

BEFORE THE CANVASSING BOARD
THURSTON COUNTY, WASHINGTON

Michael Snodgrass Voter Registration Challenge of
Ms. Dorothy Elizabeth Lisa Parshley's Voter
Registration

DECISION

I. Introduction

A voter registration challenge was filed on September 27, 2017, under the provisions of RCW 29A.08.810. Michael Snodgrass (the Challenger) filed the challenge alleging that Dorothy Elizabeth Lisa Parshley (the Challenged Voter) does not reside at 1014 4th Ave E, the address listed on her voter registration record, but instead resides at 7145 Bayview Drive NE.

The hearing on the challenge was initially convened on October 4, 2017, but continued to October 9, 2017 at 9:00 a.m. because the Challenger could not be present at the initial hearing. The Challenged Voter did not object to the requested continuance. Notice of the hearing and the continued 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 the Canvassing Board consisting of Mary Hall, Thurston County Auditor, Bud Blake, chair of the Thurston County Board of Commissioners, Jon Tunheim, Thurston County Prosecutor, Elizabeth Petrich, deputy prosecuting attorney, acting as counsel to the Canvassing Board, Lynnette Thornton, Assistant Elections Manager, and Ann Hunter, Lead Elections Specialist, Dorothy Elizabeth Lisa Parshley, the Challenged Voter and her husband Thomas Allen, Michael Snodgrass, the Challenger and members of the public.

II. Challenger's Evidence and Argument

Mr. Snodgrass alleges that Ms. Parshley does not reside at the address listed on her voter registration, 1014 4th Ave E, Olympia, but instead resides at 7145 Bayview Drive NE, Olympia. Mr. Snodgrass submitted the following documents into the record to support his challenge: Tax parcel information for the Bayview address, marked as Exhibit 6 (3 pages); Assessor report for 4th Avenue address, marked as Exhibit 7 (1 page); and Questions/answers of Lisa Parshley residence and voter information of Lisa Parshley and Tom Allen, marked as Exhibit 8 (6 pages). In addition Mr. Snodgrass testified under oath at the hearing.

Mr. Snodgrass testified that:

- Ms. Parshley is the owner of record for the Bayview property and until August of 2016 her voter registration listed the Bayview address as her residence.

- Ms. Parshley caucused in the 2016 democratic caucus at Precinct 102 which is the precinct assigned to for the Bayview address;
- Ms. Parshley's vehicles are registered at the Bayview address;
- The address listed on her current voting registration, 410 4th Ave E. is a building with no livable units according to the Assessor's report.;
- The owners and landlords of the building at 1014 4th avenue did not know that Ms. Parshley lived there, or that the building had a residence within it;
- The owners first became aware of Ms. Parshley's association of to the property in the spring of 2017 when it became her campaign office;
- Ms. Parshley's husband, Tom Allen, signed a commercial lease for the property at 1014 4th Avenue, and that Mr. Allen subleased the building to Dr. Kim Coyner from the summer of 2014 to 2016 to operate a pet dermatology clinic in the building, and currently the building is being used for storage and additional parking.
- The Olympian newspaper quoted Ms. Parshley on Monday October 2, 2017 stating that she and her husband moved from the Bayview property to the 1014 4th avenue property in 2014; however Ms. Parshley's statements seems to be contradicted by the fact that the 4th avenue property was subleased to Dr. Coyner during the relevant time period.
- According to the Washington State Supreme Court, "A residence once established is presumed to continue and the burden is upon him who asserts a change from a residence once established. The presumption is against a change of residence; therefore the burden of proof rests upon the one alleging such a change. One who asserts a change of residence bears the burden of proof." In re Contested Election of Schoessler, 140 Wn.2d 368, 383 998 P.2d 818, 2000
- The inconsistencies between the tax, assessor and voting records, and the sublease of the building to Dr. Coyner demonstrates that Ms. Parshley does not live at the 1014 4th Avenue address.

At the end of Mr. Snodgrass' testimony, Ms. Parshley asked Mr. Snodgrass one question: "Have you been upstairs in the house [located at 1014 4th Ave E]?" Mr. Snodgrass replied "no."

