a
6 hearing because I'm not aware of one. And the law
7 requires that there be a hearing on his
8 allegations that the vote wasn't counted
9 appropriately. And this is our first opportunity.
10 We believe y'all have the right to declare him the
11 winner and we ask you to do so. Thank you.

12 Ms. Sterling: Thank you. Mr. Bowers.

13 Mr. Bowers: I would just say that the
14 -- the process has worked the -- the way it's
15 supposed to. That everything has been done
16 correctly and in accordance with the law. This is
17 the first hearing. That is true, but that's the way
18 the system is set up. And this is the opportunity
19 and a 1,000 percent it is the -- the burden of the
20 protesting party to -- to demonstrate that the --
21 that -- that the vote should not -- should be
22 overturned.

23 And again, I go back to the case law.
24 Every legal presumption must be employed to
25 sustain a contested election. That means by

1 definition that the burden is on them. And I'm
2 telling you here and now they did not carry that
3 burden. And so we ask that the -- you -- the --
4 that you follow the -- the leadership of the South
5 Carolina Supreme Court and there has been no
6 showing that anybody on -- and Mr. McLeod or
7 Mister -- Mr. Green committed fraud or a
8 constitutional violation. It -- it -- it's clear
9 that the -- the election should -- should stand.
10 Thank you.

11 Ms. Sterling: Thank you. Okay. We're
12 going to adjourn and come back with a judgment.

13 Mr. Parker: Thank you.

14 Ms. Sterling: Thank you. And so we're
15 going into executive session to discuss the matters
16 and all the evidence.
17 (Whereupon a break was taken
18 from the proceedings)

19 Ms. Sterling: Are we all here? We
20 finished with our executive session and we just went
21 over all the evidence that was presented to us and
22 discussed some legal matters. And the M.E.C. has
23 come up with a decision. To start off with South
24 Carolina Code 71 -- 7-125 says that a domicile is a
25 fixed place where you have an intention of

1 returning. So we went over all of the evidence that
2 was presented to us. And we decided that -- I lost
3 my paper. Here you go. Sabrina DeJesus and Simone
4 Gracee living where they live. Emmette Dixon and
5 Gloria Sumner, we have some questions about the
6 validity and it really -- really wasn't clear or
7 credible. So we decided that we invalidated their
8 votes. Cindy Kirk and Robert Liles, we validated
9 their -- their vote. So right now we -- the
10 M.E.C. will have to contact the city council and
11 have a new election. We ask Mr. Parker to write a
12 written order or draft of a written order and ask
13 for a new election and get it to us and the lawyers
14 as soon as possible.

15 Mr. Parker: Thank you.

16 Ms. Sterling: Okay. Mr. Bowers, any
17 questions?

18 Mr. Bowers: Yes. I want to be sure
19 got the right --

20 Ms. Sterling: Okay.

21 Mr. Bowers: -- the facts --

22 Ms. Sterling: Uh-huh.

23 Mr. Bowers: -- correct. So there were
24 -- there were five left open, right?

25 Ms. Sterling: Pardon me?

1 Mr. Bowers: There were five voters
2 whose votes were in question?

3 Ms. Sterling: Right. Gloria Sumner,
4 Simone Gracee, Sabrina DeJesus, Cindy Kirk and
5 Robert Liles.

6 Mr. Parker: And -- and Dixon.

7 Mr. Bowers: And the only one you --

8 Ms. Sterling: No. We didn't challenge
9 that.

10 Mr. Bowers: -- the only one you didn't
11 count was Sumner?

12 Ms. Sterling: Yes. Gloria Sumner.

13 Mr. Bowers: Okay. So you're counting
14 Liles, Kirk, Bracey and --

15 Ms. Sterling: DeJesus.

16 Mr. Bowers: -- DeJesus?

17 Ms. Sterling: Yes.

18 Mr. McCluney: We counted Dixon.

19 Ms. Sterling: They didn't challenge his
20 vote.

21 Mr. Bowers: Okay. I understand.

22 Ms. Sterling: Mr. Parker, anything.

23 Mr. Parker: Thank you. The only thing
24 we'd ask is to be sure that all the ballots and all
25 are preserved.

LAW OFFICES
PETERS, MURDAUGH, PARKER, ELTZROTH & DETRICK

PROFESSIONAL ASSOCIATION

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(1927-2008)
J. PAUL DETRICK
(1948-2018)
CLYDE A. ELTZROTH, JR. - RET

October 4, 2018

John E. Parker
Direct Dial: (803) 914-2004
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Via E-Mail only

Sweeny Wingate & Barrow, P.A.
Richard McLawhorn, Esquire
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Columbia, SC 29201

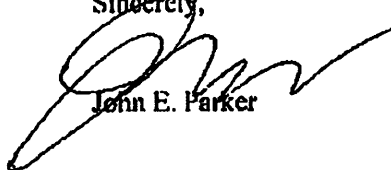
Re: *Glen Odom*

Dear Richard:

Enclosed please find a proposed decision by the Election Commission I prepared at the request of Linda Sterling, Chairperson of the Election Commission.

With kind regards, I am

Sincerely,


John E. Parker

JEP/tmy

Enclosure

cc: Linda Sterling

2018 OCT 16 AM 9:08
Wanda C. Miles
CLERK OF COURT
CRESTFIELD COUNTY, GA

EXHIBIT

2

STATE OF SOUTH CAROLINA

)

IN THE COURT OF COMMON PLEAS

MCBEE MUNICIPAL ELECTION
COMMISSION

)

)

)

)

IN RE: GLEN ODOM CONTEST OF
SEPTEMBER 5, 2018 ELECTION

)

)

)

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DECISION

Glen Odom filed a notice and amended notice to contest the results of the McBee Town Election for Town Council on September 6, 2018. The election was September 5, 2018. A hearing on the contest was held on September 25, 2018 at the McBee Town Hall. Testimony was taken from four voters whose votes were protested on the day of the election and these votes were not counted in the election results and Shilon Greene was initially determined to be the winner by a vote of 209 votes for Shilon Greene and 208 votes for Glen Odom. These voters testified they voted for Glen Odom.

The commission, based on the testimony taken, finds that Simone Bracey, Sabrina De Jesus, Cindy Kirk, and Robert Liles were properly registered voters eligible to vote in the September 5, 2018 election and that their votes were not counted but should have been counted and as a result Shilon Greene was declared the winner of the election for Town Council by a vote of 209 votes for Shilon Greene and 208 votes for Glen Odom. Had the contested votes been counted Glen Odom would have been elected. Because the votes were not counted the commission finds that a new election should be held.

For the foregoing reasons, it is ordered that the results of the municipal election by which Shilon Greene was elected to Town Council are hereby declared void and a new election is hereby ordered.

Linda Sterling
Chairperson, McBee Municipal Election Commission

STATE OF SOUTH CAROLINA

COUNTY OF CHESTERFIELD

IN RE: GLENN ODOM

)
)
)
MIN OCT 24 AM 10:38
)

Wanda C. Miles
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.
)
)

**AMENDED NOTICE
OF APPEAL**

TO: LINDA STERLING, CHAIRPERSON OF THE TOWN OF MCBEE ELECTION COMMISSION, AND THE MCBEE ELECTION COMMISSION:

You will please take notice that Glenn Odom hereby appeals the decision of the McBee Election Commission on September 25, 2018, and the written decision filed October 12, 2018 which determined that four voters whose votes were contested were eligible voters and had properly cast their ballots for Glenn Odom but were not initially counted. The Commission in error did not declare Glenn Odom elected. Had the contested votes been counted, Odom would have been elected to the McBee Town Council, and instead the commission ordered a new election. The four votes should have been initially counted and should have been counted at the hearing on Mr. Odom's protest resulting in the election of Glenn Odom to Town Council.

In the election held on September 5, 2018, the tentative results before counting the contested ballots were Shilon Greene, 209, and Glenn Odom, 208. Glenn Odom filed a timely protest on September 6, 2018, contending that the following voters votes had not been counted. Simone Bracey, Sabrina De Jesus, Cindy Kirk, and Robbie Lyles each testified they voted for Glenn Odom and their votes were protested and not counted. Had their votes been counted as the law requires, Mr. Odom would have been elected with a vote of 212 to Shilon Greene's, 209.

Glenn Odom request the court to overturn the decision of the McBee Election Commission which held that even though eligible voters sufficient for him to win the election voted for him that a new election should be held.

Respectfully submitted,

PETERS, MURDAUGH, PARKER, ELTZROTH
& DETRICK, P.A.

BY: _____



John E. Parker
P.O. Box 457
101 Mulberry Street East
Hampton, SC 29924
(803) 943-2111
jparker@pmped.com

ATTORNEYS FOR PLAINTIFF

October 16 2018
Hampton, South Carolina

2018 OCT 24 AM 10:38
Wanda C. Riles
CLERK OF COURT
CHESLER FIELD COUNTY, S.C.

IN THE COURT OF COMMON PLEAS

CASE NO. 2018-CP-13-00621

**GLENN ODOM'S RULE 59(a) - SCRCF,
MOTION TO RECONSIDER**

2019 NOV 20 PM 2: 01
RECEIVED
FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION
FBI
E 59 (a), SCRIP
CONSIDER
COMMUNITY, S.C.

The Town of McBee held a Town Council election on September 5, 2018. (Election Comm'n Decision). Seventeen ballots were challenged or provisional and, thus, not counted. (Tr. of Hearing p. 65). Not counting the challenged votes, candidate Shilon Greene received 209 votes and Glenn Odom received 208 votes. (Election Comm'n Decision). Odom filed an election contest on September 6, 2018, asking the Municipal Election Commission to count six challenged votes and declare him the election winner. *Id.* The Commission held a hearing on September 25, 2018, and, after hearing testimony from four of the challenged voters and argument of counsel, held that four of the votes for Odom should have been counted. *Id.* However, rather than count the votes and declare Odom the winner, the Commission invalidated the election and ordered a new election. *Id.*

Odom appealed to this Court arguing the Commission should have declared him the winner rather than invalidated and order a new election. No party challenged the Commission's finding that four of the challenged votes for Odom should have been counted and that counting them would have resulted in Odom being declared the winner of the election. On November 13, 2018, the Court filed an Order upholding the Commission's decision to invalidate and order a new election. Odom now files this Motion to Reconsider that Order.

STANDARD

"The purpose of Rule 59(e), SCRCP, to alter or amend the judgment, is to request the trial judge to reconsider matters properly encompassed in a decision on the merits." *Collins Music Co. v. Igt*, 353 S.C. 559, 562, 579 S.E.2d 524, 525 (Ct. App. 2002) (internal quotation marks omitted). "The circuit court, sitting in an appellate capacity, does not conduct a *de novo* hearing or take testimony. The circuit court must examine the decision for errors of law, but it must accept the factual findings of the commission unless they are wholly unsupported by the evidence." *Taylor v. Town of Atl. Beach Election Comm'n*, 363 S.C. 8, 14, 609 S.E.2d 500, 503 (2005).

ARGUMENT

The Court erred in applying S.C. Code Ann. § 5-15-130 rather than S.C. Code Ann. § 7-13-830 and in reading § 5-15-130 to require invalidation of the election and a new election under the circumstances of this case. Section 5-15-10 states "Municipal primary, general and special elections shall be conducted pursuant to Title 7, *mutatis mutandi*,¹ except as otherwise provided for *specifically* in Chapters 1 through 17." (emphasis added). In other words, "Municipal elections must be conducted pursuant to the South Carolina Election Law contained in Title 7, with any

¹ This phrase means "All necessary changes having been made; with the necessary changes." *Black's Law Dictionary* 1044 (8th ed. 2004).

necessary changes in points of detail.” *George v. Municipal Election Comm’n*, 335 S.C. 182, 190, 516 S.E.2d 206, 210 (1999) (citing S.C. Code Ann. § 5-15-10). Because this case involves whether challenged votes should count, it is specifically provided for in Title 7 under § 7-13-830 and not Chapters 1 through 17 of Title 5.

Section 7-13-830 is entitled “Procedure when voter challenged” and provides that “each ballot whose challenge was decided in favor of the voter must be removed from the envelope, mingled, and counted and the totals added to the previously counted regular ballot total of all precincts without attribution to a particular precinct.” § 7-13-830. To apply § 5-15-130 to invalidate an election and require a new election when challenged votes are decided in favor of the voter would render § 7-13-830 meaningless as its remedy would never be used. *See Ranucci v. Crain*, 409 S.C. 493, 500, 763 S.E.2d 189, 192-93 (2014) (“This Court will not construe a statute in a way which leads to an absurd result or renders it meaningless.”). Further, Odom’s interpretation of the statutes is logical and efficient as it is likely in every election that someone’s eligibility to vote may be questioned. Surely the General Assembly did not mean for such a regular occurrence to invalidate an election and require the time and expense of a new election.

As an alternative and separate ground for reconsideration, the Court erred in interpreting § 5-15-130 to require an invalidation of the election and a new election. Our Supreme Court has held that “[i]n the absence of fraud, a constitutional violation, or a statute providing that an irregularity or illegality invalidates an election, we will not set aside an election for a mere irregularity.” *Taylor v. Town of Atl. Beach Election Comm’n*, 363 S.C. 8, 12, 609 S.E.2d 500, 502 (2005). There is no allegation of fraud or a constitutional violation in this case. The only statute that allegedly provides for invalidation and a new election is § 5-15-130. However, § 5-15-130 does not require election invalidation and the remedy of a new election stated in § 5-15-130 applies

only "*when* the [election commission's] decision invalidates the election." S.C. Code Ann. § 5-15-130 (emphasis added). Based on the plain language of the statute, invalidation and a new election are not the only available remedy. The Court erred in affirming the Commission's decision to invalidate the election rather than counting the votes. That counting the votes would result in one candidate being declared the winner does not mandate invalidation or a new election. Counting four votes does not affect the procedure of the election. It only affects the outcome. A new election is not required and is unfair and inequitable. Odom clearly won the election.

This is proven by case law and this Court's own precedent. In *Trapp v. S.C. Board of State Canvassers*, 273 S.C. 163, 255 S.E.2d 670 (1979), votes were challenged and a new election ordered. On appeal to the Supreme Court, the case was remanded to recanvass the challenged ballots. *Id.* at 169-70, 255 S.E.2d at 673. The Supreme Court specified that "[t]he prevailing candidate is to be declared elected." *Id.*

In *Stephens v. Green*, Case No. 2014-CP-13-00635 (Sept. 4, 2015) (attached as Exh. 1), this Court found that three ballots the Commission invalidated should have been counted. It reversed the McBee Municipal Election Commission's decision to order a new election and declared an election winner. *Id.* at p. 5. The same result is warranted in this case. No party challenges the Commission's finding that the four votes for Odom should have been counted. Therefore, he is the winner and a new election is contrary to precedent, unnecessary, and unfair.

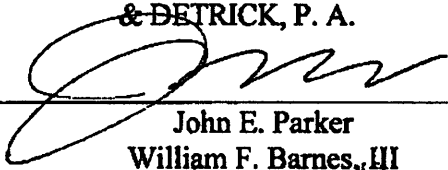
The Court's reliance on *Armstrong v. Atlantic Beach Mun. Election Comm'n*, 380 S.C. 47, 668 S.E.2d 400 (2008), is misplaced. In *Armstrong*, an election for mayor resulted in a candidate winning by one vote. *Id.* at 48, 668 S.E.2d 401. The circuit court ordered a *de novo* election and reopened the filing period for candidates, thus allowing additional candidates to enter the election rather than ordering a new election with the same two candidates. *Id.* On appeal, the Supreme

Court held the circuit court did not have the authority to order a *de novo* election that allowed additional candidates because "The only relief the Commission may order is 'a new election as to the parties concerned.' S.C. Code Ann. § 5-15-130. The circuit court does not have the authority to order any further relief. Accordingly, the circuit court judge erred in ordering the reopening of the filing period for candidates for mayor." *Armstrong*, 380 S.C. at 49, 668 S.E.2d at 401-02. Considering the context of the decision and the complete quote from the case, it is clear that the Supreme Court did not hold that a new election is the only remedy that may be ordered under § 5-15-130 but that, when a new election is ordered, it may only be as to the parties concerned in the original election. Therefore, the Court should reconsider and alter its reliance on *Armstrong*.

CONCLUSION

Based on the above discussion, the Court should reconsider and alter its Order to find that the Municipal Election Commission erred in invalidating the election and ordering a new election. The Court should hold that the Municipal Election Commission should count the votes for Odom and declare he is the winner of the election.

PETERS, MURDAUGH, PARKER, ELTZROTH
& DETRICK, P. A.

By: 

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Phone: (803) 943-2151
Fax: (803) 914-2018
jparker@pmped.com
wbarnes@pmped.com

ATTORNEYS FOR THE PLAINTIFF

November 20, 2018
Hampton, South Carolina

STATE OF SOUTH CAROLINA

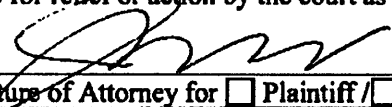
COUNTY OF CHESTERFIELD

IN RE: GLENN ODOM

IN THE COURT OF COMMON PLEAS
JUDICIAL CIRCUIT

CASE NO.: 2018-CP-13-00621

MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

Plaintiff's Attorney: John E. Parker, Bar No. 4442 William F. Barnes, III, Bar No. 78220 Address: P.O. Box 457 Hampton, SC 29924 Phone: (803) 914-2004 Fax (803) 914-2014 E-mail: jparker@pmped.com	Attorney for Town of McBee Municipal Election Commission Martin S. Driggers, Jr., Bar No. 13668 Richard E. McLawhorn, Jr., Esquire 115 Cargill Way, Ste. B Hartsville, SC 29550 Phone: (843) 878-0390 x7181 E-mail: msd@swblaw.com
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: <u>Motion to Reconsider</u> Estimated Time Needed: <u>15 min.</u> Court Reporter Needed: ☐ YES / ☐ NO	
SECTION II: Motion/Order Type	
☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
 Signature of Attorney for ☐ Plaintiff / ☐ Defendant	<u>11/25/18</u> Date submitted
SECTION III: Motion Fee	
☒ PAID - AMOUNT: \$ 25.00 ☐ EXEMPT: (check reason)	
☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69 SCRPC) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____	
JUDGE'S SECTION	
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____	JUDGE CODE _____ Date: _____
CLERK'S VERIFICATION	
Collected by: <u>AT</u> Date Filed: _____ ☒ MOTION FEE COLLECTED: \$ 25.00 ☐ CONTESTED - AMOUNT DUE: \$ _____	

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA
COUNTY OF CHESTERFIELD

Macey Stephens,

Plaintiff,

vs.

Shilon Green,

Defendant.

IN THE CIRCUIT COURT OF THE
FOURTH JUDICIAL CIRCUIT
CASE NO.: 2014-CP-13-00635

ORDER

CLERK OF COURT C.R. & G.S.
CHESTERFIELD COUNTY, SC
2015 SEP 4 AM 11 21
FAYE L. STEPHENS
CLIFF L. STEPHENS
CHESTERFIELD COUNTY, SC

A True Copy Attest
Wanda C. Miles

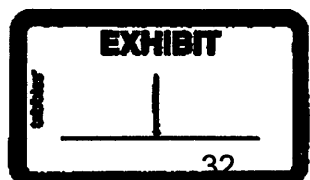
Macey Stephens appealed an Order of the McBee Municipal Election Commission ("MEC") on September 15, 2014 which Order invalidated three ballots cast in the Town Council election and ordered a new election. The appeal was heard by the Honorable Paul M. Burch who remanded the matter to the MEC for a rehearing to allow the three affected voters whose ballots were invalidated to be heard. The MEC reheard this matter on May 27, 2015 and two of the three affected voters testified. As a result of this rehearing, the MEC again invalidated the three ballots in question which were cast in the Town Council election and ordered a new election. Macey Stephens' appeal of the MEC's decision of May 28, 2015 was heard by this Court on August 26, 2015.

