

1979 WL 42936 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 17, 1979

*1 Ladson F. Howell, Esquire
Beaufort County Attorney
Howell and Barnes, P.A.
P. O. Box 40
Beaufort, SC 29902

Dear Mr. Howell:

I am in receipt of your letter of April 13, 1979, in which you requested an opinion of this Office concerning a special election to be held in Beaufort County. You have stated that Mr. Vanderhoof, a former member of the Beaufort County Council, has been found to be ineligible to hold office because of a felony conviction he received when he was fourteen years old. Judge Eltzroth ruled in his Order of April 3, 1979, that due to the factual situation, Mr. Vanderhoof could not legally hold office and a vacancy existed. You have further stated that Mr. Vanderhoof was elected to one of three council seats in the general election of November of 1978. You have asked the following questions:

(1) Will it be necessary for a new election to be held for all three of the seats which were up for election in the November General Election?

No. You have stated that the election for Beaufort County Council is run at large, and that three persons were elected in the general election. The ineligibility of one person who was elected in the general election would not invalidate the election of the other two persons who were legally and properly elected. 1959 Att'y. Gen. Ops. 160; cf. South Carolina Code of Laws (1976), Section 7-11-230.

(2) Will it be necessary for the Democratic Party to hold a primary to re-nominate candidates for that Office?

It will be necessary for all political parties who wish to nominate candidates for this office to do so by either convention or primary method.

(3) Is J. Patrick Vanderhoof qualified to run in the special election in light of the recent pardon if he has qualified under the South Carolina Election Laws as a qualified elector?

If Mr. Vanderhoof meets all the other requirements to be a candidate, the fact that he was pardoned of a disqualifying offense would not prevent him from being a candidate. South Carolina Code of Laws (1976), Section 7-5-120(5)(b); 67A C.J.S. Pardon and Parole, § 20; Morris v. Hartsfied, 186 Ga. 171, 197 S.E.2d 251 (1938); 1930 Att'y. Gen. Ops. 105.

Very truly yours,

Treva G. Ashworth
Senior Assistant Attorney General

1979 WL 42936 (S.C.A.G.)