

2009-EC-⁰⁰791-SCT

IN THE SUPREME COURT OF MISSISSIPPI

CURRESSIA BROWN

APPELLANT

VS.

NO. _____


SHERIEL F. PERKINS

APPELLEE

BRIEF OF APPELLANT

An Appeal From the Circuit Court of LeFlore County, Mississippi

Prepared By:

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IN THE SUPREME COURT OF MISSISSIPPI

CURRISSA BROWN

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VS.

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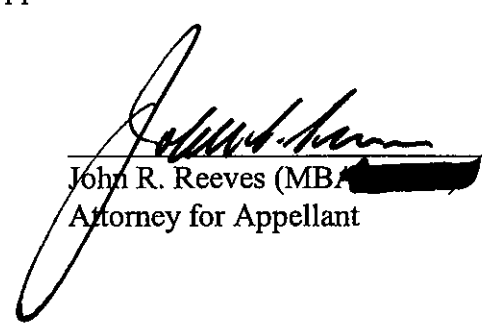
SHERIEL F. PERKINS

APPELLEE

CERTIFICATE OF INTERESTED PERSONS

Pursuant to Rule 28(a)(1) of the Mississippi Rules of Appellate Procedure, the undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. Their representations are made in order that the Justices of the Supreme Court and/or the Justices of the Court of Appeals may evaluate possible disqualification or recusal.

1. Honorable Andrew K. Howorth, Circuit Court Judge
2. Curriッサ Brown, Appellant
3. Sheriel F. Perkins, Appellee
4. John R. Reeves, Attorney for Appellant
5. J. Justin King, Attorney for Appellant
6. Willie Perkins, Sr., Esq., Attorney for Appellee




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STATEMENT OF THE ISSUE

The trial court erred in finding that appellant is not a resident of Greenwood, Mississippi, and disqualifying her as a candidate for mayor.

STATEMENT OF THE CASE

Appellant, Curressia Brown ("Ms Brown") qualified to run as an independent in the June 2, 2009, general election for mayor of Greenwood, Mississippi. On April 8, 2009, Appellee, Sheriel F. Perkins ("Ms. Perkins"), the current mayor, filed a Petition to Contest the Qualification of Ms Brown to run for mayor. On April 10, 2009, Ms Perkins filed an amended petition. On April 16, 2009, the City of Greenwood Municipal Election Commission denied certification to Ms Brown as a candidate for mayor of the city of Greenwood, Mississippi, based on the contention that Ms Brown did not meet the residency requirements established by law. On April 21, 2009, Ms Brown filed a Petition for Judicial Review Per Miss. Code Ann. § 23-15-963 which appealed the City of Greenwood's Municipal Election Commission's decision. The circuit judges of the district recused themselves and the supreme court appointed the Honorable Andrew K. Howorth to preside over the case by order entered April 30, 2009. The matter was tried on May 12, 2009. An Order was entered on May 13, 2009, disqualifying Ms Brown from being a candidate for mayor of Greenwood, Mississippi. Ms Brown timely appealed to the supreme court.

SUMMARY OF THE ARGUMENT

The trial court erred in finding that appellant is not a resident of Greenwood, Mississippi, and disqualifying her as a candidate for mayor. Miss. Code Ann. § 21-8-21(1) provides that the only qualification to be mayor in a mayor-council form is government is that the mayor shall be a qualified elector of the municipality. Miss. Code Ann. § 23-15-361(5) provides that a candidate for mayor shall be a qualified elector of the municipality, that the candidate not be a convict of any felony in a court of this state, or of any offense in another state which is also a felony under the laws of Mississippi if the conviction occurred on or after December 8, 1992. Miss. Code Ann. § 23-15-11 (Supp. 2008) provides that in order to be a qualified elector a person must reside in Mississippi for 30 days and 30 days in the incorporated municipality in which he seeks to vote, and that such person not be a convict of any crime listed in Section 241, Mississippi Constitution of 1890.

Ms Brown became a permanent resident of the city of Greenwood, Mississippi, effective February 5, 2009. She is a qualified and registered elector of the city of Greenwood, Mississippi. She has power, cable, gas, water and sewer service in her name at her residence in Greenwood. Her car tag is registered to her at her city of Greenwood address. Her driver's license reflects her city of Greenwood address. Her stated intent is to be a permanent, fixed resident of the city of Greenwood. Ms Brown meets all of the requirements to be a candidate for mayor of the city of Greenwood, Mississippi.

This court should reverse the decision of the trial court and reinstate as a candidate for mayor of Greenwood.

