

1975 S.C. Op. Atty. Gen. 36 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 3965, 1975 WL 22263

Office of the Attorney General

State of South Carolina

Opinion No. 3965

February 7, 1975

**\*1 Re: No. 207—Municipal**

Paul A. Sansbury, Esquire  
City Attorney  
P. O. Box 502  
Darlington, South Carolina 29532

Dear Mr. Sansbury:

You have requested that we advise you as to whether or not we feel that the current City of Darlington jury list is valid. Recently, Councilwoman Betty Baker, with your knowledge, made the same request of us.

When one looks merely at the 1975 jury list, it appears that, in accordance with Section 15-953 of the South Carolina Code of Laws, the jury commissioners have selected not less than three hundred residents who are qualified electors residing within the limits of the City of Darlington and who are persons of good moral character and are eligible for jury duty.

While the jury list appears valid on its face, its validity is questionable when one considers that there are, according to Councilwoman Baker, approximately four thousand (4,000) registered voters in the City of Darlington and that the names of all but a small number of those jurors included on the 1975 list were on the 1973 and 1974 lists as well.

The ultimate object of the procedure in selecting persons for jury service is to bring into court for the benefit of litigants and for the administration of justice jurors who have been chosen impersonally, methodically, and by equal chance, with respect to possibility of selection, from the whole body of the . . . district from which they are properly selected. 47 AM.JUR.2d Jury § 136 at 736.

Moreover,

[t]he right to trial by an impartial jury means that prospective jurors must be selected by . . . officials without systematic and intentional exclusion of any group . . . . The principle upon which the rule against the exclusion of certain classes from jury lists rests is the denial of the equal protection of the laws.

Qualified persons cannot be arbitrarily excluded from, or in, selection for jury service by jury commissioners . . . 47 AM.JUR.2d Jury § 163 at 756-757.

By what appears to be a systematic inclusion of certain electors residing in the City of Darlington, the jury commissioners apparently have systematically excluded others. Should one move before the Court to quash the current list, the defense of that list, obviously, would be most difficult. It is, in our opinion, of questionable legality.

Best wishes,

C. Tolbert Goolsby, Jr.

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