

**STATE OF LOUISIANA
COURT OF APPEAL, THIRD CIRCUIT**

26-496

**M. MICHAEL HAIK, III, IN HIS CAPACITY AS DISTRICT ATTORNEY
FOR THE SIXTEENTH JUDICIAL DISTRICT**

VERSUS

HUBERT AUGUSTINE

**APPEAL FROM THE
SIXTEENTH JUDICIAL DISTRICT COURT
PARISH OF ST. MARTIN, NO. 96871
HONORABLE ANTHONY J. SALEME, JR., DISTRICT JUDGE**

**VAN H. KYZAR
JUDGE**

Court composed of Van H. Kyzar, Ledricka J. Thierry, and Clayton Davis, Judges.

AFFIRMED.

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Hubert Augustine

KYZAR, Judge.

This is an appeal of a judgment rendered in an election disqualification suit challenging the candidacy of Hubert Augustine for the office of Chief of Police, City of Breaux Bridge, Louisiana. The suit challenges the domiciliary requirement for office. The trial court rendered judgment in favor of the candidate, finding that M. Michael Haik, III, as District Attorney for the Sixteenth Judicial District, did not meet the burden of proof to disqualify the candidate. For the reasons herein, we affirm the judgment of the trial court.

FACTS AND PROCEDURAL HISTORY

On August 14, 2026, M. Michael Haik, III, as District Attorney for the Sixteenth Judicial District (“Plaintiff”), filed a Petition Objecting to Candidacy, alleging that Hubert Augustine (“Defendant”) did not meet the qualifications for the office of Chief of Police for the Breaux Bridge Police Department (“BBPD”). Louisiana Revised Statutes 33:385.1(A) provides that, except in a few instances, “an elected chief of police of a municipality shall be an elector of the municipality[.]” and that “[a]t the time of qualification as a candidate for the office of chief of police, he shall have been domiciled for at least the immediately preceding year in the municipality[.]” Plaintiff specifically alleged that Defendant was not domiciled in the City of Breaux Bridge for at least the year immediately preceding the time of qualification.

Defendant opposed the challenge by a memorandum in opposition, wherein he argued that no challenge was made to his previous candidacy for the same office. He asserts that Plaintiff must prove that he “established a new domicile outside of the municipality of Breaux Bridge after 2022.”

The trial of this matter was held on August 18, 2026. Following its conclusion, the trial court rendered judgment the same day in favor of Defendant, finding that

Plaintiff failed to prove that Defendant did not meet the domicile requirement for an elected chief of police. On appeal, Plaintiff asserts two assignments of error:

1. The Trial Court erred as a matter of law by presuming that the defendant's residence at 910 Cecile Boulevard had been conclusively established in 2022 although there was no proof that the defendant was sufficiently physically present at 910 Cecile Boulevard either then or now.
2. The Trial Court erred in finding that the defendant's domicile was at 910 Cecile Boulevard and in denying the District Attorney's challenge to the defendant's qualifications to candidacy.

OPINION

A person seeking public office "in a primary election shall qualify as a candidate by timely filing notice of his candidacy," in compliance with La.R.S. 18:461(A)(1). "A notice of candidacy shall be in writing and shall state the candidate's name, the office he seeks, *the address of his domicile*, his telephone number, his electronic mail address, and the parish, ward, and precinct where he is registered to vote." La.R.S. 18:463(A)(a)(1). (Emphasis added.) "An action objecting to the candidacy of a person who qualified as a candidate in a primary election shall be based on" the grounds that, among others, "[t]he defendant does not meet the qualifications for the office he seeks in the primary election." La.R.S. 18:492(A)(3). A district attorney has standing to bring a challenge to the qualifications of a candidate for a general election. La.R.S. 18:491. As set forth above, an elected chief of police shall be an elector of the municipality in which he serves and shall have been domiciled in that municipality for at least one year immediately preceding the time of qualification as a candidate for the office. La.R.S. 33:385.1(A).

