

IN THE CIRCUIT COURT FOR JEFFERSON COUNTY, ALABAMA

PATRICK COOPER,)
)
 Plaintiff and Mayoral Candidate,)
)
 v.) CASE NO: _____
)
 LARRY LANGFORD,)
)
 Defendant.)

**PATRICK COOPER'S VERIFIED STATEMENT OF GROUNDS
FOR MAYORAL ELECTION CONTEST**

Through this Statement, Patrick Cooper contests the 2007 election of Larry Langford as Mayor of Birmingham, Alabama. As grounds for this contest, Mr. Cooper states as follows:

INTRODUCTION AND SUMMARY

1. On October 9, 2007, the City of Birmingham held an election for the office of Mayor. Ten persons, including Mr. Cooper and Mr. Langford, declared themselves candidates for the office.
2. On or around October 16, 2007, the Birmingham Election Commission tabulated the votes from the October 9 election and declared Mr. Langford the official Mayor-Elect of Birmingham. The Birmingham Election Commission also determined that Mr. Cooper had received the second-highest number of votes in the election.
3. If Mr. Langford's election were valid, then he would take office as Mayor on or before November 27, 2007. Under Alabama law, however, Mr. Langford is ineligible to become Mayor of Birmingham. He is ineligible because he was not a resident of Birmingham on the day he filed his candidacy, and he did not establish a Birmingham residency before the election was held. Indeed, throughout Mr. Langford's campaign, he has falsely maintained that he is a resident of the City of Birmingham, when at all relevant times he has actually

been a resident of the City of Fairfield. Accordingly, Mr. Cooper seeks a declaration from this Court that under Alabama law, Mr. Langford was ineligible for the Office of Mayor and that his election is void.

GROUNDS FOR CONTEST

4. Mr. Langford has resided in the City of Fairfield, Alabama for over 20 years. His address in Fairfield is at 7437 Earlwood Road, and he still owns a home there. In June 2007, while Mr. Langford was still a Fairfield resident, he announced that he had decided to run for Mayor of the City of Birmingham.
5. Under Alabama law, a candidate for mayor of a city must have been a resident and qualified elector of that city for 90 days by the date of the election.¹ The Alabama Supreme Court has declared that a candidate like Mr. Langford, who lives in one city but wishes to establish his residency in another city for the purposes of running for office, must (1) abandon his former residence with no intention of returning; and (2) establish residence in the new city with the intention of remaining there permanently.²

¹ ALA. CODE § 11-46-22(b) (“Any qualified elector who will have resided within the municipality ... for a period of at least 90 days on election day may qualify to run for office by filing the appropriate forms and paying any appropriate fees, as otherwise provided by law.”); *id.* § 11-43-1 (“Every mayor ... elected by the whole electorate of the city or town shall be a resident and qualified elector of the city or town in which he shall have been elected and shall reside within the limits of the city or town during his term of office.”).

² See *Osborn v. O’Barr*, 401 So. 2d 773, 775 (Ala. 1981) (“In order to acquire a domicile of choice there must be both an abandonment of the former domicile with no present intention of return, and the establishment of another place of residence with the intention to remain permanently, or at least for an unlimited time.” (quoting *Ex Parte Phillips*, 275 Ala. 80, at 83, 152 So.2d 144 (1963))).

6. In or around July 2007, Mr. Langford announced that he would comply with these requirements by renting a loft apartment at Bloch's Lofts in Birmingham. On information and belief, Mr. Langford executed a lease at the loft apartment on a month-to-month basis.
7. Under Alabama law, Mr. Langford was required to file a statement of his candidacy before the election. Alabama law required Mr. Langford to submit along with the statement a sworn affidavit stating, among other things, the following:
 - That he was a citizen of Birmingham;
 - That he resided in Birmingham;
 - That he had been or would have been by the time of the election a resident of Birmingham for a period of not less than 90 days; and
 - That he was duly qualified or would be qualified to hold the office of Mayor.³
8. On August 21, 2007, Mr. Langford filed his required affidavit with the probate court for Jefferson County, swearing as follows:

I, the undersigned, being first duly sworn, depose and say that I am a citizen of the City of Birmingham in said State and County, and reside at: **300 20th Street North Birmingham, Alabama 35203** in said City of Birmingham, that I am a qualified elector of said city ... that I desire to become a candidate for the office of **MAYOR** in said City at the election for said office to be held on the **9 October 2007** next and that I am duly qualified to hold said office if elected thereto.⁴

³ ALA. CODE § 11-46-25(g) (requiring the candidate to state, among other things, that "I am a citizen of the city (or town) of _____, in said county, and reside at _____, in said city (or town); that I have been or will have been on the date of the municipal election a resident of said city (or town) for a period of not less than 90 days").

