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October 20, 1992

The Honorable Michael T. Rose
Senator, District No. 38
409 Central Avenue
Summerville, South Carolina 29483

Dear Senator Rose:

By your letter of October 9, 1992, you have inquired as to exactly who will be entitled to vote in a special primary to be held on behalf of the Republican Party in Dorchester County to determine a replacement nominee for that party's nominee for the office of probate judge.

As we understand the situation, the political parties chose the primary election method to select candidates for the various offices to be filled in the November 1992 general election. Each party in Dorchester County nominated one candidate for the office of probate judge; no primary election was held in August since each party had a single nominee. Subsequently, the Republican candidate withdrew from the election. The replacement candidate is being selected pursuant to S.C. Code Ann. § 7-11-55. Due to the timing of the withdrawal of the Republican candidate and selection of the successor, the election for probate judge will be held shortly after the November general election.

Because the primary election process has been utilized to nominate candidates for probate judge, we are of the view that the reasoning expressed in Ops. Atty. Gen. dated July 31, 1984 and September 17, 1976 (copies enclosed) would suggest that voters who participated in the Democratic primary in Dorchester County in August 1992 would be precluded from voting in this Republican primary for the office of probate judge.

The Honorable Michael T. Rose
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With kindest regards, I am

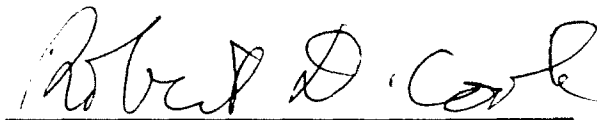
Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/an
Enclosures

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions

cc: James F. Hendrix, Deputy Director
State Election Commission