

**IN THE OFFICE OF THE SECRETARY OF STATE
STATE OF GEORGIA**

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|---|---|-------------------------------------|
| DAVID WILKERSON, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | Docket Number: 2434531 |
| |) | 2434531-OSAH-SECSTATE-CE-33- |
| |) | Howells |
| MARTINE MAIGNAN, |) | |
| |) | |
| Respondent. |) | |
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FINAL DECISION

Petitioner, David Wilkerson (hereinafter “Petitioner”), an eligible elector in the election for the office of State Representative for State House District 38, filed this candidate challenge pursuant to O.C.G.A. § 21-2-5(b) against Respondent MARTINE MAIGNAN (hereinafter “Respondent”). Petitioner contends in this challenge that Respondent does not meet the residency requirements under the Georgia Constitution and O.C.G.A. § 28-2-1(b) to be a candidate for Georgia State House District 38 for the May 21, 2024 General Primary.

An Administrative Law Judge (hereinafter “ALJ”) of the Office of State Administrative Hearings held a hearing on April 15, 2024. Petitioner and Respondent were both represented by counsel at the hearing. The ALJ held an evidentiary hearing to create a record on the issue and took testimony. Respondent provided testimony during the hearing. The ALJ issued an Initial Decision on April 19, 2024, finding that Respondent was not qualified to be a candidate for the office of State Representative for State House District 38. The Secretary of State formally adopts and incorporates the ALJ’s Findings of Fact and Conclusions of Law into this Final Decision.

Therefore, **IT IS HEREBY DECIDED** that Respondent MARTINE MAIGNAN is NOT QUALIFIED to be a candidate for the office of State Representative for State House District 38.

SO DECIDED this 23rd day of April, 2024.



BRAD RAFFENSPERGER
Secretary of State

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



DAVID WILKERSON,
Petitioner,

v.

MARTINE MAIGNAN,
Respondent.

**Docket No.: 2434531
2434531-OSAH-SECSTATE-CE-33-
Howells**

Agency Reference No.: 2434531

INITIAL DECISION

Petitioner David Wilkerson (“Petitioner”) filed a written complaint challenging the qualifications of Respondent Martine Maignan (“Respondent”) to be a candidate for Representative of State House District 38. Petitioner contends that Respondent does not actually reside in District 38 and therefore does not meet the constitutional and statutory requirements for the office. The hearing was conducted on April 15, 2024, before the Office of State Administrative Hearings (“OSAH”), a court of administrative law. Petitioner was represented by Adam Sparks, Esq. Respondent was represented by Dexter Wimbish, Esq. Based on the evidence presented, the undersigned concludes that Respondent is **not** qualified to be a candidate for State Representative of State House District 38.

Findings of Fact

1.

Respondent moved from Florida to Gwinnett County Georgia in 2005. Prior to Respondent’s son purchasing a home in Suwanee, Georgia, Respondent and her son lived in Roswell. Around 2020, Respondent’s son purchased a home located at 4830 Ashwell Lane, Suwanee, GA. Respondent began living at that address when her son purchased the home. (Testimony of Respondent.)

2.

On September 11, 2021, Respondent and Rudy Pierre-Paul completed an Affidavit of Domestic Partnership, which was provided to Mr. Pierre-Paul's employer for "Pass Travel" purposes only. In the affidavit, Respondent and Mr. Pierre-Paul represent that their address is 5453 Sweetsprings Dr., Powder Springs, Georgia. (Ex. R-1.)

3.

Respondent and Mr. Pierre-Paul became engaged on August 15, 2022. Prior to that time, Respondent was travelling back and forth between her address at 4830 Ashwell Lane, Suwanee, and Mr. Pierre-Paul's home at 5453 Sweetsprings Dr., Powder Springs.¹ Respondent testified that once they became engaged, she permanently moved into 5453 Sweetsprings Dr., and she intended to remain indefinitely. She further testified that Mr. Pierre-Paul pays the bills "because it is his house." She pays someone to cut the grass and she pays for groceries. Respondent testified that she has continuously cohabitated with Mr. Pierre-Paul since she moved to 5453 Sweetsprings Dr., and she considers this to be her permanent address. She further testified that she was living at that address on November 5, 2023. (Testimony of Petitioner.)

4.

Respondent denied voting after she permanently moved to 5453 Sweetsprings Dr.² However, she acknowledged that she voted for Senator Raphael Warnock in 2022, and at that time 4830 Ashwell Lane was her permanent address and was where she lived. Voting records show that Respondent voted in-person, in Forsyth County for the General/Special Election on November

¹ Mr. Pierre-Paul does not own his home, he rents it.

