

1974 WL 27894 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 30, 1974

**\*1 Re: No. 84—Elections**

Mr. E. Guenther  
Chairman  
Charleston County Board of Registration  
The Center  
Charleston, South Carolina

Dear Mr. Guenther:

In your letter to the Attorney General dated July 18, 1974, you wrote:

On July 16, the day of the Primary, we received a phone call from . . . your office [requesting us] to furnish a registration certificate on the current precinct for voting in that election, to an individual who had moved out of that precinct, as set forth in our new re-precincting plan [sic], but within the old precinct which no longer exists.

. . .

[W]e are now receiving similar requests from others who have heard about the incident.

Will you . . . confirm the instructions given us, and may we also . . . have your ruling as to when moving within old precincts, after a re-precincting [sic], should no longer be considered.

On July 16, 1974, the date primary elections were held in South Carolina for the nomination of candidates to public office we received a telephone call from an individual in Charleston County who informed us that she had moved within her precinct. After she had moved and unknown to the young lady, we are informed, the General Assembly enacted a statute redefining the voting precincts in Charleston County. 58 STAT. Act No. 425 at 738 (1973); see also, Id. Act No. 890 at 1444 (1974). When she went to vote on July 16, 1974, she was not allowed to do so because she no longer resided in the precinct listed on her voting certificate. Following our conversation with that individual, we called you stating that if you were satisfied that the facts were as she related them, a new voting certificate should be given her and she should be allowed to vote that day in the new precinct. We suggested that the poll manager at the new precinct be told by you to treat the person as he would a 'deleted voter.' See CODE OF LAWS OF SOUTH CAROLINA § 23-32 (1962) (Cumulative Supplement). We understood from you that a duplicate certificate reflecting that the voter had been transferred to a new precinct was mailed to her but that it was returned to the board of registration because she was no longer at the address shown on the certificate. See, Id. § 23-222. As a result of the return of the certificate, her name was removed from the registration books. Id.

The last cited statute provides in part:

[T]hat if the elector's name has been deleted solely by reason of the return of his duplicate certificate, . . . , his name shall be restored as a matter of course to the registration books immediately upon his request if he shall be otherwise qualified to vote in the precinct.

Here, the voter's name was deleted only because her duplicate certificate was returned to the board of registration. Therefore, she had merely to request that her name be restored to the list of registered voters and to demonstrate her qualifications to vote. This, it should be noted, is not a situation in which the voter moved out of the precinct after the precincts in Charleston County were redefined; rather, it is a case in which the voter had moved within the precinct before the precinct lines were changed. Through no fault of her own, she was disenfranchised.

\*2 We are of the opinion that the name of any voter identically affected should also be restored to the registration books upon his request, if otherwise qualified. Any person, therefore, who moved within a precinct before April 15, 1974, the effective date of Act No. 425 [see 58 STAT. Act No. 890 at 1944 (1974)], should upon request have his name restored to the list of registered voters if he is still a resident of the precinct of which his old precinct is a part.

Best wishes,

C. Tolbert Goolsby, Jr.  
Deputy Attorney General

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