"The domicile of a natural person is the place of his habitual residence." La.Civ.Code art. 38. "A natural person may reside in several places but may not have

more than one domicile[.]” and “[i]n the absence of habitual residence, any place of residence may be considered one’s domicile at the option of persons whose interests are affected.” La.Civ.Code art. 39. “Domicile is maintained until acquisition of a new domicile[.]” and “[a] natural person changes domicile when he moves his residence to another location with the intent to make that location his habitual residence.” La.Civ.Code art. 44. “Proof of one’s intent to establish or change domicile depends on the circumstances.” La.Civ.Code art. 45.

Because election laws must be interpreted to give the electorate the widest possible choice of candidates, a person objecting to candidacy bears the burden of proving that the candidate is disqualified. *See Becker v. Dean*, 03-2493, p. 7 (La.9/18/03), 854 So.2d 864, 869; *Russell v. Goldsby*, 00-2595, p. 4 (La.9/22/00), 780 So.2d 1048, 1051; *Dixon v. Hughes*, 587 So.2d 679, 680 (La.1991); *Messer v. London*, 438 So.2d 546 (La.1983). It follows that, when a particular domicile is required for candidacy, the burden of showing lack of domicile rests on the party objecting to the candidacy. *Becker*, 03-2493 at 7, 854 So.2d at 869; *Pattan v. Fields*, 95-2375 (La.9/28/95), 661 So.2d 1320. Further, a court determining whether the person objecting to candidacy has carried his burden of proof must liberally construe the laws governing the conduct of elections “so as to promote rather than defeat candidacy.” *Becker*, 03-2493 at 7, 854 So.2d at 869; *Russell*, 00-2595 at 4, 780 So.2d at 1051; *Dixon*, 587 So.2d at 680. Any doubt concerning the qualifications of a candidate should be resolved in favor of allowing the candidate to run for public office. *Becker*, 03-2493 at 7, 854 So.2d at 869; *Russell*, 00-2595 at 4, 780 So.2d at 1051; *Dixon*, 587 So.2d at 680.

Landiak v. Richmond, 05-758, pp. 6-7 (La. 3/24/05), 899 So.2d 535, 541.

In *Fontenot v. McKellar*, 23-531, pp. 11-12 (La.App. 3 Cir. 8/23/23), 370 So.3d 185, 192, this court reiterated that the standard of appellate review in cases such as this is manifest error:

Domicile and residency are questions of fact, which a court of appeal reviews pursuant to the manifest error/clearly wrong standard. *Thomas v. Lartigue*, 22-517 (La.App. 3 Cir. 8/11/22), 348 So.3d 123, writ denied, 22-1234 (La. 8/17/22), 344 So.3d 65. Thus, after reviewing the record in its entirety, we will not reverse the trial court’s reasonable factual findings that are supported by the record. *Stobart v. State*, 617 So.2d 880 (La. 1993).

Here, the dispute is whether Defendant is domiciled inside or outside of the district in which he seeks office as chief of police. He claims to be domiciled inside the district at 910 Cecile Boulevard in Breaux Bridge, while Plaintiff asserts that he is actually domiciled outside the district at 1090 Madeline Heights in Breaux Bridge, where he resides with his wife, Shemekia Augustine.

In the first assignment of error, Plaintiff argues that the trial court erred as a matter of law by presuming that Defendant's 2022 notice of candidacy conclusively established 910 Cecile Boulevard as Defendant's domicile for the purposes of this case. Defendant had previously qualified to be a candidate for Breaux Bridge Chief of Police in 2022. At that time, he also listed 910 Cecile Boulevard as his domicile.

In its oral reasons for judgment at the conclusion of the hearing, the trial court made the following findings:

The Court has before it the objection as to the qualifications of candidacy for the position of Chief of Police of the City of Breaux Bridge by Mr. Haik against Mr. Hubert Augustine.

