

IN THE CIRCUIT COURT OF LEFLORE COUNTY, MISSISSIPPI

IN RE: CONTEST OF THE JUNE 8, 2021, MUNICIPAL GENERAL ELECTION
FOR THE WARD 4 ALDERPERSON SEAT FOR THE CITY OF
ITTA BENA, MISSISSIPPI

JO ANN PURNELL

PETITIONER

V.

CAUSE NO.: 2021-0024-CICI

JENNIFER WALKER

RESPONDENT

PETITION TO CONTEST THE MUNICIPAL GENERAL ELECTION

TO THE HONORABLE COURT AFORESAID:

JURY TRIAL DEMANDED:

COMES NOW, Petitioner, Jo Ann Purnell, by and through her attorney of record, and Pursuant to Miss. Code Ann. §23-15-951 et. Seq., and files this her Petition To Contest the June 8, 2021, Municipal General Election for Ward 1 Alderperson in the City of Itta Bena, Mississippi against Jennifer Walker, and would show unto the Court the following facts, to-wit:

I. Jurisdiction and Venue

1. This is an election contest of the election for Alderperson of Ward 1 of the Town of Itta Bena, Mississippi. There were three contestants in the race for Alderperson of the Town of Itta Bena Ward 1. Those contestants were Jo Ann Purnell, Jennifer Walker, and Toni Wesley Ellis. Jennifer Walker was declared and certified the winner of Ward 1 by the Election Commission for the Town of Itta Bena despite not having received the total number of votes and Jennifer Walker was not a qualified elector or voter of Ward 1 of the Town of Itta Bena as she had failed to move her voter registration from Ward 2 to Ward 1 within the time and manner as required by law prior to qualifying for Ward 1 seat. Jennifer Walker changed her address and became eligible to run

and vote in Ward 1 Alderperson in Itta Bena, Mississippi on June 24, 2021, the date she changed her address. Jennifer Walker's boyfriend/significant other also lives with her at 110 Jeffries Street, Itta Bena, Mississippi but is registered at 100 Rainey Avenue, Itta Bena, Mississippi. Neither Jennifer Walker nor William Proctor changed their voter registration from 100 Rainey Avenue, Itta Bena (Ward 2) to 110 Jeffries Street, Itta Bena (Ward 1) prior to the election for Ward 1 for the Town of Itta Bena, Mississippi. The City Clerk for the Town of Itta Bena and the Itta Bena Election Commission failed to ensure that Jennifer Walker qualified in the Ward 1 prior to being placed on the ballot and allowed Jennifer Walker and William Proctor to vote in Ward 1 when they were registered voters in Ward 2. Jennifer Walker and William Proctor's cast affidavit ballots which should not have counted toward the vote total and Jennifer Walker should not have been declared the winner of Ward 1 Alderperson race in Town of Itta Bena. Alternatively, if Jennifer Walker is determined to be a qualified elector of Ward 1 within the time and manner prescribed by law, Plaintiff request a special election be ordered by the Court to determine the Alderperson of Ward 1 of the Town of Itta Bena, Mississippi. The Itta Bena Election Commission also failed to count all absentee and affidavit votes in its final vote total. Their failure to count all votes resulted in Jennifer Walker being declared the winner of Ward 1 when she was not qualified to run in Ward 1 Alderperson race Itta Bena General Election.

2. The incident complained of herein occurred in Leflore County, Mississippi.

3. This Court has jurisdiction over the subject matter and the parties in this matter pursuant to Mississippi Code Annotated §23-15-951.

II. Parties

4. Plaintiff, Jo Ann Purnell, is an adult resident citizen of Itta Bena, Leflore County, Mississippi and is a qualified elector and voter of Ward 1 of the Town of Itta Bena, Mississippi.

5. That Edna Beverly, is the City Clerk for the Town of Itta Bena, Mississippi and is charged with the responsibility of ensuring the accuracy and address for each candidate for Alderperson within the Town of Itta Bena, Mississippi. Edna Beverly, failed to perform her duty as required by law pursuant to Mississippi Code Annotated §23-25-221(3)(i), by allowing Jennifer Walker to qualify as a candidate for Alderperson for Ward 1 while simultaneously registered to vote in Ward 2 in Itta Bena, Mississippi. Jennifer Walker was not a registered voter in Ward 1 having failed to change her voter registration prior to the general election for the position of Alderperson for Ward 1 Itta Bena, Mississippi.

