IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In re: Nomination Petition of Michael Huff as Democratic Candidate for Municipal Court Judge in the First Judicial District (Philadelphia)	:	No. 106 M.D. 2025
	:	Heard: March 28, 2025
Objection of: Julian Domanico	:	

BEFORE: HONORABLE LORI A. DUMAS, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION BY JUDGE DUMAS **FILED: April 1, 2025**

Objector Julian Domanico (Objector) filed a petition to set aside the nomination petition of Michael Huff (Candidate) as a Democratic Candidate for Municipal Court Judge in the First Judicial District (Philadelphia), alleging that Candidate is domiciled outside of the First Judicial District.[1] Following an evidentiary hearing, we grant Objector's petition.

I. BACKGROUND[2]

Briefly, in support of his petition, Objector alleged that Candidate does not reside at 6618 Greene Street, Philadelphia, Pennsylvania, which is within Philadelphia County. Objector asserts that Candidate resides with his wife and

[1] The Pennsylvania Constitution establishes eligibility requirements to be a judge in the court of common pleas. Pa. Const. art. V, § 12(a) ("Other judges and justices of the peace, for a period of one year preceding their election or appointment and during their continuance in office, shall *reside* within their respective districts, except as provided in this article for temporary assignments." (emphasis added)); *see generally* Act of June 3, 1937, P.L. 1333, No. 320, *as amended* 25 P.S. §§ 2600-3591 (Pennsylvania Election Code (Code)). The Code provides section numbers that "are distinct from, but correspond to, the sections provided in Purdon's Pennsylvania Statutes, which is an unofficial codification of Pennsylvania law." *Herold v. Univ. of Pittsburgh*, 329 A.3d 1159, 1166 n.1 (Pa. 2025). For clarity, we refer to the Code "only by their Purdon's citation." *Id.*

[2] Generally, substantial evidence of record must support our findings of fact. *In re Beyer*, 115 A.3d 835, 838 (Pa. 2014).

children in Bala Cynwyd, Pennsylvania, which lies within Montgomery County. Thus, Objector claims that Candidate is not eligible to be a Philadelphia judge.

To resolve Objector's allegations, this Court held an evidentiary hearing on March 28, 2025. The parties presented the testimony of several witnesses, including Candidate, who testified as follows. Candidate testified that in 1999, he and his spouse bought a multi-family dwelling at 6618 Greene Street, where they lived until 2004. In 2004, for various reasons, they bought a home in and relocated to Bala Cynwyd, where they raised a family, including their three now-adult children. They kept the Greene Street property, however, as a rental property.

In May 2024, Candidate testified that he moved back into one of the units at the Greene Street property, where he eats and sleeps "every day." He also moved all of his clothing and personal possessions. Candidate stated that he bought a bed, furniture, and other necessities of daily living. In support, Candidate presented, *inter alia*, various utility, mortgage, and other bills that reflect the Greene Street address. Candidate also testified about household tasks that he did around the property. Candidate noted that his oldest child stayed at Greene Street for a few months but now lives with Candidate's wife in Bala Cynwyd.

Candidate reiterated that his family lives in Bala Cynwyd, which he visits several times per month. He maintained that he remains married to his spouse, who continues to reside in Bala Cynwyd, along with the oldest child. Indeed, the parties stipulated that Candidate's wife, if she testified, would represent that the parties' marriage remains intact, they have no intent to divorce, and that she resides in Bala Cynwyd.

Objector also presented a witness from the Statewide Uniform Registry of Electors (SURE), who testified that Candidate was registered to vote at the Greene

Street address. The SURE witness stated that the Candidate's spouse and oldest child are registered to vote at the Bala Cynwyd address. The parties also moved numerous exhibits into evidence.

II. ISSUE

Objector alleges that Candidate resides outside of Philadelphia County.

