Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

October 29, 2026

The Honorable Michael Watson
Mississippi Secretary of State
Post Office Box 136
Jackson, Mississippi 39205

Re: Applicability of Mississippi Code Annotated § 23-15-575 to Special Election

Dear Secretary Watson:

The Office of the Attorney General has received your request for an official opinion.

OFFICIAL OPINION

Background

In the Democratic primary election for the office of Ward 3 alderman for the city of Senatobia, held on April 1, 2025, Allen Tanksley received 132 votes, while Michael Cathey received 131 votes. On April 28, 2025, the Tate County Democratic Executive Committee ("Committee") ordered that a new election be held due to irregularities in the election process. On that same date, the Tate County Chancery Court set aside the Committee's order and enjoined it from conducting a new election. Cathey subsequently filed a lawsuit in Tate County Circuit Court challenging the results of the election. On May 27, 2025, the circuit court found that Cathey had failed to meet his burden of proof to overturn or void the election results and declared Tanksley the winner of the Democratic primary for Ward 3. According to your request, no Republican or independent candidate qualified to run for alderman in Ward 3, and Tanksley thus ran unopposed in the general election held on June 3, 2025, and was elected to serve as the alderman for Ward 3.

Cathey subsequently appealed, and the Mississippi Supreme Court concluded that "a special election should be conducted" due to serious irregularities that "opened the door for corruption and fraud" and "taint[ed] the validity of the election." *Cathey v. Tanksley*, 437 So. 3d 302, 310 (Miss. 2026). The Court accordingly reversed and rendered a judgment stating "that the governor shall call a special election for the office of Ward 3 alderman for Senatobia in accordance with Mississippi Code Section 23-15-937 (Rev. 2018) and applicable law governing municipal special elections." *Id.* On September 10, 2026, Governor Tate Reeves issued a Writ of Election fixing December 15, 2026, as the date on which a special election for the office of Ward 3 alderman for Senatobia will be held. Tanksley and Cathey will be the only candidates on the ballot.

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Questions Presented

1. Does Mississippi Code Annotated Section 23-15-575 apply to special elections ordered by the Governor, when a primary election is having to be held again due to an error in the first primary election?

2. If so, would voters who participated in a different party's primary during the original primary in 2025 be barred from participating in the special election?

3. Would eligible voters be limited to those voters who were eligible to vote at the time of the original primary in 2025 or would voters who have subsequently registered to vote, and who are currently residing in Ward 3, also be allowed to participate in the special election?

Brief Response

1. The Mississippi Supreme Court has held that when a general election has already occurred, a special election called in accordance with Section 23-15-937 is not a primary election.

2. Given the response to question one, your second question is moot.

3. Voters who registered to vote after the original primary election in 2025, and who are currently residing in Ward 3, may vote in the special election provided that they satisfy the requirements of Section 23-15-11.

OFFICIAL OPINION

Applicable Law and Discussion

The Mississippi Supreme Court required the Governor to "call a special election for the office of Ward 3 alderman for Senatobia in accordance with Mississippi Code Section 23-15-937 (Rev. 2018) and applicable law governing municipal special elections." *Cathey*, 437 So. 3d at 310 (citation omitted). Section 23-15-937 sets out the "procedure for a primary election contest when . . . the general election has already occurred." *Randle v. Ivy*, 268 So. 3d 530, 532-33 (Miss. 2019). It provides that the contest "shall not thereby be dismissed but the cause shall nevertheless proceed to final judgment and if the judgment is in favor of the contestant, the election of the contestee shall thereby be vacated and the Governor . . . shall call a special election for the office or offices involved." Miss. Code Ann. § 23-15-937.

The Mississippi Supreme Court has held that special elections called in accordance with Section 23-15-937 are not primary elections. In *Thompson v. Jones*, the Governor "issued a Writ of Election calling for both a special primary election and a special general election" after the results of a primary election for sheriff were vacated by a lower court. *Thompson v. Jones*, 17 So. 3d 524, 526 (Miss. 2008). However, by the time the lower court ruled, the general election had already occurred. *Thompson,* 17 So. 3d at 528. The Supreme Court thus held that the Governor's writ violated Section 23-15-937, explaining that, "[u]nder this statute, only one special election is to be held after the general election has already occurred." *Id.* at 529. In so holding, the Court noted that it had previously "clarifie[d]" that the phrase "special election" in Section 23-15-937 "is clearly intended to mean a special election in the usual sense of that term, and not a party primary" and

that the statute does not "contemplate a party primary after the general election, and before the calling of a special election[.]" *Id.* (quoting *Blakeney v. Mayfield*, 84 So. 2d 427, 428 (1956)). Likewise, in *Randle*, the Court held that it was error to exclude the candidate who originally won his party's primary election (and then defeated an independent candidate in the general election) from a special election called pursuant to Section 23-15-937 after a special tribunal found that another candidate won the primary. *Randle*, 268 So. 3d at 533-34. As a result, the ballot for the special election included the party nominee, the candidate who lost the election contest, and the independent candidate who was defeated in the general election. *Id.* at 531.

Turning back to the matter at hand, although the two Democratic primary candidates for the office of Ward 3 alderman will be the only candidates on the special election ballot, that does not change the nature of the election. The election will determine which candidate will represent Ward 3 and serve the remainder of the four-year term. Moreover, if a Republican or independent candidate had qualified to run in the general election for this office, that candidate's name would be on the ballot. For these reasons, it is the opinion of our office that the special election does not constitute a "primary election" within the meaning of Section 23-15-575.[1]

You also ask whether voters who registered to vote after the original 2025 primary, and who are currently residing in Ward 3, may vote in the special election. The Mississippi Supreme Court has held that "newly registered" voters may vote in special elections, "even when they did not vote in the first election," provided that they satisfy the requirements of Section 23-15-11. *Folson v. Fulco*, 305 So. 3d 406, 416 (Miss. 2020). Those requirements include that the voter registered to vote 30 days before the special election and that the voter has "resided" for 30 days "in the incorporated municipality in which" they "seek[] to vote[.]" Miss. Code Ann. § 23-15-11. Additionally, voters who move into Ward 3 may also vote in the special election, provided that they transfer their registrations 30 days before the election. *See Folson*, 305 So. 3d at 416 (citing Miss. Code Ann. § 23-15-13(1)).

OFFICIAL OPINION

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Wilson Douglas Minor*

Wilson Douglas Minor
Special Assistant Attorney General

[1] Section 23-15-575 states that "[n]o person shall vote or attempt to vote in the primary election of one (1) party when he or she has voted on the same date in the primary election of another party" or "in the second primary election of one (1) party when he or she has voted in the first primary election of another party."