

Lafayette Parish
Filed Aug 05, 2020 5:32 PM
Jodi Daugereau
Deputy Clerk of Court
C-20203727
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IN RE: OBJECTION TO THE
CANDIDACY OF NATHAN
GERARD BROUSSARD
QUALIFYING AS A CANDIDATE
FOR THE OFFICE OF MARSHAL
OF THE CITY COURT OF THE
CITY OF LAFAYETTE, LA
IN THE PRIMARY ELECTION OF
NOVEMBER 3, 2020

15TH JUDICIAL DISTRICT COURT

DOCKET NUMBER: ²⁰²⁰~~2019~~-3727-B

LAFAYETTE PARISH, LOUISIANA

JUDGMENT

The above captioned matter was presented to the court on the 4th day of August 2020 at 0958 as an Objection to the Candidacy of Nathan Gerard Broussard, Qualifying as a Candidate for the Office of Marshal of the City Court of the City of Lafayette in the Primary Election of November 3, 2020. Present in court were the following: Keith Stutes appeared on behalf of the Office of the District Attorney for the 15th Judicial District Court. William Goforth appeared on behalf of Nathan Gerard Broussard. Considering the pleadings filed herein, the applicable law and arguments presented, the court renders the following judgment.

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Pursuant to La R.S. 18:491, a registered voter may bring an action objecting to the candidacy of a person who qualified as a candidate in a primary election for an office for which the plaintiff is qualified to vote. A registered voter may present evidence that a candidate has illegally qualified for elective office. The evidence may be presented to the respective parish district attorney, who shall determine whether or not the evidence presented establishes grounds for objecting to such candidacy and if the district attorney makes such a determination he shall file an action objecting to candidacy within the time limitation provided in R.S. 18:493.

Qualifications for candidates for the office of Marshal of the City Court of the City of Lafayette, Louisiana, for the primary election of November 3, 2020, were opened on July 22, 2020 and closed on July 24, 2020. On July 22, 2020, Nathan Gerard Broussard, executed and filed a Notice of Candidacy, certifying his residence of 1304 East Bayou Parkway, Apartment #3A, Lafayette, Louisiana. The district attorney's office filed an objection to the Candidacy of Nathan Broussard, for the office of Marshal for the City Court of the City of Lafayette.

The issue presented to this court is whether Nathan Broussard possessed the qualifications for the Office of Marshal for the City of Lafayette at the time he qualified for that office. A candidate for City Marshall shall possess the qualifications for the office he seeks at the time he qualified for that office. La R.S. 18:451. The resolution of this case requires consideration of the meaning of the following three terms, "residence," "domicile," and

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"homestead exemption." For the reasons explained below, the term "residence" is preeminent. Thus, to run for City Marshal, Mr. Broussard must have been a resident elector for the City of Lafayette on the day he qualified. During the hearing he presented evidence that proved that fact.

An elector is defined as "a duly qualified voter; one who has a vote in the choice of any officer, a constituent." An elector is a person duly qualified to vote, regardless of whether he has exercised his right to vote or not. Gossen v. Registrar of Voters, 59 So.2d 461 (La.App. 1 Cir.1952) See also: State v. Dauzat, 2002-1373 (La.App. 3 Cir. 4/2/03).[.] 843 So.2d 526. Citing Walsh versus Rogillo, 768 So.2d 653, (La (La.App. 1 Cir. 9/7/00), the Election Code provides for the time at which a candidate must meet the qualification requirements for the office he seeks. Butler v. Cantrell, 630 So.2d 852, 855 (La.App. 4 Cir.1993), writ denied, 94-0003 (La.1/5/94), 631 So.2d 431. Louisiana Revised Statute 18:451 states in pertinent part, "Except as otherwise provided by law, a candidate shall possess the qualifications for the office he seeks at the time he qualifies for that office." Thus, the candidate's qualification to offer himself for election is determined when he files with the Clerk of Court as a candidate for public office. Butler v. Cantrell, 630 So.2d at 856; Foley v. Dowling, 445 So.2d 785 (La.App. 2 Cir.1984). Four Louisiana Courts of Appeal have determined that maintaining a residence for political purposes does not prevent the residence from being actual and bona fide. Bailey v. Bolton, 98-2026 (La.App. 1st Cir.9/10/98), 755 So.2d 254; Herpin v. Boudreaux, 98-306 (La.App. 3rd Cir. 3/5/98), 709 So.2d 269, 271, writ denied, 98-0578 (La.3/11/98), 712 So.2d 859; Williamson v. Village of Baskin, 339 So.2d 474, 476 (La.App. 2nd Cir.1976), writ denied, 341 So.2d 1126 (La.1977); Brown v. Democratic Committee, Court of Appeal, Fourth Circuit, Third Dist., 238 So.2d 48 (La.App. 4th Cir.1970), writ denied, 256 La. 761, 238 So.2d 531 (La.1970). Note, this court does not find that Mr. Broussard had a residence in the City of Lafayette for political purposes; this court merely observes that other courts have noted the fact of residency is the salient finding.

