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IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

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FILE ROOM

ROBIN WRIGHT-JONES,

Contestant,

vs.

CONNIE L. JOHNSON,

Contestee.

Cause No. 0822-CC01491

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FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT

This cause was called for trial and heard on May 9, 2008. Contestant, Robin Wright-Jones ("Contestant"), appeared in person and by her attorneys, and Contestee, Connie L. Johnson ("Contestee"), appeared in person and by her attorneys. The court has jurisdiction to hear this matter under Missouri law.

The Court has taken judicial notice of the file, including all orders entered herein prior to this Court's assignment, the denial of Contestee's Motion to Dismiss the action, the denial of Contestee's request for jury trial, the setting of Contestant's Petition for trial on May 9, 2008, and that Contestee's Counterclaim would not be heard at said time or considered or ruled on, until the parties have had time to fully respond to the claims and have reasonable time to conduct discovery.

Before the presentation of evidence, Contestee's Application for Writ of Prohibition, though not formally filed or served, was reviewed by this Court and found to be without a valid basis. The Court has authorized its reconsideration.

At the conclusion of the hearing, proposed findings of fact and conclusions of law were ordered to be submitted by counsel for both parties no later than May 14, 2008. Such submissions have been received and considered by the Court.

The Court, having considered the record, the evidence and the exhibits, and the applicable law and now being fully advised in the premises, makes and enters its Findings of Fact, Conclusions of Law, and Judgment.

FINDINGS OF FACT

1. Contestant and Contestee have each filed declarations of candidacy for nomination for the office of State Senator, 5th District in the upcoming primary election.
2. On April 22, 2008, Contestant filed a timely Petition challenging the qualifications of Contestee for nomination to the office of State Senator for the 5th District, and to have her name removed from the ballot, pursuant to Section 115.526, RSMo. Chapter 115 gives this court jurisdiction to hear this matter.
3. Counsel for Contestee entered his appearance on the same date as the Petition was filed and accepted service on behalf of Contestee.
4. Contestant's Petition and evidence challenge the qualifications of Contestee, for lack of residence in the 5th District for the period prescribed in Section 21.070, RSMo.
5. Section 21.070, RSMo., sets out the qualifications for the office of State Senator.

As to residency, the statute states:

"Each senator...next before the day of his election shall have been....a resident of the district which he is chosen to represent for one year..."

6. Based on the evidentiary record, the Court finds that Contestee was not a resident of the 5th senatorial district for the required one year period. As determined in the Conclusions of Law, the date of the relevant election is the general election, rather than the primary election. The Court finds that Contestee was not a resident of the District in November, 2007.
7. The Court finds that Contestee, as landlord, leased her property at 5969 Tara Lane (located in the 5th District) for a term of one year, beginning October 1, 2007, to Michele Hayes and William Keys. Contestant's Trial Ex. 11. The lease provided that the tenants were to pay their monthly rent to landlord, by payment to Sampson Holdings, Inc. and delivered to 5848 Maple, Ex. 11, Section 5. The lease granted the tenants the option to purchase the leased premises for \$135,000.00, Ex. 11, Section 36.
8. Contestee admitted that the utilities at the Tara Lane property were put in the names of the tenants. This is consistent with the terms of the lease, Ex. 11, Section 8.
9. The Court finds that Contestee's testimony that she and her tenants were roommates, that she retained the right to stay at Tara Lane during the term of the lease and that she slept there, sometimes on the floor, as authorized by Section 30 of the lease, is not credible. Such contentions are inconsistent with the lease and with the testimony of William Keys, one of the tenants. His testimony was presented by deposition, without objection from Contestee. The Court finds that his testimony is credible. Mr. Keys testified that Contestee never spent one night at the Tara Lane house while he lived there, that she did not keep a room for

herself there, that she left no clothes or personal items there, except for personal items she left in the garage which had two padlocks securing it closed. No provisions of the lease granted Contestee the claimed right. The provision cited by Contestee, Section 30, allows the landlord to inspect the leased premises, show it to prospective tenants or purchasers and to make repairs.

10. Contestee admitted that she filed a change of address with the Post Office to have her mail delivered to 5848 Maple. The Court finds that her claim that she made such change because mail had been stolen at the Tara Lane location is not credible. Contestee presented no evidence that she has made any complaints to the Post Office or filed any police reports.
11. Contestee admitted that she acquired the home at 5848 Maple, which is located outside the 5th senatorial district, on October 4, 2007. Contestant's Trial Ex. 10, the general warranty deed to such property, admitted into evidence without objection from Contestee, was signed by the Grantor and Contestee, as Grantee, on October 4, 2007. Contestee offered no evidence that she had sold said property prior to November 5, 2007 or since. Contestee acknowledged that she stayed at her Maple Lane home during October, November and December of 2007.
12. Both Contestee and her mother, Alice Buchanan, testified that they had always lived together. The Court finds that Contestee's testimony that she bought the house "for" her mother alone is not credible.