ARGUMENT

I. Standard of Review

This is a statutorily created, specific appeal. The supreme court has “the authority to grant such relief as is appropriate under the circumstances.” Miss. Code Ann. § 23-15-963(6).

II. The trial court erred in finding that appellant is not a resident of Greenwood, Mississippi, and disqualifying her as a candidate for mayor.

The requirements to run for mayor are:

A. Miss. Code Ann. § 21-8-21(1) provides that the only qualification to be mayor in a mayor-council form of government is that the mayor shall be a qualified elector of the municipality. Ms Brown is a registered voter (qualified elector) in the city of Greenwood, Mississippi. (R.E., p. 39). LeFlore County Circuit Clerk Trey Evans testified that according to records in his office, Ms Brown resides at 201 West President Street, Apt. 210, Greenwood, Mississippi. (R.E. p. 63, lns. 9-12).

B. Miss. Code Ann. § 23-15-361(5) provides that a candidate for mayor shall be a qualified elector of the municipality, that the candidate not be a convict of any felony in a court of this state, or of any offense in another state which is also a felony under the laws of Mississippi if the conviction occurred on or after December 8, 1992. As shown above, Ms Brown is a qualified elector of the city of Greenwood, Mississippi. Ms Brown is not a convict of any felony in a court of this state, or of any offense in another state which is also a felony under the laws of Mississippi if the conviction occurred on or after December 8, 1992. No introduced was introduced to even suggest such.

C. Miss. Code Ann. § 23-15-11 (Supp. 2008) provides that in order to be a qualified elector a person must reside in Mississippi for 30 days and 30 days in the incorporated municipality in which he seeks to vote, and that such person not be a convict of any crime listed in Section 241, Mississippi Constitution of 1890. Ample evidence was introduced showing that Ms Brown has resided in Mississippi for 30 days and 30 days in the city of Greenwood. Such evidence includes:

- Ms Brown became a permanent resident of the city of Greenwood, Mississippi, effective February 5, 2009. (R.E., p. 114, lns. 4-8).
- The lease on her apartment at 201 West President Street, No. 210, was signed on February 5, 2009. (R.E., p. 148). That address is located within the city limits of Greenwood, Mississippi. (R.E., p. 114, lns. 4-8).
- She is a qualified and registered elector of the city of Greenwood, Mississippi. (R.E., p. 149). (R.E., p. 112, lns. 18-22).
- She has power, cable, gas, water and sewer service in her name at her residence in Greenwood. Ms. Brown's cable service is in place at her city of Greenwood address. (R.E., p. 125, lns. 17-19). Ms Brown's other utilities are activated at her city of Greenwood residence. (R.E., p. 118, lns. 20-23). (Exhibit 8). Ms Brown is actually using utilities at the residence. (R.E., p. 119, lns. 4-9).
- Her vehicle is registered at her city of Greenwood address and that is where it is tagged. (R.E., p. 114, lns. 9-15). (R.E., p. 151). The vehicle is correctly tagged at that address because that is where the car is domiciled. (R.E., p. 45, ln. 16 - p. 46, ln. 7). Ms Brown tagged the vehicle at her city of Greenwood address because that is where she lives. (R.E., p. 117, lns. 12-13).

- Her driver's license reflects her city of Greenwood address. (R.E., p. 112, lns. 14-17).
- Her stated intent is to be a permanent, fixed resident of the city of Greenwood. Her permanent home is 201 West President Street, Apt. 210, Greenwood, Mississippi. (R.E., p. 120, lns. 3-4). (R.E., p. 125, lns. 4-5). Ms Brown is actually living at the Greenwood address. (R.E., p. 1121, lns. 19-25.)

No homestead exemption was filed by Ms Brown or her husband at any location. (R.E., p. 139, ln. 24 - p. 140, ln. 5). Thus, there is no presumption as to Ms Brown's residency. Hinds County Election Commission v. Brinston, 671 So.2d 667 (Miss. 1996). "A person's domicile in election matters is the place where he has his true, fixed, permanent home and principle establishment, and to which whenever he is absent, he has the intention of returning." Young v. Stevens, 968 So.2d 1260, 1263 (Miss. 2007). This evidence shows that Ms Brown meets all of the requirements to be a candidate for mayor of Greenwood, Mississippi.

CONCLUSION

This court should reverse the decision of the trial court and reinstate Ms Brown as a candidate for mayor of Greenwood.

Respectfully submitted,
Appellant

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CERTIFICATE OF SERVICE

I certify that I mailed a true copy of this document to the following, via First Class U.S. Mail, postage prepaid on May 18, 2009.

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