

IN THE SUPERIOR COURT OF FULTON COUNTY
 STATE OF GEORGIA

MARC ANTHONY BOYD, and GREG CLAY,)
)
 Petitioners,)
)
 v.)
)
 ANTONIO BROWN, FORIS WEBB, III, in his)
 capacity as Election Superintendent of the)
 City of Atlanta, and FULTON COUNTY BOARD)
 OF REGISTRATION AND ELECTIONS)
)
 Respondents)
)
 _____)
 SHALISE YOUNG, MATTHEW CHARLES)
 CARDINALE, JABARI SIMAMA, ERIKA)
 ESTRADA, BYRON AMOS, RICKY BROWN,)
 and MESHA MAINOR)
)
 Other Candidates in District 3)
 Special Election)

CASE NO.: 2019CV318734

**VERIFIED PETITION TO CONTEST THE CITY OF ATLANTA'S MARCH 19, 2019
 SPECIAL ELECTION RESULTS PER O.C.G.A. § 21-2-524**

COME NOW, Petitioners Marc Anthony Boyd and Greg Clay, and hereby file this Petition to Contest the March 19th City of Atlanta Special Election pursuant to O.C.G.A. § 21-2-524, by showing the Court as follows:

1.

Petitioner Boyd is a registered voter and eligible elector in the Atlanta City Council District 3 election.

2.

Petitioner Boyd is a resident of the City of Atlanta's District 3.

3.

Petitioner Boyd desires to contest the result of the Tuesday, March 19, 2019 City of Atlanta Special Election for the Council District 3 seat.

4.

Petitioner Clay is a registered voter and eligible elector in the Atlanta City Council District 3 Special Election held on March 19, 2019.

5.

Petitioner Clay was a candidate in the March 19, 2019 City of Atlanta District 3 Special Election.

6.

Petitioner Clay is a resident of the City of Atlanta's District 3.

7.

Petitioner Clay desires to contest the result of the Tuesday, March 19, 2019 City of Atlanta Special Election for the Council District 3 seat.

8.

On Tuesday, March 19, 2019, the City of Atlanta District 3's Special Election was held. The following candidates previously qualified for said race and were identified on the ballot: (1) Shalise Yong; (2) Greg Clay; (3) Matthew Charles Cardinale; (4) Jabari Simama; (5) Erika Estrada; (6) Byron Amos; (7) Ricky Brown; (8) Antonio Brown; and (9) Mesha Mainor.

9.

Respondent, Antonio Brown may be served with process and a copy of this Petition at 270 17th Street NW, Atlanta, Georgia 30363.

10.

Respondent Foris Webb, III, in his capacity as Election Superintendent of the City of Atlanta Elections (herein “City of Atlanta”) may be served with process and a copy of this Petition at 55 Trinity Avenue, Atlanta, Georgia 30303.

11.

Respondent Fulton County Board of Registration and Elections (herein “Fulton County”) may be served with process and a copy of this Petition through its Director, Richard L. Barron at 130 Peachtree Street, SW, Atlanta, Georgia 30303-3450.

12.

Other candidate, Shalise Young may be served with process and a copy of this Petition at 90 Griffin Street NW, Atlanta, Georgia 30314.

13.

Other candidate, Greg Clay, may be served with process and a copy of this Petition at 400 17th Street, #2112, Atlanta, Georgia 30363.

14.

Other candidate Matthew Charles Cardinale may be served with process and a copy of this Petition at 1326 Bernard Street, SW 30314.

15.

Other candidate, Jabari Simama may be served with process and a copy of this Petition at 988 Westmoor Drive, NW Atlanta, Georgia 30314.

16.

Other candidate, Erika Estrada may be served with process and a copy of this Petition at 333 Nelson Street, SW, Atlanta, Georgia 30313

17.

Other candidate, Byron Amos may be served with process and a copy of this Petition at 188 Electric Avenue, 30314.

18.

Other candidate, Ricky Brown may be served with process and a copy of this Petition at 180 Northside Drive, SW Atlanta, Georgia 30313.

19.

Other candidate, Mesha Mainor may be served with process and a copy of this Petition at 1436 Hawkins Street, NW Atlanta, Georgia 30314.

20.

On March 22, 2019, the City of Atlanta's Election Superintendent certified the votes and declared Byron Amos and Antonio Brown as receiving the most votes; thus, advancing Bryon Amos and Antonio Brown to the upcoming run-off election.

21.

