

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

JARRID “JAY” COLLINS,
Plaintiff,

vs.

Case No. 26-CA-1364

CORD BYRD, in his official capacity
as the Florida Secretary of State and
Filing Officer for the 2026 Florida
Gubernatorial Election, and
JAMES T. FISHBACK, as Real Party
in Interest,
Defendants.

**FINAL ORDER ON COMPLAINT FOR EXPEDITED DECLARATORY
AND INJUNCTIVE RELIEF**

This cause came before the Court for a two-day expedited hearing on July 21, 2026, on Lieutenant Governor Jarrid “Jay” Collins’s Verified Complaint Challenging the Candidacy of James T. Fishback Pursuant to Fla. Stat. § 99.0211 and for Expedited Declaratory and Injunctive Relief, and the Court having reviewed the papers filed in support and opposition, heard and considered the evidence and legal arguments presented by the parties, and being otherwise fully advised in the premises, finds

INTRODUCTION

Elections for office are generally governed by two categories of laws. The first regulates how elections happen – the time, place, and manner – and how

candidates qualify to be placed on a ballot. They are necessary for governmental efficiency and the integrity of the process and are found in state and federal statutes and regulations. The second is the hard prerequisites a candidate must meet to be eligible to hold the office. They are found in the Constitution of the United States and each individual State's Constitution.

In Florida, compliance with the first category of laws is the ministerial domain of the Secretary of State and courts generally are not authorized to second guess their certification, unless the statute has an explicitly stated private right of action. Courts are authorized to review the second category to determine constitutional eligibility.

Regardless of the category of law, the judiciary must be careful not to intrude upon this distinctly political process. Courts must participate only when authorized. It is this Court's unenviable task to walk that fine line and to do so in the wake of newly enacted legislation that changes the electoral landscape.

PROCEDURAL HISTORY

Lt. Gov. Collins ("plaintiff") filed this lawsuit on June 26, 2026.

Mr. Fishback (who will be referred to as the "defendant" in this order) was served initial process on June 29, 2026. Secretary Byrd was served initial process on June 30, 2026.

Defendant filed his answer and affirmative defenses on June 30, 2026.

When assigned to the case on July 1, 2026, the undersigned entered an order granting an expedited case management conference for July 8, 2026.

On July 2, 2026, the Court issued an order granting an expedited final hearing, moved up the case management conference to July 7, 2026, required the parties to meet and confer on stipulated facts, and advised the parties to be ready to discuss the expedited schedule and any discovery issues at the case management conference.

Counsel for the parties conducted the court-ordered "meet and confer" on Monday, July 6, 2026, and then on July 7, 2026, they submitted a Joint Stipulation in which they agreed to 31 material facts.¹ See docket entry 38.

At the case management conference on July 7, 2026, the Court set the final hearing for July 21, 2026, and addressed final scheduling issues and pre-hearing requirements.

The final hearing was live at the Leon County Courthouse on July 21, 2026.

THE HEARING

At the beginning of the hearing, it was determined that there were no remaining objections to any of the parties' proposed exhibits. The Court entered 38

¹ The Court commends counsel for their extremely professional and highly competent work in this case. They served their clients well.

exhibits into evidence for the plaintiff and 69 exhibits for the defendant. *See* docket entry 49.

The Court considered all of the evidence and the totality of the circumstances. Where testimony conflicted, the Court resolved those conflicts based upon witness credibility, consistency with contemporaneous documentary evidence, corroboration by other witnesses, and the reasonable inferences arising from the record as a whole.

The Court allowed all of the witnesses who had been proposed and presented by the parties to testify. No witnesses were excluded, no testimony curtailed (other than Mr. Thomas Vastrick's rather long discussion of his experience, given there was no challenge to his credentials or objection to his foundation to testify).

Plaintiff's first witness was Mr. Mark McLaughlin. He testified that he is a researcher, well versed in public records request procedures in Washington, D.C. He gave a description of each of plaintiff's 38 exhibits – the source, the request process, and the information produced or not produced. He testified that he did not conduct any research on Florida public records.

Plaintiff's second witness was Mr. Vastrick. Mr. Vastrick is a highly qualified forensic document examiner. He provided an expert report (Plaintiff's Exhibit 38) and gave his expert opinion regarding the signature on page 1 of an 8-

page Washington, D.C. “voter printout with redaction log.” As it turned out, the signature was not directly contested by defendant, only explained.