III. DISCUSSION[3]

Objector argues that because Candidate does not actually reside in Philadelphia, he is ineligible to run for any Philadelphia judicial office. Objector contends that the record establishes that Candidate is domiciled in Bala Cynwyd, Montgomery County, where his family has resided since 2004. Objector emphasizes that Candidate is not separated from his spouse and their children have been enrolled in Montgomery County public schools. Objector argues that upon proving that Candidate's family resides in Bala Cynwyd, the burden shifts to Candidate to establish his Philadelphia domicile. Objector anticipates that Candidate would present evidence of his intent to change his residence to Philadelphia County. In that regard, Objector asserts that Candidate's intent is insufficient as a matter of law and Candidate cannot amend his affidavit. *See generally* Objector's Br. at 9-10 (discussing, *inter alia*, *In re Driscoll*, 847 A.2d 44 (Pa. 2004), *In re Prendergast*, 673 A.2d 324 (Pa. 1996), and *In re Hanssens*, 821 A.2d 1247 (Pa. Cmwlth. 2003)).

[3] In "reviewing election issues, we must consider the longstanding and overriding policy in our Commonwealth to protect the elective franchise, and that the Election Code must be liberally construed to protect a candidate's right to run for office and the voters' right to elect the candidate of their choice." *In re James*, 944 A.2d 69, 72 (Pa. 2008) (cleaned up). Nevertheless, "while our overriding concern at all times must be to be flexible in order to favor the right to vote, we must also strictly enforce all provisions to prevent fraud." *Id.* (cleaned up). "A party alleging defects in a nominating petition has the burden of proving such defects, as nomination petitions are presumed to be valid." *Beyer*, 115 A.3d at 838. Our Supreme Court may reverse this Court's order resolving an objector's petition only (1) if we abused our discretion, which includes making an error of law, or (2) if our findings of fact are unsupported by substantial evidence of record. *Id.*; *Hangey v. Husqvarna Pro. Prods., Inc.*, 304 A.3d 1120, 1150 (Pa. 2023).

Candidate disagrees, arguing that courts have consistently examined numerous other factors in resolving residency. Candidate construes Objector's argument as absurd because a married candidate could not run for office if their spouse lived in a different judicial district. In Candidate's view, antiquated law should not be construed as barring him from running for a Philadelphia judicial office because his wife lives in Bala Cynwyd. *See generally* Candidate's Br. at 5-6. Additionally, at the hearing, Candidate asserted that Objector failed to serve the Department of State with the petition to set aside the nomination petition.

The Code "requires, *inter alia*, that a candidate file an affidavit stating his residence, his election district, the name of the office for which he consents to be a candidate, that he is eligible for such office, and that he will not knowingly violate any provision of the Pennsylvania Election Code." *In re McIntyre*, 778 A.2d 746, 751 (Pa. Cmwlth. 2001) (Kelley, J.) (single-judge op.).[4] The Code's provisions governing nomination petitions and affidavits "are not mere technicalities, but are necessary measures to prevent fraud and to preserve the integrity of the election process." *Id.* (cleaned up). Thus, although we must construe the Code liberally, we must strictly adhere to such statutory provisions because they ensure "the legitimacy of information crucial to" the nomination process. *Id.*

One such provision is the section of the Code addressing a candidate's residency, which lists several rules for determining a candidate's residency. *See* 25 P.S. § 2814; *In re Shimkus*, 946 A.2d 139, 149 (Pa. Cmwlth. 2008) (Cohn Jubelirer, J.) (single-judge op.) (explaining that courts have applied 25 P.S. § 2814 "to a candidate for office" (citing *Driscoll*, 847 A.2d at 51, and *Prendergast*, 673 A.2d at

[4] We may cite to reported single-judge opinions filed prior to October 1, 2013, for their persuasive value. *See* Pa.R.A.P. 126(c)(2). Single-judge opinions in election law matters filed after that date may be cited as binding precedent only in such matters. *See* Pa.R.A.P. 126(c)(1).

328)). One of those rules is that the "place where the *family* of a married man or woman *resides* shall be considered and held to be his or her place of residence, except where the husband and wife have actually separated and live apart, in which case the place where he or she has resided for two months or more shall be considered and held to be his or her place of residence." 25 P.S. § 2814(d) (emphases added).[5]

Under the Code, courts have equated a candidate's "residence" with his

[5] 25 P.S. § 2814 provides:

> In determining the residence of a person desiring to register or vote, the following rules shall be followed so far as they may be applicable:
>
> (a) That place shall be considered the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.
> (b) A person shall not be considered to have lost his residence who leaves his home and goes into another state or another election district of this State for temporary purposes only, with the intention of returning.
> (c) A person shall not be considered to have gained a residence in any election district of this State into which he comes for temporary purposes only, without the intention of making such election district his permanent place of abode.
> (d) The place where the family of a married man or woman resides shall be considered and held to be his or her place of residence, except where the husband and wife have actually separated and live apart, in which case the place where he or she has resided for two months or more shall be considered and held to be his or her place of residence.
> (e) If a person removes to another state with the intention of making such state his permanent residence, he shall be considered to have lost his residence in this State.
> (f) If a person removes to another state with the intention of remaining there an indefinite time and making such state his place of residence, he shall be considered to have lost his residence in this State, notwithstanding he may entertain an intention to return at some indefinite future period.
> (g) If a person removes to the District of Columbia or other Federal territory or foreign country to engage in the government service, he shall not be considered to have lost his residence in this State during the period of such service, and the place where the person resided at the time of his removal shall be considered and held to be his place of residence.
> (h) If a person goes into another state and while there exercises the right of a citizen by voting, he shall be considered to have lost his residence in this State.

25 P.S. § 2814.

"domicile." *Shimkus*, 946 A.2d at 148; *see generally In re Lesker*, 105 A.2d 376, 380 (Pa. 1954) (defining "domicile" as "the fixed, permanent, final home to which one always intends to return"). A person's domicile "is as deep rooted as a tree," and thus, transferring domicile is equivalent to "digging up, loading, transportation, and replanting of an elm or maple." *Lesker*, 105 A.2d at 380. Accordingly, we have defined "domicile" as a "place at which an individual has fixed his family home and principal establishment for an indefinite period of time. . . . A new domicile can be acquired only by physical presence at a new residence plus intent to make that new residence the principal home." *Shimkus*, 946 A.2d at 148 (cleaned up). Thus, under 25 P.S. § 2814, a candidate may have only one "domicile for purposes of the Election Code." *Driscoll*, 847 A.2d at 50.

A "person cannot simply declare a new residence or domicile by purchasing or renting a home in one location. That person must also have an intent to live in the new residence permanently. In addition, if the person is married and not separated from his spouse, he *and his spouse* must both intend to live in the new residence permanently." *Id.* (emphasis added and cleaned up).

In *Hanssens*, this Court resolved whether a candidate was domiciled within the district in which he was running for office. *Hanssens*, 821 A.2d at 1249. The objectors presented evidence that the candidate lived with his spouse and child outside of the district at issue. *Id.* The candidate testified to the contrary, contending that he lived within a "disheveled" address within the district. *Id.* In resolving the appeal, we stated that once the objectors demonstrated that the candidate's family resided outside of the district, the burden shifted to the candidate "to show that he and his wife have actually separated and live apart and that he has acquired a new domicile." *Id.* at 1251 (cleaned up).

We noted that the trial court "did not make specific findings and conclusions as to whether the [candidate] and his wife were separated and living apart." *Id.* at 1252. The candidate, however, failed to definitively establish when his family could move into the address within the district. *Id.* (reiterating that a "domicile is the place at which an individual has fixed the family home and principal establishment for an *indefinite* period of time" (emphasis added and citation omitted)). Thus, because the candidate had "not yet fixed the [new address] as his family home," we affirmed the order setting aside the nomination petition. *Id.*

We applied *Hanssens* more recently. *See In re Walker* (Pa. Cmwlth., No. 164 M.D. 2018, filed Apr. 5, 2018) (Covey, J.) (single-judge op.). This Court held that if the objectors proved that the candidate's family lived apart from the candidate, then the burden of proof shifted to the candidate to show that the candidate and his wife "have *actually separated* and live apart and that he has acquired a new domicile." *Id.*, slip op. at 24 (emphasis in original and citing *Hanssens*). In *Walker*, the SURE witness testified that the candidate and his wife were registered to vote at separate addresses. *Id.*, slip op. at 7, 17. Because it was undisputed that the candidate's wife (and son) did not live with the candidate, the Code "prescribes that the place where a married man's family resides is his place of residence." *Id.*, slip op. at 24-25 (citing 25 P.S. § 2814(d)). The burden then shifted to the candidate to prove that he and his wife "actually separated and live apart and that he has acquired a new domicile." *Id.*, slip op. at 25, 27 (holding the candidate did not prove they were separated).

