

BEFORE THE CANVASSING BOARD  
THURSTON COUNTY, WASHINGTON

John Lewis Clabaugh Voter Registration  
Challenge of Catherine I. Donovan 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 Catherine I. Donovan (Challenged Voter) does not reside at 823 Forrestal Pl NE, the address listed on her 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 11, 2023 at 9:00 a.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, Commissioner Carolina Mejia, 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 she submit any documentation disputing the Challenger's evidence. However, Ms. Naputi-Pullar was able to talk to the challenged voter by phone on July 11, 2023 between 11:50-11:56 am on the morning of the hearing. See Declaration of Ms. Naputi-Pullar, attached and incorporated by reference to this decision.

**II. Evidence and Argument**

The Challenger alleges that the Challenged Voter does not reside at the address listed on her voter registration, 823 Forrestal Pl NE. The Challenger submitted the documents, listed in Evidence Log attached and incorporated in this Decision, 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 Canvassing Board directed staff to continue to make contact with the challenged voter. On July 11, 2023, Ms. Naputi-Pullar left a message with the Challenged Voter, at 11:47 a.m. asking her to call back as soon as possible. The Challenged Voter called back at 11:50 am. During the conversation, the Challenged Voter:

- confirmed she lived at the 701 Alta SW address a long time ago;
- confirmed she currently lives at the 823 Forrestal Place NE address, where her son, daughter-in-law, and grandchildren stay;
- explained that she has 'stayed there for a few months, that is why she is saying that is my residence of record since I'm away taking care of my father;''
- confirmed this is where "I get mail. That is where I consider my residency and once I move back, I will be staying there for a while until I find a place to live. I get my mail there;''
- confirmed she is living in California, for now, but that she has "no desire to register to vote in California" and that she "want[s] to maintain my voter registration in Washington so I can continue to vote there;''
- confirmed that her temporary address in California is 216 Kearns Drive, Bodfish, CA 93205; and
- explained that she is temporarily living in California because "I have to take care of my father, I'm (the) only one in the family that can do it, he's 91 years old."

See Declaration of Ms. Naputi-Pullar. 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 Canvassing Board is whether the Challenged Voter has a right to vote in the precinct associated with the address 823 Forrestal PI NE. A voter may lose her 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. However, "no person gains residence by reason of his or her presence or loses residency by his or her absence: . . . Absence from the state on business shall not affect the question of residence of any person unless the right to vote has been claimed or exercised elsewhere". *Id.*

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 823 Forrestal Pl NE and does *not* reside at the 823 Forrestal Pl NE address for voter registration purposes.

Having reviewed the undisputed documents and testimony submitted by the Challenger and Lynn Duncan, and the records and Declaration of the Elections staff we find that the Challenger *has not met* the high burden of proof set forth in RCW 29A.08.810(1)(c)(ii) (A-E), because the Challenged Voter meets one of the exceptions in RCW 29A.04.151.

A person loses resident status by absence from a place *unless the person meets one of the exceptions outlined in RCW 29A.04.151*. In this case the Challenged Voter meets the exception outlined in RCW 29A.04.151 that "no person gains residence by reason of his or her presence or loses residency by his or her absence: . . . Absence from the state on *business* shall not affect the question of residence of any person unless the right to vote has been claimed or exercised elsewhere." Emphasis supplied.

The Challenger has not shown that the Challenged Voter has exercised her right to vote outside of Washington. Furthermore, the Challenged Voter confirmed with the elections staff that she has physical presence at the challenged address, but is out of the state on *family business* to take care her elderly father and is only living temporarily in California and wants to maintain voter registration in Washington so she can continue to vote there. In addition, the Challenged Voter confirmed that she

has no intent to vote outside of Washington, that she considers the challenged address her residency that and the continues to receive mail there.

**Decision**

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


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:

8/7/2023

ATTEST:

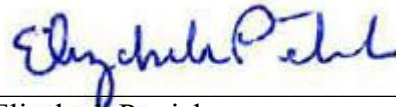
Canvassing Board  
Thurston County, Washington



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Elizabeth Petrich,  
Deputy Prosecuting Attorney