

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT
OF HINDS COUNTY, MISSISSIPPI**

DAVID L. ARCHIE,

v.

Cause No. 1:23-CV-517

ANTHONY "TONY" SMITH,

ORDER FOR SPECIAL ELECTION

THIS CAUSE came on for hearing before Special Judge Barry Ford on Wednesday, June 3, 2026, at the Hinds County Courthouse, 407 East Pascagoula Street, Jackson, Mississippi, upon the Petition of David L. Archie contesting the results of the August 8, 2023, Democratic primary for Hinds County Supervisor, District 2. Matthew Wilson of The Law Office of Matthew Wilson, PLLC, and Terris Harris of The Cochran Firm-Jackson, LLC appeared on behalf of Petitioner David L. Archie. Warren L. Martin, Jr. of Warren L. Martin, Jr. P.A. appeared on behalf of Respondent Anthony "Tony" Smith.

1. This Court conducted evidentiary hearings on February 25, 2026, February 26, 2026, March 27, 2026, and April 29, 2026. At the close of testimony, the Court directed counsel for both parties to submit proposed findings of fact and conclusions of law, which were timely submitted on or before May 15, 2026. The Court thereafter convened with its advisory jury, consisting of the four remaining election commissioners, to review the proposed findings. Each of the four remaining election commissioners joined in the Court's findings of fact as set forth herein, and no commissioner voiced any objection thereto. Advisory juror Jamal Clark was not included in the advisory panel because testimony at trial established that thumb drives which should have been sealed in the election boxes were found at Mr. Clark's desk, creating an impermissible conflict that precluded his participation.

2. Having considered the testimony of the witnesses, the exhibits admitted into evidence, the proposed findings of fact and conclusions of law submitted by counsel, and the deliberations of the advisory jury, the Court makes the following findings of fact and conclusions of law and enters this Order.

3. The transcript of proceedings held June 3, 2026, a true and correct copy of which is attached hereto as Exhibit A and incorporated herein by reference, reflects the rulings of this Court as set forth above and as summarized hereinafter.

FINDINGS OF FACT

4. This election contest arises from the August 8, 2023, Democratic primary election for Hinds County Supervisor, District 2. Petitioner David L. Archie was the incumbent; Respondent Anthony "Tony" Smith was the challenger. District 2 comprises twenty-six (26) precincts.

5. The Court expressly finds that there was no fraud and no sinister motive on the part of any person or entity involved in the conduct of the August 8, 2023, primary election. Nothing in this Order shall be construed as an inference that any election official or worker acted improperly or with wrongful intent. The statutory safeguards designed to preserve and verify election results nevertheless failed in a number of material respects, as set forth below.

6. Across all twenty-six precincts in District 2, the following materials were missing or unaccounted for: (a) all District 2 voting machines and/or reports showing machine serial numbers; (b) beginning and ending machine tapes; (c) chain of custody documentation for media sticks; and (d) voter registration sign-in books. These deficiencies are material to the integrity of the election record.

7. Subpoenas were issued to Circuit Clerk Wallace to bring to Court the election boxes. Circuit Clerk Wallace testified from the witness stand that he did not have possession of those boxes. Mississippi law imposes a clear statutory duty upon the circuit clerk to maintain secure

possession of election boxes, to ensure that they remain locked, and to safeguard the contents therein. The circuit clerk's failure to take possession of the election boxes as required by law constitutes negligence per se.

8. During the recapitulation of election results, Jacqueline Amos made statements, which were introduced into evidence at trial, indicating an adverse disposition toward Petitioner David L. Archie. The Court does not find that Ms. Amos acted with fraudulent intent; however, the existence of those statements, on the record, created at minimum the appearance of partiality. Ms. Amos was therefore required to recuse herself from any participation in the recapitulation or certification of the election results pertaining to David L. Archie and failed to do so.

9. Sandra McCall served as campaign manager for a candidate in the same election cycle and thereafter participated in the certification of the election. Having served in a partisan capacity during the election, Ms. McCall was required to recuse herself from the certification process and failed to do so. Her participation in and certification of the election results presents an impermissible conflict of interest.

CONCLUSIONS OF LAW

10. Mississippi Code Annotated Section 23-15-599 imposes a clear obligation that election results be certified by an impartial body. Because both Jacqueline Amos and Sandra McCall participated in and certified the election results under the circumstances described in the Findings of Fact above, the certification of the August 8, 2023, Democratic primary for Hinds County Supervisor, District 2 was not performed by an impartial body as required by law. Accordingly, that certification is void ab initio.