⁴ A copy of Mr. Langford's affidavit is attached to this Statement as Exhibit A.

Mr. Langford did not list an apartment number in his affidavit, and he left the line for his phone number blank. Nor did he state, as Alabama law requires, that he would have been by the time of the election a resident of Birmingham for a period of not less than 90 days.

9. Unbeknownst to Mr. Cooper and other Birmingham citizens who voted in the October 9 election, Mr. Langford's sworn statements were false and perpetrated a fraud upon the voting public. Mr. Langford had not, in fact, complied with the residency requirements, and he had thus not established the required qualifications to become Mayor of Birmingham. Mr. Langford's claim that he resided at the loft apartment was a sham. During all relevant times, he remained a resident of Fairfield.
10. After the election, voters called Mr. Cooper's attention to a television news interview Mr. Langford had given at the loft apartment on September 27, 2007. Mr. Cooper has since reviewed a recording of that interview. The interview segment shows the loft apartment where Mr. Langford claimed he resided, and shows that there was not one single piece of furniture in the apartment at the time of the interview on September 27. In the interview, Mr. Langford stated that the apartment did not allow dogs, that he was not willing to give up his dog, and that he was going to take his time selling his Fairfield house.
11. Mr. Langford also gave another television news interview after the election, on October 10, 2007. In that interview, Mr. Langford repeated that his apartment did not allow dogs, and that now that he had been elected, he would see if the apartment would change its rules. If not, he said, he would buy a house in Birmingham.
12. Those interviews indicate that Mr. Langford did not establish residency in Birmingham during the 90 days leading up to the election. Information Mr. Cooper has obtained since viewing these interviews confirms that Mr. Langford has remained at all relevant times a resident of the City of Fairfield.
13. On information and belief, during the weeks leading up to the election, Mr. Langford never lived in the Birmingham apartment. He spent virtually every night at his Fairfield home instead.

14. On information and belief, to this day Mr. Langford has never put a “for sale” sign in front of his house in Fairfield.
15. Mr. Langford continues to declare his Fairfield residence as his primary residence for the purposes of obtaining a homestead exemption from Alabama property taxes.
16. During all periods of time that are relevant to this contest, Mr. Langford did not change his driver’s license to reflect the address of the loft apartment in Birmingham. Instead, his driver’s license states that he resides in Fairfield.
17. Moreover, the car Mr. Langford usually drives is registered to his address in Fairfield, not Birmingham.
18. During all periods of time that are relevant to this contest, Mr. Langford’s bills, credit card statements, and bank statements were sent to his home in Fairfield.
19. During all periods of time that are relevant to this contest, Mr. Langford’s paycheck from the Jefferson County Commission, on which Mr. Langford currently sits, was sent to his house in Fairfield or to a bank account that still has his Fairfield address.
20. Mr. Langford’s actions make clear that he made misrepresentations when he filed his statement of candidacy and swore that he was a citizen and resident of Birmingham. His actions also make clear that his lease at the loft apartment was a sham, and that any intention he had of residing in Birmingham permanently was entirely contingent on his winning the election. This was not sufficient, under Alabama law, to establish that Mr. Langford was a Birmingham resident at the time he signed his affidavit and during the 90-day period leading up to the election.⁵

⁵ See *Hadnott v. Amos*, 320 F. Supp. 112, 119 (M.D. Ala. 1970) (“We conclude that Drake has not acquired a domicile in Greene County, because he neither possessed the intent nor did the acts required by law. His desire to run for circuit judge and his intent to secure for himself the benefit of the legal consequences of a Greene County domicile do not dim what appears with manifest clarity, that his intent has been not to abandon his Tuscaloosa

21. Based on all of the foregoing facts, Mr. Langford did not meet the residency requirements under Alabama law and thus was not eligible to be elected to the Office of Mayor of the City of Birmingham at the time of his election.

