

BEFORE THE CANVASSING BOARD  
THURSTON COUNTY, WASHINGTON

John Clabaugh Voter Registration Challenge of  
Scott Cole Voter Registration

**DECISION**

**I. Introduction**

A voter registration challenge was filed on September 11, 2023, under the provisions of RCW 29A.08.810. John Clabaugh (Challenger) filed the challenge alleging that Scott Cole (Challenged Voter) does not reside at 6418 57th Ave SE, Lacey, WA 98513, the address listed on his voter registration record. The Challenger provided notification of this challenge to the Challenged Voter via certified mail on July 7, 2023.

The hearing on the challenge was convened on October 17, 2023 at 2:00 p.m. The required Notice of hearing was provided to the Challenged Voter and to the Challenger. The purpose of the hearing was to allow all parties the opportunity to present their facts and arguments.

Present at the hearing was Mary Hall, Thurston County Auditor, Karen Horowitz, Senior Deputy Prosecuting Attorney, Lynnette Milton, Elections Supervisor, Tillie Naputi-Pullar, Elections Manager, the Challenger, and members of the public. The Challenged Voter did not appear at the hearing, nor did he submit any documentation disputing the Challenger's evidence.

**II. Evidence and Argument**

The Challenger alleges that the Challenged Voter does not reside at the address listed on his voter registration, 6418 57th Ave SE, Lacey, WA 98513. The Challenger submitted the documents, listed in the Evidence Log attached and incorporated in this Order, into the record to support his challenge. In addition, the Challenger testified under oath at the hearing.

The Elections Staff submitted into the record the current voter registration records on file in the Auditor's Office of the Challenged Voter. In addition, Elections Staff submitted additional evidence of their continued attempts of their efforts to reach the Challenged Voter. The Elections Staff's documents are listed in the Evidence Log attached to this Order.

### **III. Legal Principles, Findings and Conclusions**

The issue before the Thurston County Auditor is whether the Challenged Voter has a right to vote in the precinct associated with the address 6418 57th Ave SE, Lacey, WA 98513. A voter may lose his right to vote if they do not live at the residential address provided on their voter registration. RCW 29A.08.810(1) (a-c) and RCW 29A.08.840 (5).

Before the Challenged Voter can lose their right to vote in the assigned precinct, the Challenger has the burden to prove by clear and convincing evidence that the Challenged Voter does not reside at the address on their voter registration. RCW 29A.08.840. "Residence" for purposes of registering and voting means "a person's permanent address where he or she physically resides and maintains his or her abode." RCW 29A.04.151. Residency is a fact specific inquiry and requires physical presence and an intention to make a place one's home. *Freund v. Hastie*, 13 Wn. App. 731, 734-35 (1975). If either physical residence or the intent to presently make that place a permanent home is lacking, residence will not be established. *Id.*

"If the challenger fails to prove by clear and convincing evidence that the registration is improper, the challenge must be dismissed and the pending challenged ballot must be accepted as valid." RCW 29A.08.840(6). The courts of this state have described clear and convincing evidence as sufficient to convince the trier of fact that the "fact in issue is 'highly probable.'" *Colonial Imports v. Carlton N.W.*, 121 Wn.2d 726, 735 (1993). Therefore, the ultimate question to be answered in this matter is whether the Challenger has proven, based on the evidence, that it is highly probable that the Challenged Voter does not live at 6418 57th Ave SE, Lacey, WA 98513 and does *not* reside at the 6418 57th Ave SE address for voter registration purposes.

Having reviewed the undisputed documents and testimony submitted by the Challenger, we find that the Challenger met the high burden of proof set forth in RCW 29A.08.810(1)(c)(ii) (A-E), that the Challenged Voter does not live or reside at the residence listed in his voter registration records.

### **IV. Decision**

For the reasons stated above, the challenge to the Challenged Voter's voter registration is sustained and he loses his right to vote in the precinct associated with his address at 6418 57th Ave SE, Lacey, WA 98513. The Challenged Voter may, however, correct the residence address on the voter registration and any races and ballot measures on any challenged ballot the voter would have been qualified to vote for had the registration been correct shall be counted pursuant to RCW 29A.08.840(5).

Pursuant to RCW 29A.08.840(6), the Challenged Voter may seek review of this decision by the superior court pursuant to chapter 34.05 RCW.

DATE:

Oct 27, 2023

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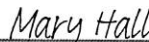
ATTEST:



Lynnette Milton (Oct 27, 2023 14:54 PDT)

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Clerk of the Board



Mary Hall (Oct 27, 2023 15:05 PDT)

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Mary Hall, Auditor

Voter Registration Challenge - John Clabaugh and Scott Cole

Exhibit Log

Date	Presented by	Description	Exhibit #	Page #
10/17/2023	John Clabaugh	Voter registration challenge form	1	2
10/17/2023	John Clabaugh	Voter challenge summary	2	3-4
10/17/2023	John Clabaugh	Affidavit of Kory Carlton	3	5
10/17/2023	John Clabaugh	WVRP Letter to Scott Cole	4	6
10/17/2023	John Clabaugh	Return Service from USPS	5	7
10/17/2023	John Clabaugh	Search People FREE	6	8-20
10/17/2023	John Clabaugh	Cyber Background Checks	7	21-24
10/17/2023	John Clabaugh	Assessor Records Search	8	25
10/17/2023	John Clabaugh	SOS Voter Registration Database	9	26
10/17/2023	John Clabaugh	VoteRef.com Search	10	27-30
10/17/2023	John Clabaugh	Search People FREE	11	31-46
10/17/2023	John Clabaugh	Thurston County Corrections Search	12	47-50
10/17/2023	John Clabaugh	WA DOC Inmate Search	13	51
10/17/2023	John Clabaugh	Federal Prison Search	14	52
10/17/2023	TC Elections Staff	Email to Elections	15	53
10/17/2023	TC Elections Staff	Confirmation email to John Clabaugh	16	54
10/17/2023	TC Elections Staff	Web Post re: VR Challenged	17	55-60
10/17/2023	TC Elections Staff	News Release	18	61
10/17/2023	TC Elections Staff	Notice of Hearing letter to challengee	19	62-65
10/17/2023	TC Elections Staff	Receipt for certified mail to challengee	20	66
10/17/2023	TC Elections Staff	Voter registration log for Scott Cole	21	67-70
10/17/2023	TC Elections Staff	Voter registration log for John Clabaugh	22	71-75