This Petition is being filed on or before March 27, 2019; and, pursuant to O.C.G.A. § 21-2-524, it is timely.

22.

On or about January 25, 2019, Respondent, Antonio Brown ("Respondent Brown") filed a Notice of Candidacy and Affidavit (the "Brown Affidavit") for the Atlanta City Council District 3 Special Election. A true and correct copy of the Brown Affidavit is attached hereto as **Exhibit A**.

23.

In the Brown Affidavit, Respondent Brown swore, *inter alia*, that he is not “a defaulter for any federal, state, county, municipal or school system taxes.”

24.

On August 28, 2018, the Georgia Department of Revenue filed its State Tax Execution showing that Respondent Brown defaulted on his state tax liability in an amount of at least \$5,690.33. A true and correct copy of the state tax lien as recorded in the Clerk of Superior Court of Fulton County, Georgia is attached as **Exhibit B**.

25.

Upon information and belief, the outstanding state taxes of at least \$5,690.33 has not been paid by Respondent Brown.

26.

Respondent Brown is a defaulter on his state taxes.

27.

Respondent Brown does not meet the constitutional and statutory requirements for an Atlanta City Council candidate.

28.

On the date Respondent Brown executed and filed the Brown Affidavit, he was not eligible to hold the office of Atlanta City Council District 3 post.

29.

Respondent Brown is not eligible to run or hold the Atlanta City Council District 3 post; and therefore, this Court must declare the March 19th Special Election invalid as required by O.C.G.A. § 21-2-522(2).

30.

Respondents Fulton County and/or City of Atlanta are responsible for maintaining voter registration and confirming that each voter is properly assigned to the Atlanta City Council District for voting purposes.

31.

Numerous registered voters that reside within City of Atlanta Council District 3 were erroneously classified by Respondents Fulton County/City of Atlanta to City of Atlanta Council District 4.

32.

The erroneous classification of voters to the incorrect council district prevented eligible voters from casting their ballot in the March 19th Special Election.

33.

The number of voters erroneously classified to another council district, not District 3 where they reside, is great enough to change the outcome of the March 19th Special Election.

34.

The erroneous assignment of voters to a different council district is a sufficient ground under O.C.G.A. 21-2-522 to invalidate the March 19th Special Election.

35.

Because the March 19th Special Election was invalid, this Court must call for a second Special Election and shall not include Respondent Brown's name on said ballot.

WHEREFORE, Petitioner prays the following:

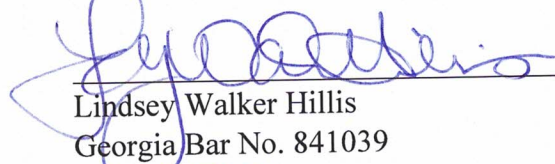
- (a) The Clerk of Superior Court shall issue notice, in the form of special process directed to the sheriff of such county, requiring the Respondent and any other person named in

such petition as a candidate for the District 3 post to appear and answer such petition, on a day to be fixed in such notice, not more than ten days nor less than five days after the service of same as required by O.C.G.A. § 21-2-524.

- (b) Set a hearing on this matter; and
- (c) After such hearing, determine that Respondent Brown is not qualified to seek and hold the Atlanta City Council District 3 seat and therefore, declare the March 19th Special Election invalid and call for a second Special Election to fill the City of Atlanta's District 3 seat.

This 27th day of March 2019.

THE HILLIS FIRM



Lindsey Walker Hillis
Georgia Bar No. 841039
lhillis@hillisfirm.com
Delia Williams Carroll
Georgia Bar No. 720066
dcarroll@hillisfirm.com

1801 Peachtree Street NE #225
Atlanta, Georgia 30363
Office: 404-445-6783
Fax: 404-602-0144

Counsel for Petitioner

TO:

Foroklebbin
 Superintendent of Elections
 of Atlanta County/Municipality
 State of Georgia

#8

**NOTICE OF CANDIDACY AND AFFIDAVIT
 (COUNTY/MUNICIPALITY)**

I, the undersigned, being first duly sworn on oath, do depose and say: my name is Antonio Brown

my residence address is 278 17th St NW, Unit 1
 (Street Number) (Street)
Atlanta Fulton GA 30363
 (City) (County) (State) (Zip Code)

my post office address is _____

my telephone number is 646 530 2795
 (Business) (Home)

my profession, business, or occupation (if any) is CEO

the name of my precinct is 3F; I am an elector of the county/municipality of my

residence eligible to vote in the election in which I am a candidate; the name of the office I am seeking is

