

Skagit County, Washington

Voter Registration Challenge – Decision

Challenger: Lorilee Gates

Challenged Voter: Hailey Mockler

Challenge Reason – Voter Residency

Introduction

A voter registration challenge was filed on August 22, 2024, under the provisions of RCW 29A.08.810. Lorilee Gates (Challenger) filed the challenge alleging that Hailey Mockler (Challenged Voter) does not reside at 1229 Memorial Hwy, Spc 106, Mount Vernon, the address listed on their voter registration record. Notification of this hearing was provided to the Challenged Voter via certified mail on September 19, 2024.

The hearing on the challenge was convened on October 4, 2024 at 10:00am. 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 county Auditor, Sandy Perkins, Election Manager, Gabrielle Clay and the Challenger. The Challenged Voter did not appear at the hearing, nor did they submit any documentation disputing the Challenger's evidence.

Evidence and Argument

The Challenger alleges that the Challenged Voter does not reside at the address listed on their voter registration, 1229 Memorial Hwy, Spc 106, Mount Vernon. The Challenger submitted supporting documents with their affidavit that were incorporated in this Decision. In addition, the Challenger testified under oath at the hearing.

The Elections Staff presented the current voter registration records on file in the Auditor's Office of the Challenged Voter.

Legal Principles, Findings and Conclusions

The issue before the Auditor is whether the Challenged Voter has a right to vote associated with the address 1229 Memorial Hwy, Spc 106, Mount Vernon. Since the voter updated their address, they will receive a ballot for the current precinct where they are now registered.

Before the Challenged Voter can lose their right to vote, 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.*

"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 1229 Memorial Hwy, Spc 106, Mount Vernon and does *not* reside at the 1229 Memorial Hwy, Spc 106, Mount Vernon address for voter registration purposes.

RCW 29A.08.840(2)(a) permits a voter whose registration is challenged to update the residence address on the voter's voter registration. RCW 29A.08.410 lists how a registered voter can transfer their address within the same county.


Having reviewed the documents and testimony submitted by the challenger, I 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 contacted the Elections office to update their address ensuring they received the correct ballot. Additionally, the registered voter has more recently registered in Washington State.

Decision

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

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.


Sandy Perkins, Skagit County Auditor


Date