



August 17, 2018

VIA EMAIL (fwatson@sos.ga.gov)

Frances Howard
Deputy Chief, Investigations Division
Georgia Secretary of State's Office
2 MLK Jr. Drive
Suite 802 Floyd West Tower
Atlanta, GA 30334

Re: Complaint Filed With the Office of the Secretary of State Elections Division by Vincent Russo Against Joshua McLaurin (SEB2018-013)

Dear Ms. Watson:

I am writing in response to a phone call that I received from Investigator Howard inviting Mr. McLaurin to provide a response to the Complaint filed with the Office of the Secretary of State Elections Division by Vincent Russo against Joshua McLaurin.

As you know, both Administrative Law Judge Kimberly Schroer and Secretary of State Brian Kemp considered and fully rejected the challenges that were filed by Gabriel Sterling, Mr. Russo's client. This complaint rehashes issues that were raised and went nowhere at the administrative hearing conducted by Administrative Law Judge Kimberly Schroer or upon subsequent review in Secretary of State Brian Kemp's final order on Mr. McLaurin's residency. As such, this complaint appears to be both frivolous and politically motivated.

Administrative Law Judge Schroer reviewed the evidence that was presented and listened to the testimony at the hearing. She found that Mr. McLaurin complied with all of the legal requirements to be a candidate. We understand that this latest version of the complaint focuses on Mr. McLaurin's registration as a voter, but we would also submit that if he were not a candidate for office, then this complaint would not have been filed. And that points to the political motivation behind it.



Contrary to the assertions in the complaint, Mr. McLaurin possessed the qualifications by law to register to vote. As noted on page 2 of the Initial Decision, Mr. McLaurin “made a decision in the summer of 2016 to move from New York City, where he had lived and worked for approximately one year, back home to Georgia.” He secured a place to live in Georgia, moved his personal property there on the first day of October, transferred his work assignment from New York to Atlanta, and then permanently returned to that Georgia address later in the month. When he updated his voter registration in the middle of October, he was in the middle of a move. But he also knew he was returning to Georgia permanently within days (and had already moved his personal property back), and the address he used was the one where he would be living and voting. And more than just voting, Mr. McLaurin clearly established to both Administrative Law Judge Schroer and to Secretary of State Brian Kemp that he also satisfied the requirements to be a candidate.

In sum, Administrative Law Judge Schroer ruled that Mr. McLaurin made the decision to move back home to Georgia in the summer of 2016 and executed this plan over a period of months, near the end of which Mr. McLaurin lawfully registered to vote at his new address. Mr. Russo tried to accuse Mr. McLaurin of committing crimes during the hearing and it went nowhere. There was no basis for it—in law or fact.

In any event, even if Mr. Russo were to torture these facts into demonstrating that Mr. McLaurin said anything false—and he cannot—there is absolutely no evidence that Mr. McLaurin intended to make any false statement or otherwise knowingly violated O.C.G.A. § 21-2-561. Mr. Russo’s argument that Mr. McLaurin lied boils down to one piece of testimony: Mr. McLaurin testified that he decided to pay New York taxes through the end of his New York lease on October 14, since he had to draw the line between New York and Georgia taxes somewhere. So, according to Mr. Russo, Mr. McLaurin was barred from even updating his Georgia contact information with any Georgia governmental agency—in the middle of his move to Georgia—until the clock ticked midnight at the end of his New York lease. In making this argument, Mr. Russo is asking the Board to oversimplify and conflate different definitions for residency and citizenship (for tax purposes versus for voting), which are fact dependent and depend on consideration of



numerous factors. The reason Mr. Russo wants the Board to adopt his contrived arguments about citizenship is simple: it would provide a political party with a “gotcha” moment during election season.

For the sake of argument, even if Mr. Russo’s arbitrary and self-serving reading of the code is correct and there were technical discrepancies with Mr. McLaurin’s registration, Mr. McLaurin was not aware of any discrepancies at the time that he registered. For his complaint to be successful, Mr. Russo has to do more than show Mr. McLaurin was wrong—he has to show that Mr. McLaurin *knew* that Mr. Russo’s reading of the code was correct and that Mr. McLaurin *knowingly lied* anyway. He cannot.

Mr. McLaurin’s testimony makes clear that he lacked any intent to mislead. He just wanted to make sure he could vote and he remembered to update his address while moving. Among other sections of the transcript, we refer you to this passage on page 56:

6 A So I couldn’t tell you what the exact mechanism was.
7 What I know is that I went on the website where you register to
8 vote and I did whatever seemed necessary at the time and I
9 honestly don’t have an exact memory of how I effectuated this.
10 But I just wanted to make sure that my voter registration with
11 Georgia was current at the Roswell address in time for the
12 general election. That was my priority and, you know, I was at
13 my computer and wanted to get it done and got it done.

As you can see, there was no intent to violate the law.

As helpful background, this Board has considered other false-swearing allegations in cases with facts that look nothing like these. This case is not a standard false-swearing case where a



person testifies that an address *other than the correct one* is his domicile and then *illegally votes* from that wrong address. We have reviewed Consent Orders that have been issued by the State Election Board in matters concerning citizens that knowingly provided false information, such as *In the Matter of Stephen Watson* (SEB Case 2008-000006 McIntosh County) and *In the Matter of James Parker* (SEB Case No. 2008-000006 McIntosh County). These cases involved instances where the voters maintained their residences at one address and registered using different addresses in order to vote in a municipal election. What they had to gain from lying was clear: a vote in an election where they were otherwise ineligible. In contrast, Mr. McLaurin's vote on November 8, 2016 was legal and from the domiciliary address he used to register in October 2016. He didn't want to vote or try to vote anywhere other than where he was entitled to vote.

It is worth noting, too, that those other false-swearing matters, which involve much different facts, resulted only in civil settlements with reprimands and no fines. Mr. McLaurin's position is that he did nothing wrong, and if, despite the weight of the evidence, the State Election Board decided to bring an action, he would vigorously contest it.

With respect to the affidavit issue, Mr. McLaurin fully explained his position concerning the document at the hearing. Mr. McLaurin understood the document to be requesting information concerning whether he satisfied the requirements to be a candidate. He satisfied those requirements—as decided by Administrative Law Judge Schroer and Secretary of State Brian Kemp. If the form at issue is badly drafted—which it may be—then that is not his fault. The State may want to update the form to solicit the information that is relevant to whether an individual can be a candidate, as that is the purpose of the form. Moreover, our understanding is that the software does not allow the input of decimals but instead requires whole numbers. It is not clear that the officials helping Mr. McLaurin qualify on March 5, 2018 would have even let him qualify and leave the room without entering whole numbers into the system. And as we know, he was lawfully qualified to be a candidate.

In sum, the material information requested by the candidacy affidavit relates to his status at the time of the election; not the time of qualifying. The time of the election is relevant to one's



qualifications to be a candidate—and Mr. McLaurin satisfied those requirements. As such, there is no basis for this charge and it should be dismissed.

Lastly, while we made this point earlier, it is worth repeating it because it is so obviously true: this complaint is a political attack. It would not have been filed but for the fact that Mr. McLaurin is a candidate for office. This would never have been filed, or even entertained, if he were a non-candidate citizen who registered while moving. It is beneath the important work of the State Election Board to give an opportunity to a political party to score points during election season.

Thank you for the opportunity to submit a response.

Respectfully submitted,

A handwritten signature in black ink that reads 'Scott Holcomb'. The signature is written in a cursive, flowing style.

Scott Holcomb
Counsel for Joshua McLaurin

cc: Vincent Russo, Esq. (via email)
David Dove, Esq. (via email)