11. The circuit clerk's failure to maintain statutory possession of the election boxes, as established by his own testimony from the witness stand, constitutes negligence per se. A violation of a statutory duty is negligence as a matter of law and no further showing of fault is required.

12. The combination of the deficiencies described above -- the missing machine tapes, missing serial number reports, compromised chain of custody for media sticks, missing voter registration sign-in books, the circuit clerk's failure to maintain statutory possession of the election boxes, and the void certification -- is consistent with the holdings of Mississippi courts in analogous election contest proceedings. In *Waters v. Gnemi*, a Holmes County case involving similar chain-of-custody failures, wherein election materials that should have been secured in locked boxes were instead placed in open cardboard containers accessible to tampering, the court reached a comparable conclusion regarding the integrity of the election record. The instant case presents materially similar deficiencies.

13. Mississippi law provides that elections shall not be set aside haphazardly, and this Court does not do so here. However, when the will of the voters cannot be determined from the available record, a new election is required. Because Petitioner David L. Archie was not afforded the opportunity to fully review the election boxes as required by law, because the certification is void ab initio, and because the cumulative deficiencies in the safekeeping of ballots and election materials render it impossible for this Court to determine the will of the voters, a special election must be ordered.

ORDER

IT IS THEREFORE ORDERED AND ADJUDGED as follows:

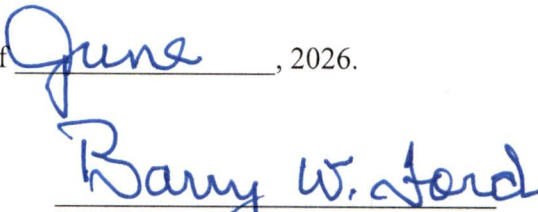
1. The certification of the results of the August 8, 2023, Democratic primary election for Hinds County Supervisor, District 2, is hereby declared **VOID AB INITIO**.
2. A special election for the office of Hinds County Supervisor, District 2, shall be held **ON OR BEFORE** July 18, 2026, or on such date as may be set by the Secretary of State or the Lieutenant Governor in accordance with applicable Mississippi law governing the scheduling of special elections.

3. Only David L. Archie and Anthony "Tony" Smith shall be permitted to appear on the ballot in the special election. Time for any other candidate to qualify has passed, and no other person shall be eligible to participate.

4. Anthony "Tony" Smith shall remain in office as Hinds County Supervisor, District 2, and shall continue to discharge the duties of that office until such time as the special election is held and a winner is duly certified.

5. The request by counsel for Respondent for a stay of this Order is DENIED. This Court has directed that all proceedings be conducted on an expedited basis, with no delays. As stated from the bench: there are no stop signs and no red lights; everything is on the fast track, and this Court is in control of that track.

SO ORDERED this the 9 day of June, 2026.


SPECIAL JUDGE BARRY FORD
First Judicial District
Hinds County, Mississippi

AGREED AS TO FORM ONLY:

/s/Matthew Wilson

MATTHEW WILSON, MSB No. 102344
The Law Office of Matthew Wilson, PLLC
2204 West Main Street
Tupelo, Mississippi 38801

/s/Warren Martin, with permission

WARREN L. MARTIN, JR., MSB No. 101528
Warren L. Martin, Jr. P.A.
351 Edgewood Terrace Drive
Jackson, Mississippi 39206

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1 IN THE CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT
2 OF HINDS COUNTY, MISSISSIPPI

3
4 DAVID L. ARCHIE,)

5 Petitioner,)

6)

7 -VS-) ACTION NO: 1:23-CV-517

8)

9 ANTHONY "TONY" SMITH.)

10 Respondent.)

11

12

13 * * * * *

14

15 THE FOLLOWING PROCEEDINGS CAME ON FOR HEARING
16 BEFORE SPECIAL JUDGE BARRY FORD ON WEDNESDAY, JUNE
17 3RD, 2026 AT THE HINDS COUNTY COURTHOUSE, 407 E.
18 PASCAGOULA STREET, JACKSON, MISSISSIPPI.