6. That the Itta Bena Election Commission, by and through its members, Patricia Collins, Debra Hudson, and Clover Lacey, failed to ensure that Jennifer Walker was a qualified elector and voter of Ward 1 pursuant to Mississippi Code Annotated §23-25-221(3)(i) prior to allowing her to run for the Ward 1 Alderperson seat while she was qualified elector and voter of Ward 2. Jennifer Walker did not change her voter registration prior to the election for Ward 1 Alderperson seat. The Itta Bena Election Commission also allowed Jennifer Walker and William Proctor to case illegal affidavit ballots for Jennifer Walker in Ward 1 when they were registered voters of Ward 2 Itta Bena, Mississippi. Defendants, Patricia Collins, Debra Hudson and Clover Lacey, may be served with process where they may be found within Leflore County, Mississippi.

7. Respondent, Jennifer Walker, is an adult resident citizen of Itta Bena, Leflore County, Mississippi, who resides at 110 Jeffries Street, Itta Bena, Mississippi (Ward 1) and is a qualified elector and voter of Ward 2 of the Town of Itta Bena, Mississippi having previously registered to vote at 100 Rainey Avenue, Itta Bena, Mississippi (Ward 2). Respondent, Jennifer Walker, ran for the Ward 1 Alderperson seat for the Town of Itta Bena, Mississippi despite being a qualified elector and registered voter in Ward 2 of the Town of Itta Bena, Mississippi. Respondent, Jennifer

Walker, and her male companion, William Proctor, also cast illegal affidavit ballots for the Ward 1 Alderperson race while legally qualified electors and voters of Ward 2. These two (2) illegal votes changed the election in Jennifer Walker's favor over Plaintiff, Jo Ann Purnell.

III. Cause of Action

8. On or about June 8, 2021, the Town of Itta Bena, Mississippi held an election for the Mayor and Alderpersons. At the conclusion of the election for Ward 1, the box was sealed with sealed with a seven (7) digit seal number and Plaintiff was allowed to observe the sealing and given a seal number for the election box. The subject of this cause of action is the election for Alderperson Ward 1 of the Town of Itta Bena, Mississippi. That on June 8, 2021, the City Clerk for the Town of Itta Bena, Mississippi allowed Jennifer Walker to qualify and be placed on the ballot for Ward 1 even though she was a registered and a qualified elector and voter for Ward 2 of the Town of Itta Bena. The Itta Bena Election Commission also certified Jennifer Walker as the winner of the Ward 1 Alderperson seat on June 18, 2021, with full knowledge that Jennifer Walker had not changed her voter registration and had not become a registered voter or qualified elector of Ward 1 prior to the election and in the time and manner required by law. The actions of the City Clerk of Itta Bena and the Itta Bena Election Commission have resulted Jennifer Walker being placed on the ballot for Ward 1 while a resident and qualified voter and elector of Ward 2. The actions of the City Clerk and Itta Bena Election Commission have resulted in Jennifer Walker and William Proctor casting illegal affidavit ballots in Ward 1 when they were registered voters in Ward 2 of Itta Bena, Mississippi.

9. The outcome of the election in favor of Jennifer Walker occurred because of the negligence in duty of the City Clerk and the Itta Bena Election Commission who failed to research the voter registration application and qualification of Jennifer Walker prior to allowing her to be

on the ballot for Alderperson Ward 1 while she is still a registered voter and qualified elector of Ward 2 of Itta Bena, Mississippi. Additionally, the Itta Bena Election Commission also allowed Jennifer Walker and William Proctor to cast illegal affidavit votes in Ward 1 race for Alderperson because they were still registered voters of Ward 2 and had not changed their voter registration prior to the election.

10. Specifically, Jennifer Walker, would have been required to be a qualified elector of the Ward 1 within two (2) years prior to the election for the Ward 1 Alderperson seat and she failed to do so until June 24, 2021, some sixteen (16) days after the election.