FACTS/PROCEDURAL HISTORY

The parties agree that the facts of this case are not in dispute. On Tuesday, September 2, 2014 the Town of McBee held a municipal election for two, at-large seats for town council. Four individuals, including Macey Stephens and Respondent Shilon Green, were on the ballot. The top-two finishers would each be awarded an at-large seat.

Prior to the Election, a voter named Burgess cast an absentee ballot (the "Burgess Ballot"). Burgess and a witness signed the Burgess Ballot; however, the envelope containing the Burgess Ballot did not have the witness's address printed on it.

On Election Day, three individuals cast ballots even though their names did not appear on the Town's voter registration list. These three voters – Christopher Ponds, Robin Tedder, and Daniel Gaincy (hereinafter the "Three Voters") – were registered to vote in Chesterfield County and lived in the Town at the time of the Election. These voters were permitted to handwrite their names on the Town's registration list and cast their ballots after a poll worker viewed their drivers' licenses and called the County Registration Board to confirm that they were registered to vote and lived within the precinct.



On the night of the election, the following vote totals were calculated:

McLeod:	189
Stephens:	163
Green:	160
Edwards:	129

Because the totals between Stephens and Green were so close, an automatic recount was conducted. The recount confirmed the above totals, and the election results were certified that evening.

On Thursday, September 4, 2014 Green filed a Notice of Election Contest and set forth two grounds upon which he believed the Election should be overturned. On September 8th, the MEC conducted a hearing (the "Hearing"), where Green contested the ballots cast by the Three Voters and the Burgess Ballot. As to the Three Voters, Green conceded that all three were, at the time of the Election, "registered to vote in Chesterfield County and 'reside[d]' in the town of McBee." However, according to Green, "at one time [these voters] did not live in the [the Town]" and therefore, their names were not on the Town's registration list and they should not have cast a ballot.

The MEC found that two of the Three Voters' names were not on the Town's registration list. (First Order, p. 4). Accordingly, the MEC determined that these two ballots along with the Burgess Ballot, were invalid, and that the result of the Election was doubtful. (*Id.* at p. 5-6). The MEC ordered a new election between Stephens and Green for the second at-large seat. (*Id.*) Stephens timely served and filed an appeal on September 15, 2014, and a hearing on this matter was held before the Circuit Court on December 17, 2014.

In an order dated April 9, 2015, the Honorable Paul M. Burch found that "the three affected voters in this case are 'interested parties' and that notice is mandated by law", and the Court remanded this case to the MEC "for rehearing after notice to all interested parties." Thereafter, the MEC notified the three affected voters and conducted a second hearing on this protest on May 27, 2015 in accordance with Judge Burch's order. Following a full *de novo* hearing wherein both parties were represented by counsel, evidence was presented, and two of the three affected voters whose votes were initially found to be invalid appeared and provided sworn testimony in person, the MEC once again found that a new election must occur for the McBee Town Council seat in question. This appeal followed the issuance of the Second MEC order dated May 28, 2015.

ISSUES

The parties do not dispute the facts of this case, and this is not a case involving voter fraud or other misconduct. Instead, this case hinges on statutory interpretation and presents two narrow issues:

1. Should the two invalidated ballots have counted where the two Voters lived in the Town and were registered to vote but were not on the Town's registration role?

2. Should the Burgess Ballot have counted where the person witnessing the absentee ballot failed to list his or her address on the envelope?

STANDARD OF REVIEW

In municipal election appeals, the review does not extend to findings of fact unless those findings are wholly unsupported by the evidence. *George v. Municipal Election Comm'n of Charleston*, 335 S.C. 182, 186, 516 S.E.2d 206, 208 (1999). Circuit courts are to "employ every reasonable presumption to sustain a contested election" and must not set aside an election "due to mere irregularities or illegalities." *Taylor v. town of Atlantic Beach Election Comm'n*, 363 S.C. 8, 12, 609 S.E.2d 500, 502 (2005); *George*, 335 S.C. at 186, 516 S.E.2d at 208. ("This Court, like many others, recognizes that perfect compliance in every instance is unlikely, and the Court is loathe to nullify an election based on minor violations of technical requirements."). Where, as here, no fraud or constitutional violations are alleged, this Court cannot set aside an election based upon a mere irregularity. *Id.*

Even when mandatory terms such as "shall" or "must" appear in the statutes, "[c]ourts justly consider the main purpose of such laws, namely, the obtaining of a fair election and an honest return" and not the "minor requirements which prescribed the formal steps to reach that end." *Id.*, 335 S.C. at 190-91, 516 S.E.2d at 210-11. Courts typically "ignore such innocent irregularities of election officers as are free of fraud and have not interfered with a full and fair expression of the voter's choice." *Id.*, *Indced*, even "general allegations of illegal activity will not support the burden of establishing that the irregularity flawed the election." *Fielding v. South Carolina Election Comm'n*, 305 S.C. 313, 317, 408 S.E.2d 232, 235 (1991).

Analysis

As a threshold matter, this Court recognizes that it need only find one of the ballots at issue valid to reverse the MEC's decision to order a special election. Nevertheless, I find that both ballots invalidated because the two voters were not on the town of McBee's registration roll as well as the absentee ballot should have been counted for the reasons that follow.

Voters are allowed to cast ballots in the precinct in which they live.

Section 7-7-910(A) of the South Carolina Code states, in pertinent part, that "each elector must be registered and, unless otherwise specified on his voting certificate, shall vote at the designated polling place within the precinct of his residence." In municipal elections "when the alderman, councilmen or other officials are elected by a vote at large within the municipality, the electors shall vote at the voting place in the precinct within which they reside which is nearest their residence." S.C. Code Ann. § 7-7-920. Thus, in South Carolina, a voter in an at-large municipal election "must be registered" and must vote "within the precinct of his residence." There is no dispute that the two voters were registered to vote and that they voted at the precinct nearest their residence. Thus, they complied with sections 7-7-910(A) and 7-7-920.

When a voter's name does not appear on the registration book, section 7-13-820 sets forth the procedure for poll workers to follow. This section provides, in pertinent part:

When any person presents himself with a valid South Carolina driver's license or other form of identification required by § 7-13-710, if he is not licensed to drive, at the polling precinct and his name does not appear on the registration book a manager must call the county registration office from any phone available at or away from the polling precinct. The manager shall give only the name of the elector as it appears on the driver's license or other form of identification. The member of the board of voter registration and elections taking the call must check the records of the board and if the name of the person is found and he is eligible to vote in the precinct the date of birth of the person must be read to the manager who must then ask the person for such date. Upon answering correctly, the person may vote.

...

The provision of this section is in addition to the procedure provided in § 7-5-440.

S.C. Code Ann. § 7-13-820.

It is undisputed that the poll manager called the county registration office and followed the procedure set forth in section 7-13-820. Accordingly, the votes were properly cast and the MEC erred in discarding these two ballots.

In its order, the MEC relied on section 7-5-440(B) of the South Carolina Code and the Supreme Court's opinion in *Gecy v. Town of Simpsonville*, 372 S.C. 237, 642 S.E.2d 569 (2007). However, neither supports the MEC's result.

Section 7-5-440(B) sets forth a procedure for voters who have moved to cast provisional ballots at their old precincts. The MEC concluded that this section was the only procedure a voter who moves out of a precinct can follow if that voter has failed to notify the county registration office of the change in address. However, this finding ignores the plain language of section 7-13-820 which provides that its provisions are "in addition to the procedure provided in § 7-5-440." In other words, the statutes allow voters to vote at their old precinct, provided the parameters of section 7-5-440 are followed, and voters are allowed to vote in their new (and correct) precinct, provided the parameters of section 7-13-820 are followed.

Likewise, the *Gecy* opinion does not support the MEC's conclusion. In *Gecy*, "two voters cast a ballot in a precinct where they previously were registered, but they no longer had a valid address in that precinct at the time of the election." 372 S.C. at 241, 642 S.E.2d at 572. The *Gecy* court invalidated these two votes based on the "disregard of the election statutes requiring electors to be residents of the precincts in which they vote, as well as failing to follow the procedure outlined in [7-5-440] for those voters who have moved to a new precinct." *Id.* at 242, 642 S.E.2d at 571.

Here, unlike the voters in *Gecy*, the Two Voters were residents of the precinct in which they voted. Had the Two Voters not voted where they did, they—like the *Gecy* voters—would have violated section 7-7-910(A), which requires a voter to "vote at the designated polling place within the precinct of his residence." See also *Sandusky Cnty. Democratic Party v. Blackwell*, 387 F.3d 565, 568 n.1 (2004) (in South Carolina, a ballot will only count if it is cast in the

correct precinct (citing 7-13-820)). Instead, the Two Voters cast ballots in their new (and correct) precinct after their addresses were verified in the manner required by section 7-13-820.

Accordingly, I find these ballots were validly cast and should have been counted. This finding alone renders Stephens the victor.

Burgess's absentee ballot should have been counted.

In addition to my above findings restoring the two invalidated ballots, I also find that the MEC erred when it discarded the Burgess absentee ballot. Specifically, I find that the missing address for the witness was a technical error that does not warrant setting aside the election.

Section 7-15-380 states that the address of the witness "shall appear on the oath." However, this section provides no remedy in the event an address does not appear. A later section, section 7-15-420, sets forth the procedure for receiving and counting absentee ballots. That section first directs poll managers to "examin[c] the return-addressed envelopes that have been received by the county board of voter registration and elections making certain that each oath has been properly signed and witnessed and includes the address of the witness." Thus, managers are to review absentee ballots for three things: (1) a proper signature of the voter; (2) a(n) (arguably proper) signature of a witness; and (3) the address of the witness. The statute then sets forth which absentee ballots are invalid: "A ballot may not be counted unless the oath is properly signed and witnessed nor may any ballot be counted which is received by the county board of voter registration and elections after time for closing of the polls." Although there are three different ways in which the absentee ballot can be fatally defective, this list of three things is different from the three things the poll manager was to review. Rather, the defects that the Legislature has determined are fatal to an absentee ballot are: (1) the lack of a proper signature from the voter; (2) the lack of a(n) (arguably proper) signature of a witness; and (3) untimely receipt.

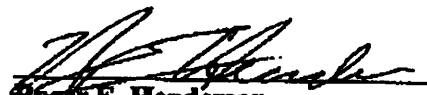
The lack of an address for the witness is, by the plain language of the statute, not reason enough to discard the ballot. The missing address is a mere technicality and will be overlooked in favor of protecting the right of suffrage. See S.C. Code § 7-15-20; *Knight*, 297 S.C. at 57, 374 S.E.2d at 686 ("Petitioner's argument for a strict scrutiny standard for absentee voting must fail because our General Assembly has specified that statutes concerning absentee registration and absentee voting shall be liberally construed.").

CONCLUSION

For the foregoing reasons, the MEC's order is reversed. Macey Stephens is the winner of the town council seat.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

AND, IT IS SO ORDERED.


Roger E. Henderson
Circuit Court Judge

Date: September 3, 2015
Chesterfield, South Carolina

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF CHESTERFIELD)

IN RE: GLENN ODOM,

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Civil Action No.: 2017CP0201316

**TOWN OF MCBEE’S MEMORANDUM IN
OPPOSITION TO ODOM’S MOTION TO
RECONSIDER**

Defendants.

The Town of McBee requests the Court deny Glenn Odom (“Odom”) motion to reconsider for the following reasons:

FACTS

The Town of McBee held an election for two seats on the Town Council on September 5, 2018. Glenn Odom filed a notice and amended notice to contest the results of the McBee Town Election for Town Council on September 6, 2018. A hearing on the contest was held on September 25, 2018 at the McBee Town Hall. Testimony was taken from four voters whose votes were protested on the day of the election and these votes were not counted in the election results and Shilon Greene was initially determined to be the winner by a vote of 209 votes for Shilon Greene and 208 votes for Glenn Odom..

The commission, based on the testimony taken, found that Simone Bracey, Sabrina De Jesus, Cindy Kirk, and Robert Liles were domiciled in the Town of McBee more than thirty (30) days before the September 5, 2018 election as required by S.C. Code Ann. § 7-5-610, S.C. Code

Ann. § 7-5-230(B) and S.C. Code Ann. § 7-1-25, and therefore, were voters eligible to vote in the September 5, 2018 election.

Because adding the four votes to the total for Glenn Odom would have changed the outcome of the election, the Town of McBee Municipal Election Commission (“MEC”) invalidated the September 5, 2018 election and ordered a new election as is required under S.C. Code Ann. § 5-15-130.

Odom then appealed the MEC decision to the Chesterfield Court of Common Pleas arguing that Odom should have been declared the winner of the election. On November 13, 2018, the Court filed an Order upholding the MEC decision to invalidate and order a new election. On November 20, 2018, Odom filed a motion to reconsider the November 13, 2018 decision.

ARGUMENT

Odom raises two arguments in his Motion to Reconsider. First, Odom argues that the Court erred in applying S.C. Code Ann. § 5-15-130 rather than S.C. Code Ann. § 7-13-830. Secondly, Odom argues that the Court erred in interpreting S.C. Code Ann. § 5-15-130, and that § 5-15-130 does not require election invalidation.

I. THE RELIEF REQUESTED WAS NOT CONTAINED IN ODOM’S NOTICE OF CONTEST, AND, THEREFORE, IS NOT PRESERVED FOR APPEAL.

In Odom’s Motion to Reconsider, Odom requests that the Court order that Odom was the winner of the election based on the testimony from the contest hearing. This issue is not preserved for appeal.

“The right to contest an election exists only under the [state] constitutional and statutory provisions, and the procedure prescribed by statute must be strictly followed.” Taylor v. Roche, 271 S.C. 505, 248 S.E.2d 580 (1978). “Within forty-eight hours after the closing of the polls, any candidate may contest the result of the election as reported by the managers by filing a written

notice of such contest together with a concise statement of the grounds therefor” S.C. Code Ann. §5-15-130. Pleadings in an election contest case should be sufficiently specific to give reasonable information for the grounds for the contest. *See Butler v. Town of Edgefield*, 328 S.C. 238, 247, 493 S.E.2d 838,843 (1997) [citations omitted]. To be preserved for review, issues in an election contest must be raised in the contest letter. *Taylor v. Town of Atlantic Beach Election Com’n*, 363 S.C. 8, 18, 609 S.E.2d 500, 505 (2005) (“These issues are not preserved for appellate review. Appellants failed to raise either issue in their notice of contest letters.”).

In Odom’s Notice of Contest letter, Odom wrote that “I would like to contest the official results of the September 4th, 2018 Town Council election on the following grounds” (Exhibit 1). He then proceeded to list several for the contest. At the end of the letter, he wrote “These contested votes will affect the outcome and results of the election.” (*Id.*) While counsel for Odom did request that Odom be declared the winner at the hearing, the request could not be considered as it was not included in the Notice of Contest letter.

II. THE SOUTH CAROLINA SUPREME COURT HAS REPEATEDLY FOUND THE ONLY RELIEF AVAILABLE UNDER § 5-15-130 IS A NEW ELECTION.

Odom argues the Court incorrectly applied S.C. Code Ann. § 5-15-130 in its November 13, 2018 order, and argues the Court should instead apply S.C. Code Ann. §7-13-830. Odom then cites *Trapp v. S.C. Board of State Canvassers*, 273 S.C. 163, 255 S.E.2d 670 (1979) to support his argument that the Court could declare Odom the winner of the election. This argument fails.

First, the *Trapp* case involved a county election. S.C. Code Ann. § 7-17-30 et seq. govern protests of county elections. S.C. Code Ann. § 5-15-130 governs protests in municipal elections. The Supreme Court of South Carolina was clear that in municipal election protests,

“[t]he only relief the [MEC] may order is a new election as to the parties concerned.” *Armstrong v. Atlantic Beach Mun. Election Com’n*, 380 S.C. 47, 49, 668 S.E.2d 400, 402 (2008) (citing S.C. Code Ann. § 5-15-130); *Broadhurst v. City of Myrtle Beach Election Com’n*, 342 S.C. 373, 386, 537 S.E.2d 543, 549 (2000) (holding that circuit court erred by declaring one candidate a winner “[s]ince § 5-15-130 only authorizes a new election”). As § 5-15-130 only authorizes the MEC to order a new election, the Court has no authority to order any further relief as requested by Odom. *Id.* Odom has cited no authority under which the MEC could have taken any action other than order a new election. *Armstrong* and *Broadhurst* make it clear that ordering a new election is the only remedy available to the MEC.

Because the only remedy available to the MEC is to order a new election, Odom’s Motion to Reconsider should be denied.

CONCLUSION

Because the requested relief was not presented in the original Notice of Contest and the only authority the MEC has under S.C. Code Ann. § 5-15-130 is to order a new election, the MEC requests this Court deny Odom’s Motion to Reconsider.

(Signature Page Following)

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.

s/ Richard E. McLawhorn, Jr.

Martin S. Driggers, Jr.

Richard E. McLawhorn, Jr.

115 Cargill Way, Suite B

Hartsville, South Carolina 29211

(803) 256-2233

**ATTORNEYS FOR TOWN OF MCBEE
MUNICIPAL ELECTION COMMISSION**

Columbia, South Carolina
December 11, 2018

McBee Municipal Election Commission
Linda Sterling, Dale McCluney, Todd Horton
38 W Juniper Ave
McBee, SC 29101

Dear McBee Municipal Election Commission:

I would like to contest the official results of the September 4th, 2018 Town Council election on the following grounds:

Simone Bracey previously resided at 386 W Poplar Avenue. She, along with Sabrina Dejesus, moved to 137 W Cypress Avenue the weekend of July 27th, 2018.

Cindy Kirk has been residing at 391 S Seventh Street more than 30 days prior to the election.

Robbie Liles and his family reside at 181 W Cypress Avenue. They were fully moved in Friday, August 3rd, 2018.

Gloria Sumner previously resided at 401 Union Church Road and moved to 208 W Elm Avenue. Both addresses are in McBee's town limits.

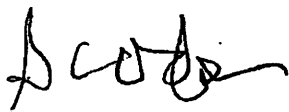
Cornelius Greene was allowed to vote on Election Day and does not reside in McBee, SC. Mr. Greene resides in Columbia, SC.

Shirley Sullivan and Frank Johnson were not allowed to vote even though they live in town limits.

I am also protesting the fact that Mr. Mendoza and Mr. DeWitt's provisional votes were allowed.

These contested votes will affect the outcome and results of the election.

Sincerely,



Glenn C. Odom

****AMENDED****



STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF CHESTERFIELD

CASE NO. 2018-CP-13-00621

IN RE: GLENN ODOM

**MEMORANDUM IN OPPOSITION TO
ODOM'S MOTION TO RECONSIDER**

Shilon Green, by and through his undersigned counsel, respectfully submits this Memorandum in Opposition to Candidate Glenn Odom's Motion to Reconsider this Court's November 13, 2018 order, which correctly denied Odom's appeal of the McBee Election Commission ("MEC") Decision in the above-referenced municipal election protest. This memorandum is based on the pleadings, applicable law and the Rules of Civil Procedure. For the reasons set forth below, Mr. Green respectfully requests that the Court deny Odom's motion and uphold its initial decision.¹

Mr. Odom finds himself in the unlikely, and possibly unprecedented, posture of appealing an order that granted him the full relief he could have received as a matter of law. Therefore, as a threshold matter, Odom lacks standing to even bring this appeal in the first place.

