

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Deon Tedder,)
)
Appellant,)

Case No. 2020-CP-10-2720

v.)

Board of Voter Registration and)
Elections for Charleston County,)
)
Respondent.)

**ORDER
GRANTING APPEAL**

IN RE:)
Voter Registration Challenge)
)
)

BACKGROUND AND JURISDICTION

This matter comes before me following an Appeal filed by Deon Tedder (“Appellant”) of the June 11, 2020 order issued by the Board of Voter Registration and Elections for Charleston County (“Election Board” / “Respondent”) finding that Appellant failed to meet the qualifications set forth in S.C. Code Ann. § 7-5-120 for his change of voter registration address at a hearing held before it on May 29, 2020. Appellant received notice of entry of the order on June 11, 2020 and the parties properly filed the appeal in this Court pursuant to S.C. Code Ann. § 7-5-230 (C). The Notice of Intent to Appeal and Record on Appeal were timely filed with this Court on June 24, 2020 and on the day following, the Appellant requested, received, and properly noticed all parties of the time and place of the appeal hearing pursuant to S.C. Code Ann. § 7-5-240, therefore jurisdiction and venue are proper.

Present at the hearing held before this Court at 9:00AM on June 30, 2020 were the Appellant, represented by Mark A. Peper, Esq., the Executive Director of the Election Board, represented by Sam Howell, Esq., and Tiffany Spann-Wilder (“Challenger”), representing herself and Jeffery Wilder along with Elonda Fair O’Neill, Esq., the Court having granted Mr. Wilder's motion to intervene.

While not a party to this appeal, also present at the hearing was Colleen Condon, Esq., in her capacity as Chair of the Charleston County Democratic Party and attorney for the South Carolina Democratic Party, and Tom Tisdale, Esq. on behalf of Elder J. Johnson, III.

After a thorough review of the Record on Appeal, to include the transcript of the hearing held by the Election Board, and considering all arguments of counsel, this Court finds that the Election Board erred in finding that Appellant failed to meet the qualifications set forth in S.C. Code Ann. § 7-5-120 for his change of voter registration. Therefore, for the reasons set forth herein, the decision of the Election Board is reversed, the Motion to Dismiss is denied and the appeal is hereby GRANTED.

APPLICABLE LAW

S.C. Code Ann. § 7-5-120 provides that every citizen of this State and the United States who applies for registration must be registered if he meets the following qualifications:

- (1) meets the age qualification as provided in Sec. 4, Art. II of the Constitution of this State; and
- (2) is not laboring under disabilities named in the Constitution of 1895 of this State; and
- (3) is a resident in the county and in the polling precinct in which the elector offers to vote.

S.C. Code Ann. § 7-1-25 provides the statutory definition of “domicile” for the purposes of voter registration. That section provides as follows:

- (A) A person’s residence is his domicile. “Domicile” means a person’s fixed home where he has an intention of returning when he is absent. A person has only one domicile. (B) For voting purposes, a person has changed his domicile if he (1) abandoned his prior home and (2) has established a new home, has a present intention to make that place his home, and has no present intention to leave that place.

S.C. Code Ann. § 7-5-230 grants the Election Board the express authority to decide on whether the voter currently meets or fails to meet the voter registration qualifications set forth in S.C. Code Ann. § 7-5-120. (Providing, “[O]nce a person is registered, challenges of the qualifications of any elector...must be made in writing to the county board of voter registration and elections in the county

of registration. The board must...hold a hearing, accept evidence, and rule upon whether the elector meets or fails to meet the qualifications set forth in Section 7-5-120.”). Pursuant to S.C. Code Ann. § 7-5-230(D), “when a challenge is made regarding the residence or domicile of an elector, the board must consider the provisions of Section 7-1-25(D)” which provides as follows:

- (D) For voting purposes, factors to consider in determining a person’s intention regarding his domicile include, but are not limited to:
- (1) a voter’s address reported on income tax returns;
 - (2) a voter’s real estate interests...;
 - (3) a voter’s physical mailing address;
 - (4) a voter’s address on driver’s license or other identification issued by the Department of Motor Vehicles;
 - (5) a voter’s address on legal and financial documents;
 - (6) a voter’s address utilized for education purposes...;
 - (7) a voter’s address on an automobile registration;
 - (8) a voter’s address utilized for memberships in clubs and organizations;
 - (9) the location of a voter’s personal property;
 - (10) residence of a voter’s parents, spouse, and children; and
 - (11) whether a voter temporarily relocated due to medical care for the voter or for a member of the voter’s immediate family.

S.C. Code Ann. § 7-5-240 allows an appeal from an adverse decision of the Election Board to the State Circuit Court only by the voter; the challenger has no right to appeal an adverse decision.

FINDINGS OF FACT

After a thorough review of the Record on Appeal, to include the transcript of the hearing held by the Election Board, and considering all arguments of counsel, this Court makes the following findings of fact:

1. On February 28, 2020, Mr. Tedder established his domicile at 2629 Orchid Avenue, North Charleston, SC 29405, a property located within House District 109.
2. On or about March 1, 2020, Mr. Tedder notified his employer that his primary residence had changed to 2629 Orchid Avenue, North Charleston, SC 29405.
3. On March 17, 2020, Mr. Tedder completed a SC Voter’s Change of Address form at the Charleston County Board of Elections and Voter Registration. As a result, he was issued a

Rmd/3

voter registration certificate reflecting his primary residence as 2629 Orchid Avenue, North Charleston, SC 29405.

4. On March 23, 2020, Mr. Tedder filed his Statement of Intention of Candidacy (“SIC”) and Party Pledge for State House of Representatives, District 109.
5. Following the filing of his SIC, Mr. Tedder was qualified by the South Carolina Democratic Party and certified to be a qualified candidate for State House of Representatives, District 109 in the June 2020 Primary and November 2020 general election.
6. On May 14, 2020, Mr. Tedder obtained a South Carolina Driver’s License which reflects his address of 2629 Orchid Avenue, North Charleston, SC 29405.
7. Mr. Tedder does not own any real property, nor does he own any automobiles.

CONCLUSION

Based on the above findings of facts as applied to the laws of this State, this Court finds that the Election Board erred in finding that Appellant failed to meet the qualifications set forth in S.C. Code Ann. § 7-5-120 for his change of voter registration. While the Record on Appeal contains a number of documents submitted by the Challenger, this Court finds none of them to be determinative of Mr. Tedder’s qualifications. On the other hand, the Record includes sworn testimony from Mr. Tedder as to his domicile and documents that support his sworn testimony. From a thorough reading of the transcript, it is clear that the Election Board informed the parties prior to the hearing that in lieu of live testimony they could provide sworn testimony by way of Affidavit, and that the Board would treat it as one in the same. It is also clear, however, that it failed to do so in rendering its decision. South Carolina law does not require that a voter accurately recite the statutory definition of “domicile” to survive a residency challenge before the Election Board. Rather, it requires the Election Board to consider the provisions set forth in S.C. Code Ann. § 7-1-25(D) when accepting evidence and considering sworn testimony at a hearing. Upon doing so, it must rule upon whether the elector meets

RMD 4

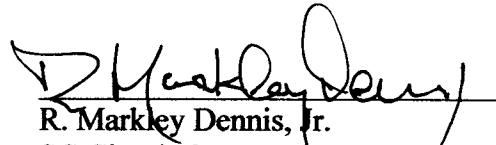
or fails to meet the qualifications set forth in S.C. Code Ann. § 7-1-120.

Because this Court finds that Mr. Tedder meets the provisions set forth in S.C. Code Ann. § 7-1-25(D) and has established his domicile at 2629 Orchid Avenue, North Charleston, SC 29405, this Court finds him to meet the qualifications set forth in in S.C. Code Ann. § 7-1-120. Accordingly, Mr. Tedder is a qualified elector of SC House District 109.

For the reasons set forth herein, it is the Order of this Court that the decision of the Election Board is hereby reversed. The Appeal is GRANTED.

AND IT IS SO ORDERED.

This 2nd day of July 2020.


R. Markley Dennis, Jr.
SC Circuit Court Judge
Ninth Judicial Circuit

Rec'd 5