

IN THE CIRCUIT COURT OF LEFLORE COUNTY, MISSISSIPPI

SHERIEL F. PERKINS and THE STATE
OF MISSISSIPPI ON RELATION OF
SHERIEL F. PERKINS

PLAINTIFF

VS.

NO. 2013-0047 CI CI

CAROLYN MCADAMS

DEFENDANT

COMPLAINT

COMES NOW, Plaintiff Sheriel F. Perkins and the State of Mississippi on relation of Sheriel F. Perkins, by and through counsels, and files this her Complaint to contest the June 4, 2013, General Election for the mayoral race in Greenwood, Mississippi, and to challenge the right of defendant to hold office and in support of the same would respectfully show unto the Court the following facts, to-wit:

I. Jurisdiction and Venue

1. This Complaint is brought pursuant to Mississippi Code Annotated § 23-15-951 et al. to contest the June 4, 2013, General Election for the mayoral race of Greenwood, Mississippi. Plaintiff, pursuant to Mississippi Code Annotated §11-39-1 et seq., seeks a Writ of Quo Warranto challenging the legal right of Defendant Carolyn McAdams to take and hold the office of Mayor for the City of Greenwood, Mississippi.

II. Parties

2. Plaintiff Sheriel F. Perkins is an adult resident citizen of Greenwood, Leflore County, Mississippi. She was the duly certified nominee mayoral candidate of the Municipal Democratic Executive Committee of Greenwood, Mississippi. Plaintiff Perkins

brings this action in Quo Warranto on relation on behalf of the State of Mississippi claiming an entitlement to the office of Mayor of the City of Greenwood, Mississippi.

3. Defendant Carolyn McAdams is an adult resident citizen of Greenwood, Leflore County, Mississippi, and may be served with process of this Court at her residence located at 613 East Claiborne Avenue, or at the Greenwood City Hall located at 101 West Church Street, Greenwood, Mississippi.

III. Statement of Facts and Causes of Action

4. Plaintiff was one of two candidates for Mayor of the City of Greenwood, Mississippi, in the General Election held on June 4, 2013. The other candidate was Carolyn McAdams.

5. According to the final certification of results of the June 4, 2013, mayoral contest of the Greenwood Election Commission (Commission) dated June 6, 2013, plaintiff received 2,412 total votes and defendant received 2,618 total votes for mayor.

6. That the Official Recapitulation and Statement of Results of the General Election held on June 4, 2013, as it relates to the mayoral race is as follows:

Race, Candidate Names & Party	Ward 1	Ward 2	Ward 3	Ward 4	Ward 5	Ward 6	Ward 7	TOTAL	%
Mayor									
Sheriel F. Perkins, D	52	5	434	511	508	438	464	2412	48.0
Carolyn McAdams, I	746	1275	330	93	62	51	61	2618	52.0

7. The absentee votes cast and counted in the June 4, 2013, General Election for Mayor of the City of Greenwood are as follows:

Mayor	Ward 1	Ward 2	Ward 3	Ward 4	Ward 5	Ward 6	Ward 7	TOTAL
Sheriel F. Perkins	13	0	16	64	68	35	57	250
Carolyn McAdams	91	130	45	7	7	3	4	287

8. The affidavit/provisional votes cast and counted in the June 4, 2013, General Election for Mayor of the City of Greenwood are as follows:

Mayor	Ward 1	Ward 2	Ward 3	Ward 4	Ward 5	Ward 6	Ward 7	TOTAL
Sheriel F. Perkins	1	0	13	16	31	23	24	108
Carolyn McAdams	20	19	4	1	5	1	2	48

9. The final vote in the mayoral election in the City of Greenwood, Mississippi, as certified by the Greenwood City Election Commission is erroneous, arbitrary, capricious, incorrect and includes at least 56 or more absentee votes counted for McAdams that are illegal votes; there are at least 133 rejected and uncounted affidavit ballots which are legal votes cast by residents of Greenwood, Mississippi, that must be counted; there are several rejected and uncounted absentee ballots cast by residents of Greenwood, Mississippi, that are legal votes and must be counted. The vote total as shown on the June 6, 2013, certification as received by Perkins and McAdams are inconsistent with the actual total number of legal absentee ballots and affidavit ballots and curbside ballots cast by legal voters of the City of Greenwood, Mississippi, in the June 4, 2013, mayoral general election.