The Court has received the petition opposing the or objecting to the candidacy filed by the State as well as all the exhibits, which were introduced into evidence. The Court has likewise received from Mr. — on behalf of Mr. Augustine a memorandum in opposition to the petition objecting to candidacy and the exhibits attached, to it, which were all introduced in the course of today's hearing.

The Court heard from multiple witnesses from the State in the form of officers with the Breaux Bridge Police Department, neighbors of the residences of Mr. Augustine, both at 910 Cecile Boulevard as well as 1090 Madeline Heights. And on behalf of the defense Mr. Augustine testified himself.

Both attorneys have correctly stated the law. It's well-established. The law favors candidacy. The State has the burden of proving that Mr. Augustine was not domiciled in the City of Breaux Bridge. Up until Mr. Augustine testified, I think it was going to be an easy decision. Mr. Augustine testified and a couple of things caused this Court a lot of concern. In particular the quote, "I pass there every once in awhile," speaking about the 910 Cecile Boulevard residence.

Testimony up to that point had been from the majority of the witnesses that his Marshall's [sic] vehicle was not seen at the 910

Cecile Boulevard residence. However, the officers all testified that they really couldn't tell you if the red or white pickup trucks that are associated with Mr. Augustine's personal vehicles were there.

And for the record there's nobody whose testimony I don't consider or that I call their credibility in to question. I think everybody's testimony has been credible and honest. The law in the case is pretty much going to dictate what the outcome is.

As I've stated the D.A. has the burden of proving that the candidate is not qualified. And the laws governing elections are to be interpreted so as to promote rather than defeat a person's candidacy. And we're here on domicile.

Even the lawyers go back and forth, and I know they've made efforts to use the correct term, but I've heard them both, Mr. Cantu and Ms. Maturin indicate – use the terms living, staying at, goes to, and not just in quoting the witnesses. The law is clear that residence and domicile are not synonymous. Those two terms are not synonymous and a person can have several residences but only one domicile.

Change in a domicile for purposes of qualifying to public office occurs when there is a change in actual residence accompanied by an intention to make a new principal home. It can either [be] done through an expressed declaration in writing, or by circumstances surrounding the residence.

If you look at the issue – the Articles on domicile, a natural person resides, can reside in several places, but have one domicile. It's Article 39. In the absence of a habitual residence any place of residence may be considered one's domicile at the option of the person who's interest [is] affected.

Also of note is Article 40. Spouses can have separate domiciles.

The change in domicile is when a person moves their residence to another location with the intent to make that location his habitual residence.

The case cited by the State that's one of the reasons the Court wanted to have the opportunity to take a break. The Court had not reviewed the case before and I wanted to look at the facts of it. It states everything that Ms. Maturin quoted it for. I looked at the facts of the case and that's where the Court – there are some differences here. In the *Charbonnet* case the candidate that was being challenged basically used his mother's apartment where there was no facts that I could see that's posted on the Lexis case as to whether he got any mail there, whether he was registered for anything other than his candidacy paperwork. And, in fact, he hadn't even been in the State for almost six months prior[,] doing work outside the State.

In this case, Mr. Augustine has an ownership interest in 910 Cecile Boulevard. He has vehicles registered there. His license address is there. He's registered to vote there. The 2022, his 2022 candidacy qualification paperwork indicated that as his domicile. That's really the only declaration of domicile that we've had expressed declaration of domicile, but when you look at all of the documentation that he receives – the Court will acknowledge that he spends more time, much more time at the 1090 Madeline Heights address as opposed to 910 Cecile Boulevard. But in addition to the presumptions in favor of candidacy and the burden being on the State there's a presumption against change of domicile. I think at some point Mr. Augustine established that his domicile was 910 Cecile Boulevard. And nothing has indicated that he has an intention to change. He doesn't get – I don't see anything where he has requested – other than a marriage license, I don't see anything of his where he lists 1090 Madeline Heights as his, as his domicile or residence. The fact that he got served there for court, that's more on where the Sheriff's Office, and like I said, she acknowledged that most of the time she just put it in the mailbox there, she didn't necessarily serve him. I don't think she said that she ever served him there, it was either his wife or putting it in the mailbox.