City Council, District 3; my date of birth is _____ I have been a legal resident
 (Circuit, District, or Post if Applicable)

of the State of Georgia for 6 consecutive years; I have been a legal resident of Fulton county for
6 consecutive years; I have been a legal resident of my district (if applicable) for 6 consecutive years;

I have been a legal resident of my circuit (if applicable) for 6 consecutive years; I am a citizen of the United States;

I am eligible to hold such office; that I am a candidate for such office in the Special Election to be held on the
19th day of MARCH 20 19;
 (Election)

I have never been convicted and sentenced in any court of competent jurisdiction for fraudulent violation of primary or election laws, malfeasance in office, or felony involving moral turpitude or conviction of domestic violence under the laws of this State, any other State, or of the United States, or, if so convicted that my civil rights have been restored; and at least ten years have elapsed from the date of completion of the sentence without subsequent conviction of another felony involving moral turpitude; I am not a defaulter for any federal, state, county, municipal, or school system taxes required of such officeholder or candidate if such person has been finally adjudicated by a court of competent jurisdiction to owe those taxes, but such ineligibility may be removed at any time by full payment thereof, or by making payments to the tax authority pursuant to a payment plan, or under such other conditions as the General Assembly may provide by general law (pursuant to Ga. Const. Art. II, Sec. II, paragraph III); I will not knowingly violate any provisions of the Georgia Election Code (O.C.G.A. § 21-2) or of the rules or regulations adopted thereunder.

I understand that any false statement knowingly made by me in this Notice of Candidacy and Affidavit will subject me to criminal penalties as provided by law and I hereby request you to cause my name to be placed on the ballots to be used in such election as a candidate for the office I am seeking.

Sworn to and subscribed before me this 25TH day of January, 20 19.

Patricia C. Marshall
 (Notary Public)

My Commission Expires April 18, 2021

(Required by Ga. Election Code O.C.G.A. § 21.2.132.)

I desire that my name appear on the ballot as follows
 (the surname of the candidate shall be as it appears
 on the candidate's voter registration card):

Antonio Brown
 (Please Print)

Should I be elected, I desire that my name appear on official documents as follows:

Antonio Brown
 (Please Print)

(over)

EXHIBIT

A

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Check only one

1. ☐ I am running in a special election for a partisan office and my party affiliation is _____.

☒ I am running as a nonpartisan candidate.

☐ I am running as an independent candidate.

☐ I am the nominee of the _____ Party (Body) nominated by:

☐ Convention (Certified copy of the minutes of the convention attested by the Chairman and Secretary of the convention is being filed herewith);

☐ Other (Specify method of nomination and statute and party rule governing and allowing such method of nomination):

2. ☐ I am required to file the above Notice followed by a nomination petition containing at least _____ valid signatures due _____.

☐ I am not required to submit a nomination petition pursuant to O.C.G.A. § 21-2-132, because I am:

☐ Running as a nonpartisan candidate.

☐ Running as an incumbent.

☒ Running in a special election.

☐ Running for a state-wide office nominated by a duly constituted political body convention.

3. ☒ I hereby tender check/money order in the amount of \$ 1809 -.

NAME OF BANK: Wells Fargo

CHECK NUMBER: 0100

In the event that a candidate pays his or her qualifying fee with a check that is subsequently returned for insufficient funds, the superintendent shall automatically find that such candidate has not met the qualifications for holding the office being sought, unless the bank, credit union, or other financial institution returning the check certifies in writing by an officer's or director's oath that the bank, credit union, or financial institution erred in returning the check as prescribed in O.C.G.A. § 21-2-6(d).

☒ I hereby file a Pauper's Affidavit, accompanied by a qualifying petition as prescribed in O.C.G.A. § 21-2-132(g), in lieu of paying the qualifying fee.

NOTE: CANDIDATES FOR THE FOLLOWING OFFICES MUST FILE AN ADDITIONAL AFFIDAVIT IN ACCORDANCE WITH THE LISTED CODE SECTION AND MAY HAVE OTHER REQUIREMENTS IN ORDER TO BE QUALIFIED TO SEEK OFFICE. CANDIDATES SHOULD REVIEW THE QUALIFICATIONS FOR THE OFFICE FOR WHICH THEY OFFER FOR ELECTION CAREFULLY.