First Cause of Action: Wrongful, Arbitrary And Capricious Rejection of Legal Affidavit and

Absentee Ballots

10. During the June 4, 2013, mayoral general election in Greenwood, Mississippi, a total of 133 voters in wards 3, 4, 5, 6, and 7 cast affidavit ballots in the June 4, 2013, mayoral general election, but their affidavit ballots were rejected and remain uncounted. The Greenwood Election Commission intentionally and or wrongfully rejected these 133 affidavit ballots, or overlooked and/or failed to locate the voters who cast affidavit ballots as registered voters on the voting roll of Leflore County and Greenwood voting during the certification process.

11. The 133 uncounted affidavit ballots cast by these voters are legal votes and should be counted by the Court in order to determine which of the two candidates received the highest number of legal votes cast in the mayoral general election and in order to determine the will of the electorate. The 133 affidavit ballots cast remain uncounted in the mayoral general election and when considered with the contestant's other theories are outcome determinative and must be considered by the Court.

Second Cause of Action: Illegal Machine Votes Cast By Non-Residents of Greenwood, Mississippi

12. The allegations of paragraphs 1-11 are readopted and realleged herein.

13. Upon information and belief, more than 25 illegal votes were cast and counted in the June 4, 2013, mayoral general election by voters who are in fact non-residents of Greenwood, Mississippi, of whom voluntarily moved to Carroll County, other areas of Leflore County and other counties.

14. Under Mississippi law, the foundation of one's domicile or residence is

intent. The intention may be established by physical presence, declaration of intent, and all relevant facts and circumstances. In the context of voting, it has been long held that the declaration of the voter is more important, *Stubbs v. Stubbs*, 211 So.2d 821, 825 (Miss. 1968), so long as there is no inconsistent documentary evidence such as filing homestead exemption and purchase of car tags in other counties.

Third Cause of Action: Illegal Absentee Ballots Cast And Counted

15. The allegations of paragraphs 1-14 are readopted and realleged herein.

16. Most of the 56 illegal absentee ballots cast and counted for McAdams came from Wards 1 and 2 during the 2013 mayoral general election in the City of Greenwood by voters who failed to comply with statutory provisions relating to absentee ballots; several applications for absentee ballots lack signatures or signature of a witness; none of the applications for absentee ballots contain initial of registrar. The 56 absentee votes cast are illegal and constitute violations of voting procedures and are total departures from the fundamental provisions of Mississippi's absentee ballots law so as to destroy the integrity of the absentee ballots.

Fourth Cause of Action: The Invalidity of Absentee Ballot Votes That Lack The Signature Of Either The Voter Or Attesting Across The Flap Of The Absentee Ballot Envelope Under Miss. Code Ann. § 23-15-633 (Rev. 2001), Lack Signature Of Voter Or Witness On Application

16. The allegations of paragraphs 1-16 are readopted and realleged herein.

17. Pursuant to Miss. Code Ann. 23-15-633 (Rev. 2001), the signatures of the voter and the attesting witness on the back of an absentee ballot envelope must actually

cross the envelope's flap. Miss. Code Ann. Section 23-15-633 (Rev. 2001) provides that "on any envelope where the elector's signature and the signature of the attesting witness are required, the signatures lines and the signatures shall be across the flap of the envelope to insure the integrity of the ballot."

18. Since the Mississippi Legislature has declared these requirements to be essential to the guarantee of a ballot's integrity, absentee ballots that do not comply with the statutory provision are illegal and can not be counted.

Sixth Cause Of Action: Section 2 Of The Voting Rights Act of 1965, 42 U.S.C. § 1973

19. The allegations of paragraphs 1-18 are readopted and realleged herein.

20. The City Election Commission, City Clerk and certain poll workers who conducted the June 4, 2013, mayoral general election engaged in racially motivated manipulation of the electoral process to the detriment of African American voters in Greenwood, Mississippi, in violation of the anti-dilution provision of the Voting Rights Act of 1965, as amended and the judicial decision in *U.S. v. Brown*, 494 F. Supp. 2d 440 (S.D. Miss. 2007) *aff'd* 561 F.3d 420 (5th Cir. 2009).

