

US DISTRICT COURT
for the
DISTRICT OF NEW HAMPSHIRE
Case No.: 1:9-cv-00149-JL
ANSWER TO PLAINTIFF’S OBJECTION TO INTERVENE
INTRODUCTION

Plaintiffs, two Dartmouth College students, one domiciled in California, the other domiciled in Louisiana, currently residing in New Hampshire while attending college, bring an action against the State for the right to vote while retaining their out-of-state driver’s licenses, residency in those states being required to hold valid driver’s licenses. This action is brought in Federal Court after the New Hampshire State Supreme Court, “Opinion of the Justices” July 2018, found there was no State or Federal Constitutional right for lawful residents of another state to vote in General Elections in New Hampshire. Intervenor challenges the standing of admitted non-citizens to bring an action for the right to vote in New Hampshire.

Intervenor, Edward Naile, qualified voter, resident of Deering, NH, and registered Democrat, answers Plaintiffs OBJECTION TO INTERVENE, and says:

Plaintiffs object to Intervenor on the grounds the only injury he could claim is a diminished vote from out-of-state, unqualified voters added to the total vote tally. This argument would mean that a diminished vote is as good as a lawful, equal

vote, guaranteed by the US Constitution 14th Amendment and NH State Constitution Part I Article 11. While the Plaintiffs, non-domiciled students would receive an enhanced vote in a state in which they are not qualified but could easily be the deciding votes in close elections in NH, as happened in the US Senate race in 2016.

The Plaintiffs also claim they are challenging the “fines” they would have to pay for exercising their out-of-state vote under HB 1264. This nonsensical argument would, drawn to a logical conclusion, mean Intervenor is paying a “fine” when he registered his car or acquired his driver’s license when moving to NH in 1978, or renewing his license thereafter. Would also mean these students paid a “fine” when acquiring their California and Louisiana licenses? The argument is absurd. All legal residents of all 50 states pay a fee for acquiring a driver’s license of registering a car. Plaintiffs should also argue that paying for a fishing license in NH is a “poll tax” or a “fine” if they wanted to fish in a state in which they are not qualified to vote.

Plaintiffs also allege Intervenor’s “alleged injury of vote dilution applies equally to every registered voter in NH and so is not particularized to permit intervention.”

It is the intent of this Intervenor to protect his qualified vote as is the right of every citizen with the ability to do so. Plaintiffs attorneys have no reservations of having

only two among thousands of out-of-state, unqualified college students bring an action which would effect similarly situated students who would then enjoy rights they are not entitled to for lack of a domicile, but who also have the right to vote absentee in the same General Election in their home state. This creates two classes of voters, again, not permitted under the US or NH Constitutions.

Plaintiffs also argue the Attorney General's Office will offer an adequate defense of HB 1264. It seems the attorneys for the Plaintiffs forget that in the last case they filed on behalf of out-of-state students, "Guare" this Intervenor also filed a motion to intervene. In that case a Strafford Superior Court, Judge Lewis initially denied that motion, but later in that same hearing, after evidence in this Intervenor's motion was referred to, Judge Lewis reversed his decision in that same hearing and granted that motion to intervene, which subsequently went to the State Supreme Court. That past motion to intervene caused no delay or confusion. The State of NH, in that case, did not offer evidence found in that motion to intervene.

There is no objection by Plaintiffs to this Intervenor filing *amicus curiae*-style pleading on motions, but they object to any taking of discovery. In an action by Plaintiff's counsel this Intervenor has yet to see the actual addresses of the Plaintiffs from California, Louisiana. This Intervenor has yet to see the unknown dorm or rental address in NH. Plaintiffs might, as many Dartmouth students do,

reside in Vermont while attending college, discovery would allow this Intervenor to further show this Court the Plaintiffs have no standing to bring this action.

Answers to each Objection in order:

1. Intervenor is not entitled to Intervention as a matter of right

Intervenor is not relying on a statute to protect his right to a full, undiluted vote by non-citizens, as Plaintiff's counsel states. He is relying on the US and NH Constitutions which demand equal protection. As well as Part 1 Article 11 defining who can vote in the State of NH. You must be domiciled in your town or ward.