For a party to possess standing, he must have suffered an injury-in-fact which is a concrete, particularized, and actual or imminent invasion of *a legally protected interest*. Sea Pines Ass'n for the Prot. of Wildlife v. S.C. Dep't of Natural Res., 345 S.C. 594, 600–01, 550 S.E.2d 287, 291–92 (2001) (emphasis added). As confirmed by both this Court's prior order and the South Carolina

¹ By making the arguments herein, Mr. Green does not waive, and specifically preserves, any and all legal and equitable arguments to move to reconsider or otherwise challenge the MEC's initial Decision below.

Supreme Court, in a municipal election case the “only relief the Commission may order is a new election as to the parties concerned. S.C. Code Ann. § 5-15-130 (2004). The Circuit Court does not have the authority to order any further relief.” Armstrong v. Atlantic Beach Municipal Election Commission, 380 S.C. 47 (2008); *see also* Broadhurst v. City of Myrtle Beach Election Commission, 342 S.C. 373 (2000).

The full extent of relief the MEC could have given Odom was a new election as a matter of law. Despite this fact, Odom continues to insist that he is entitled to be declared the winner of the election, even though the S.C. Supreme Court and the General Assembly have made it clear that remedy is not available to him. Therefore, because that is not an available remedy, Odom has not suffered an injury to a legally protected interest, and as such he lacks standing to bring this appeal. Accordingly, Odom’s motion to reconsider must be denied for lack of standing.

Alternatively, even if Odom does have standing, his motion should be denied. In Odom’s motion, he relies on two cases to support his argument: Trapp v. S.C. Board of State Canvassers, 273 S.C. 163, 255 S.E.2d 670 (1979), and Stephens v. Green, Case No. 2014-CP-13-00635 (Sept. 4, 2015). The Trapp case involved a county, rather than a municipal, election. As a result, the county election at issue in Trapp was governed by Title 7 of the S.C. Code, not Title 5 as in this case. Therefore, in Trapp the Supreme Court correctly applied Title 7 to find that the prevailing candidate was declared elected. However, as this Court has already found, Title 5 applies to the remedies and relief available in this matter involving a municipal election, not Title 7, so the Trapp case is irrelevant and immaterial to the case at bar.

In Stephens, it is true that on appeal the Court reversed the MEC’s decision to order a new election. However, it is important to note that the Court did not declare an election winner, as Odom errantly suggests. Rather, the Court simply reinstated the original election result that was

initially protested by Green, and the net result of that decision was Stephens won the election based on the certified election results, not due to an order of the Court installing him as the winner.

That is an important distinction, because the successful appeal to the Circuit Court in Stephens only meant that the original result of the election was operative. According to Odom's logic, Green, the protesting party at the MEC level in the Stephens case, should have been installed the winner of the election by the MEC after he won his election protest. But Green was not installed as the winner of the election by the MEC, and correctly so, because S.C. Code Ann. § 5-15-130 does not provide for that remedy. The statute only provides for a new election. The Court did not, as Odom argues, simply declare Stephens the winner; rather, Stephens became the winner because he won the election.²

Here, Odom did not win the election. Instead, he protested the election result, and the MEC decided the protest in his favor, thus ordering a new election pursuant to S.C. Code Ann. § 5-15-130. So, despite Odom's attempt to use the result in Stephens to fit his narrative, it simply has no bearing on this case.

CONCLUSION

WHEREFORE, Mr. Green respectfully requests that this Court deny Mr. Odom's Motion to Reconsider, reaffirm its Order of November 13, 2018, and order any further relief as the Court deems just and proper.

SIGNATURE PAGE ATTACHED

² A new election was never held in the Stephens case because Stephens successfully appealed the MEC's decision to the Circuit Court, which reversed the MEC and reinstated the initial election results.

Respectfully submitted,

s/ Karl S. Bowers, Jr.
Karl S. Bowers, Jr.
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Attorney for Shilon Green

December 10, 2018
Columbia, South Carolina

Municipal Election Commission

Town of McBee

HEARING RE:

Glenn Odom,
Appellant,
V.

Alexander C. McLeod
and Shilon Green,
Respondents.

Tuesday, September 25, 2018
McBee Town Hall, 38 West Juniper Avenue
McBee, South Carolina

1:01 p.m. - 3:36 p.m.

The Hearing was taken before Roger Williamson,
Court Reporter and Notary Public for the State of
South Carolina, at McBee Town Hall, 38 West
Juniper Avenue, McBee, South Carolina, on Tuesday,
September 25, 2018.

Q & A Court Reporting Services
Post Office Box 4563 (29502)
273 West Evans St. (29501)
Florence, South Carolina
telephone: (843) 673-9845
e-mail: Info@qacourtreportingonline.com
visit: www.qacourtreportingonline.com

A P P E A R A N C E S

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By: Richard McLawhorn, Esq.
Rem@swblaw.com

ALSO PRESENT:

Linda Sterling (Chair)

Dale McCluney

Todd Horton

I N D E X

WITNESS

Sabrina DeJesus

Examination by Mr. Parker 8

Examination by Ms. Sterling 11

Further Examination by Mr. Parker 12

Examination by Mr. Bowers 15

Further Examination by Mr. Parker 22

Further Examination by Mr. Bowers 23

Further Examination by Mr. Parker 26

Further Examination by Mr. Bowers 26

Emmette Dixon

Examination by Mr. Parker 36

Examination by Mr. Bowers 39

Further Examination by Mr. Parker 44

I N D E X (continued)

WITNESS

Cindy Louise Kirk

Examination by Mr. Parker 45

Examination by Mr. Bowers 49

Robert Dale Liles

Examination by Mr. Parker 57

Examination by Mr. Bowers 61

Glenn Odom

Examination by Mr. Parker 64

Examination by Mr. Bowers 69

Examination by Mr. McCluney 74

E X H I B I T S

APPELLANT

EX 1 DeJesus Identification

EX 2 DeJesus Voter Registration Card

EX 3 Bracey Voter Registration Card

EX 4 Kirk Identification

RESPONDENTS

EX 1 McBee Town Code

1 Ms. Sterling: The -- the Municipal
2 Elections Commission is resuming its September 10th
3 protest hearing today. We have a quorum in the
4 community of Todd Horton, Dale McCluney and myself,
5 Linda Sterling. Let the record stand that it's
6 being recorded by a court recorder -- reporter. I'm
7 sorry. Mr. Parker, would you like to make an
8 opening statement?

9 Mr. Parker: Yes.

10 Ms. Sterling: Thank you.

11 Mr. Parker: The -- we're here today, of
12 course, about the election that took place on
13 September the 4th. And we're really here about
14 certain votes that we believe should have been
15 counted that the -- in South Carolina in order for
16 somebody to vote, they have to be legally registered
17 as a voter. And if they are, then they are entitled
18 to vote. If they did something illegal to become a
19 registered voter, of course, they wouldn't be.
20 To my knowledge, there has been no evidence that
21 these votes that were disallowed or were not legal
22 residents of McBee. But for whatever reason, they
23 were disallowed by the commission and we believe
24 that that was not only improper, but also illegal.
25 Because in order to have -- have the most valuable

1 right that we have as citizens is the right to
2 vote. And if we are disallowed that and we don't
3 have free and open elections in which people who
4 are eligible to vote are allowed to vote, then we
5 no longer have a democracy. We -- we have
6 something that's less than that. And we are
7 entitled to have a democracy whereby the people
8 speak, the people who are eligible to vote are
9 allowed to vote. And we feel like in this case
10 that has not occurred. And we -- and we'll be
11 here today to present evidence of people who
12 should have been allowed to vote or to vote for an
13 candidate they voted for. Might as well not have
14 if you don't count them. So that's where we are
15 and we look forward to going forward with that.

16 Ms. Sterling: Thank you. Mr. Bowers.

17 Mr. Bowers: Yes, ma'am. Thank you
18 Madam Chairwoman and -- and members of -- of the
19 commission. To -- to quote that -- that great poet
20 Yogi Berra, this feels like deja'vu all over again.
21 Here we are with yet another election protest. Of
22 course, you know, the -- the -- the burden is on the
23 protestant to prove that -- that either votes that
24 should -- that -- that were counted should not have
25 been or vice versa. Folks that weren't -- weren't

1 counted should have been. So the burden is on them
2 to -- to demonstrate evidence to show that -- that
3 the -- that that occurred.

4 Absent such evidence, then the -- the
5 results of the election must stand. I'm -- I'm
6 sure Mr. Parker will put on a good -- a good
7 presentation and I'm sure that there will be some
8 -- some discussion about this. But let's -- as a
9 overall proposition, let's -- it's important to
10 note that what our supreme court has said -- about
11 our South Carolina Supreme Court has said about
12 elections. There is no such thing as a perfect
13 election. We all know that. I'm no
14 mathematician. I've tried to do the math. If I'm
15 not mistaken, we had about 66 percent turnout,
16 which is pretty good.

17 Ms. Sterling: Sixty-two, sixty-four. I
18 think count. Yeah.

19 Mr. Bowers: Somewhere in the sixties is
20 pretty good.

21 Ms. Sterling: Uh-huh. Uh-huh.

22 Mr. Bowers: I believe there were 429
23 ballots cast total --

24 Ms. Sterling: Uh-huh. Correct.

25 Mr. Bowers: -- both in person and

1 absentee. And of those -- if not again -- if my
2 cyphering is correct, only 10 people were questioned
3 by Mr. Odom or only 10 voters. That -- that comes
4 out to about 98 plus percent acceptance rate. And
5 so is -- is that perfect, no. But guess what, there
6 is no such thing as a perfect election and let me
7 quote from -- from the South Carolina Supreme Court.
8 This is the Berry v. Spigner from 1954. So it's
9 stood the test of time. Voters who have done all in
10 their power to cast their ballots honestly --
11 honestly and intelligently are not to be
12 disenfranchised because of an irregularity, a
13 mistake, error or either wrongful act of the
14 officers charged with the duty of conducting the
15 election, which does not prevent a fair election and
16 in some way affect the result. This was a fair
17 election. This was a free election. An open
18 election. And it was a close result. But, you
19 know, there's the -- there are no ties in this -- in
20 this matter. And so it's a close result. But that
21 doesn't mean that it was an irregular or improper
22 election. And we look forward to -- like Mr. Parker
23 said, I look forward to -- to -- to demonstrating to
24 the -- to the commission here that -- that they will
25 not be able to present enough evidence to overturn

1 the outcome of the election. So I look forward to
2 moving forward. Thank you.

3 Ms. Sterling: Thank you. Mr. Parker,
4 would you like to speak.

5 Mr. Parker: Thank you. We will call
6 Sabrina DeJesus. If you'll come up and be sworn.

7 Court Reporter: Put your right hand on
8 the Bible -- put your left hand on the Bible and
9 raise your right hand, please. Do you vow or affirm
10 the testimony that you give today will be the truth,
11 the whole truth and nothing but the truth?

12 The Witness: Uh-huh. I do.

13 Court Reporter: Thank you.

14 E X A M I N A T I O N

15 By Mr. Parker:

16 Q Please state your full name.

17 A Sabrina DeJesus.

18 Q And where do you live?

19 A 137 West Poplar Avenue.

20 Q And that's in McBee?

21 A Uh-huh.

22 Q And how long have you lived there?

23 A I've lived there since July 16th.

24 Q And you -- you rented a mobile home
25 there. Is that correct?

1 A Uh-huh.

2 Q And you moved there and live there
3 with -- who lives there with you?

4 A My wife Simone Bracee.

5 Q And did you register to vote in McBee?

6 A Uh-huh. I did.

7 Q And when did you register?

8 A I registered to vote the 25th of July.

9 Q And did you, in fact, vote in the
10 primary on September the 4th -- not the primary --
11 in the election on September the 4th?

12 A I did.

13 Q And did you know anything was wrong
14 about the way you voted or anything at that point in
15 time?

16 A Not at the moment, until I went up to
17 the poll to vote and I was told I was being
18 challenged.

19 Q Did you know why you were being
20 challenged?

21 A No.

22 Q Did anybody tell you that why you were
23 being challenged?

24 A No.

25 Q At the time that you registered to vote,

1 were you a resident of McBee?

2 A Yes.

3 Q And were you an eligible voter?

4 A Yes.

5 Q And -- and you went to exercise your
6 right. How -- how did you vote in the election?
7 How did you go about that?

8 A I was given a paper ballot and at that
9 point, I had asked why was I being challenged.
10 And the lady told me she wasn't sure. And when
11 she gave me the paper, I looked at the bottom and
12 then I seen that it said Kent McLeod. And I asked
13 well, why would I be challenged and she didn't
14 have the answer for me. She told me that I could
15 call if I had any questions and they could explain
16 to me the rules and regulations and what was going
17 on.

18 Q And did you call anyone?

19 A I did.

20 Q And who did you call?

21 A I ended up calling the Municipal
22 Elections Committee. I think that's what they're
23 called. And they actually -- I actually told them
24 what happened. And they told me that at that
25 point, when I came into the election that Kent

1 McLeod should have been here to explain to me why
2 I was being challenged. And he was not present
3 that day when I was here.

4 Q And so insofar as why you were being
5 challenged, you did not know?

6 A I did not know.

7 Ms. Sterling: May I ask a question,
8 please?

9 Mr. Parker: Sure, absolutely.

10 E X A M I N A T I O N

11 By Ms. Sterling:

12 Q All right. Kent McLeod's name was on
13 the bottom -- on what paper?

14 A The ballot that was given to me. It
15 had --

16 Q When you came in to vote?

17 A Uh-huh.

18 Q Did you -- was there a provisional
19 ballot?

20 A Yeah. That's what I had. It was --
21 his name was on that ballot.

22 Q His name was on the ballot.

23 A Uh-huh. It said Kent.

24 Q Thank you.

25 F U R T H E R E X A M I N A T I O N

1 By Mr. Parker:

2 Q And do you know why you received that
3 ballot as opposed to the normal voting?

4 A No.

5 Q All right. Did you see somebody that
6 had a list there?

7 A There was a paper list on the table.
8 I noticed that when I had given my I.D. and my
9 registration to a lady that was sitting at the
10 front desk. And I seen a white little piece of
11 paper like a notebook paper and it had a list of
12 names on it. And I did notice that my name was on
13 that list. So I wasn't sure what that list was
14 for at that moment until it made sense when I
15 stepped up to the place to vote and they told me
16 to step back because I was being challenged. And
17 that's when it made sense that that must have been
18 what that list was.

19 Q But they didn't tell you why you were
20 being challenged?

21 A It did not.

22 Q And I want to show you a copy of your
23 driver's license and -- and is this a copy of your
24 South Carolina driver's license?

25 A It is.

1 Q And when did you receive that change of
2 address on that?

3 A I filed for it and I want to say I had
4 received -- that's -- I got this the same day,
5 like, I'm not sure the exact date that I received
6 it. I moved in on the 16th and I filed
7 everything. So I want to say I got it all around
8 the same time I got my voters registration, which
9 was around the 25th of July.

10 Q And this -- where does it show your
11 address as being?

12 A 137 West Cypress Avenue.

13 Q And has that been your address?

14 A Yes.

15 Q Is it still your address?

16 A Yes.

17 Q Were you a legal resident of McBee at
18 the time you registered to vote?

19 A Yes.

20 Q And did you get a voter registration
21 card?

22 A Yes.

23 Q And do you know why you were deprived of
24 the right to vote?

25 A I do not know why.

1 Q Would you like to know why?

2 A Yes.

3 Q Do you feel like that's a fundamental
4 right of yours, the right to -- to vote in the
5 elections of McBee?

6 A I do.

7 Q And do you intend to participate in the
8 future elections?

9 A I do.

10 Q Do you know why Mr. McLeod decided to
11 challenge your ballot?

12 A I don't.

13 Q And I think you -- who do you live with?

14 A My wife Simone Bracee.

15 Q And was her ballot challenged also?

16 A Yes.

17 Q Do you know why it was challenged?

18 A I don't.

19 Q All right. Do you -- has anybody told
20 her why her ballot was challenged?

21 A No.

22 Q Now, where did y'all live prior to
23 moving to McBee?

24 A Well, we temporarily went to
25 Darlington for about three months. But before

1 that we lived at 386 West Poplar, which was also
2 in McBee as well.

3 Q And how long did you live there?

4 A My wife lived there two years -- two
5 years there before I moved in with her.

6 Q And how long did you live in McBee
7 before y'all went to Darlington?

8 A Roughly, about seven, eight months.

9 Q But she had lived there for a couple of
10 years prior to that and y'all -- y'all have
11 children?

12 A Yes.

13 Q And they live there with you?

14 A Uh-huh.

15 Court Reporter: Could you please, say
16 yes or no when answering him so I make sure I get
17 your answer correctly.

18 Mr. Parker: Answer any questions
19 Mr. Bowers may have for you. I'm going to look for
20 something while I have time.

21 Mr. Bowers: Thank you, sir.

22 E X A M I N A T I O N

23 By Mr. Bowers:

24 Q Ms. DeJesus --

25 A Uh-huh.

1 Q -- good afternoon.

2 A Good afternoon, to you.

3 Q I want to make sure I -- I may have
4 written this down incorrectly. Tell me again what
5 you told Mr. Parker what -- what's your address?

6 A 137 West Cypress Avenue.

7 Q Okay. And did I hear you say that you
8 moved in on the 16th?

9 A Of July.

10 Q Of July, okay. I'll show you this
11 document. It's -- it's a public record from the --
12 you can keep that -- from the Town of McBee. Take a
13 look at that. Have you ever seen that document
14 before?

15 A Yes.

16 Q You have seen that?

17 A I think so. Yes.

18 Q Okay. You see where it says that the --
19 the application that -- I'm sorry, the applicant has
20 met the requirements of the Town of McBee ordinance
21 and it's got an address on it. And it's -- it's got
22 the mobile home property address 137 West Cypress.
23 Do you see that?

24 A Uh-huh.

25 Q That's a yes?

1 A Yes.

2 Q Okay. Do you see down it's approved by
3 a town official?

4 A Uh-huh. Yes.

5 Q On July 24th, 2018?

6 A Yes.

7 Q Okay. So are you telling me you moved
8 in nine days ahead of time?

9 A I did.

10 Q You did.

11 A I did.

12 Q Okay. Did you have water?

13 A We had a generator and we also had our
14 furniture in the location and we also a A.C.
15 units.

16 Q Did you have water?

17 A Yes.

18 Q You did have water?

19 A Yes.

20 Q Town water?

21 A Yes.

22 Q Okay. You're certain it was town water?

23 A I do believe so. We had running
24 water.

25 Q Right, but I'm -- you're certain it's --

1 it's -- it was hooked up with the town?

2 A Yes.

3 Q Okay. Do you see on that -- on this
4 form it also says this permit does not include
5 prerequisite to occupy the mobile home within the
6 town limits of the town of McBee, do you see that?