CLERK OF SUPERIOR COURT
JUDGE OF THE PROBATE COURT
SHERIFF
CORONER
TAX RECEIVER
TAX COLLECTOR
TAX COMMISSIONER

O.C.G.A. § 15-6-50(b)(2)
O.C.G.A. § 15-9-2(a)(2)
O.C.G.A. § 15-16-1(c)(2)
O.C.G.A. § 45-16-1(b)(2)
O.C.G.A. § 48-5-210(b)(2)
O.C.G.A. § 48-5-210(b)(2)
O.C.G.A. § 48-5-210(b)(2)

Lien Book 4249 Page 748
 Filed and Recorded 8/28/2018 2:10:00 PM
 2018-0234418
 Cathelene Robinson
 Clerk of Superior Court
 Fulton County, GA
 Participant IDs: 2011618974



GEORGIA DEPARTMENT OF REVENUE

STATE TAX EXECUTION

EXECUTION NUMBER	TOTAL
REV 180735510	\$5,690.33 (Includes \$50.00 Costs)

GEORGIA, FULTON COUNTY

To ALL and singular sheriffs of this state, the State Revenue Commissioner or his authorized representatives, greetings: You are commanded, that of the goods and chattels, or if none be found, then the lands and tenements of

ANTONIO BROWN

SSN: XXX-XX-3015

240 17TH ST NW

ATLANTA GA 30363

you cause to be made by levy and sale the sum of the dollars and cents hereinafter shown, said sum representing delinquent tax liabilities of the named taxpayer(s) assessed under the taxing Acts of this State and the Georgia Public Revenue Code for the period(s) shown below together with interest on the total as shown below at the rate specified in Code Section § 48-2-40 from the date of this execution until such sum is paid, plus all collection fees and costs that have accrued and that may hereafter accrue. You are further commanded to pay over to the Department of Revenue of the State of Georgia the aforesaid sum upon collection thereof and to have you then and there this writ. Witness the undersigned State Revenue Commissioner of Georgia on this date of **25-Jun-2018**.


 Lynnette T. Riley
 State Revenue Commissioner

FOR DOR USE ONLY

Tax	\$3,995.00
Interest	\$377.52
Penalty	\$468.81
Collection Fee	\$799.00
Costs	\$50.00
Total	\$5,690.33

Tax Type	Account ID	Tax Period Begin	Tax Period End	Balance
IIT	***-**-3015	01-Jan-2016	31-Dec-2016	\$5,690.33

EXHIBIT

B

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STATE OF GEORGIA
COUNTY OF FULTON

VERIFICATION

Personally appeared before me, the undersigned attesting officer duty authorized to administer oaths, **MARC ANTHONY BOYD** who, upon being duly sworn, deposes and states under oath that the states of fact contained in the foregoing **VERIFIED PETITION TO CONTEST THE CITY OF ATLANTA'S MARCH 19, 2019 SPECIAL ELECTION RESULTS PER O.C.G.A. § 21-2-524** are true and correct. In addition, Mr. Boyd confirms that to the best of his knowledge and belief the contested result of the City of Atlanta's March 19, 2019 special election is illegal and the return thereof incorrect, and that the petition to contest the same is made in good faith.

This 27 day of March 2019.



MARC ANTHONY BOYD
Petitioner

Sworn and subscribed before me this
27th day of March 2019.



NOTARY PUBLIC

My Commission Expires: 10/17/21



STATE OF GEORGIA
COUNTY OF FULTON

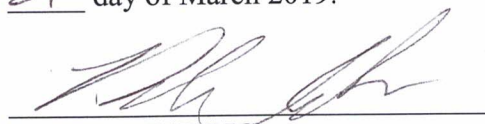
VERIFICATION

Personally appeared before me, the undersigned attesting officer duty authorized to administer oaths, **GREG CLAY** who, upon being duly sworn, deposes and states under oath that the states of fact contained in the foregoing **VERIFIED PETITION TO CONTEST THE CITY OF ATLANTA'S MARCH 19, 2019 SPECIAL ELECTION RESULTS PER O.C.G.A. § 21-2-524** are true and correct. In addition, Mr. Clay confirms that to the best of his knowledge and belief the contested result of the City of Atlanta's March 19, 2019 special election is illegal and the return thereof incorrect, and that the petition to contest the same is made in good faith.

This 27 day of March 2019.


GREG CLAY
Petitioner

Sworn and subscribed before me this
27th day of March 2019.


NOTARY PUBLIC

