



HENRY McMASTER  
ATTORNEY GENERAL

June 4, 2009

Joseph C. Good, Jr., General Counsel  
Medical University of South Carolina  
Harper Student Center  
45 Courtenay Drive  
MSC MSC 204  
Charleston, South Carolina 29425-2040

Dear Mr. Good:

In a letter to this office you questioned the eligibility of Dr. Thomas Rowland to continue to represent District 2 on the Board of Trustees of the Medical University of South Carolina. According to your letter,

[a]pparently what has given rise to this concern is that his wife owns a house at the beach and she has applied for and received a reduced tax rate from Georgetown County by claiming the house as her permanent residence. For the last forty or so years, Dr. Rowland has been a resident of Columbia. He has carefully protected his Columbia residency by: owning a home in Columbia, registering his car in Columbia, obtaining his driver's license in Columbia, and registering to vote in Columbia. He maintains his business and social contacts in Columbia.

As to the election of a member of the Board of Trustees of the Medical University of South Carolina, pursuant to S.C. Code Ann. § 59-123-50, "[o]ne member of the medical profession from each congressional district and one layman or member of a nonmedical profession from each congressional district must be elected."

Specifically as to the eligibility to serve on the Board of Trustees of the Medical University, a prior opinion of this office dated March 31, 2008 stated that

[o]ne's domicile is "the place where a person has a true, fixed and permanent home and principle establishment, to which he has, whenever he is absent, an intention of returning"...An intention to remain permanently, or for an indefinite time, in a place is one of the essential elements of domicile...Intent of the individual is probably the most important element in determining the residency of an individual...Intent is primarily a question of fact, determined on a case by case basis.

That opinion further stated that

[i]t is our opinion that in order to be eligible to serve on a Board of Trustees with statutory residency requirements such as the MUSC Board, an individual must demonstrate that he is qualified, by virtue of his residence in the specified congressional district, to be an elector in that district. That an individual is a qualified elector of a particular county would be determined by that county's board of voter registration (Op. S.C. Atty Gen., June 12, 1995), based on the factors of residency referenced above. Thus, the fact that an individual is registered to vote in a particular county strongly indicates (but is not dispositive of the fact) that he is a resident of that county. As stated in Clarke v. McCown<sup>1</sup>, the intent of the individual is the controlling element of decision.

Another prior opinion of this office dated March 17, 2004 stated that

[g]enerally, residency is a mixed question of fact and law and turns on the individual's intent. Ops. Atty. Gen. dated May 7, 1991 and July 7, 1999. As stated in a prior opinion of this office dated March 8, 1995 citing the decision in Clarke v. McCown,...[t]he residence of a person is a mixed question of law and fact; and the intention of that person with regard to the matter is deemed the controlling element of decision. His intention may be proved by his acts and declarations, and perhaps other circumstances; but when these, taken all together, are not inconsistent with the intention to retain an established residence, they are not sufficient in law to deprive him of his rights thereunder, for it will be presumed that he intends to continue a residence gained until the contrary is made to appear, because inestimable political and valuable personal rights depend upon it. Therefore, it is a serious matter to deprive one of his residence, and it should not be done upon evidence which is legally insufficient. . . That a man does not live or sleep or have his washing done at the place where he has gained a residence, or that his family lives elsewhere, or that he engages in employment elsewhere are facts not necessarily inconsistent with his intention to continue his residence at that place.

That opinion further stated that

[t]his office has previously stated that “a person may move from his original home, and voting place, and live elsewhere but retain his legal domicile at his original home and be able to return to the original home to vote. This is a question of fact...” This office has opined that “the permanent residence of an elector is not affected by a

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<sup>1</sup>107 S.C. 209, 92 S.E. 479 (1917).

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temporary absence when the intention of such absence is not to be permanent.” [T]he question of residence depends on the individual’s intent, and such is a question of fact.

See also: Op. Atty. Gen. dated August 29, 1983 (“Since residency is determined by one’s intent, the fact that...(an individual’s)...wife may be a resident of...(one)...county is immaterial to the question of whether...(that individual)...is a resident of...(another county).”).

Consistent with the above, and particularly referencing the facts set forth in your letter regarding Dr. Rowland which support the conclusion that it could be determined that he remains a resident of Columbia, in the opinion of this office, he may continue to represent District 2 on the Board of Trustees of the Medical University of South Carolina.

If there are any questions, please advise.

Very truly yours,

Henry McMaster  
Attorney General



By: Charles H. Richardson  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
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