7 A I do.

8 Q Okay. And so you moved in at least nine
9 days before the permit was issued. Right?

10 A Yes.

11 Q Okay. And the permit, you said that you
12 think you've seen. It says it doesn't give the
13 prerequisite to occupy the home. Right?

14 A Yes.

15 Q Okay. And so yet you still maintain
16 that you were a legal resident?

17 A I was.

18 Q You were? Okay. Would it surprise you
19 if I said that Mr. McLeod challenged your vote
20 because -- because of the -- the discrepancies in
21 the dates? Because you say -- you just testified
22 under oath that you moved in on the 15th of July.
23 Yet --

24 A The 16th of July.

25 Q The 16th, I'm sorry. The 16th of July

1 and -- but the permit for the mobile home wasn't
2 issued until the 24th of July.

3 A I can see why he would challenge it.

4 Q Okay. So that -- that question that Mr.
5 Parker asked you if you would like to know, now you
6 know, right?

7 A Okay.

8 Q Okay.

9 Mr. Parker: Can I ask a question? Why
10 would he challenging about that?

11 Mr. Bowers: I'm asking her questions
12 right now. We -- we can talk later about it.

13 By Mr. Bowers:

14 Q Tell me what kind of power you had.

15 A A generator.

16 Q Do you still have a generator?

17 A No.

18 Q You don't?

19 A No.

20 Q Okay. I beg your indulgence just for a
21 minute. Ms. DeJesus, are you aware that there is a
22 town ordinance -- it's like a law -- that says it's
23 illegal to connect or use water and sewer services
24 unless it's with the city? Are you aware of that?

25 A No.

1 Q Okay. I'm telling you as an officer of
2 the court that there is a -- there is such a -- an
3 ordinance on the books in McBee.

4 Mr. Parker: We -- we object to that --
5 the certain way he introduced. And the reason being
6 that in order to get into evidence, a McBee town
7 code as a procedure, you have to go through to prove
8 that and it hadn't been on there.

9 Mr. Bowers: Well, the -- the -- Madam
10 Chairwoman, the commission can take judicial notice
11 of -- of an ordinance, right?

12 Mr. Parker: I -- I disagree.

13 Mr. Bowers: But -- I -- I'm telling you
14 that the commission can take judicial ordinance --
15 I'm sorry -- judicial notice of its own ordinance.
16 And in addition, it's a -- it's a public record. In
17 addition, it's a public record --

18 Ms. Sterling: Okay.

19 Mr. Bowers: -- and it's an exception to
20 the hearsay rule.

21 Ms. Sterling: Okay. Yes.

22 Mr. McCluney: Can you give us that
23 ordinance number?

24 Mr. Bowers: Sure. I'll read it --
25 17.203.3.

1 By Mr. Bowers:

2 Q Ms. DeJesus, do you know anybody named
3 Joey Oliver?

4 A No.

5 Mr. Bowers: Okay. I'll give you a
6 copy. I'll hand this to you as well.

7 By Mr. Bowers:

8 Q Take a minute to read that, please, to
9 yourself. Not outloud. Do you still believe you
10 have city water based on this letter? Or do you
11 think maybe you might have well water? Or maybe you
12 just don't know?

13 A I don't know. I just know I have
14 water there.

15 Q You have water.

16 A Yeah.

17 Q I'm not disputing that. You just don't
18 know one way or the other.

19 Mr. Bowers: Okay. No more questions
20 for this witness at this time.

21 Ms. Sterling: Okay. You may please,
22 step down.

23 Mr. Parker: Wait a minute.

24 Ms. Sterling: Oh, okay.

25 Mr. Parker: I wanted her to --

1 Ms. Sterling: Excuse me.

2 Mr. Parker: I -- I -- exhibit 1 is the
3 -- the -- we've got as her driver's license that
4 shows her address.

5 F U R T H E R E X A M I N A T I O N

6 By Mr. Parker:

7 Q And exhibit 2, is that your voter
8 registration?

9 A Yes, it is.

10 Mr. Parker: All right. And we will
11 introduce these into evidence.

12 Ms. Sterling: Thanks.

13 Mr. Bowers: John --

14 Ms. Sterling: Where did you get this?

15 Mr. Bowers: -- may I see the voter's
16 registration?

17 Mr. Parker: Yeah. Right up here
18 they've got it.

19 Mr. Bowers: Okay.

20 Ms. Sterling: And whatever you have Mr.
21 Bowers too. After you're finished. Okay. To the
22 other.

23 Mr. Bowers: Okay. One follow-up
24 question.

25 F U R T H E R E X A M I N A T I O N

1 By Mr. Bowers:

2 Q After looking at this voters
3 registration and the driver's license, when you --
4 when you got your voter registration card on Jul---
5 July 25th, what did you show to -- what
6 identification did you show to get the card?

7 A The card came in the mail.

8 Q The card came in the mail?

9 A Yes.

10 Q Okay. So you didn't go to --

11 A To 137 West -- West Cypress Avenue,
12 that's where it came.

13 Q Okay. So you didn't go to the town to
14 register -- the commission to reg--- register. You
15 did it by mail?

16 A Uh-huh.

17 Q Okay. Yes?

18 A Yes.

19 Q Okay. When did you mail that if you
20 recall?

21 A I don't recall an exact date.

22 Q Okay.

23 A I don't recall the exact date. But I
24 did -- I did the voter's registration the same day
25 that I did change my address. Because they came

1 around the same time.

2 Q Well, I -- I'm not sure that's accurate,
3 but does your license, I believe is correct --
4 issued on August -- let's see -- it says that it was
5 issued August 3rd, 2015?

6 A That's when I got my driver's license
7 the very first time.

8 Q Okay. Do you have a -- right.

9 A When I turned 18.

10 Q Right. And then tell me -- so how could
11 you use that? All right. So you -- all right. So
12 tell me again, when did -- when -- about when you
13 think you mailed it or you asked for the voter
14 registration card coming in?

15 A It had to be about the time that I
16 moved in, which was around the 16th.

17 Mr. Bowers: Okay. No further
18 questions.

19 Ms. Sterling: Do you have any
20 objections to this evidence that he -- Mr. Parker
21 gave?

22 Mr. Bowers: No objections. No, ma'am.
23 I -- I would like to introduce -- I will give
24 Mr. Parker a copy of this one as the -- I'd like to
25 introduce into evidence. This one is -- is a

1 business record that is a contractor from -- that
2 does work for the -- for the city.

3 Ms. Sterling: Uh-huh.

4 Mr. Bowers: And we have the document --
5 and the other document is the -- is the town
6 ordinance.

7 Ms. Sterling: Mr. Parker, you --

8 Mr. Parker: We object to that
9 obviously. There's no witness here to promulgate
10 that document and it would not come into evidence.
11 It's hearsay. And -- and you could call Mr. Oliver
12 as a witness, but you can't put in a document to
13 prove things that nobody here -- in fact, it -- it
14 is inaccurate and we'll prove that.

15 Mr. Bowers: And again --

16 Mr. Parker: That's why you can't do it.

17 Mr. Bowers: It's a -- it's an exception
18 to the hearsay rule. It's -- it's not only as a
19 public record, because it's a contractor for the
20 town of McBee, but it's also a -- a business record
21 kept in the regular course of Mr. Oliver's
22 business. So it's a -- it's a business record
23 that --

24 Ms. Sterling: Okay.

25 Mr. Bowers: -- we believe should be

1 admitted.

2 Ms. Sterling: Thank you. Thank you.

3 Excuse us. We will take judicial notice of this one
4 here, the ordinance. But on -- on the other bit of
5 evidence you gave us, we have to have someone come
6 in here and verify this.

7 Mr. Bowers: Thank you, ma'am.

8 Ms. Sterling: Mr. Parker.

9 Mr. Parker: Thank you. I just have one
10 other question.

11 FURTHER EXAMINATION

12 BY Mr. Parker:

13 Q Who did you vote for? Did you vote for
14 Glenn Odom?

15 A Yes.

16 Q And was that vote counted?

17 A No.

18 Mr. Parker: That's all.

19 Ms. Sterling: Mr. Bowers.

20 Mr. Bowers: Yeah. I got to ask one
21 more, Judge.

22 FURTHER EXAMINATION

23 By Mr. Bowers:

24 Q Who owns the mobile home that you --
25 where you reside? Do you own it?

1 A Uh-huh.

2 Q Does your wife own it?

3 A No.

4 Q Does Mr. Odom own it?

5 A He does.

6 Q Do you pay him rent?

7 A Yes.

8 Q Fair market value rent?

9 A Yes.

10 Q Okay. How long have you known each

11 other?

12 A I have known Mr. Odom since I moved

13 into my trailer.

14 Q So you've known him since --

15 A Well, I've known of --

16 Q -- July -- July the 16th?

17 A I lived in McBee when I was younger in

18 my teenage years. And we actually rented from Mr.

19 Odom when we -- it was the big brick house that he

20 had at the corner there. We actually rented from

21 him, then. So I knew of Glenn Odom, then. I just

22 -- I'm older now and I'm able to vote and I know

23 him personally --

24 Q Okay.

25 A -- from renting from him.

1 Q So you knew who he was?

2 A Uh-huh.

3 Q And as a young -- a younger person.

4 A Yes.

5 Q But you didn't meet him until July of
6 2018. Correct?

7 A So-so. Yes.

8 Q Okay. Thank you.

9 Ms. Sterling: Are you all done?

10 Mr. Parker: I have no further
11 questions.

12 Ms. Sterling: Mr. Bowers, you're
13 finished?

14 Mr. Bowers: I'm good.

15 Ms. Sterling: You can stand up.

16 Court Reporter: Are we marking this?

17 Ms. Sterling: This -- this one.

18 Mr. McCluney: This one.

19 Ms. Sterling: Uh-huh.

20 Court Reporter: These two will be --
21 and this one. Can I get you to raise your right
22 hand, please. Do you vow or affirm the testimony
23 that you give today will be the truth, the whole
24 truth and nothing but the truth?

25 The Witness: I do.

1 Court Reporter: Thank you.

2 By Mr. Parker:

3 Q Please state your full name.

4 A Simone Changel Bracee.

5 Q And where do you live, Simone?

6 A 137 West Cypress Avenue.

7 Q And how long have you lived there?

8 A I've lived there since July 16th.

9 Q And did you register to vote in McBee
10 and did you register so that you could vote?

11 A I've been registered to vote in McBee
12 since August the 4th, 2016.

13 Q And did you change your address on your
14 voter registration or you kept it what it was?

15 A I changed my address.

16 Q You changed it?

17 A Uh-huh.

18 Q And what did you change it to?

19 A 137 West Cypress Avenue.

20 Q And do you live with Sabrina DeJe---

21 A DeJesus.

22 Q How -- say it again?

23 A DeJesus.

24 Q DeJesus?

25 A Yes, sir.

1 Q And -- and y'all moved back here. You'd
2 been here for how long?

3 A I've stayed in -- well, I've lived in
4 McBee before for two years at 386 West Poplar
5 Avenue.

6 Q And then you moved to where?

7 A To Darlington.

8 Q And then you came back?

9 A I came back to 137 West Cypress
10 Avenue.

11 Q And at -- at that point in time, you
12 changed the place on your voter registration where
13 you live?

14 A Yes, sir.

15 Q And did you change your driver's
16 license?

17 A Yes, sir.

18 Q And did you vote in the September 4th
19 election?

20 A I did not. I was challenged.

21 Q But you attempted to vote?

22 A Yes, sir.

23 Q And you -- when you went to vote, who
24 challenged you?

25 A Kent McCall -- McLeod.

1 Q And did he tell you he was challenging
2 you or did you find it out?

3 A He -- I didn't find out until I walked
4 into the -- walked in and got ready to vote.

5 Q And did you know why he was challenging
6 your vote?

7 A No.

8 Q Have you ever found out why he was
9 challenging your vote?

10 A No.

11 Q And were you an eligible voter at that
12 time?

13 A Yes, sir.

14 Mr. Bowers: Objection, calls for a
15 legal conclusion.

16 By Mr. Parker:

17 Q Were you over 18?

18 A Yes.

19 Q And did you register to vote?

20 A Yes, sir.

21 Q And were you a citizen of McBee?

22 A Yes, sir.

23 Q And did you reside in McBee?

24 A Yes.

25 Q And do you know of any reason why your

1 vote -- your right to vote should be denied?

2 A No.

3 Q And who did you vote for?

4 A Glenn Odom.

5 Q And was your vote counted?

6 A No.

7 Q Answer any questions Mr. Bowers may have
8 for you.

9 Mr. Bowers: Thank you, sir.

10 E X A M I N A T I O N

11 By Mr. Bowers:

12 Q Ms. Bracee, I'll -- I'll try to be
13 quick. Did I understand you say you lived in McBee
14 for about two years?

15 A Uh-huh.

16 Q Yes?

17 A Yes.

18 Q And when did you move?

19 A I moved around April.

20 Q Of 2018?

21 A Yes.

22 Q To Darlington?

23 A Yes.

24 Q Okay. And when did you move back?

25 A July 16th.

1 Q Okay. The same day as Ms. DeJesus?

2 A Yes.

3 Q Okay. Did y'all come together?

4 A Yes.

5 Q Okay. And did y'all start living in --
6 in the mobile home on the 16th of July?

7 A Yes.

8 Q According to the protest document --
9 have you seen the protest document?

10 A No.

11 Q Okay. According to the protest document
12 by Mr. Odom, he says that you and Ms. DeJesus moved
13 to 137 Wis--- West Cypress Avenue the weekend of
14 July 27th of 2018.

15 A That's incorrect.

16 Q So he's wrong about that?

17 A Yes.

18 Q Okay. How long have you known Mr. Odom?

19 A Around a while. About since I -- the
20 first time I seen him in McBee about -- I guess
21 three years.

22 Q Did you -- had -- had you met him in
23 person bef--- by that time?

24 A I met him, but it wasn't like --

25 Court Reporter: If you could please,

1 speak up for me.

2 The Witness: I met him before. Yes.

3 By Mr. Bowers:

4 Q Okay. How did you come to rent a -- a
5 mobile home from him?

6 A We were looking to move back to McBee
7 and needed more room.

8 Q How did you know he had a mobile home?

9 A By word of mouth, just asked.

10 Q Okay. So you don't know why in this --
11 in the protest document he said y'all moved in on
12 July 27th?

13 A No. I do not.

14 Q Okay. And you're certain y'all moved in
15 on the 16th of July?

16 A I'm certain.

17 Q Okay. According to this power company
18 record, y'all didn't get power until August the 3rd.

19 A We had a generator. I do know.

20 Q But is that accurate that you didn't get
21 actual -- I'm not talking about the generator. I'm
22 talking about power from the power company that
23 didn't get hooked up until about August 3rd?

24 A I'm not sure of that date.

25 Q Is it hooked up now?

1 A Yes.

2 Q Are you still using a generator?

3 A No.

4 Q Okay.

5 Court Reporter: I'm sorry. I can't
6 hear you.

7 The Witness: We have power. Yes.

8 Court Reporter: Thank you.

9 By Mr. Bowers:

10 Q But between the time you got it hooked
11 up and when you first moved in, you had a generator?

12 A Yes.

13 Q Where did that generator come from?

14 A Mr. Odom.

15 Q Okay. Did you have to pay for it?

16 A No.

17 Mr. Bowers: Okay. I have no further
18 questions.

19 Ms. Sterling: Thank you. Mr. Parker.

20 Mr. Parker: I don't have anything
21 further.

22 Ms. Sterling: You're dismissed. Thank
23 you.

24 Court Reporter: Thank you.

25 Mr. Parker: We will call Emmette Dixon.

1 Court Reporter: Would you spell your
2 name for me, please.

3 The Witness: E-M-M-E-T-T-E.

4 Court Reporter: Is it two M's? Your
5 last name.

6 The Witness: Dixon. D-I-X-O-N.

7 Court Reporter: Could I get you to
8 raise your right hand for me, please. Do you vow or
9 affirm the testimony that you give today will be the
10 truth, the whole truth and nothing but the truth?

11 The Witness: I do.

12 Court Reporter: Thank you.

13 E X A M I N A T I O N

14 By Mr. Parker:

15 Q Please state your full name.

16 A Emmette Dixon.

17 Q And your address.

18 A 208 West Elm Avenue.

19 Q And that's in McBee? Is that a yes?

20 A Yes, sir.

21 Q How -- how long have you lived here?

22 A McBee -- October -- in McBee, October
23 the 12th of 2013.

24 Q And who is Gloria Summer?

25 A My sister.

1 Q And did she live in McBee with you?

2 A Yes, sir. She's been living with me
3 every since June 14th of 2015.

4 Q And where did she live with you in
5 McBee?

6 A 401 -- 401 Un--- Union Church Road.

7 Q And did you later -- did y'all later
8 move?

9 A Yes, we did.

10 Q And where did you move to?

11 A 20--- 208 West Elm Avenue.

12 Q Now, your sister, she's not here today?

13 A No, sir. She working in -- in
14 Tennessee.

15 Q And tell me about her work.

16 A She -- she's mainly stationed in --
17 when she's working, she's mainly stationed in
18 Kingsport, Tennessee at Eastman Chemicals. A lot
19 of times she -- if they don't have work, she'll
20 come home. She gets laid off and comes home.
21 Sometimes she'll stay two or three months.
22 Sometimes she'll stay, you know, days. And like
23 this week, she had to leave Kingsport, Tennessee
24 and travel to Virginia City, Virginia to do some
25 work there and then travel back to Tennessee.

1 Q And does she regularly come home?

2 A She comes home when she's laid off for
3 periods of time.

4 Q And is -- does she consider McBee as her
5 residence?

6 A Yes, she does.

7 Q Is she registered to vote --

8 A Yes, sir.

9 Q -- in McBee?

10 A Yes, sir. She voted in the last
11 election two years ago.

12 Q And did they count her vote in that
13 election?

14 A Yes, they did.

15 Q And did they disallow her vote at that
16 time? And --

17 Court Reporter: I'm sorry, could you
18 repeat your answer, please?

19 The Witness: No, they didn't.

20 Court Reporter: Thank you.

21 By Mr. Parker:

22 Q Do you know why her vote was challenged
23 this time?

24 A No, sir.

25 Q And was her vote counted this time?

1 A I don't -- I don't -- I don't know.

2 Q You don't know whether it was or not?

3 But was she a resident of McBee at the time of the
4 election on September 4th?

5 A Yes, she was.

6 Q And had she been for several years?

7 A Yes, sir.

8 Q And she was a lic--- a registered voter
9 in McBee?

10 A Yes.

11 Q And had she been that for a number of
12 years?

13 A Yes.

14 Mr. Parker: Answer any questions Mr.
15 Bowers may have for you.

16 E X A M I N A T I O N

17 By Mr. Bowers:

18 Q Mr. Dixon, how -- how do you know she
19 was a registered voter? Did you see her voter
20 registration card?

21 A I have seen it. I -- I do -- I pay a
22 lot of her bills and I do her income taxes. And I
23 keep up with her bills when they're due -- when
24 they're coming due and -- and a lot of times I can
25 see them -- you know, pay them for her.

1 Q Do you know who Sandy Gaskins is?

2 A Uh-huh.

3 Q Who is she?

4 A She's a lady that works at Palmetto
5 Realty in Hartsville.

6 Q Okay. And do you own the house at 208
7 West Elm or do you rent?

8 A I'm renting.

9 Q Do you rent from Palmetto Realty?

10 A Yes.

11 Q Okay. Were you evicted on August 30th?

12 A No, not on August 30th. No. The
13 eviction letter took -- taken effect on around
14 about the 5th or 6th of Oct--- September.

