

EXHIBIT A

STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON)
)
)
Phillip Ashley, Kevin Craft, and)
Jimmy Outzs,)
)
Plaintiffs,)
)
v.)
)
Anderson County School District)
Two Board of Trustees,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

C.A. No. 2019-CP-04-01118

ORDER

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SC Court of Appeals

Pursuant to the Defendant’s Rule 59(e) motion, the Court amends its prior order as follows.

I.

This declaratory judgment action presents the question of whether the revocation of a resignation from an elected school board member was valid when the revocation letter stated it was to be “effective immediately.” For the reasons stated below, the Court finds the school board member’s resignation was valid and effective.

II.

On or about May 14, 2019, Stu Shirley (Shirley), a member of the Anderson County School District Two Board of Trustees (the School Board), sent an email announcing his resignation from the School Board. The email was titled “Subject: Resignation” and contained the following statement: “Therefore, effective immediately, I resign.”

Then, on May 15, 2019, the Belton News Chronicle, a local newspaper, published the story notifying the public of the resignation. Two days later, on May 17, 2019, Shirley submitted a letter

to the former board chair, attempting to rescind his previous resignation. This Declaratory Judgment action followed.

III.

The Court should give words “their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation.” *Sloan v. S.C. Bd. of Physical Therapy Exam'rs*, 370 S.C. 452, 469, 636 S.E.2d 598, 607 (2006). “A statute as a whole must receive a practical, reasonable, and fair interpretation consonant with the purpose, design, and policy of the lawmakers.” *Browning v. Hartvigsen*, 307 S.C. 122, 125, 414 S.E.2d 115, 117 (1992). In interpreting a statute, the language of the statute must be read in a sense which harmonizes with its subject matter and accords with its general purpose. *Hitachi Data Sys. Corp. v. Leatherman*, 309 S.C. 174, 178, 420 S.E.2d 843, 846 (1992).

“Any ambiguity in a statute should be resolved in favor of a just, equitable, and beneficial operation of the law.” *Bennett v. Sullivan's Island Bd. of Adjustment*, 313 S.C. 455, 458, 438 S.E.2d 273, 274 (Ct.App.1993). Courts will reject a statutory interpretation which would lead to a result so plainly absurd that it could not have been intended by the Legislature or would defeat the plain legislative intention. *Unisun Ins. Co. v. Schmidt*, 339 S.C. 362, 368, 529 S.E.2d 280, 283 (2000). “A statute should be so construed that no word, clause, sentence, provision or part shall be rendered surplusage, or superfluous.” *In re Decker*, 322 S.C. 215, 219, 471 S.E.2d 462, 463 (1995) (citation omitted).

Based on the plain language of the applicable statute, S.C. Code Ann. § 8-1-145, Shirley's resignation was effective on May 14, 2019—the date he sent the resignation letter. S.C. Code Ann. § 8-1-145 states “a person holding an office in this State filled by a vote of qualified electors may submit a written irrevocable resignation from that office which is effective on a specific date.” This statute has not been interpreted by any Court in this state. With that being said, a plain reading

of this statute makes the resignation of an official effective if (1) it was submitted in writing and (2) is made effective on a specific date.

Turning to the facts of the case at hand, Shirley sent his resignation via email. An email in this context certainly constitutes a writing as envisioned by S.C. Code Ann. § 8-1-145. Further, Shirley's email states "Therefore, effective immediately, I resign." This statement indicates an effective date, which makes it sufficient to effect a resignation on the date of his email—May 14, 2019. Therefore, the Court finds the resignation valid based on a plain reading of S.C. Code Ann. § 8-1-145.

IV.

The previous order issued by this Court contained a discussion of the issue of "acceptance" as set forth in *State ex. rel Jernigan v. Stickley*. The Defense argues that, although the email indicated an immediate effective date, the resignation was ineffective because it was not accepted by the School Board. This argument is rooted in the only case to have addressed this issue, *State ex. rel Jernigan v. Stickley*, 80 S.C. 64, 61 S.E. 211 (1908). *Stickley*, which was decided over 100 years ago in 1908, held that "Until the tender or offer to resign is accepted by the proper authority, it can be withdrawn." *State ex. rel Jernigan v. Stickley*, 80 S.C. 64, 61 S.E. 211 (1908). Thus, under *Stickley*, for a resignation to become effective, the additional element of acceptance must be satisfied. *See Id.*

The Court in *Stickley* noted its decision was made in the absence of a statute when it stated "[i]n the absence of statute this rule is supported by the better reasoning and greater weight of authorities . . ." *Stickley*, 61 S.E. 213 (1908). This discussion of the lack of a guiding statute followed an exhaustive discussion of other jurisdiction's decisions on the effectiveness of a resignation. Thus, it is important to note S.C. Code Ann. § 8-1-145, enacted in 1990, makes no

mention of an acceptance requirement, but rather puts the onus on the official to resign “on a specific date.”

Further, there is no authority to indicate that a formal board measure had to be taken for acceptance to occur. While the Court recognizes the existence of policies set in place by the School Board that require: (1) 30 days’ notice for resignation and (2) the School Board take a vote before taking action—these policies merely govern procedure and have no bearing on S.C. Code Ann. § 8-1-145. Moreover, requiring the School Board to take a formal vote to accept the “immediately effective” resignation of a fellow member would only foster further political infighting among the School Board and deprive the children of Anderson County District 2 of the important tasks the School Board undertakes.

Finally, the Defense relies heavily on the opinions issued by the Attorney General. While the Court respects the analysis and judgment of the Attorney General in this case, its decisions are not binding on this Court. Furthermore, the Court recognizes that the Attorney General was forced to issue its opinion based on a request that did not include a comprehensive recitation of the issue before the Court. Thus, while the Attorney’s General analysis was proper under *Stickley*, the Court finds that it was improper in light of the enactment of S.C Code Ann. § 8-1-145.

III.

While interesting to the Court, the issue of acceptance is hereby removed from the prior order because, unlike the facts in *Stickley*, a statute now exists to guide the Court in its decision. Accordingly, due to the effective resignation of Shirley, the Court finds there to be a vacancy on the Board of Anderson County School District 2 and orders the vacancy be filled pursuant to the relevant laws of South Carolina.

IT IS SO ORDERED.

The Honorable J. Cordell Maddox, Jr.
South Carolina Tenth Judicial Circuit Court

Anderson, South Carolina

December 23, 2019



Anderson Common Pleas

Case Caption: Phillip Ashley , plaintiff, et al VS Anderson County School District
Two Boards Of Trustees
Case Number: 2019CP0401118
Type: Order/Other

So Ordered

s/ J. Cordell Maddox Jr.