² On cross-examination, Respondent agreed that based on her Declaration of Candidacy she has lived at 5453 Sweetsprings Dr., Powder Springs since September 2022.

8, 2022 and for the General/Special Election Runoff on December 6, 2022. Respondent has not cast any ballots in House District 38.³ (Testimony of Respondent; Ex. P-2.)

5.

Respondent owns an event planning business. She formed an LLC on December 5, 2019. The name of the LLC was CMartineEvents, LLC. Respondent filed an annual registration for the entity on August 2, 2022, at which time she changed the principal office address from 4600 Roswell Road, Sandy Springs to 4830 Ashwell Lane, Suwanee. Prior to the LLC being administratively dissolved on September 8, 2023, the last principal office address was 4830 Ashwell Lane, and the last physical address of the registered agent (i.e., Respondent) was 4830 Ashwell Lane. (Testimony of Respondent; Ex. P-6.)

6.

Respondent changed the address on her driver's license to 5453 Sweetsprings Dr., on February 22, 2024.⁴ When Respondent's counsel asked Respondent why it took her so long for her to change her address, Respondent stated, "I wanted to run, so it was obviously - you know, to, in order to vote in that district, I had to change my, all my information." Respondent did not present evidence of any mail received by her at 5453 Sweetsprings Dr., or any personal accounts associated with that address.⁵ (Exs. R-3, P-7; Testimony of Respondent.)

7.

On March 8, 2024, Respondent submitted her Declaration of Candidacy and Affidavit to run for State House District 38. On that document, Respondent swore that her residence address

³ In fact, Respondent's voting history reveals that she has not voted since December 2022.

⁴ It appears that the address associated with Respondent's voter's registration was changed as a result of the change of address on her driver's license. (Ex. P-7.)

⁵ She did tender a printout of a document entitled Deposit Account Balance Summary, which appears to have been an email attachment. The document is dated October 2, 2021 and shows Respondent's name as a secondary account holder on a Chase Savings Account that was opened on October 2, 2021. However, the document is addressed to Mr. Pierre-Paul as the requestor, at 5453 Sweetsprings Dr. It is not addressed to Respondent. (Ex. R-2.)

was 5453 Sweetsprings Dr., Powder Springs and that her Post Office address was P.O. Box 1258 Powder Springs.⁶ She further swore that as of the general election she will have been a legal resident of Cobb County and the district for 1 ½ years. (Ex. P-1.)

8.

Petitioner David Wilkerson is an elector eligible to vote in House District 38. On March 18, 2024, he challenged Respondent’s qualifications to run for House District 38. (Stipulation of the Parties; OSAH Form 1, attachments; Ex. P-4.)

9.

The primary election for House District 38 is on May 21, 2024. The general election is on November 5, 2024. (OSAH Form 1, attachments.)⁷

Conclusions of Law

1.

The Georgia Election Code (the “Code”) mandates that “[e]very candidate for federal and state office who is certified by the state executive committee of a political party or who files a notice of candidacy shall meet the constitutional and statutory qualifications for holding the office being sought.” O.C.G.A. § 21-2-5(a).

2.

Both the Secretary of State and the electors of Georgia are granted the authority to challenge the qualifications of a candidate. The challenge procedures are defined in Code Section 21-2-5(b) and authorize any elector who is eligible to vote for a candidate to challenge the

⁶ Respondent testified that she obtained the Post Office Box in March 2024.

⁷ See Ga. Const. Art. III, § II, Para. V (members of the Georgia General Assembly are elected biennially on Tuesday after the first Monday in November.)

qualifications of the candidate by filing a written complaint with the Secretary of State within two weeks after the deadline for qualifying. O.C.G.A. § 21-2-5(b).

3.

At the time of election, members of the Georgia House of Representatives must have been citizens of this state for at least two years and legal residents of the district in which they are running for at least one year. Ga. Const. Art. III, § II, Para. III(b); see also O.C.G.A. § 28-2-1(b) (requiring a member of the Georgia House of Representatives to have been a resident of his or her district for at least one year preceding the election). The Georgia Supreme Court has interpreted a similar provision to mean that the candidate must be a resident of the district for at least 12 months prior to the general election. Cox v. Barber, 275 Ga. 415, 416 (2002).

4.