15 Q Okay. So if Ms. Gaskins says that you
16 were evicted on August 3rd, does that mean you
17 stayed over?

18 A I was not evicted because I didn't
19 receive the mail until -- it would have been 30
20 days. I had 30 days so it would have been around
21 the 3rd of 4th when I would have been, you know,
22 officially supposed to be out.

23 Q So it might have been the 3rd that you
24 were supposed to be out?

25 A Could have been.

1 Q Okay.

2 A But I still -- I'm still getting my
3 stuff out and have access to the -- so I can get
4 it.

5 Q Where -- where did you go after that?

6 A I kind of stayed with my cousin some.
7 She was out by McBee and she -- and then looking
8 at renting a camper again, but I'm still staying
9 with my cousin some.

10 Q She lives outside of McBee?

11 A Uh-huh. My sister does. Yeah.

12 Q Did Gloria go with you?

13 A She's been working every since then.

14 Q Working out of town?

15 A Uh-huh.

16 Q Is that a yes?

17 A Yes.

18 Q Okay.

19 A The last time she was home was
20 around -- I want to say around the 20th -- 25th of
21 August or something like that.

22 Q The last time she was home was the 25th
23 of August?

24 A I think so.

25 Q Okay.

1 A Somewhere along in there.

2 Q Was she ever listed on the -- on the
3 rental agreement?

4 A Sumner name was. Yes, it was.

5 Q Her name was? Gloria?

6 A No. Gloria's name wasn't, but the
7 Sumner name was. When I did the change the
8 address, I use Summer Bladel and Dixon.

9 Q Who is Shane Sum--- Sumner?

10 A That's my nephew.

11 Q Okay.

12 A Her -- her son.

13 Q Her son?

14 A Uh-huh.

15 Q Okay. Have you seen -- have you talked
16 to Gloria since she left -- left, like in -- what
17 did you say August 25th or so?

18 A Uh-huh. I -- I talk to her quite a
19 bit, you know, sometimes.

20 Q And -- and I think you told Mr. Parker
21 that where -- where is she working out of town?

22 A Kingsport, Tennessee and she could be
23 in between Virginia City, Virginia and Kingsport,
24 Tennessee. I'm not exactly sure of that, but
25 she's back and forth between them right now.

1 Q What's her line of work?

2 A Safety coordinator for National
3 Borer's Services.

4 Q Okay.

5 Court Reporter: Safety coordinator for
6 who?

7 The Witness: National Borer's --
8 National Borer's Services.

9 By Mr. Bowers:

10 Q Sir, you -- you probably told -- you
11 probably told Mr. Parker this and I just forgot it.
12 When -- when did Ms. Sumner move in with you at 208
13 West Elm?

14 A When -- when I moved she -- you know,
15 she moved with us in between her working in and
16 out of town. But when she came into town, she
17 stays with me. And she always has. She moved in
18 -- she moved to the Town of McBee on June the 14th
19 of 2015. That was the day my mama died and she
20 moved in with me, her and her husband were there.

21 Mr. Bowers: Okay. I don't have any
22 more questions. Thank you, sir.

23 Mr. Parker: One more question.

24 F U R T H E R E X A M I N A T I O N

25 By Mr. Parker:

1 Q Does -- does her son live with you?

2 A He did.

3 Q He did. When did he move out?

4 A He -- he got into some trouble. So
5 he's in Columbia right now.

6 Q He hadn't voluntarily moved out?

7 A That's right.

8 Q But he would be -- if it wasn't for his
9 trouble, he'd still be with you?

10 A Yes -- yes, sir.

11 Mr. Parker: That's all. Thank you.

12 Ms. Sterling: Yes, sir. Thank you.

13 Court Reporter: This -- can you spell
14 -- was it Sumner and Bladel? Can you spell Bladel
15 for me?

16 The Witness: B-L-A-D-E-L. That's my
17 sister's husband. She just uses her name.

18 Court Reporter: What was the name of
19 the chemical company you said?

20 The Witness: Eastman Chemical.

21 Court Reporter: Eastman. Thank you.

22 Mr. Parker: You ready for us to
23 continue?

24 Ms. Sterling: Oh, yes. I'm sorry.

25 Mr. Parker: Thank you. We'll call

1 Sandy Kirk.

2 Court Reporter: Spell your name for me,
3 please.

4 The Witness: C-I-N-D-Y.

5 Court Reporter: Last name.

6 The Witness: K-I-R-K.

7 Court Reporter: Can I get you to raise
8 your right hand, please. Do you vow or affirm the
9 testimony that you give today will be the truth, the
10 whole truth and nothing but the truth?

11 The Witness: Yes, sir.

12 Court Reporter: Thank you. If you
13 could, please keep your voice up for me.

14 E X A M I N A T I O N

15 By Mr. Parker:

16 Q Ms. Kirk, where -- what -- what is your
17 full name?

18 A Cindy Louise Kirk.

19 Q And Ms. Kirk, where do you live?

20 A 397 -- 391 South Seven Street.

21 Q In McBee?

22 A Yes, sir.

23 Q And how long have you lived there?

24 A I bought it in February.

25 Q Of which year?

1 A Of this year.

2 Q Of '18?

3 A Yes, sir.

4 Q And when you say you bought it, what do
5 you mean you bought it?

6 A I bought it through a realtor company.

7 Q A home?

8 A The land and I moved a mobile home
9 there.

10 Q And when did you move the mobile home
11 there?

12 A If I'm not mistaken, sometime in
13 March.

14 Q Of 2018?

15 A Yes, sir.

16 Q And did you at some point in time, move
17 into the mobile home?

18 A Yes, sir.

19 Q And when would that have been?

20 A In May.

21 Q Of 2018?

22 A Yes, sir.

23 Q And who lived in the mobile home with
24 you?

25 A My son.

1 Q And what's his name?

2 A His name is Tyler Walcott.

3 Q And how old is he?

4 A He's 15.

5 Q And where do you work?

6 A I work for Walmart.

7 Q And how long have you worked for

8 Walmart?

9 A Be 15 years in January.

10 Q And did you register to vote in McBee?

11 A Yes, sir.

12 Q And when did you do that if you recall?

13 A I don't recall the date on that. But
14 I did register to vote.

15 Q And did you register to vote in time to
16 vote in the September --

17 A Yes, sir.

18 Q -- 4th election?

19 A Yes, sir.

20 Q And did you, in fact, vote?

21 A Yes, sir.

22 Q And was your vote challenged?

23 A Yes, sir.

24 Q Who -- who challenged it?

25 A Shilon Green.

1 Q Do you know why he challenged it?

2 A No.

3 Q Did he ever tell you why he was --

4 A No.

5 Q -- challenging your vote? Was your vote
6 counted?

7 A No.

8 Q And did you vote for Mr. Odom?

9 A Yes, sir.

10 Q And did anyone give you a reason why
11 they challenged your vote?

12 A No, sir.

13 Q And is there any question about you
14 being a resident of McBee?

15 A No, sir.

16 Q And you -- as far as you know, where --
17 where did you -- how did you register to vote?

18 A I think I done it, if I remember
19 right, when I went and started changing my
20 addresses after I bought that land and stuff
21 because I changed the mobile home address. I -- I
22 mean, I've got everything legal to my address.

23 Q And is -- was it your intention to be a
24 resident of McBee?

25 A Yes, sir.

1 Q And are you, in fact, a resident of
2 McBee?

3 A Yes, sir.

4 Q And have you been for a good while prior
5 to September 4th?

6 A Yes, sir.

7 Mr. Parker: Answer any questions Mr.
8 Bowers may have for you.

9 E X A M I N A T I O N

10 By Mr. Bowers:

11 Q Hey, Ms. Kirk.

12 A Hello.

13 Q How are you today?

14 A Pretty good.

15 Q I may -- I may ask you some of the same
16 questions he asked you, but just in a different way.
17 I -- I apologize for doing it twice. Tell me again,
18 how long -- are you -- were you born in McBee?

19 A No, sir.

20 Q Where you from originally?

21 A Kentucky.

22 Q What town?

23 A I went -- I grew up in a little town
24 called Strunk, Kentucky.

25 Q Strunk?

1 A Strunk, Kentucky.

2 Ms. Sterling: I'll have to go there.

3 By Mr. Bowers:

4 Q Do they have horses there?

5 A Yeah.

6 Q When did you move to South Carolina?

7 A I've lived in South Carolina five
8 years.

9 Q Five years?

10 A Yes, sir.

11 Q All of it?

12 A Yes.

13 Q All of it in McBee?

14 A I first moved to Camden and stayed six
15 months. Then I moved to McBee.

16 Q Okay. And you've worked at the same
17 Walmart the whole -- all 15 years?

18 A No, sir.

19 Q Did you say 15 years?

20 A Yeah. I'll be there 15 years in
21 January.

22 Q Where have you been working at?

23 A I worked at one in Georgia and then
24 when I transferred here, I worked at one in Two
25 Notch Ro--- Two Notch Road in Columbia when I

1 lived in Camden. Then I transferred to this one.

2 Q And where is this one -- here in --

3 A In Hartsville.

4 Q In Hartsville. All right. You lived in
5 Camden for a short per---

6 A Yes, sir.

7 Q -- period. And then where did you go
8 from Camden?

9 A McBee.

10 Q Okay. And where did you live --

11 A I lived --

12 Q -- for --

13 A I lived on 194 Quail Lane is where I
14 lived at then.

15 Q Okay. And then -- did you said you
16 bought the land where you -- your place that you --

17 A Yes, sir.

18 Q Okay. When did you buy that?

19 A In February, like the end of February.

20 Q Okay. You said that earlier. And then
21 did I -- did I hear you correctly, you said you
22 moved to the property around May of 2018?

23 A Yes, sir.

24 Q Okay. You -- your previous place in
25 McBee, was it in the town limits or outside of town

1 limits?

2 A It is a mile outside the town limits.

3 Q Okay.

4 A If even that. You see the sign right
5 before you pull in that says city limits coming
6 this way.

7 Q I think I know exactly --

8 A Yes.

9 Q -- where you're talking about. Do you
10 still own that place?

11 A I never owned the place on 194 Quail
12 Lane. I lived with somebody there.

13 Q Okay. Okay. But you -- all right. Mr.
14 Parker asked you this too and I'm trying to remember
15 what your answer was. When you registered to vote,
16 did you do it in person or by mail?

17 A I don't remember.

18 Q You don't rem--- that's fine.

19 A No.

20 Q Okay. Do you remember when that was
21 about?

22 A No, sir. I don't.

23 Q Okay. Was this the first election you
24 voted in?

25 A Yes, sir.

1 Q Okay. Did Mr. Odom help you register to
2 vote?

3 A I don't remember. I think I
4 registered to vote over in Chesterfield.

5 Q Okay.

6 A When I was changing all my legal
7 documents and stuff to my right address.

8 Q Yes, ma'am. And what is your right --
9 your right address?

10 A 391 South Seventh Street, McBee.

11 Q Okay. And that's inside the town
12 limits?

13 A Yes, sir.

14 Q Okay. Do you have power there?

15 A I do not have power, but I got a
16 generator. It's sitting in my living room if you
17 want to go look.

18 Q No. I -- you're -- you're under oath.
19 I don't need to go there. I don't -- I believe you.
20 Is it your generator?

21 A Yes.

22 Q Or -- or you borrowed it from --

23 A No. Somebody gave it to me.

24 Q Somebody gave it to you? Who gave
25 you --

1 A Somebody -- somebody gave it to me.

2 Q Who gave it to you?

3 A It was through a friend and the guy
4 that I bought through the realtor company has
5 tried to help us out and stuff.

6 Q Okay. Did Mr. Odom give it to you?

7 A I don't know. It come from Darrell
8 Walters. And he's the one I bought the land from.
9 So we -- we all kind of help each other.

10 Q That's nice. Did you -- did -- was it a
11 gift?

12 A No, sir. I was over there working and
13 didn't have no electricity. And he went and got
14 it from his place and brung it to my house.

15 Q Okay. But he didn't charge you any
16 money for it?

17 A No, sir.

18 Q Okay. And who was that -- Darrell
19 Walters?

20 A Uh-huh.

21 Q Who is he?

22 A He works through a realtor company.
23 He's a resident of McBee.

24 Q Okay. You got running water?

25 A Yes, sir.

1 Q Okay. Do you know if it's on the town
2 system?

3 A It is on the town. I pay a town water
4 bill. I had to fight them to get a water meter.

5 Q Okay.

6 A And it took a while to get one, if you
7 want to know the truth.

8 Q I always want to know the truth. I
9 appreciate that.

10 A They denied me and wouldn't let me
11 have one for months.

12 Q But then you fought -- you fought town
13 hall --

14 A Yes, I --

15 Q -- and you won?

16 A Yes, I did.

17 Q All right. And so you bring -- that's
18 an additional point that if -- if you're on town
19 water, you -- the town will send you a water bill
20 every month.

21 A I do. Yes, sir. I pay it down here
22 at the city hall.

23 Mr. Bowers: All right. Okay. Ms.
24 Kirk, I don't have any other questions right now.
25 Thank you for your time.

1 The Witness: You're welcome.

2 Ms. Sterling: Mr. Parker, would you --

3 Mr. Parker: Nothing further. Thank
4 you.

5 Ms. Sterling: Okay.

6 Mr. Parker: Thank you.

7 Ms. Sterling: Thank you.

8 Court Reporter: Can you help me out
9 with a couple of spellings real quick?

10 The Witness: Uh-huh.

11 Court Reporter: Tyler Walcott, can you
12 spell that last name for me?

13 The Witness: It's W-A-L-C-O-T-T.

14 Court Reporter: Okay. And can you
15 spell the name -- the town in Kentucky for me?

16 The Witness: Strunk, S-T-R-U-N-K.

17 Court Reporter: I just want to make
18 sure it was a K and not a T.

19 The Witness: Yeah.

20 Court Reporter: Thank you.

21 Mr. Parker: I call Robbie Liles.

22 Court Reporter: Could you spell your
23 name for me, please.

24 The Witness: Robert Dale Liles.

25 Court Reporter: L-Y-L-E-S?

1 The Witness: L-I-L-E-S.

2 Court Reporter: If I can get you to
3 raise your right hand for me, please. Do you vow or
4 affirm the testimony that you give today will be the
5 truth, the whole truth and nothing but the truth?

6 The Witness: I do, sir.

7 Court Reporter: Thank you.

8 E X A M I N A T I O N

9 By Mr. Parker:

10 Q State your full name.

11 A Robert Dale Liles.

12 Q Mr. Liles, what's your address?

13 A 181 West Cypress Avenue, McBee, South
14 Carolina.

15 Q Are you from McBee?

16 A Originally, yes, sir.

17 Q You grew up here?

18 A First 27 years.

19 Q And then you left?

20 A Yes, sir.

21 Q How long were you gone?

22 A Twenty years.

23 Q And you came back when?

24 A Yes, sir. I came back on August the
25 1st.

1 Q August the first of 2018?

2 A Yes, sir. It was.

3 Q And where did you move to at that point
4 in time?

5 A 181 West Cypress.

6 Q And who lives there with you?

7 A My girlfriend, Ms. Candace Treadway.

8 Q And where do you work?

9 A I work at Wellman Fibers Industries in
10 Darlington, South Carolina for --

11 Q And you've been working there since
12 then?

13 A Yes, sir.

14 Q And --

15 A Before then, yeah.

16 Q And did you register to vote once you
17 moved in?

18 A Yes, sir. I did.

19 Q And did you get registered?

20 A Yes, sir. I did.

21 Q And did you change all your paperwork to
22 McBee?

23 A Yes, sir. I did.

24 Q And did you -- did you vote in the
25 election on September the 4th?

1 A Yes, sir. I voted -- actually I voted
2 absentee and -- but I voted for the election year.

3 Q And was your vote challenged?

4 A Yes, sir. It was.

5 Q How did you find that out?

6 A I found out from my friend, Mr. James
7 Linton. I was actually sitting outside fixing to
8 come in and seen the -- on the election night and
9 seen the people coming out and -- and called and
10 asked him, you know, how did -- how did it go.

11 Q They said that they had challenged your
12 ballot?

13 A Said, Mr. Kent McLeod had challenged
14 my vote.

15 Q And did you vote for Mr. Odom?

16 A Yes, sir. I did.

17 Q Was your vote counted?

18 A Apparently, not.

19 Q And do you know why it wasn't counted?

20 A I assume that it was because I rent
21 from Mr. Odom.

22 Q But you don't know?

23 A But I don't -- I -- I've never
24 received anything from the town of McBee or
25 Chesterfield County Election is all I do know.

1 Q Do you believe your vote should count?

2 A I definitely 100 percent think that my
3 vote should count.

4 Q And were you -- you are above 18 that's
5 obvious.

6 A Yes, sir.

7 Q You were registered to vote legally?

8 A Yes, sir.

9 Q You cast your vote legally?

10 A Yes, sir.

11 Mr. Bowers: Objection, that's -- calls
12 for a legal conclusion. Leading to --

13 By Mr. Parker:

14 Q Did you do anything illegal in casting
15 your vote?

16 A No, sir. I did not.

17 Q Do you know why they didn't count your
18 vote?

19 A No, sir.

20 Q And would you like for it to be counted?

21 A I definitely would like for my vote to
22 be counted.

23 Mr. Parker: I don't have anything else.

24 E X A M I N A T I O N

25 By Mr. Bowers:

1 Q Hey, Mr. Liles. How are you?

2 A Fine, thanks.

3 Q I'll try to be brief.

4 Mr. Parker: Speak up, Robbie. Speak
5 up.

6 By Mr. Bowers:

7 Q Did I hear you say that you moved back
8 to McBee on August 1st?

9 A Yes, sir.

10 Q Okay. And did I hear you correctly that
11 you rent from Mr. Odom?

12 A Yes, I do.

13 Q And so at 181 West Cypress Avenue?

14 A Yes, sir.

15 Q Okay. When did you get power at that --
16 at that -- is that a mobile home?

17 A Yes, sir. It is.

18 Q When did you get power?

19 A On August 8th.

20 Q Okay. And what did you do for that week
21 without power?

22 A Use a power inverter and the same way
23 I did during the hurricane last weekend, solar
24 lights and such.

25 Q What's a power convertor?

1 A It's generates power like a medium
2 generator type.

3 Q Okay. Is that your generator?

4 A Yes, sir. It is.

5 Q Okay. How's it fueled?

6 A How's it fueled?

7 Q I'm just curious. Yeah.

8 A By battery.

9 Q Okay. How about water, you got water?

10 A Yes, sir. I do.

11 Q Okay. Is it town water?

12 A I assume it is, sir. Yeah.

13 Q You -- do you get a water bill?

14 A I do not. It is included in the
15 utilities.

16 Q But you -- you do not get a water bill?

17 A No, sir. I do not.

18 Q Okay. How long have you known Mr. Odom?

19 A Pretty much the same as the majority
20 of the people in here -- my whole life.

21 Q Okay. When you moved back to McBee, how
22 did you come to find -- how did you come to rent
23 from Mr. Odom?

24 A Well, after contacting several people
25 through the McBee community just by hearsay that

1 this person might have something to rent, that
2 person might have something to rent. I contacted
3 my friend, James Linton and asked him did Glenn
4 have anything. And my first contact in June, he
5 did not. And through several people in the
6 community and couldn't find anything, so I
7 contacted Mr. Linton one more time who works with
8 Mr. Odom to see if he had anything available. And
9 he -- he did. He had a doublewide there ready.