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A P P E A R A N C E S

FOR THE PETITIONER:

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FOR THE RESPONDENT:

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WARREN L. MARTIN, JR. P.A.
351 Edgewood Terrace Drive
Jackson, MS 39206

REPORTED BY:

KIMBERLY P. SMITH, RPR, RMR
OFFICIAL COURT REPORTER

* * * * *

(THE FOLLOWING PROCEEDINGS CAME ON FOR
HEARING BEFORE SPECIAL JUDGE BARRY FORD ON
WEDNESDAY, JUNE 3RD, 2026.)

THE COURT: Okay. A number of
you-all are concerned about the outcome
of this case. Let me say a couple of
things with regard to that. I don't
want anyone calling my advisory jury.
Anyone calling them within the next six
months and they notify me, I'm going to
give some jail time; anyone making any
outbursts in this courtroom with regard
to the ruling.

The advisory jury, we met on
Sunday at the office and we went over
this case. But ultimately at the end
of the day, it's my decision to make.
You can be mad with them, but don't
call them. Now, I don't want them
upset. They're doing what thus saith
the law.

Now, you can be upset with me.
You can call me. You can call me
Barry. You can call me any name you

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1 want to call me. But if you do, be
2 prepared to suffer the consequences.

3 Now, I have ruled on -- I was
4 called in for this case in particular.
5 And any way I rule, somebody is going
6 to be upset, and I don't really care.
7 I'm just going to call it like I see
8 it.

9 Now in this case we had hearings
10 on a number of days, on a number of
11 days with regard to these hearings.
12 And in particular I asked the attorneys
13 in this case to prepare me proposed
14 findings of fact and conclusions of
15 law.

16 And I will say to Mr. Smith and
17 Mr. Archie, you-all had good attorneys
18 on both sides. They did you a good
19 service. Anything after that, you can
20 blame it on me. Anything after that,
21 you can blame it on me.

22 But anyway we had hearings on
23 February the 25th, 26th, March 27th,
24 April 29th. And on May the 1st you-all
25 told me you didn't have anymore

1 testimony -- anymore testimony with
2 regard to this.

3 Now at that time I asked you-all
4 to prepare me proposed findings of fact
5 and conclusions of law. I gave you
6 until May the 15th to do that. You-all
7 did it. In a few days you had
8 everything ready, and I could
9 understand. They were very, very good.

10 The advisory jury and I met. You
11 will notice that Jamal Clark is not
12 over there. He's not going to be over
13 there because during the testimony in
14 this case it was brought out that at
15 Mr. Clark's desk there was some thumb
16 drives in an open basket there that was
17 at his desk that should not have been
18 there because those thumb drives should
19 have been in the election boxes with
20 the other material, and they wasn't.

21 And so I'm not going to put him in
22 that position because it's a conflict
23 for him to have those things in his
24 possession when they should have been
25 in the box.

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1 Now as I indicated to you earlier,
2 I met with the advisory committee on
3 Sunday. And during this case I made a
4 finding of fact on the record that
5 there was no fraud, no sinister motive
6 about anything. So, that wasn't an
7 issue in this case because I ruled on
8 the record.

9 There were a number of witnesses
10 that testified in this case. And this
11 election contest arises from the August
12 8th, 2023 Democratic primary for Hinds
13 County Supervisor District 2.

14 David Archie, the incumbent, was
15 challenged by Anthony "Tony" Smith.
16 District 2 has 26 precincts in it. You
17 know it better than I do because some
18 of you all live in there and some of
19 you all have been in Jackson all your
20 life. You know where the precincts
21 are.

22 In this election, the statutory
23 safeguards designed to preserve and
24 verify election results failed in a
25 number of ways. It failed in a number

1 of ways based upon the testimony that I
2 heard coming from the witness stand.

3 In those 26 precincts, all
4 District 2 machines and/or reports
5 showing machine serial numbers were
6 missing. They were missing some.
7 Machine tapes, beginning and end tapes,
8 were missing. That's a serious problem
9 in an election, and an election is
10 supposed to be fair.

11 In addition, the chain of custody
12 of media sticks was compromised or not
13 recorded. Voter registration sign-in
14 books were missing. There was a number
15 of things that was missing from this
16 election.

17 Subpoenas had been issued to the
18 circuit clerk of this office for him to
19 take control of those boxes. Testimony
20 coming from this stand from your
21 circuit clerk indicated that he did not
22 have possession of those boxes. That's
23 statutorily required that he has
24 possession of those boxes.

