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BEFORE THE PEND OREILLE COUNTY AUDITOR

In re challenge to the voter
registration of: Michael Piccirilli

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FINDINGS OF FACT, CONCLUSION OF
LAW, AND ORDER AFFIRMING
CHALLENGE

I. INTRODUCTION

THIS MATTER came before the Pend Oreille County Auditor pursuant to RCW chapter 29A.08 and upon Ms. Pollianna Dickinson-Jones' challenge to Mr. Michael Piccirilli's right to vote. The challenger, Ms. Dickinson-Jones, alleges that the voter, Mr. Piccirilli, does not reside at the address listed on their voter registration.

Registration of a person as a voter is presumptive evidence of their right to vote. RCW 29A.08.810. A person's right to vote may be challenged by another registered voter. RCW 29A.08.820(2). The challenger may base the challenge upon their personal knowledge that a voter resides at an address that is different than the address provided on the voter's registration form. RCW 29A.08.810(1)(c). To maintain the challenge, the challenger must provide the challenged voter's actual residence or submit evidence that he or she exercised due diligence to verify that the challenged voter does not reside at their registered address. RCW 29A.08.810(1)(c)(i)-(ii). To affirm the challenge, the challenger has the burden to demonstrate by clear and convincing evidence that the voter's registration is improper. RCW

1 29A.08.840(4). Clear and convincing evidence is sufficient to convince the trier of fact "that
2 the fact in issue is highly probable." Colonial Imports v. Carlton N.W., 121 Wn. 2d 726, 735
3 (1993) (internal quotation omitted).

4 The challenged voter must have a reasonable opportunity to respond to the challenge,
5 and the challenged voter may provide evidence that they reside at the location described in their
6 voter's registration records (or meets one of the exceptions allowed in RCW 29A.08.112 or
7 29A.04.151, or Article VI, section 4 of the state Constitution) if the challenge is to the voter's
8 registered residential address. *Id.*

9 A residential address is among the minimum required information necessary to place a
10 voter on the voter registration rolls. RCW 29A.08.010(1)(b). "Residence" for the purpose of
11 registering and voting means a person's permanent address where they physically reside and
12 maintain their abode. RCW 29A.04.151. A residential address may be either a traditional
13 address or a nontraditional address. RCW 29A.08.010(2). A traditional address consists of a
14 street number and name, optional apartment number or unit number, and city or town, as
15 assigned by a local government, which serves to identify the parcel or building of residence and
16 the unit if a multiunit residence. RCW 29A.08.010(2)(a). A voter lacks a traditional residential
17 address when they reside in a shelter, park, motor home, marina, unmarked home, or other
18 identifiable location that the voter deems to be their Residence. RCW 29A.08.112(2). A
19 nontraditional address consists of a narrative description of the location of the voter's Residence
20 and may be used when a traditional address has not been assigned to the voter's Residence. A
21 voter who lacks a traditional residential address will be registered and assigned to a precinct
22 based on the location of the narrative provided so long as they provide a valid mailing address
23 and meet the requirement in Article VI, Section 1 of the state Constitution that they live in the
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1 area for at least thirty days before the election. RCW 29A.08.112(1)-(2). A person who has a
2 traditional residential address must use that address for voter registration purposes and is not
3 eligible to register with a nontraditional address. RCW 29A.08.112(5).

4 No disqualification from voting shall occur and no person loses their Residence when
5 they are serving the United States, at sea, a student, in prison, or away on business if they have
6 not registered to vote elsewhere. RCW 29A.04.151(1)-(4). Further, no disqualification shall
7 occur when a voter meets all the qualifications of a registered voter in the state of Washington,
8 but the voter lacks a traditional residential address. RCW 29A.08.112(1).

9
10 A hearing to allow all parties to present their facts and arguments and determine the
11 validity of the challenge was held on February 7, 2024, at approximately 10:00 A.M in the
12 County Commissioners Room at the Pend Oreille County Courthouse. Audio from the hearing
13 was from which a typewritten record may be made at the expense of a nonindigent petitioner.
14 RCW 34.05.566. Ms. Dickinson-Jones and Mr. Piccirilli submitted sworn declarations in
15 support of their positions prior to the hearing, and both parties were present at the hearing.
16 Pend Oreille County's elections manager Elizabeth Krizenesky, elections deputy Stacey
17 Hughes, and deputy prosecuting attorney Brandon Slaven as counsel to the Auditor's Office
18 were present. Members of the public appeared at the hearing in person and remotely. I,
19 Marianne Nichols, as Pend Oreille County Auditor, presided over the hearing pursuant to RCW
20 29A.08.820 and find as follows:

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23 II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

- 24 1. Pollianna Dickinson-Jones is registered to vote in Pend Oreille County. Dickinson-
25 Jones Registration, Exh C.
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- 1 2. As a registered voter, Ms. Dickinson-Jones initiated this voter registration challenge by
2 submitting a Voter Registration Challenge Form to the Pend Oreille County Auditor on
3 January 17, 2024. Challenge Form, Exh. B.
- 4 3. Ms. Dickinson-Jones stated the basis for the challenge is that the voter, Mr. Michael
5 Piccirilli, does not reside at his registered address of 804 West Blackwell Street Unit 5,
6 Ione, WA 99139 (hereafter “Registered Address”); and Ms. Dickinson-Jones provided
7 the voter’s purported actual address of 104-108 West 4th Avenue, Metaline Falls, WA
8 99153 (hereafter “Purported Address”). *Id.* at ¶ 3; Piccirilli Registration, Exh. A
- 9 4. Ms. Dickinson-Jones submitted a declaration with exhibits in support of the challenge.
10 Decl. of Dickinson-Jones, Exh D. Ms. Dickinson-Jones testified through the declaration
11 that:
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 - 14 a. The neighbors that reside next to the Registered Address stated that Mr. Piccirilli
15 has not lived at his Registered Address “for at least 5+ months.” Decl. of
16 Dickinson-Jones, Exh D, p. 1.
 - 17 b. Photographs demonstrate no access to the Registered Address was gained within
18 the last few months. *Id.* at pp. 5-7.
 - 19 c. Photographs show that Mr. Piccirilli parks his purported vehicle at the Purported
20 Address. *Id.* at pp. 2-4.
 - 21 d. Mr. Piccirilli was served by the Sheriff at his Purported Address. *Id.* at pp. 9-12.
- 22 5. The Auditor’s Office posted the Challenge Form and Ms. Dickinson-Jones’ Declaration
23 on its website and provided a copy of the same to the voter and challenger via certified
24 letter dated January 19, 2024. Website Capture, Exh. G; Letter to Voter, Exh. E;
25 Certified Mailing Receipts, Exh. F.

1 6. The letter dated January 19, 2024, from the Auditor's Office set this matter for hearing
2 on February 7, 2024 at 10:00 AM. Letter to Voter, Exh. E.

3 7. Mr. Piccirilli submitted declarations in opposition to the challenge on January 29, 2024,
4 and February 5, 2024. Decl. of Piccirilli, Exh. H; Supp. Addendum to Decl. of Piccirilli,
5 Exh. K. Mr. Piccirilli testified through the declarations that:
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7 a. The challenger failed to meet their burden to establish and maintain a challenge.
8 Decl. of Piccirilli, Exh. G, pp. 2-4.

9 b. The voter does not "live at the address listed on [their] voter registration in the
10 traditional sense, but rather that address is an identifiable location that was
11 chosen by [themselves] . . ." as a nontraditional address. *Id.* at p. 5.

12 c. The voter is entitled to identify a nontraditional address because the rent for the
13 Registered Address doubled and this rent increase forced the voter out of the
14 Registered Address "to seek a home / residence elsewhere." *Id.* at p. 6.

15 d. The voter was unable to find housing in the Town of Ione that was within the
16 voter's price range. *Id.* at p. 6.

17 e. The voter secured a "temporary housing solution in Metaline Falls and am [is]
18 saving to get my RV so I [the voter] can move back to Ione as soon as possible . .
19 . ." *Id.* at 6.

20 f. The voter's mailing address is in Metaline Falls, Washington. *Id.* at 5.

21 g. The Municipal Research and Services Center offered opinions on whether an
22 elected official can reside outside of the jurisdiction of their office and retain
23 their office. *Id.* at 7-8; Supp. Decl. of Piccirilli, Exh. K.
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1 8. Ms. Dickinson-Jones submitted testimony orally at the hearing in support of the
2 challenge that primarily responded to Mr. Piccirilli's declaration. Ms. Dickinson-Jones
3 testified:

4 a. The previous owner of the mobile home park where the Registered Address is
5 located, Mr. Brian Hooker, stated the voter rented an RV camping area behind
6 the Registered Address, but did not live in Unit Number 5. Mr. Hooker further
7 stated that Mr. Picirilli parked a camping trailer at this spot pursuant to a month-
8 to-month rental agreement that terminated September 30, 2023. Hearing Audio,
9 09:48-10:41.

10 b. The voter began renting an apartment at the Pend Oreille Apartments in Metaline
11 Falls on October 1, 2023. *Id.* at 11:08-11:17.