Seventh Cause Of Action: Help America Vote Act, 42 U.S.C. 15482

21. The allegations of paragraphs 1-20 are readopted and realleged herein.

22. The City Election Commission, the City Clerk and certain poll workers who conducted the election engaged in racially motivated manipulation of the electoral process to the detriment of the African American voters in Greenwood, Mississippi, in violation of the provisional ballot requirements of the Help America Vote Act. The City

Election Commission longstanding historical actions and conduct and the intentional refusal to count affidavit ballots and Help America Vote Act violate provisional ballot requirements of 42 U.S.C. § 15482.

23. Of the 156 affidavit (provisional) ballots cast and counted in the June 4, 2013, general election, 108 affidavit (provisional) ballots were cast by African American voters; of the 200 affidavit (provisional) ballots rejected in the June 2013 general election, 123 affidavit (provisional) ballots were cast by African American voters.

**Eighth Cause Of Action: Section 2 Of The Voting Rights Act
Of 1965**

24. The allegations of paragraphs 1-23 are readopted and realleged herein.

25. The City Election Commission and the poll worker's actions and conduct amount to racially motivate manipulation of the electoral process to the detriment of African American voters in Greenwood, Mississippi. Many African American voters were given incorrect information concerning affidavit (provisional) ballots and not allowed to cast affidavit (provisional) ballots and denied African American voters an equal opportunity to participate in the electoral process on an equal footing with white voters and denied and prevented the will of the voters in Greenwood, Mississippi, in violation of the anti-dilution provision of the Voting Rights Act of 1965, as amended and the judicial decision in *U.S. v. Brown*, 494 F. Supp. 2d 440 (S.D. Miss. 2007) *aff'd* 561 F.3d 420 (5th Cir. 2009).

**Ninth Cause Of Action: Denial Of Statutory Assistance To Voters
Under Miss. Code Ann. § 23-15-549 (Supp. 1987)**

26. The allegations of paragraphs 1-25 are readopted and realleged herein.

27. The Greenwood City Commission and certain poll workers's actions and conduct denied statutory voter assistance to African American voters who requested voter assistance in the June 4, 2013, mayoral general election under Miss. Code Ann. Section 23-15-549 (Supp. 1987).

Tenth Cause Of Action: No Statutory Lock And Seals On Certain Ballot Boxes

28. The allegations of paragraphs 1-27 are readopted and realleged herein.

29. The Greenwood City Election Commission, certain poll workers and City Clerk's actions and conduct violate mandatory statutory lock and seal requirements to insure integrity as mandated by Miss. Code Ann. Section 23-15-591 (Rev. 1987), 23-15-595 (Rev. 1987) and 23-15-911 (Rev. 2000).

Eleventh Cause Of Action: Denial of Substantive and Procedural Due Process Law

30. The allegations of paragraphs 1-29 are readopted and realleged herein.

31. As a result of the actions and conduct of the election managers, the City Clerk and, the Greenwood Election Commission, contestant Sheriel F. Perkins has been denied substantive and procedural due process law guaranteed by the Mississippi Constitution of 1890 and by the Fourteenth Amendment of the Constitution of the United States of America.

Twelfth Cause Of Action: Voter And Absentee Ballot Fraud Under Miss. Code Ann. Section 23-15-753 (Rev. 1999)

32. The allegations of paragraphs 1-31 are readopted and realleged herein.

33. The non-residents of Greenwood, Mississippi, who returned to vote on the

machines and to cast absentee ballots counted in the certified results in the June 4, 2013, mayoral general election violated provisions of the voting laws and absentee ballots statutes and judicial decisions and their actions and conduct constitute voter fraud under Miss. Code Ann. Section 23-15-753 (Rev. 1999) and under Mississippi law.

34. Representatives or agents of defendant procured and sought to influence the vote of several persons by absentee ballots and by regular voting, by the payment of money, the promise of payment of money, but the delivery of other items of value or the promise to give the voter items of value and by promising or giving the voter favor or reward in an effort to influence his and her vote. Their actions and conduct constitute voter fraud under Mississippi law.

Thirteenth Cause Of Action: Mere Error Or Omission By City Clerk To Place Absentee Ballots In The Proper Precinct Box

35. The allegations of paragraphs 1-34 are readopted and realleged herein.

36. The absentee ballot of Evelyn Clay was erroneously placed in the absentee ballots box for Ward 1 by the City Clerk and sent to Ward 1 and rejected. Evelyn Clay resides at 713 Broad Street and her application clearly states she was casting her absentee ballot for Ward 7.

37. The absentee ballot of Evelyn Clay should be opened and counted and should not be denied because the City Clerk's mere error and omission to place the absentee ballot in the proper precinct box.