III. Challenged Voter's Evidence and Argument

At the hearing, Ms. Parshley testified under oath and submitted the following documents into the record to establish that she resides at 1014 4th Avenue E: Letter from Scott Gustafson, marked as Exhibit 9 (1 page); Letter from Pam Fulkerson (1 page), marked as Exhibit 10; Building Sharing Agreement between PK & J LLC and Dermatology Clinic for Animals for 1014 4th Avenue E, marked as Exhibit 11(4 pages); Tenancy in common Agreement for Bayview Property, marked as Exhibit 12 (13 pages); and Lease Agreement for 1014 4th Avenue E between TWC Central, LLC and PK & J LLC marked as Exhibit 13 (23 pages).

Ms. Parshley testified that:

- Her parents purchased the Bayview property in the 1960s, and she spent her summers there when she was growing up.
- In 2011 it became clear to her that her parents could not continue to care and manage the Bayview property, and she had a strong desire to keep the property in the family.

- In 2011, she and her husband Tom Allen, and Philip and Barbara Parshley, as trustees of the Parshley Family Trust, bought the property as tenants in common. Ms. Parshley and her husband have an 80 percent undivided interest in the property. The use of the property is shared between the owners.
- She does not get her mail at the Bayview property. Since she is a doctor and wants to maintain the privacy of her mail she uses a post office box.
- She and her husband moved to Olympia in 2010 to start their veterinary practice. They outgrew their original location on Pacific Avenue and purchased property on Eastside Street in 2014, which is very close to 1014 4th Avenue E. address.
- 2014 is also the year when they started offering 24 hour emergency care and when she started living at the 1014 4th Avenue address. She moved to the 1014 4th Avenue address at this time because she wanted and needed to be physically close to her business due to the nature of providing emergency medical care 24 hours a day, and that living 20-30 minutes away at the Bayview property is not possible for the type of practice that she and her husband have.
- The house at 1014 4th Avenue E. has an upstairs that consists of three rooms and a bathroom. One room is used as their bedroom (for Ms. Parshley and her husband), another room is a spare bedroom for her partners to use on an as needed basis so they don't have to stay in hotels, and the third room is an office work area. There is no kitchen unit, however, there is a kitchen that she uses at their Eastside office, since she is working there all the time.
- The downstairs of the house was sublet to Dr. Coyner from 2014-2016, but she and her husband had exclusive use of the upstairs part of the house.
- In 2016 when Dr. Coyner moved out, the downstairs was used for storage, until she set up her campaign headquarters last spring.
- Her partners in her business, Olympia Veterinary Specialists (OVS), Dr. Scott Gustafson and Dr. Fulkerson could not be at the hearing today because they were out of town. However each of them provided written statements, based on their personal observations that Ms. Parshley has been living at the 1014 4th Avenue E. address since 2014 when OVS started offering overnight medical care to all of their patients and this is necessary since all the other partners in the business do not live in Olympia. In addition Dr. Gustafson has also spent nights since 2014 at the 1014 4th avenue address. Exhibits 9 and 10.

At the end of Ms. Parshley's testimony, Mr. Snodgrass asked why she didn't change her voter registration address earlier if she had been living at the 4th Avenue property. Ms. Parshley acknowledged that it was an oversight on her part and that she forgot to change her residential address on her voter registration until earlier this year.

IV. Legal Principles, Findings and Conclusions

The issue before the Canvassing Board is whether or not Mr. Snodgrass has proven by clear and convincing evidence that Ms. Parshley does not reside at the address listed on her current voter registration. This board recognizes that this issue potentially impacts Ms. Parshley's right to vote in the upcoming general election. Washington State has a strong public policy supporting the right of every qualified individual to vote, regardless of their residential status. In this state "no person registering to vote, who meets all the qualifications of a registered voter . . . shall be disqualified because he or she lacks a traditional residential address. A

voter who lacks a traditional residential address will be registered and assigned to a precinct based on the location provided.” RCW 29A.08.112. The “[r]egistration of a person as a voter is presumptive evidence of his or her right to vote.” RCW 29A.08.810(1). However, a voter may lose her right to vote if she does not live at the residential address provided on her voter registration. RCW 29A.08.810(1) (a-c) and RCW 29A.08.840 (5).