In the case at bar, much like *Hanssens* and *Walker*, Objector presented testimony that Candidate's wife and adult daughter lived in Bala Cynwyd. *Cf. Hanssens*, 821 A.2d at 1249; *Walker*, slip op. at 7, 17. The SURE witness testified

that Candidate was registered to vote at the Greene Street property and his spouse and oldest daughter were registered to vote at the Bala Cynwyd property. Further, the parties stipulated that Candidate's wife resides in Bala Cynwyd and she would have testified that she was not separated from Candidate. Because Objector demonstrated that Candidate's family resides in Bala Cynwyd, which is not in Philadelphia, the burden shifted to Candidate "to show that he and his wife have actually separated and live apart and that he has acquired a new domicile." *See Hanssens*, 821 A.2d at 1250; *Walker*, slip op. at 24-25.

Candidate, however, did not present any evidence that he separated from his wife. Instead, Candidate affirmatively testified that he was married to his wife. Candidate's wife, per the parties' stipulation, would have averred that their marriage was intact, they did not intend to divorce, and she lives in Bala Cynwyd.

We acknowledge Candidate's testimony and evidence for the proposition that he lives in Philadelphia. But Candidate presented no testimony or evidence about when his *family* would move from Bala Cynwyd to Philadelphia. To paraphrase *Hanssens*, Candidate's domicile is his *family's* home for an *indefinite* time. *See Hanssens*, 821 A.2d at 1252 (holding that a new domicile requires, *inter alia*, evidence of an "intent to make that new residence" the principal, family home). Because Candidate did not present any evidence that he was separated from his wife, *cf. Walker*, slip op. at 27, Candidate had to prove that his family intended to make Philadelphia their principal home indefinitely. *See Hanssens*, 821 A.2d at 1252. Candidate, however, did not present any such evidence and thus could not meet his burden.

Candidate nevertheless suggests the Code is antiquated because it does not permit a married, unseparated spouse to run for office in one district while the

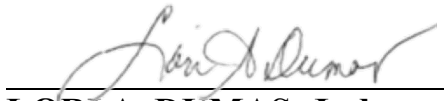
other spouse lives in a different district. Initially, recourse to revise an allegedly antiquated statute lies through the legislature and not this Court. We construe the law as it is and not how Candidate wishes it to be. *King v. Burwell*, 576 U.S. 473, 498 (2015). Under our jurisprudence, Candidate's domicile is Bala Cynwyd, where his family (wife and oldest daughter) resides, absent evidence of marital separation or an intent to reside in Philadelphia indefinitely. *See* 25 P.S. § 2814; *Driscoll*, 847 A.2d at 50.

Finally, we respectfully disagree with Candidate's allegation that Objector failed to serve his objection petition on the Department of State. Objector, after the hearing concluded, filed a date-stamped copy reflecting timely service on the Department of State. *See* Praecipe, 3/28/25 (attaching date-stamped proof of service on the Department of State); *accord* https://perma.cc/7QZW-VEE9 (last visited April 1, 2025) (reflecting service date on Department of State).

Turning to the remedy, Candidate cannot cure his nomination petition for a Philadelphia judicial office with an address outside of Philadelphia. Because the objections are material, we must set aside, as a matter of law, Candidate's nomination petition. *See* 25 P.S. § 2937.

IV. CONCLUSION

For these reasons, we grant Objector's petition to set aside Candidate's nomination petition. Substantial evidence of record exists that Candidate's family resides in Bala Cynwyd, Montgomery County, which is outside of the First Judicial District. Per our jurisprudence, Candidate did not present any evidence that he was separated from his wife or that his family intended to move to Philadelphia indefinitely.



LORI A. DUMAS, Judge

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Objection of: Julian Domanico	:	

O R D E R

AND NOW, this 1st day of April, 2025, we GRANT the petition, filed by Objector Julian Domanico, to set aside the nomination petition of Michael Huff as Democratic Candidate for Municipal Court Judge in the First Judicial District.

The Secretary of the Commonwealth is directed to REMOVE Michael Huff as a Democratic Candidate for Municipal Court Judge in the First Judicial District from the May 20, 2025 primary election ballot.

Objector shall bear the cost of the stenographer. Otherwise, each party shall bear their own costs.

The Prothonotary must notify the parties hereto and their counsel of this Order and must also certify a copy hereof to the Secretary of the Commonwealth of Pennsylvania forthwith.

LORI A. DUMAS, Judge

Order Exit
04/01/2025