Plaintiff rested after Mr. Vastrick’s testimony.

Defendant’s first witness was the defendant himself, Mr. Fishback. He testified to his intent regarding residency and gave descriptions and explanations regarding the documentary evidence, his activities in Florida, and his activities in Washington, D.C. His explanation of many of the forms that included addresses or statements relied upon by plaintiff was that they were prepared by his accountant and he did not read them in detail.

Defendant’s second witness was defendant’s father, Mr. J. Thomas Fishback. Mr. Fishback gave a description of the frequency and purpose of defendant’s trips to Washington, D.C. He also testified that defendant never stated he was moving out of Florida.

Defendant’s third witness was Mr. Alex Munguia. He testified that he was mentored by defendant when he was in school and has worked with defendant in defendant’s non-profit organization Incubate Debate since then. He gave a description of the various debate tournaments, workshops, camps, educational programs, and other professional activities throughout Florida during the relevant time period, and defendant’s presence in Florida for them.

The parties gave closing arguments and were then told to submit their proposed orders with proposed findings of fact and conclusions of law by 5:00 p.m. Friday, July 24, 2026. The Court announced that it would issue its order no later than Monday, July 27, 2026.

FINDINGS OF FACT

Plaintiff and defendant are two of the candidates seeking the Republican Party nomination for November's election for governor. Both were certified by Florida's Secretary of State as "qualified" for the August 2026 primary.

To run for governor in 2026, a candidate must have resided in Florida during the period November 4, 2019 through November 3, 2026 (the seven-year residency requirement).

Plaintiff expressly concedes that defendant was a Florida resident prior to and after "the contested years." Plaintiff's Proposed Order, p. 3 ("The contested years are therefore the beginning of the required durational-residency period, November 4, 2019, until September of 2022, when the record establishes that Mr. Fishback undertook 'positive overt acts' to change his residency back to the State of Florida.") Plaintiff, however, never specified the exact date he contends that defendant abandoned / removed his residency from Florida to Washinton, D.C. It apparently would be either the summer of 2019 when his parents moved from Fort

Lauderdale to Washington, D.C., or when defendant voted in a Washington, D.C. election in November of 2020.

Defendant was born in Broward County, Florida, and his childhood home was located at 14631 N Beckley Square, Davie, Florida 33325, where he grew up with his parents, J. Thomas Fishback and Aydee E. Fishback.

Defendant's parents sold their Davie, Florida home in April of 2017, and moved to 920 Spinnaker Drive, Fort Lauderdale. Defendant resided at the same address during that period.

In the summer of 2019, defendant's parents moved from Fort Lauderdale to an apartment located at 4009 Davis Place NW, 202, Washington, D.C. 20007 (the "D.C. Apartment").

After his parents relocated to the D.C. Apartment, defendant moved his belongings to his grandmother's home at 721 NW 66th Avenue, Plantation, Florida 33317 to live with his grandmother as her health was deteriorating and he was helping to care for her. During this period and after, defendant visited his parents and stayed with them at their D.C. apartment. The visits were typically once a year, mostly in the summers, and typically lasted from one week to three months.

Defendant purchased a condominium located at 2325 42nd Street NW, Apt. 215, Washington, D.C. 20007 (the "D.C. Condominium") for \$400,000 on September 24, 2021. In connection with, and to finance the purchase of, the D.C.

Condominium, Mr. Fishback obtained a Rocket Mortgage loan and executed a Deed of Trust containing a covenant to occupy the property as his principal residence. The address below his signature is defendant's parents' D.C. Apartment address.

At the same time, defendant referred to the D.C. Condominium as his "second residence" and an "investment property." He never fully furnished the D.C. Condominium and often offered it to friends and family who were visiting. He also used it as a remote office.

Defendant purchased his current Madison, Florida residence located at 115 SW Pinckney Street by General Warranty Deed dated October 17, 2022. In connection with this purchase, defendant signed a letter dated September 2, 2022, stating: "My new purchase will serve as my new primary residence. I plan to keep 2325 42nd St NW Washington DC as a second home or as a future investment property."

Defendant consistently stated in emails over the subject time period that he "lives in Florida but spends summers in Washington, D.C."

Defendant registered to vote in the State of Florida on October 1, 2012, which was before his 18th birthday, and cast ballots in Florida general elections in 2016, 2018, 2022, and 2024, but did not cast a ballot in Florida for the 2020 general election.