10 Q Okay. I assume you pay him rent?

11 A Yes, sir.

12 Q Fair market value rent?

13 A I think it is.

14 Q As far as you know?

15 A I know it is.

16 Q All right. You mentioned you friend,
17 Mr. Linton would you point him out to you?

18 A The young gentleman back here in the
19 blue polo shirt.

20 Q All right. And who does he work for?

21 A Mr. Odom.

22 Q Okay. Do you know what he does for Mr.
23 Odom?

24 A Not particularly. He's a
25 maintenance --

1 Q What --

2 A -- guy or -- I don't know -- something
3 with the water company.

4 Q How long have you known Mr. Linton?

5 A The same, 46 years.

6 Q I've got one -- I got one last question.

7 Is that a McBee hat or is that an Ole' Miss hat?

8 A It is a McBee hat.

9 Q That's what I thought.

10 Ms. Sterling: Mr. Parker, do you have
11 any more questions?

12 Mr. Parker: I don't.

13 Ms. Sterling: You may step down, sir.

14 Thank you.

15 The Witness: Thank you.

16 Mr. Parker: Thank you. I'd like to
17 call Mr. Glenn Odom.

18 Court Reporter: Do you vow or affirm
19 the testimony that you give today will be the truth,
20 the whole truth and nothing but the truth?

21 The Witness: Yes, sir.

22 Court Reporter: Thank you.

23 E X A M I N A T I O N

24 By Mr. Parker:

25 Q Mr. Odom, what's your address?

1 A 49 West Oak Street, McBee.

2 Q And you were a candidate for city
3 council -- town council for that --

4 A Yes, sir.

5 Q -- election September the 4th?

6 A Yes, sir.

7 Q And how did you learn that certain votes
8 were being challenged?

9 A Up here the night of the election
10 after the count, the M.E.C. went over ballots.
11 Then we -- we saw votes over to the side that they
12 said were challenged and provisional votes.

13 Q And how many votes were those?

14 A Seventeen.

15 Q And 17 ballots were challenged or
16 provisional?

17 A Yes, sir.

18 Q And what's the difference between a
19 challenged ballot and a provisional ballot?

20 A I assume that the challenged were
21 the -- challenged were the absentee ballots. And
22 the provisionals were actually challenged that
23 people came to physically vote and they called
24 them provisional ballots.

25 Q And the final vote as certified -- what

1 was the difference between you and Mr. Green?

2 A At the end on Thursday at the
3 certification, it was one vote.

4 Q And you were one vote behind Mr. Green?

5 A Yes, sir.

6 Q And the votes that -- how many votes are
7 you contending should have been counted that weren't
8 in your favor?

9 A Six votes.

10 Q And who's votes were they?

11 A They were Sabrina and Simone and
12 Robbie Liles, Cindy Kirk, Gloria Sumner and Brandy
13 Russell.

14 Q And is Ms. Russell here today?

15 A No, sir. She -- she's not here.

16 Q Who is Ms. Russell?

17 A Ms. Russell is a lady I bought a
18 mobile home from and she and her mother Gracie
19 Bullard lived in -- rented a camper from me at
20 South Fifth Street in McBee. I don't remember the
21 exact address.

22 Q Do you remember when they started
23 renting that?

24 A Yes, sir. I believe it was the 27th
25 of July.

1 Q And do you know that -- that she was
2 registered to vote -- Ms. Russell?

3 Mr. Bowers: Madam Chairwoman, I want to
4 object to this line of questioning. Because I --
5 unless I'm mistaken, I don't see Ms. Russell's name
6 on the protest document. And we're limited -- he's
7 limited to only the names on the protest document.

8 Mr. Parker: Well, it's on the --

9 Ms. Sterling: Fine.

10 Mr. Parker: It's on the notice of
11 contest of election.

12 Ms. Sterling: We had an addendum.

13 Mr. Bowers: We got an amended one.

14 Ms. Sterling: Amended.

15 Mr. Parker: Well, that's doesn't --
16 wait a minute. It doesn't mean that the first one
17 doesn't count. That's who is named.

18 Mr. Bowers: It -- it absolutely means
19 that that's -- that's the only operative document is
20 the amended.

21 Mr. Parker: Is that --

22 Mr. Bowers: When -- when you file a
23 complaint in court and when you file an amendment,
24 you don't keep the first one.

25 Mr. Parker: You can.

1 Mr. Bowers: But that's not done here.

2 Mr. Parker: Well, I -- I'll have to
3 refer to the Chair Lady over there.

4 Ms. Sterling: No. We -- the amended
5 one is the one we're going with.

6 Mr. Parker: Okay. So you --

7 Mr. Bowers: I -- I object to any line
8 questioning about anybody named Russell because that
9 name's not on the amended --

10 Ms. Sterling: So noted. Okay.

11 Mr. Bowers: -- protest document.

12 Ms. Sterling: Uh-huh.

13 Mr. Parker: Okay.

14 By Mr. Parker:

15 Q Do you know of any reason these people
16 that have testified here were denied their right to
17 vote?

18 A No, sir.

19 Q Has anybody showed you any evidence that
20 would indicate that they were not eligible to vote?

21 A No, sir.

22 Q I don't have any further questions. One
23 other question. Let me ask you about this testimony
24 about the water. Tell us what that was about.

25 A The -- there's eight acres of land in

1 the middle of McBee that I purchased from Norwood
2 Farms. Ben Norwood in the middle sixties
3 installed a two inch water meter and supplied
4 water to his office, several houses and mobile
5 homes. With these new mobile homes, I ran two
6 inch water lines to each one of those. You can go
7 pull a sample right now and it'll show chlorine in
8 the water. Mr. Oliver that wrote his note or
9 whatever, he's aware that a two inch meter was
10 there and told the town such. That it -- Mr. Odom
11 has town water there. There's no well located on
12 that property whatsoever. Everyone there gets
13 their water from the town of McBee.

14 Mr. Parker: Answer any questions
15 Mr. Bowers may have for you.

16 Mr. Bowers: Thank you, Mr. Parker.

17 E X A M I N A T I O N

18 By Mr. Bowers:

19 Q Mr. Odom, how you doing today?

20 A Great.

21 Q I've seen a lot of permit -- nothing
22 wrong with this, of course. I've just -- it's --
23 I've seen a lot of permits for mobile homes that
24 have either your name on it or Odom and Associates.

25 A Yes, sir.

1 Q If -- if -- if I see Odom and
2 Associates, is that you?

3 A That's me.

4 Q Okay. Who else is a part of Odom and
5 Associates?

6 A Just me. I'm the sole proprietor of
7 that.

8 Q Okay. So, like, when I tell you I'm --
9 I'm from the Bowers Law Office, it should be the
10 same kind of thing.

11 A Yes, sir. I'm single, though. Are
12 you married? It may be --

13 Q I am married.

14 A Okay.

15 Q It's --

16 A Just me.

17 Q But she's not a lawyer, thankfully.

18 Mr. Parker: I bet she still thinks
19 she's your partner.

20 Mr. Bowers: No, sir. She thinks she's
21 my boss.

22 Mr. Parker: I was going to say, it
23 means you can't win.

24 Mr. Bowers: I'm not going to have no
25 part in this.

1 Ms. Sterling: And she probably is.

2 Mr. Bowers: She absolutely is.

3 By Mr. Bowers:

4 Q Mr. Odom, how many -- I've seen a lot of
5 those permits. Again, nothing wrong with it, but
6 I've seen a lot of them. How -- how many mobile
7 home permits do you have in the town of McBee?

8 A Five.

9 Q Okay. How many mobile homes do you
10 currently rent?

11 A Three, four, five, six, seven --
12 eight.

13 Q Okay. So that math for me, you --
14 you -- you own five, but you rent eight?

15 A That's correct.

16 Q How can you rent more than you own?

17 A The others were in town before the
18 McBee Town Council started playing games with
19 people on whether a mobile home is allowed to come
20 into McBee or not. That was done May of this year
21 to start giving permits. The county had issued
22 permits since 2006. And then Mr. McLeod decided
23 he would issue permits instead of going through
24 the normal procedures in town.

25 Q Okay. So you -- you own -- let me make

1 sure I -- how many do you own?

2 A Eight.

3 Q Five? You own eight. Three of them are
4 outside the town limits?

5 A No. They're all in town.

6 Q Okay. You own eight and rent five.

7 A That's co--- no, I rent all eight.

8 Q Okay.

9 A But three of them were put here before
10 the town decided to do something different in May.
11 And they still don't have an ordinance. Nobody
12 can tell you what the town ordinance is right now.
13 So these mobile homes were like -- one of them was
14 brought in, maybe '05 or '07.

15 Q Let me come at it out this way because
16 I'm -- I'm more confused than I was when I started
17 here. How many mobile homes do you own?

18 A Eight.

19 Q And how many of them do you rent?

20 A Eight.

21 Q Okay. Are they all occupied by renters
22 now?

23 A No, seven are occupied. One renter
24 moved out sometime in August.

25 Q Okay. Do you know if all of your

1 renters voted in the election?

2 A No. I hope they did, but I don't
3 know.

4 Q Okay.

5 A No. I know one that didn't.

6 Q Who was that?

7 A Dana Munn.

8 Q Okay. We had some -- at least two of
9 your tenants today -- let's see -- were three
10 really, right?

11 A That's correct.

12 Q Mr. Liles, Ms. DeJesus and Ms. Gracee.

13 A That's correct.

14 Q Okay. Who is Darrell Walter? Do you
15 know Darrell?

16 A Yeah. Darrell Walters is a fellow
17 that deals in renting mobile homes, a realty firm
18 or something like that. I mean, he dabbles in
19 real estate. I know that he helped Cindy with --
20 with her land.

21 Q With your business of -- with mobile
22 homes, would you say you dabble in real estate too?

23 A Yes.

24 Q Okay. Do you ever do any work with Mr.
25 Walter?

1 A No.

2 Mr. Bowers: Okay. Mr. Odom, I don't
3 have any other questions for you at this point in
4 time.

5 The Witness: Thank you, sir.

6 Mr. Bowers: Thank you.

7 Mr. Parker: No questions.

8 E X A M I N A T I O N

9 By Mr. McCluney:

10 Q Glenn, can I ask you one question before
11 you step down, just to make sure I'm understanding.
12 Because I'm a -- I'm -- I'm not real mechanically
13 inclined. But there -- there's a two inch town
14 water thing back here and -- and -- and everything
15 runs through that.

16 A On -- on --

17 Q And you got it piped out to --

18 A Yes. On -- as you go on that piece of
19 property, Ben Norwood installed a two inch meter.

20 Q Uh-huh.

21 A Then he ran a galvanized two inch pipe
22 out to the center. You remember Ben used to grow
23 some kind of crops to send to Taiwan.

24 Q Yeah.

25 A And then he had water -- had his

1 office --

2 Q Seed houses.

3 A -- shop, all this stuff. But he had
4 the water run all around the perimeter of that.
5 And what I did was, where he had the seed growing
6 and separating, it's like from here to Jackie
7 there from the three mobile homes in the front.

8 Q Uh-huh.

9 A So we tapped into that with a two inch
10 line and put a two inch line in the back. And
11 there are others on the town water system the same
12 way with a two inch meter.

13 Q And so they're power -- their -- their
14 water is inclusive in their rent?

15 A That's correct.

16 Q And it comes through that.

17 A That's correct.

18 Q And, okay. I understand.

19 A Yeah. Okay.

20 Ms. Sterling: Thank you.

21 The Witness: And -- and it would be a
22 simple as sending Mr. Oliver to put -- pull the
23 chlorine sample of any of them and it'll show
24 chlorine. Well water does not show chlorine.

25 Ms. Sterling: Mr. Parker.

1 Mr. Parker: We would introduce exhibits
2 3 and 4 and that is the voter registration of Simone
3 Bracee and the driver's license showing the address
4 for Ms. Kirk.

5 Ms. Sterling: Mr. Bowers?

6 Mr. Bowers: No objection.

7 Ms. Sterling: Three and four.

8 Mr. Parker: That -- that is our
9 evidence.

10 Ms. Sterling: Do you have any,
11 Mr. Bowers?

12 Mr. Bowers: May I beg your indulgence
13 for one minute?

14 Ms. Sterling: Sure.

15 Mr. Bowers: Madam Chairwoman, I -- now,
16 that they have rested --

17 Ms. Sterling: Uh-huh.

18 Mr. Bowers: I would move to -- and I'm
19 not sure exactly how to phrase this, but I would
20 move to deny their protest as it relates to Mr.
21 Mendoza Dewitt, Shirley Sullivan, Frank Johnson and
22 Cornelius Green. There's been absolutely no
23 evidence, no testimony, no nothing --

24 Mr. Parker: We -- we'll agree with
25 that.

1 Mr. Bowers: Okay. So it sounds like by
2 consent, those are off the table permanent.

3 Ms. Sterling: Yes.

4 Mr. Bowers: Okay.

5 Mr. McCluney: Would you repeat them one
6 more time and make sure I got them.

7 Ms. Sterling: Yeah. I have them here.

8 Mr. McCluney: Okay. She's got them.
9 We got it.

10 Ms. Sterling: That's no problem. I
11 have it. That's fine.

12 Mr. Bowers: On my count that's five.

13 Ms. Sterling: Five, uh-huh.

14 Mr. Bowers: Okay. With that, I -- the
15 burden is his -- his, not mine. So I don't -- I'm
16 -- I'm not going to present any evidence.

17 Ms. Sterling: Okay.

18 Mr. Bowers: But I -- other than what
19 I've already listed from --

20 Ms. Sterling: Uh-huh.

21 Mr. Bowers: -- from the witnesses. I
22 -- I would respectfully request if Mr. Parker is
23 okay with it, we have to take a few minutes and then
24 do a few minutes break and do closing arguments.

25 Ms. Sterling: Is that okay with you?

1 Mr. Parker: Right now, I'm ready to
2 proceed and ready to take a break.

3 Ms. Sterling: It's up to you guys. Who
4 wants to take a break and who wants to just have
5 closing arguments.

6 Mr. Bowers: I -- I'd like 10 minutes.

7 Ms. Sterling: Okay. Ten minutes break
8 and then we'll have closing arguments.

9 Mr. Bowers: In 10 minutes.

10 Ms. Sterling: Ten minutes. Thank you.

11 Mr. Bowers: Thank you.

12 (Whereupon a break was taken
13 from the proceedings)

14 Court Reporter: Okay.

15 Ms. Sterling: Okay.

16 Mr. Parker: The right in this country
17 and in this state and this county and this city, the
18 right to vote is probably the most important right
19 any of us have. Bar none. Because without the
20 right to vote in fair elections, we would be in a
21 different country that's a dictators and have
22 terrible forms of government. What sets us apart
23 from that is the right to vote. In fact, if we --
24 people can run and when they receive the most votes,
25 they get elected. If they don't, they don't get

1 elected. And everybody who's eligible to vote,
2 their vote should be counted.

3 Here we've proved without
4 contradiction that five people were denied their
5 vote, who were eligible to vote, who were
6 registered to vote, who did vote and cast their
7 ballots for Mr. Odom and these votes were not
8 counted. They have to be counted. If we going to
9 maintain our democratic form or government, then
10 you have to count peoples' vote. You might not
11 like it. Might not like the way they voted. You
12 might like -- like anything about them, the way
13 they look, but their votes are entitled to be
14 counted. And clearly, in this case there were --
15 the votes were overturned and he should be awarded
16 those votes and be declared the winner. It
17 shouldn't have to go any further to do that
18 because, in fact, he got the votes legitimately.
19 They challenged them, which they've got a right to
20 do. You can file a challenge without any reason
21 and which is what they essentially did because I
22 heard no one in this proceeding testify and give
23 any reason for challenging those votes.

24 There was not one shred of evidence
25 other than that they were eligible voters whose

1 votes were not counted, which should have been
2 counted. I don't know what else to say other than
3 that because the evidence is all one way. There's
4 no evidence contrary to that. There's no one that
5 came in and said these people weren't eligible
6 voters because they're over 18, that they didn't
7 cast their ballots legally, which they did, and
8 their ballots were not counted. That is not the
9 way of our government.

10 These votes should be counted. They
11 -- Mr. Odom should be declared the winner and
12 certified as the winner of the election for the
13 town council. And we appreciate y'all's time and
14 appreciate your service. Thank you.

15 Ms. Sterling: Thank you very much.

16 Mr. Bowers.

17 Mr. Bowers: Thank you, ma'am. Madam
18 Chairwoman and members of the commission. Thank you
19 for your time and opportunity to be heard today.
20 Mr. Parker is a good friend and he's a great lawyer.
21 He's also dead wrong with everything he said except
22 for the fact that our process and our system of
23 government and our right to vote is the most
24 precious right. But in terms of the -- of the
25 merits of this case, he's wrong on every count.

1 Number one, even if he does -- if they do win, he's
2 not awarded -- he's not just made the winner. You
3 get a new election. So that's -- that's a legal
4 error.

5 Number two, he said there was --
6 nobody gave any reasons as to why they shouldn't
7 have been allowed to vote. Well, I -- every
8 single witness gave that testimony, which is
9 evidence to -- to -- to demonstrate why their --
10 their vote shouldn't have counted. In fact, she's
11 not sitting here now, but Ms. DeJesus, who I think
12 was our first witness. Mr. Parker asked her and
13 I'm paraphrasing, we can go back and look, but he
14 asked her, is there -- do you know why they
15 challenged your -- your ballot? She didn't know.
16 Then when I talked to her and I asked her
17 questions and I asked her about the -- the water
18 hookup. And I asked her about the -- where she
19 lived, said you understand now why you might have
20 been challenged. She said, yeah, I do. So there
21 is evidence in the record.

22 There's ample evidence in the record
23 to demonstrate that -- that -- that each one of
24 the five challenges that -- that remain are --
25 were -- were properly challenged. And there's not

1 enough evidence in the record to overturn the
2 election. Let -- let's look at the law. I'm
3 going to read from two case -- well, three cases.
4 Broadhurst versus The City of Myrtle Beach.
5 That's 342 South Carolina 373 from 2000. George
6 versus The Municipal Election Commission of
7 Charleston, 335 S.C. 182, this is in 1999. And
8 Sims v. Ham, 275 S.C. 369, 1980. All of these
9 cases say essentially this, that every reasonable
10 presumption must be employed to sustain a
11 contestable election. I said, I told you he was a
12 great lawyer and a good friend and I also -- and I
13 said he was right about one thing. And that is we
14 do have the best system in the world. And
15 elections are critically important. But not only
16 is the right to vote and the right -- and he
17 acknowledge that -- that people have the right to
18 challenge votes. But the bedrock of -- of
19 elections is that every presumption -- every
20 reasonable presumption must be employed to sustain
21 a contested election.

22 So let's go through them. Ms. DeJesus
23 moved -- she said that they -- she said that they
24 -- she moved in on the 16th of July, registered to
25 vote on the 25th, but then they didn't have the

1 water hookup. Well, we talked about the -- the
2 town code -- the ordinance -- 17.203.3. Well,
3 there's another one that I didn't even reference
4 just because ordinance 2007-1, ordinance to allow
5 private wells. And so what that says is that the
6 -- the relevant portion of it is, no well shall be
7 used for any indoor use or consumption. That's
8 paragraph 1C of the ordinance. Passed three --
9 three to nothing in 2007 by the -- by the town.

