

C. DAVIS
VOTER REGISTRATION CHALLENGE DECISION

A voter registration challenge was filed on August 20, 2020, under the provisions of RCW 29A.08.810. Andrew Saturn (the Challenger) filed the challenge alleging that C. Davis (the Challenged Voter) does not reside at the address listed on his voter registration records. The address for C. Davis is 1211 4th Avenue East, Olympia, WA 98501. “Residence for the purpose of registering and voting means a person’s permanent address where he or she physically resides and maintains his abode.” RCW 29A.04.15. A person who lacks a traditional residence will be registered and assigned to a precinct based on the location provided. RCW 29A.08.112. For purposes of this section, a voter “who resides in a shelter, park, motor home, marina, unmarked home, or other identifiable location that the voter deems to be his or her residence lacks a traditional address... A voter who registers under this section must provide a valid mailing address, and must still meet the requirement. . . that he or she lives in the area for at least thirty days before the election.” C. Davis registered as a voter without a traditional address on March 20, 2018.

The hearing on the challenge was held on August 27, 2020 at approximately 3 p.m. Notice of the 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.

Staff present at the hearing were myself, Auditor Mary Hall, Tillie Naputi-Pullar, Lynnette Milton, Lynne Watanabe, Emmett O’Connell, and Cathleen Bright. In addition, Deputy Prosecuting Attorney Elizabeth Petrich, Andrew Saturn, C. Davis, Arthur Mills and members of the general public were also present at the hearing.

Staff Presentation

Lynnette Milton described the process the Auditor’s Office uses in assisting voters with a nontraditional address, which is based on the Secretary of State’s Voters without Traditional Residential Addresses, Clearinghouse Elections Notice. “At any time when a voter comes to our office and wants to register to vote and they do not have a residential address, they are given the option to use a nontraditional address if they are homeless or otherwise displaced or do not have a permanent address. The voter can then give us either many different options, a park, a shelter, or more commonly used, the cross street where they spend most of their time if they are moving around. And in this case [C. Davis registration] you can see the cross street was given of 4th and Puget. That cross street is then used to be able to precinct the voter with the nontraditional address into a precinct in order to vote. And they must have a mailing address which was provided in order to receive their ballot.” Transcript at 8. In C. Davis’ case the address given to precinct was 1211 4th Avenue East, Olympia, WA 98501.

Challenger's Evidence and Argument

Mr. Saturn alleges that C. Davis does not reside at the address listed on his voter registration records, but instead resides at 1263 Bigelow Avenue, Olympia, WA. Mr. Saturn provided credible evidence and testified that C. Davis owns a duplex at 1263 Bigelow Avenue N.E., Olympia where he has likely resided for the past ten years. He provided evidence such as police reports, code enforcement notices which all involved the address of 1263 Bigelow Avenue N.E. and when C. Davis was on the property. Mr. Saturn also provided testimony and evidence from former tenants of the Duplex that stated that C. Davis did live there and that C. Davis refused to receive mail there because he did not want a paper trail. Mr. Saturn has witnessed C. Davis' van parked at 1263 Bigelow Avenue and believes that C. Davis actually lives at 1263 Bigelow Avenue N.E., and not at the address on his voter registration card.

Mr. Saturn's witness, Arthur Mills testified that he is a private investigator and did a comprehensive background check on C. Davis on August 25, 2020 which revealed that C. Davis has 24 aliases and imposters and the majority of them point to 1263 Bigelow Avenue address and the P.O. Box on Harrison Avenue, which is listed on C. Davis' voter registration card. Mr. Mills also conducted a surveillance mission and identified C. Davis's vehicle parked at 1263 Bigelow Avenue, and confirmed that C. Davis is the owner of the duplex.

Mr. Saturn's argument, based on his evidence, is that C. Davis is not homeless, that use of a non-traditional address is not appropriate and that he believes C. Davis lives at the 1263 Bigelow duplex unit on the second floor.

Challenged Voter's Evidence and Argument

C. Davis did not provide any evidence at the hearing but he did testify that he does own the duplex at 1263 Bigelow Avenue, that he stays at the Bigelow duplex from time to time but does not consider it his permanent address. Specifically he testified as follows:

C. DAVIS: Okay. So it is my understanding that this proceedings is to address the issue of whether or not I live at 1211 4th Avenue East... So as far as the address 1211 4th Avenue East, I do not live at that address, nor have I ever claimed to live at that address. That address, 1211 4th Avenue East, was created as a nontraditional address by your office.

MS. HALL: Can I ask you where you reside, please.

MR. DAVIS: It depends on the time. When I came in in 2018 I was staying with a friend. But I do own a rental unit. It's a duplex, and I use part of it for storage. Sometimes I stay there. Sometimes I don't. But as far as -- as far as the legal definition of residency is concerned, I do not consider that to be a permanent residence. Even though I may stay there from time to time, even if I stay there often, it is not a permanent residence. . .

MR. DAVIS: I have a nontraditional address, which means I can stay in my -- you know, my rental unit which is used for storage if I need to or I can stay with friends if I choose to. That's the -- that's the definition of residency. That's the definition of a nontraditional address.

MS. HALL: So for precincting purposes, sir, where do you reside?