Defendant spent a considerable amount of time in Washington, D.C. in the year 2020. He attributes that to being “stuck” there because of the pandemic. Defendant either registered to vote or convinced a poll worker to permit him to vote, in the Washington, D.C. November 3, 2020, general election. According to defendant, he was unable to return to Florida because of the pandemic and really wanted to place his vote for Donald Trump. He testified that a poll worker gave him a “tablet” on which he hurriedly checked boxes, filled out information, and signed. He further testified that he used his Florida driver’s license to identify himself. The Washington, D.C. voter registration printout contains a Washington, D.C. address.

For tax years 2019, 2020, 2021, and 2022, Mr. Fishback filed Form D-40 District of Columbia resident individual tax returns, each bearing a Washington, D.C. address. Defendant also used a Washington, D.C. address to file his federal taxes for the same years.

Defendant used his parents’ D.C. Apartment address to receive payment of personal income for his consulting business during at least 2019 and 2020.

When defendant applied for a 501(c)(3) exemption from the IRS on behalf of Macrovoyant Foundation Corporation, he used the address 2621 39th Street NW, Unit 101, Washington, D.C. When the foundation filed its Form 990 with the IRS in 2020 and 2021, the organization used Spinnaker Drive, Fort Lauderdale,

Florida as its official address, but defendant's parents' D.C. Apartment address appeared as well.

Defendant's property tax bills for his D.C. Condominium included a homestead deduction. Washington D.C. publications state that an applicant must affirm that he or she owns and occupies the property as a principal residence. Washington, D.C. issued a "Corrected Property Tax Bill" in April of 2026 indicating that defendant's D.C. Condominium was no longer receiving the deduction, and the correction removed the deduction retroactively for tax years going back to 2023.

During the years at issue here, defendant was actively engaged in Florida through Incubate Debate, a statewide nonprofit educational organization operating debate tournaments, educational programs, workshops, and camps. These activities resulted in defendant spending the majority of his time in Florida during the required residency time period, except for the year 2020 as discussed above.

Defendant maintained longstanding personal, familial, educational, professional, and community ties within Florida, even during the time he spent time in Washington, D.C. during the pandemic and during the summers when he visited his parents.

The only state in which defendant registered a vehicle was Florida, and his automobile insurance was based on a Florida address.

The only driver's license defendant obtained was from Florida.

The only telephone number defendant obtained and used was an area code 305 Florida number.

In evaluating the credibility of the witnesses and the weight given the testimony of the witnesses, the Court carefully considered the source and context of the information, and the bearing and demeanor of the witness, the willingness to concede weaknesses,² the means and opportunity the witness had to know the facts about which the witness testified, and the reasonableness of the testimony considered in the light of all the evidence in the case. *Stephens v. State*, 748 So.2d 1028, 1034 (Fla. 1999).

Based on the Court's observation of the defendant when he testified, and the credibility determination outlined above, the Court finds that despite defendant stating at various points, or someone stating on his behalf, that his "residence" was in Washington, D.C., defendant never had an actual subjective intent to move his permanent residency, his domicile, from Florida to Washington, D.C.

Based on the Court's observation of the defendant when he testified, and the credibility determination outlined above, the Court finds that despite defendant stating at various points, or someone stating on his behalf, that his "residence" was

² For example, defendant's explanation of various Washington, D.C. address notations and other statements in exhibits required his acknowledgment that he failed to read or otherwise pay attention to important financial and governmental documents before signing them.

in Washington, D.C., defendant considered the D.C. Condominium his “second residence” and an “investment property.”

CONCLUSIONS OF LAW

The Law on Challenges to Candidate Placement on the Ballot and to Eligibility for Office

Under Florida law, a person seeking to qualify for ballot placement for public office must submit the items required by Section 99.061, titled Method of Qualifying for Nomination or Election to Federal, State, County, or District Office, and comply with several other statutes that address matters such as financial disclosures, the resign to run requirement, and the form of oath.³

The Secretary of State is charged with the ministerial review of candidate filing submissions. The purview is strictly limited to determining whether the papers are proper and complete on their face. *Mayfield v. Sec'y, Fla. Dep't of State*, 402 So.3d 1002, 1006 (Fla. 2025).

Once a candidate has obtained access to the ballot through the Secretary of State’s certification, the only way to remove that candidate is to identify some constitutional or statutory basis for disqualification. However, such challenges are limited to constitutional shortfalls and statutes containing applicable requirements which include a private right of action for disqualification. *Jones v. Schiller*, 345

³ Effective April 1, 2026, our Legislature amended several elections related statutes, including Section 99.061, in Chapter 2026-26 (“H.B. 991”), § 11, Laws of Florida.

So.3d 406 (Fla. 1st DCA 2022); *Torrens v. Shaw*, 257 So.3d 168 (Fla. 1st DCA 2018); *Torres v. Shaw*, 345 So.3d 970 (Fla. 1st DCA 2022).⁴

However, there is an inherent right of action for the constitutional requirements to be eligible to hold office -- such as the subject residency period requirement. An elected official's eligibility to hold office is distinct from the qualifications required for a candidate to run for office. In Section 102.168, the word "ineligibility ... refers to 'constitutional ineligibility'—'the constitutional requirement for holding the office sought.' " *Shamburger v. Washington*, 332 So.3d 1071, 1073 (Fla. 2d DCA 2021), citing *Leon v. Carollo*, 246 So.3d 490, 492 (Fla. 3d DCA 2018) (quoting *Burns v. Tondreau*, 139 So.3d 481, 484 (Fla. 3d DCA 2014)). "To establish constitutional ineligibility, 'a pleading must aver, and proof must show, constitutional ineligibility—the failure to meet qualifications the constitution lays down.'" *Burns*, 139 So.3d at 484 (quoting *Norman v. Ambler*, 46 So.3d 178, 184 (Fla. 1st DCA 2010)).

There could have been a question whether a candidate's eligibility for office can be challenged before the election or must be brought post-election. That question was answered in newly enacted Section 99.0211. Starting with the

⁴ To the extent plaintiff argues that newly enacted Section 99.0211 provides a blanket right of action for every Florida Statute that addresses a qualification requirement, no matter how trivial, the Court disagrees. Such an interpretation would violate long-standing Florida and federal law that embodies the rule that courts must not add language to the words of a statute or construe the language of legislation to create a private right of action that is not clearly and expressly stated. Our Legislature would not have had to provide a private right of action for certain candidate oath requirements in H.B. 991 if one already existed under Section 99.0211, which was enacted at the same time. In any event, this only would be relevant to plaintiff's charge that defendant filed a false oath, which is rendered moot by the Court's ruling on residency.

effective date of the section, April 2026, persons with standing may now file a complaint for declaratory and injunctive relief challenging a candidate's eligibility to hold office *prior to the election*.

The present challenge is to the defendant's constitutional eligibility to hold office. The Florida Constitution provides that, "[w]hen elected, the governor. . . must be an elector not less than thirty years of age who has resided in the state for the preceding seven years." Fla. Const. art. IV, § 5(b). Therefore, all candidates in the 2026 Florida gubernatorial election must have been a resident of Florida for the seven-year period preceding the general election on November 3, 2026.

Finally, the fact that a declaratory judgment and injunction are sought does not change the analysis above. "[W]hile the scope of a court's jurisdiction to issue a declaratory judgment is broad, it does have limits—one of which is that courts will not render advisory opinions or give legal advice." *MacNeil v. Crestview Hosp. Corp.*, 292 So.3d 840, 843 (Fla. 1st DCA 2020) (citations and internal quotations omitted). There must be a bona fide, actual, present, and practical need for the declaration, such as a statute provides a private right of action. *Id.* Injunctive relief also has strict prerequisites. "[A] mandatory injunction is proper where a clear legal right is at stake, irreparable harm is threatened, and the remedy at law is inadequate." *Lock Properties LLC v. Kelly Plantation Owners Ass'n, Inc.*,

424 So.3d 543, 545 (Fla. 1st DCA 2025) (citations and internal quotations omitted).

Presumption in Favor of Qualification

A defining feature of Florida law governing election challenges is the strong presumption in favor of candidate qualification. Florida courts are required to resolve all doubts about the qualification of a political candidate in favor of the candidate.

The presumption in favor of qualification emanates from our country's preference, demand really, for representative democracy, which includes free and fair elections and the right to vote for the candidate of one's choosing.

The United States Supreme Court tells us:

The right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government.

Reynolds v. Sims, 377 U.S. 533, 555 (1964).

Our Florida Supreme Court emphatically agrees:

Even if there were doubts or ambiguities as to [a candidate's] eligibility, they should be resolved in favor of a free expression of the people in relation to the challenged provision of the Constitution. It is the sovereign right of the people to select their own officers and the rule is against imposing disqualifications to run. The lexicon of democracy condemns all attempts to restrict one's right to run for office. The Supreme Court of the United States has approved the support of fundamental questions of law with sound democratic precepts. Florida is committed to the general rule in this country that the right to hold office is a valuable one and should not be abridged except for unusual reason or by plain provision of law.

Ervin v. Collins, 85 So.2d 852, 858 (Fla. 1956).

More recently, our Supreme Court in *Reform Party of Florida v. Black*, 885 So.2d 303, 311–12 (Fla. 2004), made it quite clear that the presumption is compelling:

It follows that when the state imposes a burden upon access to the ballot, that burden must be clearly delineated. Thus, any doubt as to the meaning of statutory terms should be resolved broadly in favor of ballot access. As this Court recognized in the context of a challenge to a candidate’s eligibility to run for governor under the Florida Constitution: Even if there were doubts or ambiguities as to his eligibility, they should be resolved in favor of a free expression of the people in relation to the challenged provision of the Constitution. It is the sovereign right of the people to select their own officers and the rule is against imposing disqualifications to run. The lexicon of democracy condemns all attempts to restrict one’s right to run for office. The Supreme Court of the United States has approved the support of fundamental questions of law with sound democratic precepts. Florida is committed to the general rule in this country that the right to hold office is a valuable one and should not be abridged except for unusual reason or by plain provision of law.

Id. (citing *Ervin v. Collins*, 85 So.2d 852, 858 (Fla. 1956) and *Smith v. Crawford*, 645 So.2d 513, 520 (Fla. 1st DCA 1994) (stating that “the law requires judges to resolve doubts about qualification of a political candidate in favor of the candidate”).

Effective and free voting and candidate selection are essential to our representative democracy. Longstanding state and federal law remind trial courts to be cautious when deciding whether to disqualify a candidate for public office and respectful to the right of the voters to choose. “That the right of the electors to be

represented by [persons] of their own choice, [is] so essential for the preservation of all their other rights, that it ought to be considered as one of the most sacred parts of our constitution.” *Powell v. McCormack*, 395 U.S. 486, 540, n. 74 (1969) (quoting 16 Parl.Hist.Eng. 589–90 (1769)).

Florida law protects the right to seek public office and requires an express constitutional or statutory basis for disqualification. *Wright v. City of Miami Gardens*, 200 So.3d 765, 775 (Fla. 2016), holds that “the right to be a candidate for public office is a valuable one and no one should be denied this right unless the Constitution or an applicable valid law expressly declares him to be ineligible.” As discussed above, once a candidate has been certified and secured ballot access, disqualification requires a constitutional or statutory basis. *Jones*, 345 So.3d at 412.

“If two equally reasonable constructions might be found, this Court in the past has chosen the one which enhances the elective process by providing voters with the greater choice in exercising their democratic rights.” *Republican State Executive Comm. v. Graham*, 388 So.2d 556, 558 (Fla. 1980).

The Law on Residency

Some appellate court opinions and statutes use the words “residence” and “domicile” interchangeably. Others give the word residence a wider meaning, one that includes temporary living, even if for an extended period, and domicile the

meaning of one's legal or permanent residence. *See Hale v. Dep't of Revenue*, 808 So.2d 237, 241 (Fla. 1st DCA 2002) (*citing* Black's Law Dictionary 435 (5th ed. 1979)). To avoid confusion, the Court will reference and use the latter meanings as much as possible.

In the seminal Florida Supreme Court case, *Bloomfield v. City of St. Petersburg Beach*, 82 So.2d 364 (Fla. 1955), the court determined that the candidate had Florida residency notwithstanding the fact that he lived and worked in Michigan for a year and had Michigan vehicle tags and driver's license. The holding sets forth the binding analysis on this Court -- residency is determined by subjective intent and overt acts. *Id.*

The *Bloomfield* court held, "...that if a man actually becomes a bona fide resident of this state and intends to remain permanently a citizen of the state, mere absence with the specific clear-cut bona fide intention of returning will not destroy the residence actually theretofore established." *Id.* at 369.