10 And so is that -- why is that
11 relevant? Well, here's why it's relevant.
12 Because she didn't have the town water. And you
13 -- you had a well -- you had well water, but you
14 were using for inside purposes, that's not legal.
15 Well, engaging in illegal conduct is a reason not
16 to -- to -- it gives you residence and -- and
17 gives you residency so that you can have an
18 opportunity to vote. That means that vote should
19 count. So that's -- and Ms. Bracee's in the same
20 boat. And we go on down the -- down the list
21 that. That, you know, similarly other -- the
22 other -- the other voters that testified -- well,
23 let's go -- let's go with the one who didn't
24 testify, Ms. Summer who is not here. But her
25 brother was here. I mean, you heard his

1 testimony. It's -- it's possible that -- that she
2 -- that they were evicted on September 3rd and
3 didn't live here anymore. Or she -- she's been
4 gone to Tennessee. I think it was Tennessee. And
5 so who knows if she's a legal resident. That's
6 why she was challenged. And again, every
7 reasonable presumption is in favor of the winner
8 to sustain the election.

9 And I submit that no evidence has been
10 -- has been provided to this body to overturn the
11 election and to order a new election. So
12 therefore, based on the totality of the
13 circumstances, based on the case law of this state
14 that's uncontroverted and based on the evidence
15 importantly that was -- it was -- almost all the
16 evidence was test--- was testimony from the
17 witnesses, but based on the evidence of -- of
18 their own witnesses. We didn't have any witnesses
19 because the burden was theirs. And they did not
20 carry their burdens because their own witnesses
21 gave testimony to -- to presume -- to employ a
22 presumption in favor of -- of sustaining the
23 election.

24 And we therefore ask respectfully that
25 you leave the result in place and deny the

1 protest.

2 Ms. Sterling: Thank you.

3 Mr. Bowers: And now --

4 Mr. Parker: Just a few words.

5 Ms. Sterling: Sure, Mr. Parker.

6 Mr. Parker: Madam Chairwoman, you know,
7 legalese is a good thing. Fairness doesn't take
8 legalese. It takes people and y'all heard the
9 people and what they said. They were denied their
10 right to vote. And we can put it in whatever
11 legalese we want to, but it's wrong. That they
12 voted. They legally registered. The opposition
13 might not like the fact that they registered and
14 they voted, but that's their right. And our
15 position has no power to keep people from voting,
16 which is what they are attempting to do. They don't
17 want the vote to be counted.

18 I disagree. He says, this position is
19 that it's -- the burden's on us. I don't think
20 so. There's never been a hearing afforded to Mr.
21 Odom to challenge these votes before. This is his
22 first opportunity to challenge what was done and
23 how the vote was counted, which we have done. And
24 y'all have the right to count the votes and to
25 declare him the winner because he won. And he won

1 by several votes and y'all have the right to do
2 that and to declare him the winner and, in my
3 opinion, because there never has been a hearing
4 prior to this at which testimony was taken that
5 I'm aware of. I'll stand corrected if there was a
6 hearing because I'm not aware of one. And the law
7 requires that there be a hearing on his
8 allegations that the vote wasn't counted
9 appropriately. And this is our first opportunity.
10 We believe y'all have the right to declare him the
11 winner and we ask you to do so. Thank you.

12 Ms. Sterling: Thank you. Mr. Bowers.

13 Mr. Bowers: I would just say that the
14 -- the process has worked the -- the way it's
15 supposed to. That everything has been done
16 correctly and in accordance with the law. This is
17 the first hearing. That is true, but that's the way
18 the system is set up. And this is the opportunity
19 and a 1,000 percent it is the -- the burden of the
20 protesting party to -- to demonstrate that the --
21 that -- that the vote should not -- should be
22 overturned.

23 And again, I go back to the case law.
24 Every legal presumption must be employed to
25 sustain a contested election. That means by

1 definition that the burden is on them. And I'm
2 telling you here and now they did not carry that
3 burden. And so we ask that the -- you -- the --
4 that you follow the -- the leadership of the South
5 Carolina Supreme Court and there has been no
6 showing that anybody on -- and Mr. McLeod or
7 Mister -- Mr. Green committed fraud or a
8 constitutional violation. It -- it -- it's clear
9 that the -- the election should -- should stand.

10 Thank you.

11 Ms. Sterling: Thank you. Okay. We're
12 going to adjourn and come back with a judgment.

13 Mr. Parker: Thank you.

14 Ms. Sterling: Thank you. And so we're
15 going into executive session to discuss the matters
16 and all the evidence.

17 (Whereupon a break was taken
18 from the proceedings)

19 Ms. Sterling: Are we all here? We
20 finished with our executive session and we just went
21 over all the evidence that was presented to us and
22 discussed some legal matters. And the M.E.C. has
23 come up with a decision. To start off with South
24 Carolina Code 71 -- 7-125 says that a domicile is a
25 fixed place where you have an intention of

1 returning. So we went over all of the evidence that
2 was presented to us. And we decided that -- I lost
3 my paper. Here you go. Sabrina DeJesus and Simone
4 Gracee living where they live. Emmette Dixon and
5 Gloria Sumner, we have some questions about the
6 validity and it really -- really wasn't clear or
7 credible. So we decided that we invalidated their
8 votes. Cindy Kirk and Robert Liles, we validated
9 their -- their vote. So right now we -- the
10 M.E.C. will have to contact the city council and
11 have a new election. We ask Mr. Parker to write a
12 written order or draft of a written order and ask
13 for a new election and get it to us and the lawyers
14 as soon as possible.

15 Mr. Parker: Thank you.

16 Ms. Sterling: Okay. Mr. Bowers, any
17 questions?

18 Mr. Bowers: Yes. I want to make sure I
19 got the right --

20 Ms. Sterling: Okay.

21 Mr. Bowers: -- the facts --

22 Ms. Sterling: Uh-huh.

23 Mr. Bowers: -- correct. So there were
24 -- there were five left open, right?

25 Ms. Sterling: Pardon me?

1 Mr. Bowers: There were five voters
2 whose votes were in question?

3 Ms. Sterling: Right. Gloria Sumner,
4 Simone Gracee, Sabrina DeJesus, Cindy Kirk and
5 Robert Liles.

6 Mr. Parker: And -- and Dixon.

7 Mr. Bowers: And the only one you --

8 Ms. Sterling: No. We didn't challenge
9 that.

10 Mr. Bowers: -- the only one you didn't
11 count was Sumner?

12 Ms. Sterling: Yes. Gloria Sumner.

13 Mr. Bowers: Okay. So you're counting
14 Liles, Kirk, Bracee and --

15 Ms. Sterling: DeJesus.

16 Mr. Bowers: -- DeJesus?

17 Ms. Sterling: Yes.

18 Mr. McCluney: We counted Dixon.

19 Ms. Sterling: They didn't challenge his
20 vote.

21 Mr. Bowers: Okay. I understand.

22 Ms. Sterling: Mr. Parker, anything.

23 Mr. Parker: Thank you. The only thing
24 we'd ask is to be sure that all the ballots and all
25 are preserved.

1 Ms. Sterling: They're all here.
 2 Mr. Parker: Thank you.
 3 Ms. Sterling: Okay. Absolutely.
 4 Mr. Parker: Nice to meet all of you.
 5 Mr. McLawhorn: Y'all need to vote.
 6 Ms. Sterling: Pardon me?
 7 Mr. McLawhorn: Y'all need to vote.
 8 Ms. Sterling: Oh, okay. And so we have
 9 -- we have to vote on this. Okay.
 10 Mr. McCluney: In -- in public.
 11 Ms. Sterling: Okay. All in favor of
 12 our decision?
 13 Mr. McCluney: Okay. I -- I move that
 14 Sabrina DeJesus, Simone Bracee, Cindy Kirk --
 15 Ms. Sterling: Uh-huh.
 16 Mr. McCluney: -- and Robert Liles are
 17 indeed registered voters in -- in the town of McBee.
 18 May or may not have an issue with the town's --
 19 Ms. Sterling: Uh-huh.
 20 Mr. McCluney: -- legalities, but that's
 21 -- that's doesn't disqualify them from being a
 22 res--- resident. And so I -- I move that they be --
 23 that their votes should have counted.
 24 Ms. Sterling: All in favor.
 25 All: Aye.

1 Mr. McCluney: We got to get a second.

2 Ms. Sterling: Any against.

3 Mr. McCluney: There you go.

4 Ms. Sterling: None against. Okay.

5 Okay. We have to --

6 Court Reporter: One that didn't count.

7 Ms. Sterling: Huh?

8 Court Reporter: The one that didn't
9 count.

10 Mr. McCluney: Okay.

11 Ms. Sterling: Oh, okay. We have to --

12 Mr. McCluney: In addition, we'll --

13 Ms. Sterling: -- vote on Gloria
14 Sumner's vote.

15 Mr. McCluney: For Gloria Sumner, do we
16 want to say anything about Ernest Dixon because he
17 testified, but --

18 Ms. Sterling: No. He wasn't -- he --
19 he was --

20 Mr. McCluney: -- wasn't part of it.
21 Okay.

22 Ms. Sterling: -- he was brother -- he
23 was her brother.

24 Mr. McCluney: Okay. Gloria Sumner, I
25 -- I -- I move that with insufficient evidence that

1 we -- we go with the -- the -- that it should have
2 stayed with the original conclusion --

3 Ms. Sterling: Charge.

4 Mr. McCluney: -- that it was no longer
5 eligible or not eligible.

6 Ms. Sterling: All in favor? Aye. Any
7 against? Ayes, win. Okay. I will make a motion to
8 adjourn this hearing. Do I hear a second?

9 Mr. McCluney: I'll second.

10 Ms. Sterling: All in favor.

11 All: Aye.

12 Ms. Sterling: Is that a yes. Thank you
13 very much.

I N D E X

WITNESSESPAGE

(NO WITNESSES TESTIFIED DURING THIS HEARING)

(NO EXHIBITS WERE INTRODUCED DURING THIS HEARING)

1 THE COURT: Okay. Gentlemen, this is the appeal
2 from the election in McBee, I understand?

3 MR. DRIGGERS: Yes, Your Honor.

4 THE COURT: Okay. I want to put something on the
5 record and let you individuals know, I represented Mr. Odom
6 probably 25, 30 years ago in a divorce or child support
7 matter. I want to put that on the record so if anybody got
8 any concerns -- it has been many years ago had nothing to
9 do with any type of thing like this. But I did want to put
10 it on the record and if you gentlemen have an issue you can
11 certainly bring that to my attention so

12 MR. BOWERS: Thank you, Your Honor. I have no
13 objection.

14 MR. PARKER: No objection.

15 THE COURT: Okay. I don't have a file or anything
16 so -- I take it there is no file with regards to this or --
17 -

18 MR. PARKER: There is -- we filed that appeal and
19 there would be a file on it but we'll pass that up to you.

20 THE CLERK: I'll go get it.

21 THE COURT: Okay. The clerk will go get it for me,
22 I'm sorry. She wasn't aware -- we are in a term of General
23 sessions this week ---

24 MR. PARKER: I can pass up what's in the file to
25 keep her from having to go get it.

1 THE CLERK: I don't mind.

2 THE COURT: She doesn't mind. You can pass that up
3 if you got an extra copy while she goes and does that
4 so.... Mr. Driggers?

5 MR. DRIGGERS: How are you doing?

6 THE COURT: I guess we need to address Mr. Driggers
7 motion first to dismiss the notice of appeal. Mr.
8 Driggers?

9 MR. DRIGGERS: Thank you, Your Honor. Martin Driggers
10 here for the Town of McBee Municipal Election Commission.
11 Yes, Your Honor, we did file a motion to dismiss the
12 appeal, just to give you a little bit of timeline it's not,
13 it hadn't been too long it's been since the last few weeks.
14 Of course, the election was held in September. There was a
15 challenge filed by Mr. Odom and there was a hearing on that
16 challenge on September 25th of this year. And at that
17 hearing an oral decision was made, however, a formal order
18 had not yet been entered. And so before an order had been
19 entered Mr. Odom filed this appeal we're here for today on
20 October 4th. Since that time -- and we filed a motion to
21 dismiss I think on the 9th so it's all right in sequence.
22 Then, since that time the order has been issued by the
23 commission on the 12th and then my understanding I just got
24 a copy of it today but I think Mr. Odom has filed an
25 amended appeal dated yesterday and so the commission would

1 just like to note those objections for the record. We felt
2 it was prematurely when the first appealed was filed. We
3 just got notice of the amended one yesterday. But I know
4 the interested parties are here and they have substantive
5 arguments to make and so we just note that for the record
6 and let those arguments be made and the court can take all
7 that into consideration.

8 THE COURT: Okay, sir.

9 MR. BOWERS: Thank you, Your Honor. Good afternoon.
10 May it please, the Court? My name is Butch Bowers. I'm
11 here for one of the interested parties candidate, Shilon
12 Green. As Martin just said that timeline is accurate. I
13 believe that Mr. Parker has cured whatever defect was there
14 and so we have no objection moving forward on substantive
15 arguments on this appeal and we appreciate the opportunity
16 to make those arguments here today.

17 THE COURT: All right. Thank you, sir. Sounds
18 like you don't need to say anything, Mr. Parker.

19 MR. PARKER: I won't say a word.

20 THE COURT: Okay. All right. Then we'll move on
21 to your appeal then, Mr. Parker.

22 MR. PARKER: Thank you, Your Honor. This matter
23 comes before the court because of an election that was had
24 on September 4th of the McBee Town Council and initially
25 the Election Commission determined that Shilon Green was

1 the winner by one vote over Mr. Odom. At the time of the
2 election there were some contested ballots, five in
3 particular, that we have an issue. And those five ballots
4 were marked as being contested and the commission and the
5 people running the polls did not follow the law and do what
6 you're supposed to do about counting those votes. The law
7 clearly requires that if there's an objection that these
8 ballots are then placed in an envelope and they have to
9 come forward and the person who is objecting to it, has to
10 come forward with evidence that it's an improper ballot.
11 That was not done. Those votes were not counted. Mr.
12 Green was determined to be the winner by one vote. Mr.
13 Odom filed an appeal from that to the full commission, to
14 the Election Commission. We had a hearing on that and
15 that's the decision that we're talking, we have appealed.
16 And in the decision the commission determined that, that
17 the four -- there were four votes that should have been
18 counted because they were residents of the Town of McBee
19 for more than 30 days and that they were eligible voters
20 and their votes were improperly not counted. Which we
21 agree with that finding. What we disagree with is they
22 found that the fact that these votes weren't counted
23 invalidated the election and required a new election. Our
24 position is that these votes have to be counted because the
25 law requires them to be. Section 7-13-810 of the Code

provides that, when you have -- provides for contested ballots and what you're supposed to do and I'll pass up a copy of that section. Section 7-13-830 and I'll summarize it, it just says that "when a person is challenged, which these voters were, "that the manager" -- "when any person is challenged, the manager must explain to him the qualifications of elect that makes them, his as to the same." If the person insists he's qualified to challenge, is not withdrawn, his provisional vote must be received and placed in an envelope," which it was, "on which must be read the name of the voter and that of the challenger. The provision of votes must be kept separate and apart and not counted but turned over to the Board of Voter Registration" or in this case the Election Commission, whichever which it was, that was the appropriate party. "Whenever applicable, this party must here all objections to these votes and when no person appears or offers evidence before the meeting, to sustain an objection made those ballot is no longer a provisional ballot. When the challenger appears and produces evidence in support of the challenge, the authority in charge must proceed to hear and determine the question, his decision is final. Each provisional ballot which is no longer challenged and each ballot who's challenged was decided in favor of the voter must be removed from the envelope mingled and counted and the

1 totals added to the previously county regular ballot total
2 and counted and the total's added to the previously counted
3 regular ballot totals." This was not done. And we believe
4 that the relief in this case is to send this back to the
5 Election Commission to follow the law which was not
6 followed. Because these clearly the four voters who
7 testified, all testified, that they voted for Mr. Odom.
8 That their ballots were not counted and they should be
9 counted and they have to be counted in accordance to
10 Section 7-13-830. I -- to me it's clear as a bell what has
11 to be done in this case and that is to refer back to the,
12 back to the Election Commission to do exactly what Section
13 7-13-830 requires. Thank you.

14 THE COURT: Yes, sir. Mr. Bowers?

15 MR. BOWERS: Thank you, Your Honor. Judge, Mr.
16 Parker is in the wrong code section. He's in Title 7 which
17 deals with state elections. Judge, the operative code
18 section is Title 5. There is no dispute that this was a
19 municipal election. I think Mr. Parker would acknowledge
20 that. This was a municipal election. I've got the lawyer
21 here from the municipal election commission. There's no
22 dispute that this was a municipal election. Your Honor,
23 Title 5 controls the rules and the procedures for municipal
24 elections not Title 7. Many years ago I happened to be the
25 chairman of the State Election Commission and I remember

1 making the arguments that somebody was not entitled to
2 this, that, or the other and the executive director who is
3 still there today, Marci Andino she grabbed it and she
4 said you're in the wrong code section. That's what
5 happened here. Mr. Parker is in the wrong code section.
6 Title 5 applies here. And here's the section that matters,
7 Your Honor, and I've got some case law to back it up. It's
8 not just me saying it. I've got some case law to back it
9 up. The operative provision, and I'll pass this up to Your
10 Honor, the operative provision in Section 5-15-130 and I've
11 highlighted the most important language which is, "when the
12 decision invalidates the election the Council shall order a
13 new election as to the parties concerned". And you read --
14 it references municipal election commissions and whatnot.
15 Again, you don't have to take my word for it, it's on the
16 -- it's in the statute but I've got 2008 South Carolina
17 Supreme Court case that is Armstrong vs. Atlanta Beach
18 Municipal Election Commission. That cite is 380 S.C. 47,
19 2008. The key language and this is a short opinion, Your
20 Honor, the key language in this, I'll read as follows from
21 the opinion, "the only relief the commission may order is a
22 new election as to the parties concerned", SC Code 5-15-
23 130. "The circuit court does not have the authority to
24 order any further relief." And this is dealing with a
25 municipal election and Title 5 in the code. Your Honor, it

1 couldn't be more clear. There's another case that's right
2 on point as well, I'll cite for the record, Broadhurt vs.
3 The City of Myrtle Beach Election Commission, notice the
4 important, City of Myrtle Beach, The Atlanta Beach
5 Municipal Election Commission. It's all about
6 municipalities. That's Title 5, judge. And Title 5
7 controls, not Title 7. I'm reading Broadhurt vs. The City
8 of Myrtle Beach Election Commission case. That cite is 342
9 S.C. 373, 2000, the court very simply says that, "in
10 authorizing a new election pursuant to 5-15-130, we
11 conclude the general assembly intended to provide the
12 elector for the second opportunity to express his will
13 through an election once a municipal election commission
14 invalidates the original election." It moves forward and
15 says, "5-15-130 only authorizes a new election." So,
16 judge, the relief, not only is Mr. Parker wrong about the
17 code section, he's wrong that the relief available is, is
18 anything but a new election. The code says that. The
19 Supreme Court says that. We would ask that you just deny
20 this appeal and send it back to the commission. And just
21 for the record, I want to state the time, I believe, the
22 time period has not quite, has not run yet on the time for
23 me to appeal. I think we still got a few days. And for me
24 to either appeal or to file a motion to reconsider, I don't
25 want to waive any of those arguments right now. I'm not

1 saying we're going to. I just don't want to waive any of
2 those arguments should Your Honor find in their favor.

