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DEC - 6 2011

THE STATE OF SOUTH CAROLINA
In The Supreme Court

S.C. Supreme Court

IN THE ORIGINAL JURISDICTION OF THE SUPREME COURT

Beaufort County, Scott Marshall, individually and as Director of the Beaufort County Board of Elections and Registration, Chester County, James E. Moore, Sr., individually and as Director of the Registration and Election Commission of Chester County, Greenville County, Joseph Conway Belangia, Jr., individually and as Director of the Greenville County Election Commission and Greenville County Board of Registration, Spartanburg County, Henry M. Laye, III, individually and as Director of Spartanburg County Election Commission,

Petitioners,

v.

South Carolina Election Commission, Marci Andino, as Executive Director of the South Carolina State Election Commission and as a representative of the South Carolina State Election Commission, South Carolina Republican Party, Chad Connelly, as Chairman of the Executive Committee of the South Carolina Republican Party and as representative of the South Carolina Republican Party, The South Carolina Democratic Party, Richard A. Harpootlian, as Chair of the Executive Committee of the South Carolina Democratic Party and as a representative of the South Carolina Democratic Party, The Honorable Glenn F. McConnell, in his capacity as President Pro Tempore of the South Carolina Senate, and the Honorable Robert W. Harrell, Jr., in his capacity as Speaker of the South Carolina House of Representatives,

Respondents.

Respondents South Carolina Democratic Party's, and Richard A. Harpootlian, as Chair of the Executive Committee of the South Carolina Democratic Party and as a representative of the South Carolina Democratic Party's Petition for Rehearing

Respondents, South Carolina Democratic Party and Richard A. Harpootlian, as Chair of the Executive Committee of the South Carolina Democratic Party and as a representative of the South Carolina Democratic Party, ("Respondents") hereby petition for rehearing in the above-referenced case, in accordance with Rule 221, SCACR, as to the portion of the Court's ruling which addresses the inclusion of advisory questions on

Presidential Preference Primary ballots. Beaufort County v. SC Election Commn., Op. No. 27069, at 13 (S.C.Sup.Ct. filed Nov. 23, 2011).

Introduction

On November 14, 2011, the South Carolina Supreme Court heard arguments from all of the above parties on issues concerning state run/funded Presidential Preference Primaries. One week after the argument, but before the Court had issued its opinion on the matters briefed and argued, the Petitioners¹ raised an entirely new argument – via a letter to the Court dated November 21, 2011 - concerning the inclusion of advisory questions on Presidential Preference Primary ballots. See Exhibit A attached hereto. This new and unique issue was not properly presented to the Court -- it was not included in the Petitioners' Statement of Issues Presented, nor was it briefed by the parties or raised by *any* party at oral argument. Indeed, Respondents were not afforded the opportunity to address the matter of inclusion of advisory questions at any point during the Court's consideration of this case.

Nevertheless, the Court's November 22, 2011, majority opinion addressed the matter of inclusion of advisory questions on Presidential Preference Primary ballots, stating:

[I]t has been brought to the attention of the Court that the proposed ballot for January 21, 2012, . . . will also include four (4) nonbinding advisory questions . . . [T]he State Election Commission and the County Election Commissions are hereby directed that they may not print such ballots or conduct such primaries for any matter other than the nomination of party candidates for President of the United States. No advisory questions may

¹ The Petitioners are Beaufort County, Scott Marshall, individually and as Director of the Beaufort County Board of Elections and Registration, Chester County, James E. Moore, Sr., individually and as Director of the Registration and Election Commission of Chester County, Greenville County, Joseph Conway Belangia, Jr., individually and as Director of the Greenville County Election Commission and Greenville County Board of Registration, Spartanburg County, and Henry M. Laye, III, individually and as Director of Spartanburg County Election Commission.

be included on any such primary ballots. Additionally, no other advisory elections, straw polls, or the like on any question may be conducted at the various Presidential Preference Primary polling places or within 200 feet of the entrance to such polling places. Beaufort Cty at 13.

Given that the matter of inclusion of advisory questions on Presidential Preference Primary ballots was not properly presented to the Court, Respondents now request that the Court reconsider its ruling regarding this issue. As required by Rule 221, SCACR, Respondents provide the following statement outlining, "with particularity the points posed to have been overlooked or misapprehended by the court."

Argument

I. The majority overlooked and misapprehended the fact that the issue of whether advisory questions may be included on Presidential Preference Primary ballots had not been included in the Statement of Issues Presented by Petitioners in the case.

