

1974 WL 27474 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 8, 1974

*1 Thomas O. Lawton, J., Esq.
Post Office Box 646
Allendale, South Carolina 29810

Dear Mr. Lawton:

Thank you for your letter of October 3, 1974, concerning filling a vacancy for the Democratic nominee to the Allendale County Board of Directors due to the death of Mr. L. R. Deer, the Democratic nominee. You have stated that Mr. William J. Myers was defeated by Mr. Deer for the Democratic primary nomination for this office and has subsequently been certified by the UCP as their candidate for this office. You have further stated that an injunction is being brought against Mr. Myers to have his name removed from the ballot and Mr. Myers is asking that he be considered for the Democratic nomination. You have asked if, in light of this situation and pursuant to Section 23-266, the date of the election must be postponed.

Section 23-266 deals with substitution of candidates when one candidate dies or withdraws and states in part:

. . . where such a party nominee is unopposed each political party registered with the Secretary of State shall have the privilege of nominating a candidate for the office involved. If the event occurs forty-five days or more prior to the election such nomination must be certified not less than thirty days prior to the election. If the event occurs less than forty-five days prior to the election such office shall not be voted on until the first Tuesday in the month following such election and such nomination must be certified not less than fifteen days prior thereto. (Emphasis added)

This provision applies only when the party nominee is unopposed. At the time of Mr. Deer's death the office was contested by Mr. Myers and therefore this provision does not apply. Therefore, a new nominee for this office should be certified by October 16 and the election held on November 5.

Sincerely,

Treva Ashworth
Assistant Attorney General

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