ALAN WILSON
ATTORNEY GENERAL

September 4, 2012

Bobby M. Bowers, Director
Division of Research and Statistics
S.C. Budget and Control Board
1000 Assembly Street, Ste. 425
Columbia, SC 29201

Dear Director Bowers:

We received your letter asking whether the list of eligible jurors which the State Election Commission furnishes the chief magistrates pursuant to S.C. Code Ann. §22-2-50 must include the names of individuals holding South Carolina driver's licenses or identification cards who are not also registered voters. Because you reference a prior opinion of this Office dated December 5, 1989, wherein we responded to a similar question, we will treat your inquiry as a request to revisit or overrule the 1989 opinion.

This Office recognizes a long-standing rule that we will not set aside or vacate Office opinions unless we find them to have been erroneously decided at the time of issuance or we believe that subsequent events dictate that the opinion should be modified. See Ops. S.C. Atty. Gen., April 18, 2011; October 3, 1986.

At the time of the 1989 opinion, §22-2-50 provided that the State Election Commission provide chief magistrates in each county with "... a precinct-by-precinct list of qualified electors residing within the county. The chief magistrate for administration of the county shall use such lists in preparing, for each Jury Area, a list of the qualified electors therein and shall forward these lists to the respective magistrates." Section 14-7-130 set forth the procedure for the State Election Commission to provide county jury commissioners with a list of individuals eligible to serve as jurors. We noted that §14-7-130, which mandated that the jury list be composed of names of registered voters and licensed drivers and identification cardholders who are residents of a particular county, is applicable only to jurors for the circuit court. In reaching this conclusion, we relied upon the Title to 1988 S.C. Acts No. 453, which specified the applicability of §14-7-130 to the circuit courts. We thus determined the list of eligible jurors which the State Election Commission furnishes the chief magistrates pursuant to §22-2-50 should not include the names of persons holding state driver's licenses or identification cards who are not also registered voters. We concluded that "[t]o be eligible to serve as a juror in a magistrate's court pursuant to Section 22-2-50, an individual must be a registered voter." See State v. Black, 319 S.C. 515, 462 S.E.2d 311 (1995) [citing the 1989 opinion with approval].

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However, since the issuance of our 1989 opinion, the Legislature amended §22-2-50 in 2004 S.C. Acts. No. 304. Pursuant to the amendment, §22-2-50 now provides that:

> [i]n October of each year, the State Election Commission must provide to the chief magistrate for administration of each county, at no cost, a jury list compiled in accordance with the provisions of Section 14-7-130. The chief magistrate for administration of the county must use these lists in preparing, for each jury area, a list of the qualified electors in these jury areas, and must forward these lists to the respective magistrates. [Emphasis added].

Significantly, we note the Title to Act 304 states, in part:

> . . . TO AMEND SECTION 22-2-50, RELATING TO THE PREPARATION OF A LIST OF QUALIFIED ELECTORS FOR EACH MAGISTERIAL JURY AREA, SO AS TO REQUIRE THE LIST BE PREPARED IN OCTOBER OF EACH YEAR, DELETE THE REQUIREMENT THE LIST BE PREPARED ON A PRECINCT BY PRECINCT BASIS, AND REQUIRE IT BE COMPILED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 14-7-130 . . . [Emphasis added].

The Title to this Act is specific in stating that jury lists in magistrate courts must be compiled in accordance with §14-7-130; that is, jury lists must be composed of names of registered voters and licensed drivers and identification cardholders.[1] The cardinal rule of statutory interpretation is to ascertain

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[1]Section 14-7-130, amended several times since our 1989 opinion, provides that:

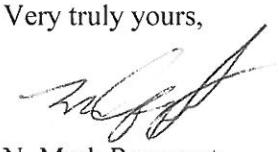
> [i]n September of each year, the Department of Motor Vehicles shall furnish the State Election Commission an electronic file of the name, address, date of birth, social security number, sex, and race of persons who are over the age of eighteen years and citizens of the United States residing in each county who hold a valid South Carolina driver's license or an identification card issued pursuant to Section 56-1-3350. The electronic file also must include persons who have obtained a valid South Carolina driver's license or identification card during the previous year and exclude persons whose driver's license or identification card has not been renewed or has been invalidated by judicial or administrative action. In October of each year, the State Election Commission shall furnish a jury list to county jury commissioners consisting of a file or list derived by merging the list of registered voters in the county with county residents appearing on the file furnished by the department, but only those licensed drivers and identification cardholders who are eligible to register to vote may be included in the list. Before furnishing the list, the commission must make every effort to eliminate duplicate names and names of persons disqualified from registering to vote or voting pursuant to the laws and Constitution of this State. As furnished to the jury commissioners by the State Election Commission, the list or file constitutes the roll of eligible jurors in the

and effectuate the legislative intent whenever possible. Burns v. State Farm Mutual Auto Ins. Co., 297 S.C. 520, 377 S.E. 2d 569 (1989). Moreover, when interpreting a statute, the legislative intent must prevail if it can be reasonably discovered in the language used which must be construed in light of the intended purpose of the statute. Gambrell v. Travelers Insurance Companies, 280 S.C. 69, 310 S.E.2d 14 (1984). Also, South Carolina courts consider the title or caption of an act in aid of construction to show the intent of the Legislature. Lindsay v. Southern Farm Bureau Cas. Ins. Co., 258 S.C. 272, 188 S.E.2d 374 (1972); University of South Carolina v. Elliott, 248 S.C. 218, 149 S.E.2d 433 (1966). The statement in the Title to Act No. 304 is quite clear in specifying the applicability of §14-7-130 to the magistrate courts.

Because of the amendment to §22-2-50 and the very clear intent of the Legislature, we are inclined to overrule our 1989 opinion. Pursuant to §22-2-50, it is the opinion of this Office that the provisions of §14-7-130, mandating the jury list compiled by the State Election Commission be composed of names of registered voters and licensed drivers and identification cardholders, is applicable to jurors for a magistrate's court. Accordingly, the list of eligible jurors which the State Election Commission furnishes the chief magistrates should include the names of persons holding state driver's licenses or identification cards or who are registered voters.

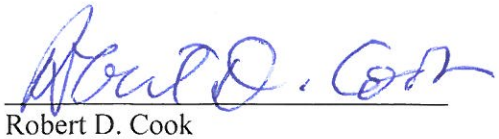
If you have any further questions, please advise.

Very truly yours,



N. Mark Rapoport
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General

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county. Expenses of the Department of Motor Vehicles and the State Election Commission in implementing this section must be borne by these agencies.