Although the majority of the Court's opinion concerned issues properly before it, the last paragraph of the Court's ruling addressed an issue not before the Court. Specifically, the last paragraph of the Court's opinion addressed the question of whether advisory questions may be included on Presidential Preference Primary ballots - **an issue that was not included in the Statement of Issues Presented by the Petitioners in this case.** Beaufort Cty at 13, Petitioners' Brief at 1 (Nov.1, 2011.) Rule 208(b)(1)(B), SCACR, provides that no point will be considered which is not set forth in the Statement of Issues on appeal.² See Jean Hoefer Toal, Shahin Vafai & Robert A. Muckenfuss, Appellate Practice in South Carolina 76 (2nd ed. 2002), citing Calhoun v. Calhoun, 339 S.C. 96, 529 S.E.2d 14 (2000). Accordingly, the matter of whether advisory questions

² According to Rule 245, SCACR, the South Carolina Appellate Court Rules apply to cases in the original jurisdiction of the South Carolina Supreme Court.

may be included on Presidential Preference Primary ballots was not properly before the Court.

II. Even if the Court were to view the Petitioners' November 21, 2011, letter as in some way supplemental to the Petitioners Statement of Issues, the letter does not cite any authority and, therefore, the advisory question issue should be deemed abandoned.

Alternatively, even if the Court were to rule that the mere mention of advisory questions in a letter submitted to the Court by the Petitioners on November 21, 2011 - one week after the November 14, 2011 hearing and one day before the Court's opinion was issued - was sufficient to raise the advisory questions issue, the Petitioners failed to cite any authority in their letter to support their arguments on this issue. See Exhibit A. An issue is deemed abandoned on appeal, and therefore, not presented for review, if it is argued in a short, conclusory statement without supporting authority. See Toal, Appellate Practice in South Carolina at 76, citing Fields v. Melrose Ltd. Partnership, 312 S.C. 102, 439 S.E.2d 283 (Ct. App. 1993).

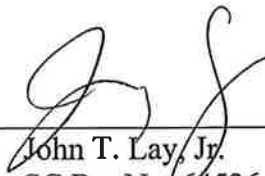
Such is the case here. In the absence of citation to any supporting authority on the issue of inclusion of advisory questions, this argument should have been deemed "abandoned" and no ruling should have been issued.

Conclusion

As such, Respondents request reversal on the portion of the Court's ruling which prohibits the inclusion of advisory questions on Presidential Preference Primary ballots. In the alternative, Respondents request rehearing (or initial hearing as it were) on the advisory questions issue and opportunity for briefing thereof.

Respectfully submitted,

BY: _____



John T. Lay, Jr.

SC Bar No. 64526

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Attorney for Respondents The South Carolina Democratic Party, and Richard A. Harpootlian, as Chair of the Executive Committee of the South Carolina Democratic Party and as a representative of the South Carolina Democratic Party

December 6, 2011

EXHIBIT A



Joel W. Collins, Jr. | Office: 803.256.2660 | E-Mail: jcollins@collinsandlacy.com

November 21, 2011

VIA HAND-DELIVERY

The Honorable Daniel E. Shearouse
South Carolina Supreme Court
Supreme Court Building
1231 Gervais Street
Columbia, South Carolina 29201

*Re: Beaufort County, Scott Marshall, individually and as Director of the Beaufort County Board of Elections and Registration, Chester County, James E. Moore, Sr. individually and as Director of the Registration and Election Commission of Chester County, Greenville County, Joseph Conway Belangia, Jr., individually and as Director of the Greenville County Election Commission and Greenville County Board of Registration, Spartanburg County, Henry M. Laye, III individually and as Director of Spartanburg County Election Commission v. South Carolina Election Commission, Marci Andino, as Executive Director of the South Carolina State Election Commission and as a representative of the South Carolina State Election Commission, South Carolina Republican Party, Chad Connelly, as Chairman of the Executive Committee of the South Carolina Republican Party and as a representative of the South Carolina Republican Party, the South Carolina Democratic Party, Richard A. Harpootlian, as Chair of the Executive Committee of the South Carolina Democratic Party and as a representative of the South Carolina Democratic Party, The Honorable Glenn F. McConnell, in his capacity as President Pro Tempore of the South Carolina Senate, and the Honorable Robert W. Harrell, Jr., in his capacity as Speaker of the South Carolina House of Representatives
C&L File No.: 1608-100*

Dear Mr. Shearouse:

We have been advised that on Friday afternoon, November 18, 2011, the State Election Commission notified the counties of this State that they had agreed to a request by the Republican Party to add four advisory questions to the ballot for the Presidential Preference Primary election scheduled for January 21, 2012. These lengthy questions seek opinions from voters about the proposed balanced budget amendment to the Constitution, off shore drilling rights, the scope of the authority of the National Labor Relations Board and the concept of corporate personhood. The exact language of these four questions is set forth on the enclosure to this letter which is a printout of the relevant part of the website of the State Election Commission.