The court in *Perez v. Marti*, 770 So.2d 176 (Fla. 3d DCA 2000), gave a clear statement of this long-standing Florida law on residency:

On the issue of Perez's residency, Florida courts have consistently recognized that an individual's intent is a subjective factor and "the best proof of one's domicile is where [the person] says it is." *Ogden v. Ogden*, 33 So.2d 870, 873 (Fla. 1947). In *Bloomfield v. City of St. Petersburg Beach*, 82 So.2d 364, 368 (Fla.1955), the court "held that where a good faith intention is coupled with an actual removal evidenced by positive overt acts, then the change of residence is accomplished and becomes effective. This is so because legal residence consists of the concurrence of both fact and

intention.” In a case very similar to our situation, the Fourth District stated that “[i]n analyzing proof of intent, a person’s declaration is especially significant and entitled to great weight.” *Walker v. Harris*, 398 So.2d 955, 958 (Fla. 4th DCA 1981). And the First District has also stated, “the law requires judges to resolve doubts about qualification of a political candidate in favor of the candidate.” *Smith v. Crawford*, 645 So.2d 513, 520 (Fla. 1st DCA 1994).

We reiterate the principle “that the primary consideration in an election contest is whether the will of the people has been effected.” *Boardman v. Esteve*, 323 So.2d 259, 269 (Fla. 1975). The trial court expressed concerns that Perez did not have roots in the district, that he did not “have overwhelming ties to that district.” The court was obviously dissatisfied with Perez’s actions. Those may be appropriate concerns for the electors of district seven, but they are inappropriate for the judiciary.

Id. at 178.

A person may maintain several residences but can only have one domicile. *de Oliveira v. de Oliveira*, 51 Fla. L. Weekly D976 (Fla. 3d DCA May 13, 2026), reh’g denied (June 16, 2026) (citations omitted). “A domicile determination therefore requires a totality of the circumstances approach weighing a constellation of facts and evidence of intent. Once domicile is established, it continues unless there is a showing of a change of residence coupled with the “absence of any present intention of not residing permanently or indefinitely in’ the new abode.” *Id.* In this vein, the “mere intention to acquire [a] new domicile without fact of actual removal avails nothing; neither does fact of removal without intention.” *Id.* (citations omitted).

“‘Domicile’ is ‘that place where a man has his true, fixed, and permanent home and principal establishment, and to which whenever he is absent he has the intention of returning.’” *Hale*, 808 So.2d at 241. “[L]egal residence’ or ‘domicile’ means a residence at a particular place, accompanied with positive or presumptive proof of an intention to remain there for an unlimited time; it is the ‘place an individual has set up his household goods and made the chief seat of his affairs and interests, from which, without some special avocation, he has no intention of departing; from which, when he has departed, he is considered to be away from home, and to which, when he has returned, he is considered to have returned home.’”) *Id.* (citing *Bloomfield*, 82 So.2d at 368).

“The establishment of one’s residence usually depends on a ‘variety of acts or declarations all of which must be weighed in the particular case as evidence would be weighed upon any other subject.’ *Bloomfield*, 82 So.2d at 369; *See also Rowland v. Rowland*, 868 So.2d 608, 611 (Fla. 2d DCA 2004) (“We conclude that the Wife’s testimony and the production of the Wife’s Florida driver’s license provided competent, substantial evidence supporting the trial court’s findings as to the Wife’s residency and the court’s jurisdiction, and we affirm.”); *see also Jenkins v. Jenkins*, 915 So.2d 1248, 1250 (Fla. 4th DCA 2005) (“We agree with the trial court’s conclusion that the husband was a resident of Florida. Even though the husband’s physical presence in Florida over the year preceding the filing of the

petition was de minimis, the trial court correctly determined the ‘chief seat of the husband's affairs and interests’ remains in Florida, creating presence and the requisite objective intent to be a Florida resident.”).

The Presumption of Continued Residency

For many years, the presumption of continued residency has been a strong one:

Change of domicile is a proceeding of a very serious nature, and one that carries with it very serious consequences. In part, the difficulty with a concept that requires fixity in a mobile society has led to the confusion with other terms and ideas as previously indicated. This has not, however, lessened in any way the importance of, nor the need for, a legal headquarters for all individuals in our society. For that reason change of domicile is generally disfavored, and until the actual new domicile is acquired, the former will be deemed to continue. This presumption is a very strong one. Even an expressed intention to change or actual starting of movement to a new place of residence if not completed will not work such a change. Nor will any temporary absence from the domicile work the change.