12 c. The voter responded "Yes, I do" on January 24, 2024, when the judge presiding
13 over a superior court matter asked whether the voter currently lived in Ione,
14 Washington. *Id.* at 13:01-13:21.

15 d. The voter resided in Metaline Falls at the time they completed their Declaration
16 of Candidacy and at the time they were sworn in as councilman for the Town of
17 Ione. *Id.* at 11:17-12:08.

18 9. This challenge relates solely to the validity of the voter's registration. Opinions that
19 relate to the residency requirements of elected officials were not considered. Similarly,
20 allegations that relate to the voter's eligibility to run or serve as an elected official were
21 not considered nor can they be decided in this challenge.

22 10. Offering the purported actual residential address along with the challenger's personal
23 knowledge that no residential activity was occurring at the Residential Address satisfies
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1 the challenger's burden required by RCW 29A.08.810(1)(c)(i) such that the challenger
2 may maintain this challenge.

3 11. The challenger's photographs demonstrate no person resided, or gained access to, the
4 Residential Address for a period of at least two months prior to the hearing. Footprints
5 in the snow would be apparent if the access occurred. The photos show none.
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7 12. The voter admits they do not reside at the Registered Address.

8 13. A person loses their Residence for the purpose of voting "by absence from a place
9 unless he or she meets one of the statutory exceptions outlined in RCW 29A.04.151."
10 *Camarata v. Kittitas Cty.*, 186 Wn. App. 695, 709, 346 P.3d 822, 828 (2015).
11

12 14. The voter's explanation for their absence from the Registered Address is an increase in
13 rent. The voter's explanation for relocating to the Town of Metaline Falls is that they
14 were unable to find affordable housing within the Town of Ione.

15 15. While a lack of affordable housing is a well-known struggle throughout Pend Oreille
16 County, it is not one of the statutory exemptions listed in RCW 29A.04.151 that affords
17 a person the ability to maintain a Residence, or to register an address, at a location at
18 which they do not reside and vote on issues reserved for those residing within a
19 particular precinct.
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21 16. Further, the voter cites that their current housing solution in Metaline Falls is temporary
22 and they intend to move back to the Town of Ione once a motor home is secured.

23 17. Questions surrounding the sincerity of this intent aside, the voter does not claim that
24 their absence from the Registered Address is temporary. They claim their absence from
25 the Town of Ione is temporary. Even if the voter secures a motor home, and the voter is
26 able to find a location to park the motor home within the Town of Ione—this location
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1 would become a new traditional or nontraditional address that the voter would
2 necessarily need to use as their registered address for voting purposes.

3 18. The intention to establish residence must relate to a present residence. *In re Contested*
4 *Election of Schoessler*, 140 Wn.2d 368, 383, 998 P.2d 818, 827 (2000). The voter's
5 intent to establish a new registered address after finding new housing within the Town of
6 Ione does not relate to the voter's existing Registered Address.

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8 19. The Registered Address here is a traditional address with a street number and name, unit
9 number, and town that serves to identify the parcel and the unit. Therefore, the attempt
10 to claim a nontraditional residence is not appropriate. RCW 29A:08.112(5).

11 20. RCW 29A.08.112 and the option to use a description instead of a traditional address
12 does not allow a voter "to register at any arbitrarily chosen address without residing at
13 the address." *Camarata*, 86 Wn. App. 709-10, 346 P.3d 828.

14 21. The statute is clear and unambiguous. A person must register a residential address—
15 traditional or nontraditional—where they physically reside and maintains their abode.

16 22. The evidence presented here is clear and convincing that the voter is not residing at their
17 Registered Address. The Registered Address is a traditional address that is not the
18 voter's Residence. The voter, by their own admission, is residing in the Town of
19 Metaline Falls.
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22 III. ORDER

23 For the reasons set forth above, the challenge is affirmed. Mr. Piccirilli is disqualified from
24 voting. He may submit a new voter registration or update his registered address by (i)
25 submitting a new registration application no later than eight days before the day of the next
26 election if the update occurs without an in person appearance; or by (ii) appearing in person, at a
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1 county auditor's office, a voting center, or other location designated by the county auditor, no
2 later than 8:00 p.m. on the day of the election for the vote to be in effect for that election.

3 The challenge, supporting information, and these findings, conclusions, and order shall
4 remain on the auditor's webpage for at least forty-five days following certification of the next
5 election. RCW 29A.08.835(2).
6

7 This decision is final subject only to review by the Superior Court pursuant to RCW 34.05.

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9 ENTERED this 9th day of February 2024.



Marianne Nichols
MARIANNE NICHOLS, Auditor
Pend Oreille County

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