25 Because I found that there was no

1 fraud and no sinister motive, I didn't
2 infer anything from him not having them
3 that anybody was going in the boxes.
4 But the fact of it was violation of a
5 statute is negligence per se.

6 If you're supposed to have
7 something and you don't have it in your
8 possession, I don't know what happened
9 to it. I was sent here to make a
10 determination based upon facts and
11 things.

12 I can't make a determination if I
13 don't have those boxes, and if I don't
14 see what's in those boxes what's
15 supposed to be in those boxes. I did
16 not see that. And because I did not
17 see that, that's why we're going a
18 little further.

19 Jacqueline Amos testified in here.
20 And on the recapitulation of the
21 election, there was testimony and there
22 was some exhibits introduced into
23 evidence during this trial.

24 One of those exhibits made
25 reference to what she was going to do

1 to David Archie. I don't know that she
2 meant that or whether she was joking.
3 The fact of it is she made the
4 statement. And that anything that had
5 to do with David Archie in the
6 recapitulation of those votes, she
7 should have recused herself and not
8 taken part in.

9 Sandra McCall's participation in
10 the process presents an impermissible
11 conflict. Ms. McCall represented one
12 of the people in the election -- not
13 represented, but was a campaign manager
14 for Mr. Fair I believe she was the
15 campaign manager.

16 And she took part in the
17 certifying of this election. She took
18 part in it and then came back and
19 wanted to go back to her position, but
20 the time had not expired when the
21 election -- when someone else could
22 have come in or their time and ran
23 against. He may have been in a runoff,
24 but she chose not to recuse herself
25 from this. And because of that, that's

1 a conflict.

2 And because Ms. Amos and Ms.
3 McCall took part in and certified the
4 election, both of them should have been
5 recused. They should have been
6 recused. They shouldn't have taken
7 part in it. That's my finding. That's
8 my finding with regard to those. They
9 should not have taken part in this, and
10 they should not have certified the
11 election, especially if they're making
12 -- if she's making statements like she
13 made and like that was introduced into
14 evidence. So, she should not have.

15 And because they took part in that
16 certification, by this court it's going
17 to be void ab initio. It shouldn't
18 have taken place. It's just the
19 appearance of that.

20 Mississippi Code Annotated Section
21 23-15-599 imposes a clear obligation
22 that election results be certified by
23 an impartial body.

24 It appeared to this court that it
25 was certified, but it was not certified

1 by an impartial body based upon the
2 testimony that I heard coming from this
3 stand. And because it was not
4 certified and because that statute says
5 it should be certified by an impartial
6 body, that certification is void ab
7 initio.

8 In addition to that, according to
9 Ms. McCall's certification it's void,
10 there were a number of other instances.
11 The circuit clerk testified that
12 because the election boxes were not
13 brought to his office, that he never
14 had them in his position, the statute
15 requires that he have those in his
16 possession; that they be locked or
17 something placed around them where
18 nobody can go in them, to have a key to
19 his office. They've got to be in a
20 locked place. They were not in his
21 possession, according to his testimony
22 coming from this stand.

23 The machine tapes, beginning and
24 end tapes, were missing. That's
25 another serious problem. They've cited

1 a number of cases. One of the cases
2 was Waters V. Gnemi which is a Holmes
3 County case.

4 That Holmes County case dealt with
5 some of the same things that we had
6 here where materials that should have
7 been in a locked box were placed in a
8 cardboard box where they could be
9 tampered with.

10 I'm not saying that anybody -- the
11 position that that court takes that
12 those people who held the election for
13 Hinds County did their job. They did
14 it well. They did what they were
15 supposed to, and there is nothing to be
16 inferred by my ruling that they did
17 something wrong because I did not find
18 that there was any fraud or any
19 sinister motive in what happened. So
20 I'm not saying that in this ruling.

21 In addition to that, voter
22 registration sign-in books were
23 missing. There were a number of things
24 missing that should have been. The
25 subpoenas asked that Mr. Wallace bring

1 those documents, bring those boxes to
2 this office that Mr. Archie, Mr. Smith
3 could have reviewed and looked at those
4 things in there. And if everything was
5 according like it was supposed to be,
6 then we wouldn't be in this position
7 that we're in now.

8 Having said that, having said
9 that, the cases that I've read and the
10 cases that I've seen says that
11 elections are not to be set aside
12 haphazardly.