Before Ms. Parshley can lose her right to vote in the assigned precinct, Mr. Snodgrass, as the challenger, has the burden to prove by clear and convincing evidence that Ms. Parshley does not reside at the 1014 4th Avenue address on her 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).¹ 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 Mr. Snodgrass has proven, based on the evidence, that it is highly probable that Ms. Parshley does *not* reside at the 1014 4th Avenue address for voter registration purposes.

In deciding this challenge, it is important to note that this Board is not deciding or commenting in any way on the issue of Ms. Parshley’s eligibility to be a candidate for office. Such a determination does not fall within the authority of this Board. Therefore, the time line of her establishing residency or updating her voter registration is not relevant to our consideration. Our decision is limited only to the determination of the validity of her current voter registration at the time the challenge was lodged.

Having reviewed the documents submitted by the Challenged Voter and Challenger, and having considered the testimony provided by both the Challenger and the Challenged Voter at the hearing, we find that the Challenger has not met the high burden of proof set forth in RCW 29A.08.840. The Challenger did not overcome the presumptive evidence of Ms. Parshley’s right to vote in the precinct associated with 1014 4th Avenue E her address listed on her voter registration. The Challenger did not prove to a standard of clear and convincing evidence that the Challenged Voter does not reside at 1014 4th Avenue either in fact or by intention. The fact that she is residing at this address may be a lease violation, or a code violation, or that Ms. Parshley may be living in a commercially zoned building instead of a residentially zoned building is irrelevant to our consideration. This state’s election laws

¹ Mr. Snodgrass cited the Schoessler case for the proposition that the burden of proof was on the challenged voter to establish her residency. However, this case did not address a challenge to an individual’s right to vote, but rather it was a challenge to an individual’s right to run for an elected office. Thus the burden in this case is squarely on the challenger, Mr. Snodgrass, pursuant to RCW 29A.08.840 to prove by “clear and convincing evidence” that Ms. Parshley does not reside at the 1014 4th Avenue address.

recognize that a person cannot be disqualified to vote because he or she “lacks a traditional residential address.” RCW 29A.08.112

The evidence in the record before the Canvassing Board persuades us to find that:

- Ms. Parshley physically resides at 1410 4th Avenue E, the address listed on her voter registration. This finding is supported by Ms. Parshley's testimony under oath that since 2014 she has physically resided at 1014 4th Avenue E which is corroborated by evidence from her veterinarian partners in Exhibits 9 and 10 that Ms. Parshley has been living at this address most nights beginning in 2014. Her explanation of how and why she came to reside there is reasonable and the lease agreement and the shared agreement reflects that Ms. Parshley and her husband have had exclusive use of the second story of the building in question since 2014.
- Ms. Parshley not only physically resides at 1401 4th Avenue but it is her intention that this place for the near future be her permanent home. This finding is established by Ms. Parshley's testimony under oath that she needs to and wants to live close to her veterinarian practice due to the 24 hour service her practice provides to her patients, and the fact that none of her partners live in Olympia.
- Ms. Parshley is not currently living at the Bayview property. This finding is established by Ms. Parshley's testimony under oath which acknowledges that she is a part owner in the property because she was afraid her parents couldn't take care of the property and she wanted to keep the property in the family. She also testified that it is not practical or feasible for her to live there because it is twenty to thirty minutes away from her practice where she provided 24 hour care to her patients. In addition, her testimony that the property is owned in part by a family trust appears to be consistent with property records provided by Mr. Snodgrass.
- There is no contradicting testimony or affidavits providing direct evidence that Ms. Parshley physically resides at the Bayview property. While there is circumstantial evidence of such, that evidence is overcome by the direct testimony of Ms. Parshley.

/ /
/ /
/ /
/ /
/ /
/ /
/ /
/ /
/ /
/ /

V. Decision

For the reasons stated above, the challenge to Ms. Parshley's voter registration is dismissed, and Ms. Parshley retains her right to vote in the precinct associated with her address at 1014 4th Avenue E. Olympia, Washington.

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

DATE:

10-11-17

ATTEST:

Canvassing Board
Thurston County, Washington

Ann Hunter
Clerk of the Board

Mary Hall
Mary Hall, Auditor

Bud Blake
Bud Blake, County Commissioner

Jon Tunheim
Jon Tunheim, Prosecutor