RELIEF REQUESTED

22. In addition to being a candidate for Mayor, Mr. Cooper is and was at the time of the election a qualified elector for the City of Birmingham. Alabama law allows any qualified elector for the City of Birmingham to contest Mr. Langford's election.⁶
23. Mr. Langford's failure to become a Birmingham resident and corresponding ineligibility for the Office of Mayor is a ground for contesting his election under Alabama law.⁷
24. Mr. Cooper has brought this contest in a timely manner, less than five days after the Birmingham Election Commission declared Mr. Langford the winner of the election. Mr. Cooper has verified this Statement by the affidavit found below, and Mr. Cooper has simultaneously filed with the Clerk of this Court a good and sufficient security for the costs of this election contest.

County domicile but to maintain it."); *Jacobs v. Ryals*, 401 So.2d 776, 779 (Ala. 1981) ("It is clear from the foregoing that the Brookses' intent of making Loxley their home was strictly conditioned upon Curtis's securing employment there. This is not such an unequivocal 'intention to remain permanently, or at least, for an unlimited time' as is necessary to establish a domicile." (quoting *Rabren v. Mudd*, 234 So. 2d 549, 553 (1970))).

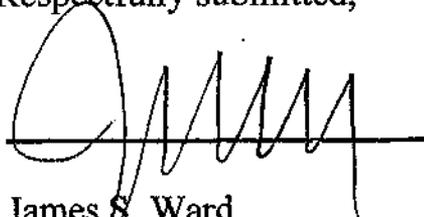
⁶ See ALA. CODE § 11-46-69(a)(1) (stating that "[t]he election of any person declared elected to any office or a city or town may be contested by any person who was at the time of the election a qualified elector").

⁷ See ALA. CODE § 11-46-69(a)(1) (stating that "[t]he election of any person declared elected to any office or a city or town may be contested ... for any of the following causes: ... (2) The person whose election to office is contested was not eligible thereto at the time of such election.").

25. Under Alabama law, if a person elected to office is found by the Court to be ineligible for the office, the Court must enter a judgment declaring the election void. The Court must also certify this fact to the Government of the City of Birmingham, and the vacancy must be filled in the manner prescribed by law.⁸

WHEREFORE, Mr. Cooper respectfully requests that this Court: (1) conduct an expedited trial of this election contest; (2) find that Mr. Langford was ineligible to be elected Mayor on October 9; (3) declare Mr. Langford's election void; and (4) order that a special election be held among the remaining eligible candidates for the Office of Mayor.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'James S. Ward', written over a horizontal line.

James S. Ward

One of the Attorneys for
Patrick Cooper

OF COUNSEL:

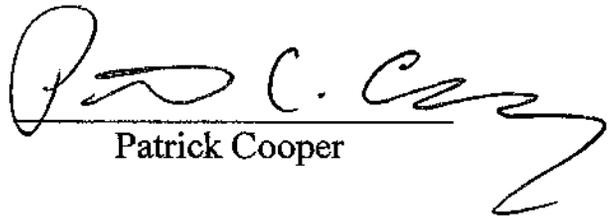
WARD AND WILSON LLC
2100A Southbridge Parkway, Ste 580
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⁸ See ALA. CODE § 11-46-70 ("If the person whose election is contested is found to be ineligible to the office, judgment must be entered declaring the election void, and the fact must be certified to the municipal governing body. The vacancy in such office shall be filled in the manner prescribed by law.").

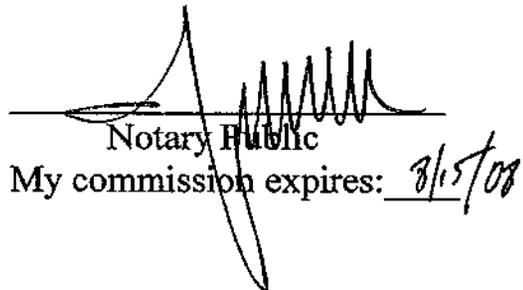
VERIFICATION BY AFFIDAVIT

STATE OF ALABAMA
COUNTY OF JEFFERSON

I, Patrick Cooper, state that I have reviewed the allegations made in the foregoing complaint and that such allegations are true and correct to the best of my knowledge, and based (where so indicated) upon my information and belief.


Patrick Cooper

Sworn to and subscribed before me this 17 day of October, 2007.


Notary Public
My commission expires: 8/15/08

[NOTARIAL SEAL]

TO THE SHERIFF: PLEASE SERVE DEFENDANT AT

7437 Earlwood Road
Fairfield, Alabama 35064