

BEFORE THE CANVASSING BOARD
THURSTON COUNTY, WASHINGTON

John Lewis Clabaugh Voter Registration
Challenge of Paul I. Ottwell Voter Registration

DECISION

I. Introduction

A voter registration challenge was filed on June 23, 2023, under the provisions of RCW 29A.08.810. John Lewis Clabaugh (Challenger) filed the challenge alleging that Paul I. Ottwell (Challenged Voter) does not reside at 5815 Lacey Blvd SE, Lacey, WA 98503, the address listed on his voter registration record. Notification of this hearing was provided to the Challenged Voter via certified mail on June 28, 2023.

The hearing on the challenge was convened on July 17, 2023 at 3:00 p.m. the required 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.

Present at the hearing was the Canvassing Board consisting of Mary Hall, Thurston County Auditor, chair of the Canvassing Board, Thurston County Board of Commissioners, Elizabeth Petrich, Chief Civil Deputy Prosecuting Attorney, as Jon Tunheim, Thurston County Prosecutor's designated representative, 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, 5815 Lacey Blvd SE, Lacey, WA 98503. The Challenger submitted the documents, listed in 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 Challenger asked Lynn Duncan to provide additional testimony and evidence.

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 brought before the Canvassing Board is whether the Challenged Voter, who is currently an inactive voter, has a right to vote in the precinct associated with the address 5815 Lacey Blvd SE, Lacey, WA 98503. Because an inactive voter does not receive a ballot, the issue before the Canvassing Board is whether or not the Challenged Voter's Registration may be canceled.

The Canvassing Board can only cancel an inactive voter registration as authorized by RCW 29A.08.630(2) or (3). The Challenger has the burden to prove by clear and convincing evidence that the Challenged Voter "has moved out of state or died" RCW 29A.08.630(3); or if prior to the passage of two federal elections, the inactive voter fails to (1) notify the auditor of a change of address; (2) responds to a confirmation notice with information that he or she continues to reside at the registration address; or (3) votes or attempts to vote in a primary, special election, or general election.

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 has died or moved out of state, or failed to notify or confirm his address, or has voted in recent elections, that he does not live at 5815 Lacey Blvd SE, Lacey, WA 98503 and does *not* reside at the 5815 Lacey Blvd SE address for voter registration purposes.

Having reviewed the undisputed documents and testimony submitted by the Challenger and Lynn Duncan, we find that the Challenger did not meet the high burden of proof set forth in RCW 29A.08.630(2) or (3) for the following reasons: The Challenged Voter was put into inactive status on March 22, 2021, and the passage of two federal elections have not yet passed. Until the next federal election passes, the Canvassing Board does not have authority to cancel the Challenged Voter's registration.

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IV. Decision

For the reasons stated above, the challenge to the Challenged Voter's voter registration is denied.

DATE:

7/25/2023

ATTEST:

Canvassing Board
Thurston County, Washington