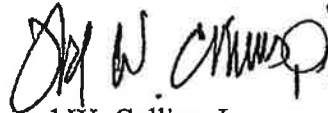
The Honorable Daniel E. Shearouse
November 21, 2011
Page 2

We are advised by our clients they would strongly oppose this requirement. In addition to their position that the State Election Commission has no authority to direct them to conduct a presidential preference primary, there is no authority for adding these questions. We are advised this will require additional work by the counties and greatly slow down the voting process. Moreover, these proposed questions come well past the ballot certification deadline which was November 1, 2011.

If you believe it would be proper to do so, we request this letter be shared with the Court as they consider their ruling in this case.

Thank you for your assistance.

Sincerely,



Joel W. Collins, Jr.

JWCjr:ppc
Enclosure

cc: The Honorable Alan Wilson
Robert D. Cook, Esquire
J. Emory Smith, Jr., Esquire
J.C. Nicholson, III, Esquire
Kevin A. Hall, Esquire
Karl S. Bowers, Jr., Esquire
M. Todd Carroll, Esquire
John T. Lay, Jr., Esquire
Bradley S. Wright, Esquire
Charles F. Reid, Esquire
Michael R. Hitchcock, Esquire
John P. Hazzard, V, Esquire
South Carolina Association of Counties



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You are here: [Home](#)» **2012 Republican Presidential Primary Candidates & Questions**

2012 Republican Presidential Primary Candidates & Questions

Submitted by cwhitmire on Fri, 2011-11-18 11:56. ::

2012 Election Dates

Presidential Primaries
Republican - January 21, 2012

Democratic - To be determined

State Primaries
June 12, 2012

State Primary Runoffs
June 26, 2012

General Election
November 6, 2012

2012 General Election Candidate Filing

Partisan Candidate Filing Period
Noon, March 16, 2012 - Noon, March 30, 2012

Petition Candidate Filing Deadline
Noon, July 16, 2012

[Additional Candidate Filing Information](#)

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January 21, 2012, Republican Presidential Preference Primary Candidates & Advisory Questions

Candidates:

- Michele Bachmann
- Herman Cain
- Newt Gingrich
- Jon Huntsman
- Gary Johnson
- Ron Paul
- Rick Perry
- Mitt Romney
- Rick Santorum

The following non-binding advisory questions will appear on 2012 Republican Presidential Primary ballots. For more information regarding these advisory questions, contact the [S.C. Republican Party](#) :

1. In order to stop the uncontrolled growth of our national debt and prevent excessive borrowing by the Federal Government, which threatens our economy and national security, should the United States Constitution be amended to require a balanced federal budget without raising taxes?

Yes

No

2. In order to promote economic growth and to decrease America's dependence on foreign energy sources that threaten our national security, should the United States energy policy include increased domestic energy production through access to more on-shore and off-shore oil and natural gas?

Yes

No

3. In order to protect South Carolina jobs and defend against federal government intrusions, should the United States Congress pass the Protecting Jobs from Government Interference Act, which would prohibit the National Labor Relations Board from ordering any company to close, relocate, or transfer employees?

Yes

No



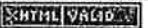
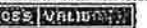
4. In order to address the matter of Corporate Personhood, the enfranchised People of the Sovereign State of South Carolina shall decree that:

Corporations are people

Only people are people

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**SOUTH CAROLINA
ELECTION COMMISSION**

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Respondents.

PROOF OF SERVICE

I certify that I have served the **Respondents South Carolina Democratic Party's, and Richard A. Harpootlian, as Chair of the Executive Committee of the South Carolina Democratic Party and as a representative of the South Carolina Democratic Party's Petition for Rehearing** on Petitioners, Amicus Curiae, and Respondents by depositing a copy of it in the United States Mail, postage prepaid, on November 4, 2011, addressed to their attorneys of record as set forth below:

Joel W. Collins, Jr.
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The Honorable Alan Wilson
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J. Emory Smith, Jr.
Office of the South Carolina Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

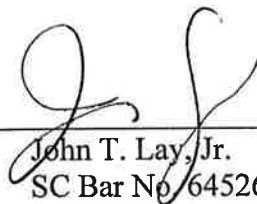
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Richard A. Harpootlian, as Chair of the Executive
Committee of the South Carolina Democratic Party and as
a representative of the South Carolina Democratic Party