

BEFORE THE CANVASSING BOARD
THURSTON COUNTY, WASHINGTON

John Lewis Clabaugh Voter Registration
Challenge of Hongsen Zhao 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 Hongsen Zhao (Challenged Voter) is not a U.S. citizen and thus not eligible to vote. 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 12, 2023 at 1:00 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, 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 they submit any documentation disputing the Challenger's evidence.

II. Evidence and Argument

The Challenger alleges that the Challenged Voter is not a U.S. citizen because he has a green card. 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 after the hearing regarding the Challenged Voter's cancellation of his voter registration on July 31, 2023. See Declaration of Lynnette Milton attached and incorporated herein by reference. 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 6433 Hawks Prarie Rd. A voter may lose their right to vote if they are not a U.S citizen. RCW 29A.08.810(1) (e) 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 is not a U.S. citizen. RCW 29A.08.840.

“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 is not a U.S citizen.

Having reviewed the undisputed documents and testimony submitted by the Challenger and Lynn Duncan, and elections staff we find that the Challenger met the high burden of proof set forth in RCW 29A.08.810(1)(e), that the Challenged Voter is not a U.S citizen.

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IV. Decision

For the reasons stated above, the challenge to the Challenged Voter's voter registration is affirmed, and he loses his right to vote in the precinct associated with their address at 6433 Hawks Prarie Rd. Since the Auditor has already accepted the cancellation of registration from the Challenged Voter the Auditor does not need to take any further action in this matter.

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:

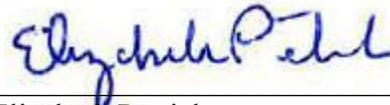
8/7/2023

ATTEST:

Canvassing Board
Thurston County, Washington







Elizabeth Petrich,
Deputy Prosecuting Attorney