General Cause Of Action

38. The allegations of paragraphs 1-37 are readopted and realleged herein.

39. That several absentee ballots of Wards 1 and 2 were cast and counted for voters who were not competent voters and were in violation of Mississippi voting laws as to who is qualified to vote in elections.

40. That Wards 1 and 2 were treated as one voting precinct and for a couple of hours voters of Ward 1 were allowed to cast their votes in Ward 2 and voters of Ward 2 were allowed to cast their votes in violation of Mississippi election laws that a voter must cast his/her vote in the precinct he/she resides in at least 30 days before the election.

41. That the absentee ballots of Wards 1 and 2 were counted in violation of Sections 23-15-639 and 23-15-581. Rather than following the statute, the election managers took all the absentee ballots from Wards 1 and 2 to the Circuit Clerk's office and counted the same all in non-compliance with the election laws governing the counting of these ballots.

42. That a review, inspection and examination of the boxes, reflect numerous irregularities, evidence of fraud and gross violation of Mississippi Election Laws; that unlawful and illegal votes were counted for defendant and legitimate votes for Sheriel F. Perkins were denied; and that the certification of the election results by the commission was not the determined will of the voters for the position of mayor as is herein above set out.

43. That these irregularities and fraudulent conduct are of such gross nature that they have tainted the integrity of the entire election process; and placed a cloud over the declaration of defendant as the winner, or as the representative of the true

result of the election, or the will of the voters.

44. The declared election result was not proper, lawful, or accurate for a number of reasons, including but not limited to the following: certain ballots, including affidavit, curbside, absentee, and challenged ballots, were not counted that should have been counted, certain voters were prohibited from voting who should have been allowed to vote, while certain others were allowed to vote who should not have been. The votes were not accurately counted in certain respects. Once the votes are properly and lawfully counted, the plaintiff will have the greatest number of legal votes.

45. Representatives and agents of defendant were allowed to video record and take photos of African American voters coming to certain predominant African American polling places, thus intimidating them and placing a chilling effect upon their right to exercise the franchise and a violation of their constitutional rights and voting rights.

46. Plaintiff is presently without knowledge or information sufficient to form a belief as to whether other election contest grounds apply in this matter. However, contingent on the facts revealed by further investigation and discovery, plaintiff expressly reserves her right to raise any additional ground supportive of her election contest which may be applicable, said investigation to be conducted by and pursuant to Mississippi Code Annotated §23-15-11, (1972).

WHEREFORE, plaintiff requests this Honorable Court as follows:

(a) that her Complaint be filed and received;

(b) the process be issued as provided by law and that the Defendant

be served in accordance with law;


(c) that a jury trial on the merits of this election contest be set and held at the earliest date practicable;

(d) upon a hearing on the merits of this election contest, the Court enter final judgment that:

- (1.) declare Sheriel F. Perkins received the greatest number of legal votes in and is the winner of the June 4, 2013, Mayoral Municipal General Election in the City of Greenwood, Mississippi;
- (2.) issue a Writ of Quo Warranto removing defendant from the office of Mayor of the City of Greenwood and declaring Sheriel F. Perkins is entitled to hold the office of mayor;
- (3.) Alternatively, in the event the Court finds that fraud vitiated the entire election and or the popular will cannot be determined, then it should declare a special election shall be held for the mayor position between the parties; and
- (4.) grant plaintiff all other relief which this Court may determine to be just, proper and legal under the facts and circumstances occurring In the June 4, 2013, Mayoral General Election in Greenwood, Mississippi.

RESPECTFULLY SUBMITTED, this the 22th day of June 2013.


SHERIEL F. PERKINS


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STATE OF MISSISSIPPI
COUNTY OF LEFLORE

Personally appeared before me, the undersigned notary public in and for the state and county aforesaid, the within named SHERIEL F. PERKINS, And The State of Mississippi on Relation of Sheriel F. Perkins, who swears upon her oath that the facts, allegations and

matters set forth in the above and foregoing "Complaint" are true and correct as therein stated, upon her information and belief, and to the best of her knowledge.

Sheriel F. Perkins
SHERIEL F. PERKINS

Witness my hand and official seal on this the 22th day of June, 2013.

Rosemary W. Griffin
NOTARY PUBLIC



FILED
JUN 24 2013
ELMUS STOCKSTEDT, CIRCUIT CLERK
BY: *[Signature]* D.C.