I understand that he did not fill out the form correctly on his financial disclosure. That is something that needs to be taken up with the Ethics Board. And the fact that we have two homestead exemptions being claimed on two separate properties, you know, that's something for Mr. Dugas, the St. Martin Parish Assessor to address. But as to challenging whether he's a domiciliary of the City of Breaux Bridge while I had to go and do a little bit – check the case law that the State provided in its argument I feel like I have no choice but to deny the objection on behalf of the State and find that they have not, they have not met their burden of proving that he is not domiciled at 910 Cecile Boulevard.

We find that while the trial court considered Defendant's 2022 notice of candidacy as a factor in determining his domicile, it did not presume that the notice was correct or give any undue weight thereto such that it committed an error of law.

The trial court considered other evidence introduced by Defendant at the hearing, such as his voter registration card, his driver's license, and his personal vehicle registration. Each of these documents listed 910 Cecile Boulevard as his address. As mentioned, Defendant claimed a homestead exemption on the home at 910 Cecile Boulevard. While the trial court acknowledged that the 2022 notice of candidacy may have indicated an attempt by Defendant to declare 910 Cecile Boulevard as his

domicile, the trial court considered all of the evidence presented in reaching its conclusion. While mentioning a presumption against a change in domicile and the burden of proof required to rebut such, there is no indication that the trial court applied a presumption that the 910 Cecile Boulevard address was Defendant's actual domicile. A presumption against a change in one's domicile is, in fact, correct as a matter of law. "There is a presumption against change of domicile." *McClendon v. Bel*, 00-2011, p. 6 (La.App. 1 Cir. 9/7/00), 797 So.2d 700, 704 (citing *Messer v. London*, 438 So.2d 546 (La.1983)). Thus, we find there was no legal error.

We, therefore, turn to a determination of whether the trial court committed manifest error in its judgment. *Fontenot*, 370 So.3d 185. Four different Breaux Bridge police officers, Assistant Chief Terry Latiolais, Patrol Commander Andre Wilson, Detective Terrell Bergeron, and Patrol Sergeant Traven Leblanc, testified that they had not seen a Lafayette Marshal's unit at 910 Cecile Boulevard while on patrol.¹ On cross-examination, Assistant Chief Latiolais, Commander Wilson, and Detective Bergeron each acknowledged that they only patrol the area where 910 Cecile Boulevard is located during the day and that they would be unlikely to see the vehicle at the premises during the work day. Only Sergeant Leblanc patrols the Cecile Boulevard area at night. While he is not familiar with the particular address, he does not recall seeing a Lafayette Marshal's unit parked on Cecile Boulevard.

St. Martin Parish Sheriff's Deputy Martha Calais, a civil deputy, regularly served Defendant with witness subpoenas at 1090 Madeline Heights. Deputy Calais testified that she usually gave the subpoena to Defendant's wife or, if no one was home, called Defendant and left the document in his mailbox. She always served Defendant during the day.

¹ Defendant has been employed as a Deputy Marshal for the City of Lafayette.

Two residents of Madeline Heights also testified. Each of them signed affidavits after the current BBPD Chief of Police asked them if Defendant lived on Madeline Heights. They both said they regularly saw a Lafayette Marshal's vehicle on their road but neither could say if it was there every day or if it was always there overnight.

One resident of Cecile Boulevard, Henry Pacsley, also signed an affidavit that Plaintiff entered into evidence. While he admitted that he did write the affidavit, he testified that he really did not know where Defendant lived. He testified that he saw Defendant's Lafayette Marshal's unit and his personal truck regularly on Cecile Boulevard, during the day and at night. Mr. Pacsley thought that Defendant's daughter and her children lived in the house but he knew that Defendant owned the house.

