

**STATE OF CONNECTICUT**  
**STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Referral by the Darien Registrars of Voters

File No. 2020-004

**FINDINGS AND CONCLUSIONS**

The Referring Officials brought this Referral pursuant to Connecticut General Statutes § 9-7b, asking the Commission to determine whether Respondent Joseph Hardison remained a bona fide resident in the Town of Darien at which he was registered and from which he had cast multiple ballots through the filing of this Referral in January 2020.<sup>1</sup>

After an investigation of the Complaint, the Commission makes the following findings and conclusions:

**Law**

1. An elector is eligible to register to vote in a particular town only if such voter is a bona fide resident of such town. General Statutes § 9-12, provides in pertinent part:

(a) Each citizen of the United States who has attained the age of eighteen years, and who is a bona fide resident of the town to which the citizen applies for admission as an elector shall, on approval by the registrars of voters or town clerk of the town of residence of such citizen, as prescribed by law, be an elector, except as provided in subsection (b) of this section. For purposes of this section a person shall be deemed to have attained the age of eighteen years on the day of the person's eighteenth birthday and a person shall be deemed to be a bona fide resident of the town to which the citizen applies for admission as an elector if such person's dwelling unit is located within the geographic

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<sup>1</sup> The following are the Commission's findings and conclusions based on those portions of the Complainant's statement of complaint which the Commission could reasonably construe as alleging facts amounting to a specific violation of those laws within the Commission's jurisdiction. Any statements within the Complaint not addressed herein either did not specifically allege a violation or alleged facts which if proven true would not have amounted to a violation within the Commission's jurisdiction.

boundaries of such town. No mentally incompetent person shall be admitted as an elector. . . .(Emphasis added.)

2. In addition to the statutory prongs of age, citizenship and geographic location identified above, an individual's bona fide residence must qualify as the place where that individual maintains a true, fixed, and principal home to which he or she, whenever transiently relocated, has a genuine intent to return. See, e.g., *Referral by Manchester Registrars of Voters, Manchester*, File No. 2013-077; *In the Matter of a Complaint by Gary Amato, North Haven*, File No. 2009-158 (2010); *In the Matter of a Complaint by Cicero Booker, Waterbury*, File No. 2007-157.
3. In other words, "bona fide residence" is generally synonymous with domicile. *Hackett v. The City of New Haven*, 103 Conn. 157 (1925); *In the Matter of an Appeal of Gerald J. Porricelli and Marianne Porricelli against the Board for Admission of Electors and Registrars of the Town of Greenwich*, File No. 2007-054.
4. The Commission has concluded, however, that "[t]he traditional rigid notion of 'domicile' has . . . given way somewhat but only to the extent that it has become an impractical standard for the purposes of determining voting residence (i.e., with respect to college students, the homeless, and individuals with multiple dwellings)." (Emphasis added.) *In the Matter of a Complaint by James Cropsey, Tilton, New Hampshire*, File No. 2008-047 (Emphasis added.). See also *Wit v. Berman*, 306 F.3d 1256, 1262 (2d Cir. 2002) (stating that under certain circumstances the domicile rule for voting residency can give rise to administrative difficulties which has led to a pragmatic application of that rule in New York); *Sims v. Vernon*, Superior Court, Fairfield County, No. 168024 (Dec. 22, 1977) (concluding that an absentee ballot of an individual should be counted as that individual was a bona fide resident of the town in which the ballot was cast.); *Farley v. Louzitis*, Superior Court, New London County, No. 41032 (Oct. 4, 1972) (considering issue of voter residency with respect to college students and stating that "a student, and a nonstudent as well, who satisfies the . . . residence requirement, may vote where he resides, without regard to the duration of his anticipated stay or the existence of another residence elsewhere. It is for him alone to say whether his voting interests at the residence he selects exceed his voting interests elsewhere.") (Emphasis added.)
5. The Commission has previously concluded that "[a]n individual does not, therefore, have to intend to remain at a residence for an indefinite period for that residence to qualify as that individual's bona fide residence." *Referral by Manchester Registrars of Voters, Manchester*, File No. 2013-081; (quoting *In the Matter of a Complaint by James Cropsey, Tilton, New Hampshire*, File No. 2008-047). Rather, the individual only has to possess a present intention to remain at that residence. *Id.*; see also *Maksym v. Board of Election Com'rs of City of Chicago*, Illinois Supreme Court, Docket No. 111773 (January 27, 2011), 2011 WL 242421

at \*8 (“[O]nce residency is established, the test is no longer physical presence but rather abandonment. Indeed, once a person has established residence, he or she can be physically absent from that residence for months or even years without having abandoned it. . . .”)

6. The Commission has both the authority to determine whether a person is eligible to be or remain an elector, as well as the authority to issue civil penalties when a person has either registered and/or voted improperly. General Statutes § 9-7b reads, in pertinent part:

(a) The State Elections Enforcement Commission shall have the following duties and powers:

...

(2) To levy a civil penalty not to exceed . . . (C) two thousand dollars per offense against any person the commission finds to have (i) improperly voted in any election, primary or referendum, and (ii) not been legally qualified to vote in such election, primary or referendum, .

..

(3) . . . (E) To issue an order following the commission's determination of the right of an individual to be or remain an elector when such determination is made (i) pursuant to an appeal taken to the commission from a decision of the registrars of voters or board of admission of electors under section 9-311, or (ii) following the commission's investigation pursuant to subdivision (1) of this subsection;

### **Referral**

7. At all times relevant to the instant Referral, the Referring Officials were the Republican and Democratic Registrars of Voters for the Town of Darien.
8. In their Referral, the Referring Officials here alleged more specifically that:

On September 24, 2019 Respondent Joseph H. Hardison turned himself into the Darien Police Department in response to an active Arrest Warrant, as indicated on the Incident Report 2019-010749 and Supplement Report (both attached hereto). As a result of this arrest, the Darien Times published a story on October 3, 2019 (attached hereto) in which it was revealed that Respondent is a North Carolina resident. This fact was brought to the attention of Darien's Registrars of Voters since Respondent currently is a registered voter in the town of Darien, is a member of our town council, the Darien Representative Town Meeting in District IV, and a member of the Education Committee. On

page one of the Incident Report, Respondent's address is entered first as 1600 Canal Drive NW, Wilson, NC 27893, and next as 11 Nearwater Lane, Darien, CT (zip code omitted). A witness to this Complaint, Darien Police Officer Cristian Fiscella offered evidence (see attached Darien Police Department Voluntary Statement), that during the processing phase of the Arrest Warrant Mr. Hardison declared that he resides primarily at the North Carolina address. This declaration was also recorded on a police body camera. Based on the Respondent's address information in the above Reports and the declarative statement of Respondent, as offered by Officer Fiscella, we are seeking clarification from SEEC that Respondent is not a bona fide resident of Darien, and no longer qualifies as an elector or member of our Representative Town Meeting.

9. The Referral included documents supporting the allegations regarding the Respondent's statements during the aforementioned arrest.
10. No other additional evidentiary support was included regarding bona fide residence as to either the Darien or the North Carolina residences.

## **Investigation**

### *Registration and Voting Record*

11. The records of the Connecticut Voter Registration System ("CVRS") indicate that Respondent Joseph Hardison first registered to vote in North Stonington in or about 1998.
12. CVRS reflects that the Respondent was a regular voter in the Town of Darien during that time through the November 6, 2018 General Election, which was the last time the Respondent was recorded as having voted in Connecticut.
13. CVRS reflects that the Darien Registrars of Voters changed the Respondent's status to "inactive" in June 2020 due to a failure of the Respondent to timely reply to a canvas notice sent during the annual canvas of electors.
14. CVRS further reflects that the Darien Registrars of Voters changed the Respondent's status to "off" in December 2020 after receiving notice through the National Change of Address System that the Respondent had moved out of state.

Election to the Darien Representative Town Meeting

15. The investigation confirmed that the Respondent was elected to the Darien Representative Town Meeting in November 2018, served on that body for a single 2-year term, did not run for re-election, and his term expired in 2020.
16. The records of the Town of Darien reflect that the Respondent attended 6 of the 15 Representative Town meetings held during his term, two in person in 2019 and 4 telephonically in 2020 due to the Covid-19 pandemic.

11 Nearwater Lane, Darien, CT

17. The investigation here confirmed that the Respondent built the property on Nearwater Lane in Darien in 2004 and had owned it from that time until selling it in August 2020.
18. No evidence was discovered during the course of the investigation that the Darien property had been rented out and/or loaned to any other individual during that time period.
19. No evidence was discovered during the course of the investigation that any person other than the Respondent paid property taxes to the Town of Darien on that property up through the sale date.

1600 Canal Drive NW, Wilson, NC

20. The records of Wilson County, North Carolina reflect that the property at 1600 Canal Drive NW was built in 1962 and purchased by the Respondent on or about May 4, 2019.
21. The records of the North Carolina Board of Elections reflect that the Respondent registered to vote in North Carolina on or about October 16, 2020.

Respondent's Reply

22. According to the Respondent, he originally purchased the North Carolina home in order to be nearer to his son, who was at all times relevant to the instant Referral a student and athlete at Duke University, but also because that is the area in which he was raised.
23. He asserted that he and his wife split their time between the two states but for the purposes of tax domicile spent more time in North Carolina than in Connecticut.

24. He asserted that after he purchased the North Carolina home, he would spend approximately 7-10 days per month in Connecticut.
25. Finally, he asserted that he never rented out the property, kept personal items there, and frequently returned to the property up to the time of the sale in August 2020.

### **Analysis and Conclusion**

26. Turning to the question here, the Referral asks whether it is more likely than not that the Respondent abandoned his bona fide residence in Darien at the time of the filing of the Referral.
27. The evidence discovered during the instant investigation does not support a finding that it was more likely than not that he abandoned his bona fide residence up to when this Referral was filed with the Commission in January 2020. As such, his right to vote in Darien and hold elected office there remained intact.
28. While the Respondent freely admitted to attachments to the North Carolina home and a full-time move did eventually occur during the pendency of this investigation, the evidence did not support that the Darien property was abandoned for the purposes of remaining a registered elector based solely on these attachments to the second property and/or the information provided by the Referring Officials.
29. However, the evidence does support the conclusion that the Respondent did abandon his claim to bona fide residence to the Darien property by selling the property in August 2020 and registering as an elector in North Carolina in October 2020.
30. As such, it was appropriate for the Darien Registrars to remove him when they received notice in December 2020.
31. Considering the aforesaid, this matter should be dismissed.

**ORDER**

The following Order is recommended on the basis of the aforementioned findings:

That the matter is dismissed.

Adopted this 17<sup>th</sup> day of March, 2021 at Hartford, Connecticut.



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Stephen T. Penny, Chairperson  
By Order of the Commission