11. The Itta Bena Election Commission did not count all of the mail-in absentee ballots and miscalculated the mail-in absentee ballot vote total for Ward 1 resulting in Jennifer Walker being certified as the winner of the Ward 1 race for Alderperson. If the Itta Bena Election Commission had counted all mail-in absentee ballots, Jo Ann Purnell, would have been certified the winner of the Ward 1 contest for Alderperson for Town of Itta Bena, Mississippi.

12. Plaintiff, JoAnn Purnell, request a joint examination of the ballot box for Ward 1 Alderperson seat to be conducted under the auspices of the trial judge appointed in this matter. Plaintiff also request production of all voter registration records of Jennifer Walker and William Proctor both prior to and after the election of the Ward 1 Alderperson race for the Town of Itta Bena, Mississippi. Plaintiff request production of the affidavit ballots cast by Jennifer Walker and William Proctor in the Ward 1 Alderperson race for the Town of Itta Bena, Mississippi.

13. Defendant, Itta Bena Election Commission, failed to count all votes cast in the 2021 General Election For Ward 1 Alderperson. Specifically, the machine vote total for the candidates were, as follows: (1) Jo Ann Purnell (29 votes), (2) Toni Wesley Ellis (31 votes), and (3) Jennifer Walker (31 votes). The total number of absentee ballots counted by poll manager/workers were,

as follows: (1) Jo Ann Purnell (3 votes), (2) Toni Wesley Ellis (1 vote), and (3) Jennifer Walker (no votes). The total number of affidavit ballots cast are, as follows: (1) Jo Ann Purnell (8 votes), (2) Toni Wesley Ellis (6 votes) and Jennifer Walker (8 votes). Based upon the above tally of votes for the machine, absentee votes, and affidavit votes should have been, as follows: (1) Jo Ann Purnell 40 votes, (2) Toni Wesley Ellis 38 votes, and (3) Jennifer Walker 39 votes. Plaintiff contends that Jennifer Walker's two affidavit votes cast by her and her male companion, William Proctor should not have been counted thus leaving her with 37 vote total. Because the Itta Bena Election Commission failed to include the absentee ballots in its final vote total, the election was certified with results, as follows: Jennifer Walker (39 votes), JoAnn Purnell (37 votes), and Toni Wesley Ellis (37 votes).

14. That the City of Itta Bena, by and through its City Clerk, Edna Beverly, and the Itta Bena Election Commission, failed to ensure that Jennifer Walker obtained the required 50 signatures of registered and qualified voters in Ward 1 prior to placing her on the ballot and allowing her to run for the position of Ward 1 Alderperson. Upon information and belief, some of the names that Jennifer Walker obtained were registered voters of the Ward 2 instead of Ward 1. As such, Defendant, Jennifer Walker, failed to comply with Mississippi Code Annotated §23-15-361(1)(a) inasmuch as she is not and did not become a qualified elector of Ward 1 prior to the general election. Defendant, Itta Bena Election Commission, failed to ensure that Jennifer Walker was a registered voter of Ward 1 prior to general election in violation of Mississippi Code Annotated §23-15-361.

WHEREFORE PREMISES CONSIDERED, Petitioner, Jo Ann Purnell, respectfully requests that this Court will hear and determine the election contest pursuant to Miss. Code Ann. §23-15-951, or any other applicable statute, rule or law, and declare her to be the winner since Jennifer Walker was not a qualified elector and voter of Ward 1 at the time she qualified. In the alternative, if the Court is unable to determine the person having the greatest number of legal votes at the election for Alderperson for Ward 1 of the City of Itta Bena, Mississippi, the Petitioner prays that the Court order a new election. Further, Petitioner prays for such other relief, either general or special, to which she may be entitled to under the premises or under any statute, rule or law, together with interest and cost, and reimbursement of attorney fees, as well as any other relief this Court deems just.

Respectfully submitted, this the 28th day of June, 2021.

Jo Ann Purnell, Petitioner

By: James K. Littleton
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OF COUNSEL:

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FILED

JUN 28 2021

ELMUS STOCKSTILL, CIRCUIT CLERK
BY Kelly Roberts D.C.