A. Naile Does Not Have a Sufficient Interest to Intervene as of Right

Once again, Intervenor relies on the absolute right to a fair election, excluding non-citizens. How this right is not "sufficient" is beyond belief, especially since Plaintiff's attorneys bring an action to wrest from the NH and US Constitutions his undeniable right to a fair vote on behalf of admitted non-residents holding out-of-state driver's licenses.

B. The Defendants will Sufficiently Defend the Law

The recent "OPINION OF THE JUSTICES, (RESIDENCY, RESIDENCE) Request of The Governor, and Executive Council July 12, 2018, was crystal clear about non-domiciled voters The Court found no constitution of any state allowed

non-citizens of that state to vote in General Elections. They also found no case law allowing same. The Court stated that NH has a compelling interest, as well as a duty, to see that only qualified inhabitants vote in General Elections. This recent OPINION by the NH Justices should be found in Plaintiffs pleadings and motions but is not. In the appeal of “Guare” the State stipulated that “domicile” was temporary, but “residence” was permanent, reversing the meaning of the words. This was the way the State Supreme Court came to the conclusion it did. That appeal was lost by the NH AG’s Office attorney from the start. As stated in this Intervenor’s original MOTION to INTERVENE, how can any voter be sure that will not happen again if not by entering the case by a motion to intervene and giving evidence such as the simple definition of “domicile” and “residence” as found in *Black’s Law* for the last hundred years?

II. The Court Should Deny Naile’s Request For Permissive Intervention

This Intervenor has been involved with voting rights since the early 1990’s and has, since 2000 accumulated various public documents, videos, checklists, fliers, news articles and evidence regarding NH election laws which can be found nowhere else.

This was the case with Judge Lewis in “Guare” where he stated he “found my evidence compelling” and would use it in his final decision. This Court is

reviewing, once again, the simple case of Plaintiffs who are asking for a right they do not have. In addition, they are trying to exempt themselves from obligations of qualified, domiciled, citizens voters must obey such as jury duty and taxation.

It is not a complicated case but can be brought into focus with evidence from past elections this Intervenor can bring to light if need be. This Court has authority to allow a citizen to intervene to ensure his or any other similarly situated qualified NH voter has his right to a fair election protected. It is a simple request and Plaintiffs, non-citizens should not object.

III. Plaintiffs Have Standing

Plaintiff's, once again, are naive to have allowed their names to be used in this most recent case brought by the NH ACLU. A simple glance at their California and Louisiana driver's licenses will show them their true domicile. A domicile, only one, is where a person the age of 18 and above can vote in a General election.

These two students, nor any others similarly situated, can not serve on a NH jury with an out of state driver's license as identification. They can not register a dog, or get other state licenses because they are not citizens.

To give a false address in a Federal election is a violation of Federal Law, US Code 52; 10307 (5). This is a point Plaintiffs counsel should be asked by them. This is

also why the counsel for the Plaintiffs have not used their addresses so far in this action.

Recently, a college student at UNH, Spencer McKinnon was charged with voting in two states. During testimony he said he was told, “by an adult” that he could vote in NH, even though his home was in Dracut, Ma.

The out-of-state campaign workers residing at State Senator Marth Fuller Clark’s Portsmouth home in 2012 said the same thing when caught voting in NH instead of at their true domicile:

<https://www.nhpr.org/post/ag-no-voter-fraud-workers-who-stayed-sen-clark-clark-case#stream/0>

“The Attorney General’s report also notes that one of the campaign workers, Ryan Flynn, said the N.H. Democratic party instructed campaign workers to register to vote in the towns in which they are were living.”

One voter, Bryan Gregory Griffith, is an attorney from Arkansas. Arkansas has a state income tax. A simple motion for discovery, had the NH AG’s Office followed through, would show Mr. Griffith either paying a full 2012 Arkansas state income tax or not. It is incredulous to believe the State of Arkansas would allow Mr. Griffith to deduct the several months he was working on a campaign in NH from his state income tax.

But in NH, the Attorney General's Office investigators use the term "established a presence" instead of establishing a "domicile" for determining who can vote in NH. This phony loophole was closed by the NH State Supreme Court last July in the "OPINION OF THE JUSTICES."

In 2000, a joint NH Senate House Committee investigated voter fraud and student voting. Some of the students wrote apologies explaining they had been fooled by campaign workers into voting in NH.

A recent February 2016 video by Project Veritas, subpoenaed by the NH AG showed multiple people stating they were told by the campaign or democrat Party they could vote in NH. These two Plaintiffs in the present case may not be aware of these situations except by this Intervenor's motion.

<https://www.bing.com/videos/search?>

[q=New+Hampshire+Voter+Fraud+hugo+palma&&view=detail&mid=30D122FA9D39E4576E6130D122FA9D39E4576E61&&FORM=VRDGAR](https://www.bing.com/videos/search?q=New+Hampshire+Voter+Fraud+hugo+palma&&view=detail&mid=30D122FA9D39E4576E6130D122FA9D39E4576E61&&FORM=VRDGAR)

Plaintiffs would plainly see that deciding to vote in a state in which you do not live but only reside has repercussions and often leaves a paper trail.

One Democrat campaign official, Caitlin Anne Legaki, found herself subject to accusations of voter fraud, or even prosecution, in 2012 when her name was crossed off as voting in person at 1200 Elm St. in Manchester, NH while she was

in Missouri working on the US Senator Claire McCaskill campaign and voting there. Ms. Legaki had been registered in North Carolina in 2010 while working on a senate campaign and 2008 in NH working on the Shaheen campaign. By voting in states where she was not domiciled but was only residing, Ms. Legaki left her name on current checklists for others to use. This could happen to hundreds of students such as the Plaintiffs.

Domicile is not a state of mind, as NH Election Officials like to say, since “Newburger v. Peterson, 344 F. Supp. 559 (D.N.H. 1972),” but is determined by facts. This Court should hear and has jurisdiction to this intervenor’s Motion to Intervene. It will do justice to this state and hopefully prevent naïve students from creating future problems for themselves.

Some states have statutes regarding their residents moving to another state.

Here is Louisiana:

“2011 Louisiana Laws Civil Code

CC 39 — Domicile and residence

Universal Citation: LA Civ Code 39

Art. 39. Domicile and residence

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 affected.

Acts 1985, No. 272, §1; Acts 2008, No. 801, §1, eff. Jan. 1, 2009.”

California:

“CCR Regulations Section 17014(c) defines the term "domicile" as the place where an individual has his or her true, fixed, permanent home and principal establishment. It is the place to which, whenever absent, he or she has the intention of returning. It is the place in which a person has voluntarily fixed his or her habitation and the habitation of his or her family. It is the place where a person has the present intention of making a permanent home, until some unexpected event shall occur to induce him or her to adopt another. It is not a place where a person is living for a mere special or limited purpose.”

By keeping a home state driver’s licenses, the Plaintiffs show intent. The intent is to return to California and Louisiana. California and Louisiana law require driver’s license holders to be residents, domiciled in their state.

The Plaintiffs in this case expose their lack of standing by the intent to keep their out-of-state licenses. The nonsensical argument tat a driver’s license is a flimsy excuse for allowing out-of-state students and campaign workers, as we have shown, to sway New Hampshire elections.

In the OPINION OF THE JUSTICES (RESIDENT RESIDENCY) the Court determined residency and domicile are used interchangeably in statute and the intent of the legislature is clear that they both refer to qualified NH citizens regarding voting and holding a valid driver’s license.

The argument that acquiring a license, if NH 1264 is enacted, is a moot point and a desperate attempt to delay the so-called confusion between the words which has violated the NH State Constitution by letting non-citizens vote here and

diminishing Intervenor's vote. Plaintiffs can simply follow existing law and request an absentee ballot and vote at home from the address on their respective driver's licenses. They can show exactly zero harm to themselves by voting legally in their domicile of record.

CONCLUSION

For the reasons stated above, and in the MOTION TO INTERVENE, this ANSWER should be accepted by the Court.

RELIEF REQUESTED

Wherefor Intervenor requests this Court:

- A. Deny Plaintiff's OBJECTION to MOTION to INTERVENE
- B. Any other relief the Court deems just and proper.

Respectfully submitted,

Edward Naile, pro se

61 Tubbs Hill Rd. Deering NH 03244

ednaile@comcast.net

603-831-2031

CERTIFICATE of SERVICE

I hereby certify a copy of this pleading was delivered to opposing counsel and parties involved.
