

1981 WL 157945 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 1, 1981

\*1 Honorable Richard B. Riley  
Governor  
State of South Carolina  
Post Office Box 11450  
Columbia, South Carolina 29211

Dear Governor Riley:

On August 23, 1981, I wrote you a letter regarding whether or not a councilman who was elected on June 5, 1979, and who was not a registered elector on that date but who in 1981 became a qualified elector, was qualified to hold office.

The letter you referred to me stated that the councilman had never been a registered elector and the opinion was premised on this understanding. Neither your letter nor the letter you referred to me states the name of the councilman. I have talked to Jim Ellisor, Executive Director of the State Election Commission, today and he informed me that he believes the councilman's name is Renelda J. Tharpe, Jr. He further stated that Mr. Tharpe was registered to vote on April 4, 1968 but was deleted July 18, 1977 from the list of registered voters for failure to vote. He was subsequently reinstated to the list of registered voters in 1981.

If this is the councilman in question, then he would have been a qualified voter on the date of his election. South Carolina Code of Laws, 1976, Section 7-3-30(b) provides in part

. . . that if the elector's name has been deleted solely by reason of his failure to vote . . . his name shall be restored as a matter of course to the registration books upon his request if he shall be otherwise qualified.

Our Office and the State Election Commission has taken the position that if a person has been deleted solely by virtue of his failure to vote, he can be reinstated at any time including the day of the election; his coming to the polls to vote would be considered a request for reinstatement.

A voter who fails to vote in two consecutive statewide general elections or any intervening local election within that time period is administratively deleted from the list of registered voters. South Carolina Code of Laws, 1976, Section 7-3-20(c)(2) and (3). Persons deleted for failure to vote are still qualified electors; they are simply inactive voters.

Therefore, if Mr. Tharpe is the councilman involved and he was a registered elector who was deleted for failure to vote, he would still be deemed a qualified elector and would have been a qualified elector as of the day of his election.

Sincerely,

Treva G. Ashworth  
Senior Assistant Attorney General

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