

2189 Library

The State of South Carolina



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE 803-758-2072

April 15, 1986

The Honorable C. Alex Harvin, III
The Majority Leader
House of Representatives
505B Blatt Building
Columbia, South Carolina 29211

Dear Representative Harvin:

Mr. Medlock has referred your recent letter to me for reply. You have stated that the Clarendon County Council abolished the Office of Director of Public Works. The ordinance abolishing this Office was sent to the Justice Department for their approval under the Voting Rights Act; however, at this date the county has not heard from the Justice Department. You have further stated that the incumbent, Mr. Hardy, filed for this position during the time filing was open. No other candidate filed. You have asked the following questions:

- (1) should Mr. Hardy's filing for this position be accepted by the party?

This, of course, is a party matter. However, unless and until Clarendon County receives preclearance of the abolishment of this Office, the abolition is not operative. Therefore, the Office is still in existence at this date. 42 U.S.C. 1973; see in general NAACP v. Hampton County, 105 S.Ct. 1128, 84 L.Ed 2d 124 ____ U.S. ____ (1985).

- (2) should Mr. Hardy then be duly declared the nominee of the party for this position?

South Carolina Code of Laws, 1976, Section 7-11-90 provides in part that

[a]fter the closing of entries if any candidates shall be unopposed...the county committee in the case of county offices shall declare such unopposed candidates as party nominees, and the names of unopposed candidates shall not be placed upon the primary election ballots but shall be certified for the general election ballots.

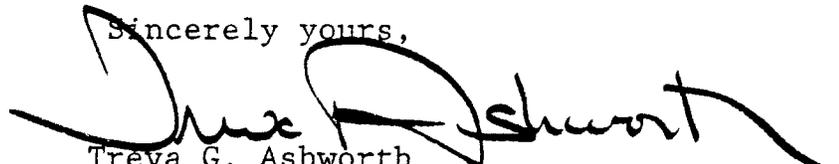
The Hon. C. Alex Harvin, III
Page 2

Under this statute if he is unopposed, and the party has accepted his filing for this position, he would be the party nominee.

- (3) What actions would be appropriate for the Democratic Party and the County Election Commission to take in the event that no response or a negative response is received from the Justice Department in order to place him in the office on the November ballot?

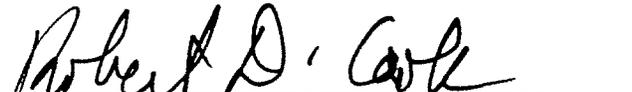
You have not indicated on what date the County submitted this ordinance to the Justice Department. However, under the provisions of the Voting Rights Act, the Justice Department has sixty (60) days to review the submission. They may request additional information one time within this sixty days which tolls their time and gives them another sixty days once the information they have requested is received. It would, therefore, appear that you should hear from the Justice Department before you have to print the November ballot. If they disapprove the ordinance, and if the party has accepted Mr. Hardy's filing for this office, then his name should be placed on the general election ballot.

Sincerely yours,



Treva G. Ashworth
Senior Assistant Attorney General

TGA/ss



Robert D. Cook
Executive Assistant for Opinions