MR. DAVIS: I just -- I'm telling you. It varies depending on the time. I might go to the Bigelow address tonight, but as I have said, in 2018 I was staying with a friend. So it depends on the time where I stay. . . .

MS. HALL: For precincting purposes, as I mentioned earlier, I need to precinct you where you reside. Where do you currently reside?

MR. DAVIS: Yeah. So that's a good question raised by people here. So where do homeless people reside?

MS. HALL: They tell us where they reside. If they live under the 5th Avenue bridge, then we would precinct them in that location.

MR. DAVIS: I live in the general area. It depends on who I'm staying with. If I'm staying at my storage place, which is what I'm calling my rental, which is under work, sometimes I stay there. Sometimes I don't. It is not a permanent, full-time residence. That's why we have cross streets. That's why it is nontraditional.

Transcript, at 20-22.

Legal Principles and Conclusions:

In resolving this challenge, I am guided by the principle that the registration of a person as a voter is presumptive evidence of his right to vote at any election, as provided in RCW 29A.08.810. The burden to prove otherwise is on the Challenger who must do so by presenting clear and convincing evidence that the Challenged Voter does not reside at the address listed on his voter registration record. The courts of this state have described clear and convincing evidence as that which is sufficient to convince the trier of fact that the fact at issue is highly probable. *Colonial Imports v. Carlton N.W.*, 121 Wn.2d 726, 735 (1993).

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). In general, a person can have only one residence and once established, residence is presumed to continue. *Fiske v. Fiske*, 48 Wn.2d 69, 71 (1955). A residence will not be terminated until a new residence is established by residence in fact and a present intention to make that new place one's home. *Sasse v. Sasse*, 41 Wn.2d 363, 365-66 (1952).

In his testimony, C. Davis conceded that he does not live at the address on his registration card, because that was an address the Auditor's office used for purpose of his non traditional residency. C. Davis however, after continued questioning about where he does reside, C. Davis was not able to describe "an *identifiable location*" that he considered his non-traditional residence. The most definitive answer he provided was "It depends on the time. When I came in 2018 I was staying with a friend. But I do own a rental unit. It's a duplex, and I use part of it for storage. Sometimes I stay there. Sometimes I don't." C. Davis did not identify the location of the friend's house that he stays at.

In contrast the testimony and evidence provided by Mr. Saturn, support a finding that C. Davis more likely than not lives at the 1253 Bigelow Avenue address. The Challenger established that C. Davis is the *owner* of a residential duplex at 1263 Bigelow Avenue N.E., Olympia, WA, and has owned this duplex been for several years.

Public records from the Assessor's Office confirm that C. Davis owns this duplex, and that C. Davis has an active senior exemption from certain taxes. In order to receive this exemption, the owner must own the property and it must be the principal place of residence. RCW 84.36.381. As noted above, C. Davis concedes that he does indeed own this duplex and that he has a unit within the duplex and that he stays there. The requested Senior tax exemption reflected on the Assessor's record provides credible evidence that C. Davis' residence is his duplex at 1263 Bigelow Avenue, and it his *intention* to make the Bigelow residence his home. Without this intention he would not be able to receive the senior exemption.

In this case the question is whether C. Davis, as a voter who registered as a voter with a nontraditional address, spends most of his time at the cross streets of 4th Avenue and Puget Street. After reviewing the evidence presented in the hearing, public records from the assessor's office, and the testimony presented by the challenger, his witness, and C. Davis, I find that it is highly probable that C. Davis' duplex is his residence for purposes of voter registration, and this residence is presumed to continue. *Fiske v. Fiske*, 48 Wn.2d 69, 71 (1955). C. Davis has not provided credible testimony that he has established a new residence at the cross streets of 4th Avenue and Puget Street, in fact, or have a present intention to make these cross streets his home. *Sasse v. Sasse*, 41 Wn.2d 363, 365-66 (1952).

For the reasons stated above, the challenged voter's registration is improper, and the challenge to C. Davis' voter registration is affirmed.

Pursuant to RCW 29A.08.840(5), the Challenged voter may correct his voter registration. Pursuant to RCW 29A.08.840(6), the Auditor's decision is final subject only to review by the superior court pursuant to chapter 34.05 RCW.

Entered this 4th day of September 2020.

A handwritten signature in cursive script that reads "Mary Hall".

Mary Hall
Thurston County Auditor

VOTER CHALLENGE – AUDITOR ADMINISTRATIVE HEARING A SATURN/C DAVIS

Exhibit #	Description
1	Voter Registration Challenge Form
2	Auditor Challenge Notice (web and news release)
3	C Davis Letter Packet
4	A Saturn Letter Packet
5	RCW 29A.08.810 29A.08.820 29A.08.835 29A.08.840
6	WA Secretary of State Clearinghouse 19-04
7	C Davis Voter Registration Card (redacted)
8	Photos
9	Documents 1-21 CFS, Investigation Reports, Collision Report
10	Email from A Saturn – rental receipt
11	Photos
12	Address Report – 1263 Bigelow Ave NE
13	Comprehensive Report CMYNAMEISC S DAVIS
14	Email from A Saturn - court records, police record, PDC
15	Email to C Davis-code enforcement, returned mail
16	Email from A Saturn – photos
17	Assessor records
18	Hearing transcript