The residency requirement for candidates refers to domicile. O.C.G.A. § 21-2-2 (32); *Handel v. Powell*, 284 Ga. 550 (2008). Domicile denotes “a permanent place of abode.” *Handel*, 284 Ga. at 550. To acquire a domicile, an individual must actually reside there with the intention to remain permanently or for an indefinite amount of time. *Kean v. Marshall*, 294 Ga. App. 459, 461 (Ga. App. 2008) (considering domicile for child support purposes) (emphasis added); *Handel*, 284 Ga. at 550 (citing *Avery v. Bower*, 170 Ga. 202 (1930)).

5.

The burden of proof is entirely upon Respondent to establish affirmatively her eligibility for office:

[T]he statutes place the affirmative obligation on [the challenged candidate] to establish his qualifications for office. [The challenger] is not required to disprove anything regarding [the candidate’s] eligibility to run for office, as the entire burden is placed upon [the candidate] to affirmatively establish his eligibility for office.

Haynes v. Wells, 273 Ga. 106, 108-09 (2000). The standard of proof on all issues is a

preponderance of the evidence. Ga. Comp. R. & Regs. 616-1-2-.21(4).

6.

Therefore, Respondent must prove that she meets the constitutional and statutory qualifications for State Representative – specifically that she is, and has been, domiciled in House District 38 for at least one year, and a citizen of this state for at least two years, prior to the November 5, 2024 general election. Ga. Const. Art. III, § II, Para. III(b); O.C.G.A. § 28-2-1(b); O.C.G.A. § 21-2-2(32).

7.

Georgia Code Section 21-2-217 provides a list of factors to consider when determining the residence (i.e., domicile) of a candidate. Those factors include, among other things, whether after a person moves to another place he intends to make that place his domicile or remain there indefinitely, whether a person leaves his home temporarily with the intention to return, where a person has declared a homestead exemption, where a person receives significant mail, or “any other evidence that indicates where the person resides.” O.C.G.A. § 21-2-217(a)(1)-(15).

8.

Here, Respondent presented insufficient evidence that she was domiciled in House District 38, as of November 5, 2023 (i.e., one year preceding the November 5, 2024 general election). Respondent’s testimony was inconsistent as to when she acquired a domicile in House District 38. The Domestic Partnership Affidavit dated September 11, 2021 showed her address as 5453 Sweetsprings Dr. However, by her own admission, she was travelling back and forth between her address at 4830 Ashwell Lane in Suwanee and Mr. Pierre-Paul’s home at 5453 Sweetsprings Dr. in Powder Springs prior to the time they became engaged. She testified that she permanently moved into Mr. Pierre-Paul’s home after they became engaged on August 15, 2022, and that she

had not voted since she did so. On cross-examination, Respondent agreed that she was permanently residing at 5453 Sweetsprings Dr., Powder Springs as of September 2022. Nevertheless, contrary to her testimony, she voted in-person, in Forsyth County on November 8, 2022 and December 6, 2022. On direct examination she testified that she voted in the November 2022 election in Forsyth County because she was living at 4830 Ashwell Lane in Suwanee. However, on cross-examination, when confronted with her voting record, which shows that she voted in-person, in Forsyth County for the December 6, 2022 run-off election, she began to say that she was living in Suwanee at that time. She then recanted and said she was not really living there (i.e., in Suwanee), but she had that address – so she voted there.

9.

As stated above, to acquire a domicile, one must actually reside at the location with the intention to remain permanently or for an indefinite period of time. *Kean*, 294 Ga. App. at 461; *Handel*, 284 Ga. at 550. Other than her extremely inconsistent testimony, Respondent presented no documentary evidence that as of November 5, 2023, she acquired a domicile within House District 38. She presented no evidence of any mail sent to her at 5453 Sweetsprings Dr., Powder Springs. Nor is there any evidence of any personal accounts, such as a mobile phone, a personal checking account, or a credit card account, associated with that address. She did not change the address on her driver's license and, by extension, her voter's registration, until February 22, 2024, which she acknowledged she did because she wanted to run for office. Accordingly, she has failed to prove that she meets the residency qualification to run for a member of the Georgia House of Representatives for State House District 38.

Decision

IT IS HEREBY ORDERED THAT Respondent is **not** qualified to be a candidate for State Representative of District 38, and her name should be removed from the ballot.

SO ORDERED, this 19th day of April, 2024.

Stephanie M. Howells

STEPHANIE M. HOWELLS
Administrative Law Judge