3 Thank you, Your Honor.

4 THE COURT: Mr. Bowers?

5 MR. BOWERS: Yes, sir.

6 THE COURT: That cite on Armstrong was 390 S.C.,
7 what was the last thing?

8 MR. BOWERS: I'm sorry it was Armstrong 380 S.C.
9 470, it's 470.

10 THE COURT: Forty -- it's 380, I had 390, it's 380.

11 MR. BOWERS: 380 S.C. -- and I've got a copy of it
12 if y'all want -- I can pass it up.

13 THE COURT: If you've got an extra copy that would
14 be fine. It would save me from having to copy it.

15 MR. BOWERS: I apologize this is not Westlaw. I
16 just printed it off.

17 THE COURT: It doesn't matter. That's fine.

18 MR. BOWERS: But it is the case. I represent it to
19 the court.

20 THE COURT: Mr. Parker, any response?

21 MR. PARKER: Yes, Your Honor. Clearly I don't think
22 that Mr. Bowers read all of Section 7 of the code because
23 it clearly deals with the municipal elections. If you read
24 the code sections they're dealing with municipal elections
25 in many of the sections in Title 7. I'll pass up to you 7-

1 5-610 which clearly shows that those are the qualifications
2 of who's entitled to both, municipal elections. And if you
3 go through Title 7 a number of the provisions in there deal
4 with municipal elections. And it's clear that Title 7
5 applies to the municipal elections. I don't know where Mr.
6 Bowers got that concept from other than his statement to
7 that effect because I know of nothing that says that.
8 Title 7 clearly deals with municipal elections. But really
9 if you think about it what he says doesn't make sense.
10 What he's saying is that the Election Commission cannot
11 count votes and not follow what's required and that you
12 don't count those votes, you order a new election,
13 depriving those people of the right to vote. And that
14 clearly does not make sense. Their votes have to be
15 counted as per the code section. If you believe what he
16 said then there would be no provision but dealing with
17 provisional ballots and for protest. There would be no
18 code section because there is not one in Title 5. It's
19 only in Title 7 that deals with how you, somebody objects
20 to a voter at the polls. So clearly he is incorrect in his
21 assertion about that and clearly the Election Commission
22 was required to follow the code section, 7-13-830 and count
23 these balance and they didn't do it. So, therefore, they
24 should be ordered to do it. And I think it's extremely
25 clear. I don't think there's any question about it but

1 I'll be happy to answer any questions the court may have.

2 THE COURT: Mr. Bowers?

3 MR. BOWERS: Thank you, Your Honor. To be crystal
4 clear just two quick points. I don't dispute that Title 7
5 has some impact on elections, generally. That's not what
6 I'm saying. What I am saying, though, is this precise kind
7 of election, municipal election and a municipal election
8 protest is only governed by Title 5. That's the law. And
9 again that's not me saying it that's the Supreme Court
10 saying and it's the General Assembly saying it. And so,
11 again, I'm not saying that Title 7 doesn't apply generally
12 to all elections, what I am saying, though, the more
13 specific Title 5, absolutely, applies to the municipal
14 elections. And so that's why, I mean, again it's not just
15 me saying it is the Supreme Court saying it and I, you
16 know, Municipal Election Commissions lawyers here, I'm not
17 sure what he'd say but I'm interested in that too. But,
18 again, Your Honor I think it's pretty clear the Supreme
19 Court has spoken on this and I think Mr. Odom's appeal
20 should be denied on those grounds.

21 THE COURT: Mr. Driggers?

22 MR. DRIGGERS: Yes, sir, just briefly. That is the
23 decision the Election Commission ultimately made and that,
24 that decision has been filed as part of the courts file on
25 this. But, yeah, they've cited Section 5-15-130 and

1 ordered a new election. So that's certainly what they
2 think a proper remedy would be for the successful challenge
3 from Mr. Odom.

4 THE COURT: Okay. All right. Anything else, Mr.
5 Parker?

6 MR. PARKER: Your Honor, these cases are just not
7 applicable to the facts in this case where votes weren't
8 counted. But in those cases they put the results of the
9 election and doubt, therefore, a new election was ordered.
10 Nowhere is there a case like this where the law is not
11 followed and votes not counted. And you have to count the
12 votes. So what they're saying is the votes were cast, the
13 votes are valid, but you don't count them and clearly that
14 does not make sense. I have a hard time coming up with the
15 logic they come up with on that. Thank you.

16 THE COURT: Yes, sir, Mr. Bowers?

17 MR. BOWERS: I'd just like to pass up the Broadhurt
18 case that I referenced, if you don't mind, Your Honor?

19 THE COURT: No, sir.

20 MR. BOWERS: Just for the record. Again, the
21 Supreme Court twice has had an opportunity to look at this
22 issue and twice its said the only remedy that 5-15-130
23 provides is a new election not to install someone, to
24 install someone who is not the winner. And, Your Honor,
25 just think about it from a practical standpoint, when a new

1 election is, and there's some case law to support this,
2 when a new election is ordered it's not just limited to the
3 same people who voted. I mean, anybody who is an eligible
4 voter can vote in the new election. Well, if you just
5 install -- if the rule was, if you just install the person
6 who won the protest, well, then you're depriving those
7 other register voters the opportunity to vote again when
8 the statute only authorizes the new election. And so that
9 can't be the rule, right? And again it's not me saying it,
10 it's the Supreme Court saying it.

11 THE COURT: I understand that. But those people
12 have an opportunity to vote the first time, though.

13 MR. BOWERS: They did. But ---

14 THE COURT: They decided they didn't want to.

15 MR. BOWERS: But if a new election is ordered, which
16 is what the law requires, then your depriving them of their
17 right to vote if you just install a winner. That's never
18 been the rule.

19 MR. PARKER: Your Honor, I hate to say the illogic
20 of what he's arguing. He saying you can win the election,
21 you got the most vote. You were elected but we're going to
22 say you're not elected because we didn't count them and,
23 therefore, you have to have a new election. That to me is
24 totally illogical and totally against the law. It's
25 totally against Section 7-13-830 but -- and I have not seen

1 any case and there is no case, the Broadhurt case, this
2 other case just simply do not hold that. They're not
3 factually where votes weren't counted. They're where
4 people argued about whether or not somebody should be
5 allowed to vote or something but they're not, none of them
6 are in point to this case, Your Honor.

7 THE COURT: Okay. I have not read these cases
8 which I want to do. But it is a little bit hard to wrap
9 your head around the decision when it says, "because adding
10 the four votes to the total of Glen Odom would've changed
11 the outcome of the election, Municipal Election Commission
12 hereby invalidates the election." I mean, it's hard to see
13 how that would invalidate the election. But I'll be glad -
14 - maybe those cases say it invalidate it but that's the
15 terminology the commission used, or the -- yeah, the
16 Election Commission used. Anybody want to address that?
17 I'm just -- it's a thought that I had. It doesn't make
18 sense. It's in that last paragraph on the first page of
19 the decision.

20 MR. BOWERS: Your Honor, obviously, I didn't draft
21 this.

22 THE COURT: I understand that.

23 MR. BOWERS: But, you know, and Mr. Driggers can
24 address it. But, I mean, to me what they're doing -- that
25 may just be an inoperative term but the operative languages

1 is that they order a new election.

2 THE COURT: I understand that but ---

3 MR. BOWERS: But invalidate I think that just means
4 because the result was that Mr. Green won by one vote.
5 They're saying, well, we're not gonna -- we're not gonna
6 allow that. We're going to invalidate that result and
7 order a new election as the law requires, as the ---

8 THE COURT: Are they not disenfranchising those
9 four voters that ---

10 MR. BOWERS: No, sir.

11 THE COURT: --- that voted? I mean, they were
12 eligible voters and they voted and they didn't get counted.

13 MR. BOWERS: Your Honor, I mean, in the Armstrong
14 case, I mean, I'm reading right from the opinion, "the
15 record supports the finding that the four voters,"
16 ironically the same number, "four voters were denied their
17 right to vote despite the fact they met the residency
18 requirements. Because Pierce won by election by one vote,"
19 again, the facts are almost identical. This renders a
20 result of the election doubtful and requires a new
21 election.

22 THE COURT: Okay. But those four were denied the
23 right to vote.

24 MR. BOWERS: Right.

25 THE COURT: These four voted.

1 MR. BOWERS: But again ----

2 THE COURT: Just weren't counted.

3 MR. BOWERS: Right, it doesn't matter, Your Honor,
4 respectfully, because 130, 5-15-130 says, "that the only
5 remedy you can give when the decision," and look maybe
6 this, they've used the language in the statute, "when the
7 decision invalidates the election," that's exactly what
8 they did. "When the decision validates the election the
9 Council shall order a new election as to the parties
10 concerned." And that's what the statute says. So not only
11 does the General Assembly said it but, the Supreme Court
12 has confirmed that.

13 THE COURT: I guess the question arises is that
14 should they have invalidated the election?

15 MR. BOWERS: Your Honor, 5-15-130 says, "that the
16 decision necessarily invalidates it just as operation of
17 law."

18 THE COURT: I mean, I understand what it says. But
19 ----

20 MR. BOWERS: That's why the commission, I presume,
21 use that language and they're doing exactly what the
22 legislator intended which is order a new election.

23 THE COURT: Okay.

24 MR. PARKER: Your Honor, we totally disagree with
25 that because 7-13-830 provides what was supposed to have

1 been done which was not done. They have to comply with
2 that section in dealing with the contested ballots and they
3 didn't do it and they have to. They have -- they don't
4 have the right to decide which laws they gonna to apply or
5 not. This section is clearly applicable and they should do
6 exactly what it says.

7 THE COURT: And I'll let you address that one more
8 time.

9 MR. BOWERS: Okay. Your Honor, we all learned in
10 law school that the specific trumps the general and the
11 Supreme Court has said that this is a more specific statue.
12 It is because it deals with municipal elections only.
13 Whereas, Title 7 deals with election broadly. Do they --
14 do they talk about municipal elections? Of course, they
15 do, in Title 7, but it's a general statue. The more
16 specific statue is those regarding municipalities and
17 that's in Title 5. And so that's why -- again, it's just
18 important of all that the more specific statue trumps the
19 more general. And so you gotta look to Title 5. Again,
20 it's not just me saying it, it's the Supreme Court saying
21 it twice and the General Assembly saying it. So, anyway, I
22 think Mr. Parker makes a good argument it's just -- it
23 can't be the prevailing argument if we're going to comply
24 with the Supreme Court.

25 THE COURT: Okay.

1 MR. PARKER: Your Honor, unfortunately, Mr. Bowers
2 says the Supreme Court says this, they never said what he
3 said he said and you can read those cases. They clearly do
4 not say what he argued.

5 THE COURT: Okay. All right. Well, gentlemen, I'm
6 going to read these cases and then I'm going to go back
7 through these statutes myself before I render any decision.
8 So, obviously, I'm taking the matter under advisement to
9 look at this, to look at this thoroughly. It's an
10 interesting question. Anything else, gentlemen?

11 MR. PARKER: Nothing, Your Honor.

12 MR. BOWERS: Your Honor, I do have one request if
13 Mr. Parker doesn't object and that is I want you to,
14 obviously, take as much time as Your Honor needs. Can we
15 get an order stating the time period within which to file
16 an appeal or a protest? Should you rule in my favor, I may
17 run out of time if I want to file a motion to reconsider or
18 a protest. And all I'm asking is a stay of the running of
19 the 10 days.

20 THE COURT: I've got a case that I heard earlier
21 this morning that I've got to rule on first that I've got -
22 - time is really a crunch. It's a medical malpractice
23 case, I've got to deal with something before, by the end of
24 the week, obviously.

25 MR. BOWERS: Yes, Your Honor.

1 THE COURT: It maybe the first of the week before I
2 can do this.

3 MR. BOWERS: And that's why I'm asking if we can
4 just get a stay ---

5 THE COURT: Will 15 days be enough?

6 MR. BOWERS: Yes, sir.

7 THE COURT: I'll tell you what we will do, we'll
8 say 15 days from the time I send out my instructions on the
9 order.

10 MR. BOWERS: That's perfect for me.

11 THE COURT: Okay.

12 MR. BOWERS: Are you okay with that, John?

13 MR. PARKER: I don't think I have any right to be
14 okay or not. I think Your Honor has said ---

15 THE COURT: And if you want to draft a little order
16 to that effect I'll be glad to sign it so

17 MR. BOWERS: We'll do that, Your Honor. Thank you,
18 Your Honor.

19 MR. PARKER: Thank you.

20 MR. DRIGGERS: Thank you.

21 THE COURT: Thank you, gentlemen.

22 (CONCLUSION OF THE HEARING ON OCTOBER 17, 2018)

23

24

25

CERTIFICATE

I, the undersigned Lisa S. Carter, Official Court Reporter for the Fourth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete excerpt of transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Fourth Circuit Court for Chesterfield County, South Carolina, on the 17th day of October, 2018.

I do further certify that I am neither of kin, counsel, nor interest in any party hereto.

Lisa S. Carter

Lisa S. Carter

Circuit Court Reporter

February 27, 2019

South Carolina SC USA DRIVER'S LICENSE DL

NOT FOR FEDERAL IDENTIFICATION

08/02/1994

1 DEJESUS
2 SABRINA SHABELL
3 137 W CYPRESS AVE
MC BEE SC 291019770

4a DL#: [REDACTED]
4b Issued: [REDACTED]
4c Expires: [REDACTED]

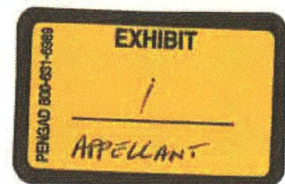
5 DOB: [REDACTED]

15 Sex: [REDACTED] 16 Hgt: [REDACTED]
17 Wgt: [REDACTED] 18 Eyes: [REDACTED]
19 Class: [REDACTED] 20 End: [REDACTED]

12 Restrictions: A

5 DO [REDACTED]

Governor



EX

#1

STATE OF S.C. VOTER REGISTRATION NOTIFICATION

COUNTY: CHESTERFIELD

PRECINCT: Mc Bee

REG NO: [REDACTED]

REG DATE: 7/25/2018

DeJesus, Sabrina S
137 W Cypress Ave
Mc Bee, SC 29101

Sabrina S. DeJesus

SIGNATURE OF ELECTOR

FOLD HERE

SEX: [REDACTED]

RACE: [REDACTED]

DOB: [REDACTED]

VOTE AT

McBee High School
264 E Pine Ave

Karin Thurman

COUNTY / STATE ELECTION OFFICIAL

You are now registered to vote in the State of South Carolina. Your official notification of registration is attached. To vote at your polling place, you must present one of the following types of identification:

- * S.C. Driver's License
- * ID Card issued by S.C. Department of Motor Vehicles
- * S.C. Voter Registration Card with Photo
- * Federal Military ID
- * U.S. Passport

Congr	Senate	House	County Council	School	Munic	Mags Jury
07	27	065	05	05	178	131

Sabrina S DeJesus
137 W Cypress Ave
Mc Bee, SC 29101



EX #2

STATE OF S.C. VOTER REGISTRATION NOTIFICATION

COUNTY: CHESTERFIELD

PRECINCT: McBee

REG. NO: [REDACTED]

REG. DATE: 8/4/2016

Bracey, Simone S
137 W Cypress Ave
McBee, SC 29101

SIGNATURE OF ELECTOR

FOLD HERE

SEX: [REDACTED]

RACE: [REDACTED]

DOB: [REDACTED]

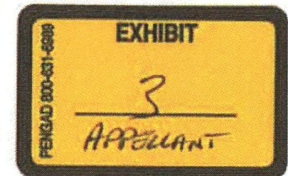
VOTE AT:

McBee High School

264 E Pine Ave

Kevin Shannon

COUNTY / STATE ELECTION OFFICIAL



#2

17.203. PROHIBITED ACTS. GENERALLY

(1976 South Carolina Code, Sections 5-31-20 and 6-11-280)

17.203.1. PROHIBITED ACTS - WATER AND SEWERAGE SYSTEM.

The following enumerated acts shall be unlawful, but they shall not be considered all-inclusive. A violation hereof by any person or persons, who engage in such acts without appropriate permission, authority or appropriate supervision as herein specified, shall be considered a misdemeanor.

17.203.2. POLLUTION OF WATER SUPPLY. CROSS-CONNECTIONS.

It shall be unlawful to defile or pollute in any manner the public water system or to make connection therewith or maintain any connection whereby water from any other source may be pumped into or allowed to flow into the public distribution system which may result in a cross-connection. All new construction shall install back-flow preventers.

*17.203.3. ILLEGAL CONNECTIONS TO OR USE OF WATER AND SEWERAGE SYSTEMS.

a. It shall be unlawful to gain access into, use or tap any public water or sewer main or manhole without specific authorization of the Council, in writing first obtained, other than normal connections for which connection fees shall have been paid, but not including private wells.

b. No person shall place any pipe or similar material in such a manner as to furnish public water or sewer service to others, except as otherwise provided in this chapter.

c. It shall be unlawful for any person without proper authority, to put any solid or liquid substance, into any public sewer main or line, at manholes or in any other way, than through a connection provided for the purpose.

d. It shall be unlawful for any person to discharge into the public sewerage system any substance which may be harmful or liable to damage the public sewerage system or to obstruct the flow of sewage in said system.

e. It shall be unlawful to connect or permit to remain connected, any open gutter or rain water conductor or cesspool with any sanitary sewer line.



McBee Municipal Election Commission
Linda Sterling, Dale McCluney, Todd Horton
38 W Juniper Ave
McBee, SC 29101

Dear McBee Municipal Election Commission:

I would like to contest the official results of the September 4th, 2018 Town Council election on the following grounds:

Simone Bracey previously resided at 386 W Poplar Avenue. She, along with Sabrina Dejesus, moved to 137 W Cypress Avenue the weekend of July 27th, 2018.

Cindy Kirk has been residing at 391 S Seventh Street more than 30 days prior to the election.

Robbie Liles and his family reside at 181 W Cypress Avenue. They were fully moved in Friday, August 3rd, 2018.

Gloria Sumner previously resided at 401 Union Church Road and moved to 208 W Elm Avenue. Both addresses are in McBee's town limits.

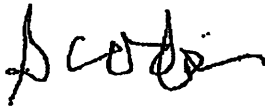
Cornelius Greene was allowed to vote on Election Day and does not reside in McBee, SC. Mr. Greene resides in Columbia, SC.

Shirley Sullivan and Frank Johnson were not allowed to vote even though they live in town limits.

I am also protesting the fact that Mr. Mendoza and Mr. DeWitt's provisional votes were allowed.

These contested votes will affect the outcome and results of the election.

Sincerely,



Glenn C. Odom

****AMENDED****

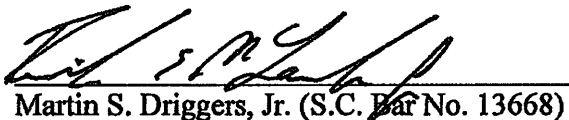


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CERTIFICATE OF COUNSEL

The undersigned hereby certify that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

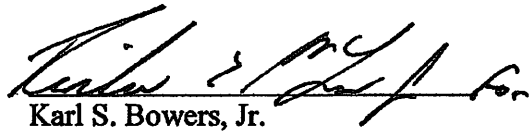
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