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The plaintiff in an election matter has the burden of proof by a preponderance of the evidence. Autin v. Terrebonne, 612 So.2d 107 (La.App. 1st Cir.), writ denied, 604 So.2d 954 (La.1992). The person objecting to the candidacy bears the burden of proving the candidate is disqualified. LSA-R.S. 18:492; Butler v. Cantrell, 630 So.2d at 855. Election laws should be liberally construed so as to promote rather than defeat candidacy. Bailey v. Bolton, 98-2026 (La.App. 1 Cir. 9/10/98), 755 So.2d 254; Pattan v. Fields, 95-1936 (La.App. 1 Cir. 9/26/95), 669 So.2d 1233, writs denied, 95-2381, 95-2382 (La.9/29/95), 661 So.2d 1341, 1342. This means that doubts as to the qualification of a candidate should be resolved in favor of permitting the candidate to run for public office. Arnold v. Hughes, 621 So.2d 1139 (La.App. 1 Cir.1993).

LSA-R.S. 18:101(B) defines "resident" as follows: a citizen who resides in this state and in the parish, municipality, if any, and precinct in which he offers to register and vote, with an intention to reside there indefinitely. If a citizen resides at more than one place in the state with an intention to reside there indefinitely, he may register and vote only at one of the places at which he resides. However, if a person claims a homestead exemption, pursuant to Article VII, Section 20 of the Constitution of Louisiana, on one of the residences, he shall register and vote in the precinct in which that residence is located. Residency is not to be confused with the stricter concept of domicile. Brown v. Democratic Committee, 238 So.2d 48. There is no minimal duration period required for the establishment of such a residence. The intent to establish a residence, coupled with physical actions denoting the acquisition of a residence, is sufficient. Butler v. Cantrell, 630 So.2d at 856; Soileau v. Board of Supervisors, 361 So.2d 319, 322 (La.App. 3 Cir.1978).

Civil Code Article 38 provides, "[t]he domicile of a natural person is the place of his habitual residence." Civil Code Article 39 provides, [a] natural person may reside in several places but may not have more than one domicile. In the absence of habitual residence, any place of residence may be considered one's domicile at the option of persons whose interests are

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affected.” Civil Code Article 44 provides, [d]omocile is maintained until acquisition of a new domicile. A natural person changes domicile when he moves his residence to another location with the intent to make that location his habitual residence.” However, in this case the concept of domicile is not relevant, and residence is relevant.

LSA–R.S. 18:101(B) as reported earlier provides the definition of “residence” that applies to this case and makes provisions of individuals who have more than one residence. Citizens who wish to register to vote and have more than one residence, must register in to vote in the precinct of the residence that the citizen claims the homestead exemption on. As explained below, on the date Mr. Broussard filed his Notice of Candidacy, he only had one residence.

The District Attorney’s Office presented a prima facie showing that on the date of qualification, Broussard owned a residential structure located at 114 Donovan Drive, Scott, Louisiana 70583. On July 11, 2020, Broussard voted in Precinct 28 (Scott, La). On July 17, 2020, Broussard changed his voter registration status with the address of 1304 East Bayou Parkway #3A, an apartment in Lafayette Parish (Precinct 121). On the date of qualification, Broussard was registered to vote in Precinct 121 and listed precinct 121 as his voting district. Broussard claimed homestead exemption on the home located at 114 Donovan Drive, Scott, Louisiana 70583 until August 3, 2020. During the hearing, Broussard presented subjective testimony and objective physical evidence of his intent to establish residency in Lafayette Parish indefinitely. He presented evidence of his intent to occupy a condominium in the City of Lafayette despite the homestead exemption in Scott, Louisiana.

This court finds the evidence shows that Broussard occupied a residence at 1304 East Bayou Parkway #3A, which is in the city of Lafayette and did not occupy the residential structure that he owned and is located at 114 Donovan Drive, Scott, Louisiana 70583. Further because he was a resident of the City of Lafayette, who was registered to vote in the City of Lafayette as of July 17, 2020 and possessed the qualification that inspired the District Attorney

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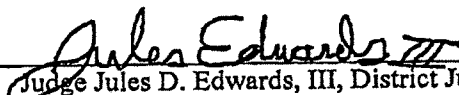
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to file this Objection to Mr. Broussard's Candidacy for the Office of Marshal for the Parish of Lafayette. For the reasons stated above, this court overrules that objection.

Judgment rendered and signed this 5th day of August 2020 in Lafayette, Louisiana.


Judge Jules D. Edwards, III, District Judge
15th Judicial District Court

STATE OF LOUISIANA PARISH OF LAFAYETTE

I HEREBY CERTIFY THAT A CERTIFIED COPY
OF THIS JUDGMENT HAS BEEN
MAILED/SERVED ON ALL PARTIES THIS
August 08, 2020


DEPUTY CLERK OF COURT

KEITH STUTES
WILLIAM GOFORTH
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LOUISIANA SECRETARY OF STATE



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Date: 8/5/2020 Fax Number: 232 0786

To: William Boyerth

Attn: _____ Initials: _____

From: Jill Demerian Number of pages (including cover sheet) 6

Reference:

Comments:
