

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA**



04/06/2022

Devin Hamilton, Legal Assistant

**BABATOMIWA OSIKANLU,**  
Petitioner,

v.

**CHARLES LOLLAR,**  
Respondent.

**Docket No.: 2222555  
2222555-OSAH-SECSTATE-CE-67-  
Schroer**

**INITIAL DECISION**

**I. INTRODUCTION**

Petitioner Babotomiwa Osikanlu challenges Respondent Charles Lollar's qualification to be a candidate in the general primary for the Georgia State House District 110. Specifically, Petitioner contends that Respondent does not meet the residency requirements to be a candidate under the Georgia Constitution and O.C.G.A. § 28-2-1(b). On April 4, 2022, the Court conducted an evidentiary hearing in this matter. Petitioner was present, and was represented by Curt Thompson, Esq. Respondent was present and represented himself. Based on the evidence presented, the Court concludes that Respondent is not qualified to be a candidate for House District 110.

**II. FINDINGS OF FACT**

1.

In March 2022, Respondent declared his candidacy for Georgia State House Representative in District 110. He listed his address as 1293 Great Shoals Circle, Lawrenceville, Georgia 30045 ("1293 Great Shoals"). 1293 Great Shoals is within House District 110, and Respondent purchased this property in 2003. (Testimony of Respondent; Exs. R-1, R-2.)

2.

Respondent is a former Marine and has lived and worked in a number of different states since leaving the military, including Maryland, Alabama, and Georgia. Specifically, for about six years, Respondent lived and worked in Maryland, and he ran for both a congressional seat and for Maryland's governor during that period. In or around 2019, Respondent took a job in Birmingham, Alabama. At that time, his wife, three daughters, and his grandson lived in the house at 1293 Great Shoals. However, Respondent, who also serves as the pastor of the Trinity World Christian Center in Douglasville, Georgia, decided to live in the parsonage because it was closer to his job in Birmingham. (Testimony of Respondent; Exs. R-5.)

3.

The Trinity World Christian Center and the parsonage are located at 7926 Malone Street, Douglasville, Georgia 30135. According to his testimony at the administrative hearing, Respondent lived at the parsonage for over a year and commuted to Birmingham during the week. In addition to serving as a pastor in the Douglasville community during this time, Respondent was the founding member of 100 Black Men of Douglasville, Inc., a Georgia corporation that lists its principal office address as 7926 Malone Street, the same address as the parsonage. Since 2019, Respondent has been identified as the corporation's "CEO" in the corporate records filed with the Secretary of State's office, and his address is listed as 7926 Malone Street, Douglasville, Georgia. (Testimony of Respondent; Exs. P-5, P-6.)

4.

In addition, in November 2021, Respondent ran for a seat on the Douglasville City Council. His qualification for this office were challenged on the basis that he did not meet the residency requirements under the City's charter. Respondent successfully defended his qualifications to run for this office by, among other things, proving that he held a Georgia driver's license and had registered to vote using the 7926 Malone Street address in Douglasville. He was found to meet the requirement that he be a resident of the City of Douglasville for the twelve months preceding the November 2021 City Council election, and his name appeared on the ballot for that race. (Testimony of Respondent, Petitioner; Ex. P-A.)

5.

Respondent lost the City Council election, and shortly thereafter, decided to move to the 1293 Great Shoals address in Lawrenceville. He testified at the administrative hearing that he made this decision around the time his job was transferred from Birmingham to Stone Mountain, Georgia, which occurred sometime after Christmas, in or around January 2022. In February 2022, within thirty days of moving to 1293 Great Shoals, Respondent changed his voter registration and his driver's license from the 7926 Malone Street address in Douglasville to the 1293 Great Shoals address in Lawrenceville. He testified that he now intends for Lawrenceville to be his residence and that he is active in that community, including serving as a football coach for his grandson's team. Although he still serves as pastor of the Douglasville church, he wishes to give back to the Lawrenceville community by serving in public office. (Testimony of Respondent.)

6.

In support of his contention that he is a legal resident in District 110, Respondent proffered a copy of his 2020 federal income tax return, which was dated February 8, 2021 and a copy of his 2021 state income tax return, which was dated February 2, 2022. Respondent filed these returns jointly with his spouse, Rosha Lollar, and listed their home address as 1293 Great Shoals Circle in Lawrenceville on both returns.<sup>1</sup> (Testimony of Respondent; Exs. R-3, R-4.)

7.

On March 21, 2022, Petitioner, a registered voter and eligible elector in House District 110, filed a challenge to Respondent's qualifications with the Secretary of State. The primary election for House District 110 is on May 24, 2022, and the general election will take place on November 8, 2022. (Stipulation of parties; OSAH Form 1, attachments.)<sup>2</sup>

### **III. CONCLUSIONS OF LAW**

1.

A candidate for State office must meet all constitutional and statutory requirements for holding the office sought by the candidate. O.C.G.A. § 21-2-5(a).

2.

Pursuant to Code Section 21-2-5(b), either the Secretary of State or a qualified elector residing in a state legislative district may challenge a candidate's qualifications to

---

<sup>1</sup> There is no evidence in the record regarding whether Respondent claimed a homestead exemption on the 1293 Great Shoals property, and the Court has not considered this as a factor in determining Respondent's legal residency.