Wetherstein v. Wetherstein, 111 So.2d 292, 293–94 (Fla. 2d DCA 1959) (citing 8 Fla. Law and Practice, Domicile, § 19, at page 110).

The presumption of continued residency applies here. Plaintiff concedes that defendant was a Florida resident prior to the “contested years.” The evidentiary burden of proof is squarely on the plaintiff. It is plaintiff’s burden to prove that defendant did not meet the eligibility requirement; not defendant’s burden to prove that he did.

Applying the Law to the Facts

Plaintiff alleges that defendant cannot meet Florida's residency requirement for the office of governor, during approximately the 2019 to 2022 timeframe, because he abandoned his already existing Florida residency:

By registering to vote and voting in the District of Columbia, purchasing a home in the District and covenanting to occupy it as his principal residence, and applying for and receiving the District's Homestead Deduction—which required him to affirm that the District was his permanent home and domicile—Fishback engaged in positive, overt acts establishing his domicile in the District of Columbia, and not in Florida, during a substantial portion of the seven-year period preceding the November 3, 2026 general election.

Complaint at 7.

Noteworthy is what is missing from the paragraph above -- the allegation that defendant *intended* to abandon his Florida permanent residency. To be sure, plaintiff argues that circumstantial evidence, such as the various filings and statements made by defendant, *or on defendant's behalf*, reflect an intention to abandon.

However, as discussed above, Florida residency law places great weight on the subjective intent of the person declaring residency. “The best proof of one's domicile is where [the person] says it is.” That law may be imprudent, or it may give too much leeway to a person seeking or maintaining residency. But it is the law.

Defendant took the witness stand, was sworn in, and testified under oath that it was always his intention to keep Florida residency, and that he never intended to abandon it.

The Court notes that plaintiff urged the Court to give less weight to defendant's testimony because it was "self-serving." Yes, a witness's potential bias is always a consideration. However, "[a]ll evidence a party presents is 'self-serving,' so the fact that the plaintiff's testimony may have been 'self-serving' does not make it legally insufficient." *Loren v. Once Upon a Time Group, Corp.*, 415 So.3d 222, 227 n.1 (Fla. 4th DCA 2025). The Court further notes that it found the testimony of plaintiff's witness Mark McLaughlin on Washington, D.C. public records requests credible, even though he testified that he had been paid \$40,000 to \$50,000 by the Collins for Governor campaign.

Although plaintiff had the burden to prove defendant's non-residency, he presented no direct evidence, no witnesses to testify that the defendant ever said anything, at any point, to the contrary. Such testimony would have been admissible under Florida's evidence code, Sections 90.803(3) and 90.803(18).

Also, none of plaintiff's numerous exhibits, many for which authorship was in dispute, contained a clear and express declaration of changing residency from Florida to Washington, D.C. Plaintiff's most probative exhibit in this regard was the September 2, 2022 letter regarding defendant's purchase of the Madison,

Florida property, stating: “My new purchase will serve as my new primary residence. I plan to keep 2325 42nd St NW Washington DC as a second home or as a future investment property.”

However, the Court’s task is to determine whether all the evidence in the case, not just the September 2, 2022 letter, overcomes the presumptions of continued residence and candidate qualification. All of the evidence includes defendant’s testimony on intent; being born and raised in Florida; family, social, and business ties to Florida; the amount of time spent in Florida; driver’s license; pattern of voting; and more. Plaintiff has the burden for this, and it was not met, even under the preponderance of evidence standard.

It may be true that the various election and financial filings and transactions about which the plaintiff complains could result in regulatory, maybe even more severe legal, repercussions for the defendant under Washington, D.C. law. The defendant himself acknowledged this. They do not, however, defeat the presumption of continued residency under Florida law, or the presumption of qualification under federal and Florida law. Simply put, plaintiff has not brought forth enough substantial and competent evidence to rebut these important presumptions. This Court will not be deciding the race between the Lieutenant Governor and Mr. Fishback. That will be in the very sound hands of the voters.

Accordingly, it is ORDERED and ADJUDGED that

1. Plaintiff's complaint for a declaration and an injunction to remove defendant from the August 18, 2026 primary ballot is DENIED.
2. The Court further declares that the Department of State properly certified defendant as a candidate in carrying out its ministerial candidate qualification functions.
3. Defendant shall remain qualified as a candidate for the Republican Party nomination for the office of governor.

Done in Tallahassee, Leon County, Florida.

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David Frank, Circuit Judge

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