Defendant testified on his own behalf. He stated that he owns the house at 910 Cecile Boulevard and that he pays property taxes and claims a homestead exemption on that property. He has been registered to vote at 910 Cecile Boulevard for six or seven years. He identified a copy of his driver's license, issued September 18, 2023, his vehicle registration, dated September 21, 2021, and CLECO bills in his name, from January 2025 through May 2026, all of which list his address as 910 Cecile Boulevard. He acknowledged that he usually sleeps overnight at the Madeline Heights home with his wife since their marriage in 2011.

Defendant explained that he inherited the Cecile Boulevard home from his mother before his marriage. He testified that the home had been damaged by fire, and after its repair, it was rented to his daughter in 2017. His daughter has lived in the house continuously since then, but Defendant explained that he occasionally stays in the home, sleeping on the couch. While most of his belongings are at the

Madeline Heights home where he stays with his wife, he considers himself domiciled at 910 Cecile Boulevard.

Defendant also testified that he has only had privileges to drive his Lafayette Marshal's vehicle home for eight to ten months, so it would be impossible for anyone on Madeline Heights or Cecile Boulevard to have seen that vehicle at either address more than sporadically for the last several years.

Plaintiff cites *Charbonnet v. Hayes*, 318 So.2d 917 (La.App. 4 Cir.), writ denied, 320 So.2d 201 (La.1975), to support his contention that Defendant should be disqualified. In *Charbonnet*, the fourth circuit affirmed the judgment of the trial court finding that the candidate for a seat in the Louisiana House of Representatives was not "actually domiciled" in the House district for a year preceding his qualification for the office. La.Const. art. 3, § 4(A). In that case, the court noted that the trial court "gave little weight" to the testimony of the candidate, his mother, and the mother's friend, who testified that the candidate lived with his mother. *Charbonnet*, 318 So.2d at 920. Instead, the trial court found that the defendant actually lived at an apartment outside the district. In reaching this conclusion, the trial court credited the testimony of the building superintendent and other corroborating witnesses.

As explained in *Rosell v. ESCO*, 549 So.2d 840, 844 (La.1989), the manifest error standard sets a high bar for a court to overturn the factual findings of a trial court:

It is well settled that a court of appeal may not set aside a trial court's or a jury's finding of fact in the absence of "manifest error" or unless it is "clearly wrong," and where there is conflict in the testimony, reasonable evaluations of credibility and reasonable inferences of fact should not be disturbed upon review, even though the appellate court may feel that its own evaluations and inferences are as reasonable. . . .

When findings are based on determinations regarding the credibility of witnesses, the manifest error—clearly wrong standard

demands great deference to the trier of fact's findings; for only the factfinder can be aware of the variations in demeanor and tone of voice that bear so heavily on the listener's understanding and belief in what is said.

Here, the trial court specifically considered the credibility of the witnesses who testified at the hearing, noting that there was no witness whose testimony he did not consider or whose credibility he called into question, stating, "I think everybody's testimony has been credible and honest." It is not for us to second guess the trial court's decisions as to credibility though we may personally agree or disagree with those findings.

As noted in *Charbonnet*, 318 So.2d at 920, "[t]he determination of actual domicile is dependent on the facts in each particular case." Essentially, the trial court determined that the testimony and documentary evidence presented by Plaintiff failed to present a prima facie case. If anything, Defendant's testimony, being equivocal at times, was more damaging to his position than any evidence offered by Plaintiff. On the other hand, his positive testimony and documentary evidence showed, at the least, a conflict in the testimony and two views of the evidence. While there may be doubt concerning the qualifications of Defendant as to his domicile, any doubt must be resolved in favor of allowing him to run for the office. *Landiak*, 899 So.2d 535 "Where there are two permissible views of the evidence, the factfinder's choice between them cannot be manifestly erroneous or clearly wrong." *Rosell*, 549 So.2d at 844. Accordingly, we cannot find the decision of the trial court to be manifestly erroneous.

DECREE

For the reasons herein, we affirm the judgment of the trial court. The costs of this appeal are assessed against Plaintiff-Appellant, in the amount of \$1,774.00. La.R.S. 13:5112(A).

AFFIRMED.