<sup>2</sup> See also Ga. Const. Art. III, § II, Para. V (members of the Georgia General Assembly are elected biennially on Tuesday after the first Monday in November).

hold office. In the present case, Petitioner, an elector from District 110, challenges Respondent's qualifications and contends that Respondent does not meet the constitutional and statutory residency requirements.

3.

Respondent has the burden of proving that he is qualified to be a candidate for House District 110. See Haynes v. Wells, 273 Ga. 106, 108-09 (2000). The burden of proof is a preponderance of the evidence. Ga. Comp. R. & Regs. r. 616-1-2-.21(4).

4.

Candidates for the Georgia House of Representatives must be legal residents of the district from which elected for at least one year. Ga. Const. Art. III, Sec. II, Para. III(b); O.C.G.A. § 28-2-1(b). The Georgia Supreme Court has interpreted a one-year residency provision as requiring a candidate "to be a resident of the territory within the district for 12 months prior to the general election." See Cox v. Barber, 275 Ga. 415, 416 (2002) (durational residency requirement for election to the Georgia Public Service Commission under O.C.G.A. § 46-2-1 held constitutional). Accordingly, Respondent must prove that he has been a resident of District 110 since November 8, 2021 in order to qualify as a candidate in this case.

5.

In Cox v. Barber, the Georgia Supreme Court discussed the "important state interest" of residency requirements:

Residency requirements for candidates serve the important state interest of supporting our representative form of government. Requiring candidates to live in a district for a reasonable period of time before the election encourages them to become familiar with the problems, needs, and concerns of the people they seek to represent; it also exposes voters to the character, experience, and views of the individuals who seek to represent

them. In addition, it ensures voters that their elected representatives will have at least a minimum amount of ties to the community. Arrayed against the state's legitimate interest in having informed voters and candidates is the individual voter's interest in having a choice at the ballot and the candidate's interest in the continued availability of political opportunity.

275 Ga. at 418 (citations omitted).

6.

In this case, Petitioner asserted that Respondent has not been a legal resident of House District 110 since November 8, 2021. In considering this question, the Court is guided by both case law on residency and domicile, as well as the statutory provisions regarding the determination of residency for candidates.

7.

As an initial matter, “[w]herever a form of ‘the word “reside” occurs either in the statutes or in the constitution of Georgia with respect to voting, it should be construed to mean “domicile.”’ [Cit.]” Dozier v. Baker, 283 Ga. 543, 543-44 (2008) (citations omitted); see also Handel v. Powell, 284 Ga. 550 (2008); O.C.G.A. § 21-2-2(32). Although a person may have several residences, he or she may have only one place of domicile. Kean v. Marshall, 294 Ga. App. 459, 461 (2008) (considering domicile for child support purposes). “To acquire a domicile in a particular jurisdiction, one must actually reside there with the intention of remaining permanently or for an indefinite time, and a domicile once established continues until a new domicile is acquired. [Cit.] One cannot acquire a new domicile simply by a change of residence; it must instead be with the intention of abandoning the old residence and of remaining permanently or for an indefinite time in the new.” Id.

8.

In addition to these general principles regarding residency and domicile, the Georgia Legislature has established a series of rules for determining residency for purposes of registering to vote or qualifying for elective office. See O.C.G.A. § 21-2-217. The Georgia Supreme Court, in interpreting this Code section, has held that no one rule is determinative of the issue of residency; rather, this Court must consider all the rules “so far as they are applicable.” See Handel v. Powell, 284 Ga. at 553-54, citing O.C.G.A. § 21-2-217(a).

9.

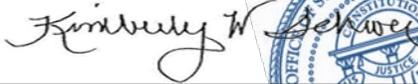
Having considered the statutory rules and the applicable case law, the Court concludes that Respondent has failed to meet his burden of proving that he has been a legal resident of District 110 since November 8, 2021. Rather, the preponderance of the probative evidence in the record of this case proved that Respondent was a legal resident of the City of Douglasville at least through December 2021, and that he did not change his domicile to the 1293 Great Shoals address with the intent to remain there indefinitely until, at the earliest, January 2022. See Smiley v. Davenport, 139 Ga. App. 753, 758 (1976) (decided under former Code 1933, §34-103) (finding voter registration as “[p]articularly persuasive” to the establishment of domicile); O.C.G.A. § 21-2-217(a)(2) (“A person shall not be considered to have lost such person’s residence who leaves such person’s home and goes into another ... county ... in this state, for temporary purposes only, with the intention of returning, unless such person shall register to vote or perform other acts indicating a desire to change such person’s citizenship and residence.”). Although Respondent’s family appears to have resided at 1293 Great Shoals since 2019,

and he and his spouse used that address as their residence for purposes of filing their joint federal tax return in 2021, the preponderance of the evidence, particularly the evidence relating to Respondent's efforts to defend his qualifications to run for public office in Douglasville in November 2021, his own testimony that he did not move to Lawrenceville until after Christmas, and the February 2022 transfer of his voter registration and driver's license, proved that Respondent did not intend to change his legal residence to 1293 Great Shoals until after November 8, 2021.

**IV. DECISION**

Accordingly, based upon the above Findings of Facts and Conclusions of Law, Respondent is not qualified to be a candidate for State House District 110.

**SO ORDERED this 6th day of April, 2022.**

  
  
**KIMBERLY W. SCHROER**  
**Administrative Law Judge**