13 In this case, in this case because
14 Mr. Archie did not have the opportunity
15 to review the boxes in full and like he
16 was supposed to and because of the
17 recapitulation and those people who
18 certified the election should not have
19 certified that, I cannot determine the
20 will of the voters. And case law says
21 when the will of the voters cannot be
22 determined, then a do-over is required.

23 It is the opinion of this court
24 that based on the number of errors in
25 the safekeeping of those ballots and

1 the things that were requested, and in
2 particular the testimony of the circuit
3 clerk, that this court is going to
4 order that another election be held.

5 Mr. Smith will remain in office in
6 the position that he's in until such
7 time as an election can be held. Only
8 Mr. Smith and Mr. Archie will be
9 allowed to run in the special election.
10 Those are the two candidates. Time has
11 passed with regard to everyone else.
12 So this election, Mr. Smith will be
13 allowed to remain in that position.

14 Mr. Wilson, you prepare an order
15 based upon what I have made, the
16 determination. Don't add to it. Don't
17 take anything away from it. My bad
18 grammar put in there just like I said
19 it.

20 MR. WILSON: Yes, Your Honor.

21 THE COURT: Now I don't tolerate
22 any outbursts whether they're in
23 agreement with me, whether in
24 disagreement. Anybody disobeying this,
25 bailiffs, immediately jail them.

1 Mr. Warren, you have any questions?

2 MR. MARTIN: No, sir, Judge. When
3 Mr. Wilson prepares the order for
4 circulation, that's going to be entered
5 as a final judgment subject to MRCP; is
6 that correct?

7 THE COURT: That's correct.

8 MR. MARTIN: Thank you, Judge.

9 THE COURT: Mr. Wilson, you have
10 any questions?

11 MR. WILSON: Yes, I do have one
12 question. In ordering a new election,
13 are there any specific instructions
14 about the date of the election or is
15 it --

16 THE COURT: As I understand, the
17 Secretary of State or the lieutenant
18 governor, someone is supposed to -- I
19 was under the impression that it was 45
20 days from this date.

21 MR. WILSON: Okay.

22 THE COURT: I don't know. You-all
23 check. You-all check.

24 MR. MARTIN: Just so long we have
25 a stay to perfect the finality of the

1 court's ruling, I'm fine with that.

2 THE COURT: Okay.

3 MR. WILSON: Your Honor, I would
4 however ask -- first of all, I would
5 say that a stay of this order defeats
6 the whole purpose of the order because
7 by the time the Supreme Court of
8 Mississippi hears his appeal, it will
9 already be next year and it will be a
10 new election. I would ask that if
11 there is going to be a stay, that Mr.
12 Smith file significant sureties with
13 the court pursuant to the supersedeas
14 rules under the Mississippi Rules of
15 Appellate Procedure.

16 THE COURT: Okay. Everything is
17 on the fast track, no stop signs, no
18 red lights. Everything is on fast
19 track --

20 MR. WILSON: Thank you, Your
21 Honor.

22 THE COURT: -- and I'm in control
23 of the track. Now as I indicated to
24 you-all earlier, no one, no one is to
25 call any one of these election

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1 commissioners. Any violation, you're
2 going to jail and how long depends on
3 how I feel when they tell me. Everyone
4 remain seated. You-all are free to go.
5 And thank you-all for your service.

6 (ELECTION COMMISSIONERS EXCUSED)

7 THE COURT: All right. You're
8 free to move around in the courtroom.
9 Keep your voices down.

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11 (WHEREUPON, THE FOREGOING PROCEEDINGS
12 WAS CONCLUDED.)

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CERTIFICATE OF REPORTER

I, KIMBERLY PARKMAN SMITH, RPR, RMR an Official Court Reporter in and for the County of Hinds, State of Mississippi, hereby certify that the foregoing proceedings, and including this page, contain a true and correct transcript of the testimony of the witness as taken by me at the time and place heretofore stated, and later reduced to typewritten form by computer-aided transcription under my supervision to the best of my skill and ability.

I further certify that I placed the witness under oath, by the power vested in me by the State of Mississippi.

I further certify that I am not in the employ of or related to any counsel or party in this matter, and have no interest, monetary, otherwise in the final outcome of the proceedings.

Certified and electronically submitted this the 5th day of June, 2026.

KIMBERLY P. SMITH, RPR, RMR
OFFICIAL COURT REPORTER

COMPUTER-AIDED TRANSCRIPTION BY
KIMBERLY P. SMITH, (601) 831-0490