13. In February, 2008, Contestee filed suit for rent and possession against the tenants of Tara Lane. Her affidavit in that action showed her address as 5848 Maple. Contestant's Trial Ex. 13.
14. Contestee admitted that she received a letter dated December 6, 2007, from the St. Louis City Building and Inspection Division stating that the Tara Lane property was "CONDEMNED FOR OCCUPANCY", and attaching St. Louis Ordinance 62887, Contestant's Trial Ex. 12. Section 5.1 of the Ordinance prohibits occupancy without a certificate of inspection. It was only on May 6, 2008 that she authorized someone to apply for the Certificate of Inspection, Contestant's Trial Ex. 24.
15. Contestee has been employed as a lawyer by the law firm of Greensfelder Hemker & Gale, P.C., since March 2008. Her salary checks are directly deposited, by her own admission, in an account with the 5848 Maple address, Contestant's Trial Ex. 25.
16. Contestee previously worked as a lawyer for Armstrong Teasdale, LLP. The firm wrote her a letter addressed to her at 5848 Maple on December 19, 2007, reflecting the terms of the cessation of her employment with them. Contestant's Trial Ex. 17. Billie Gray, in the Armstrong Teasdale human resources department, sent an e-mail dated October 9, 2007, to Employee Status Distribution, noting a new home address for Contestee at 5848 Maple. Contestant's Trial Ex. 18. The Spring 2007 Home Directory of Armstrong Teasdale showed Contestee's address as 5969 Tara Lane, Contestant's Trial Ex. 19, p. 19. Her address in the Fall 2007 Directory was listed as 5848 Maple,

Contestant's Trial Ex. 20, p. 19. The 2007 W-2 wage and earnings summary issued by the firm to Contestee showed her address as 5848 Maple, Contestant's Trial Ex. 16.

17. Contestee made a contribution to the Committee to Elect Reed on March 19, 2008. The report filed by the Committee with the Missouri Ethics Commission, recorded her address as 5848 Maple. Contestant's Trial Ex. 22, p. 16.
18. Matthew Potter, democratic Director of Elections for the St. Louis Election Board testified. The Board had received an anonymous packet of information challenging Contestee's residence. The Board undertook an investigation. Mr. Potter visited both 5969 Tara Lane and 5848 Maple on April 19, 2008. There was no answer when he sought entry at either location. However, a view through the kitchen window revealed only a few furnishings in the kitchen on Tara Lane. The electric meter on the side of the house was running at a slow pace. At the Maple house, he heard a dog barking in response to his knocks. A view from the porch revealed that it was furnished.
19. The parties have stipulated that Contestee had bank accounts at National City Bank. Prior to October 2007, the address on these accounts showed the Tara address. Between October 2007 and March 2008, the accounts listed 5848 Maple as Contestee's address. After April 2008, the accounts listed Contestee's address as Tara Lane.
20. The Court finds that Contestee has attempted, at the eleventh hour, to cloud the strong documentary record that she has not been a resident of the 5th Senatorial District during the statutorily prescribed one year period. The Court finds that her

belated efforts to change her address on her bank accounts and to seek a Certificate of Inspection of the Tara Lane property are contrived, not credible and do not detract from her own admissions that she has been a resident of 5848 Maple since October, 2007.

21. Contestant has incurred costs for the filing fee and discovery in this matter in the sum of \$1872.87, which this Court finds to be reasonable. Contestant's Trial Ex. 32.

CONCLUSIONS OF LAW

1. Section 21.070, RSMo., establishes a residency qualification for the office of state senator. A senator must have been a resident of the district which he is chosen to represent for one year next before the day of his election.
2. The applicable standard is to ascertain the intent of the legislature from the language used, to give effect to that intent and to consider the words in their plain and ordinary meaning. Lewis v. Gibbons, 80 S.W.3d 461 (Mo banc 2002).
3. Measured by such standard, Section 21.070, RSMo., requires residence within the district the one year immediately prior to the election.
4. The date of the relevant election is the general election, rather than the primary election. Id. at p. 464; Chowning v. Magness, 792 S.W. 2d 438, 439 (Mo. App. S.D. 1990).
5. The Court has found that Contestee was not a resident of the 5th senatorial district in November, 2007. Accordingly, Contestee is not qualified to seek or hold the office of state senator for the 5th District.

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6. Contestee has not contested the evidentiary record. Her single contention is that this Court lacks jurisdiction because a preliminary hearing was not held within 5 days after the Petition by Contestant was filed. Contestee's assertion is premised on the applicability of Section 115.531.1, RSMo. The Court has concluded that Contestee's position is erroneous. It is a misreading of Sections 115.526, RSMo and 115.531, RSMo. The fundamental error in Contestee's position is that the instant suit is a challenge to Contestee's qualifications, as authorized by Section 115.526, and not a suit contesting the results of a primary election under Section 115.531. This distinction was deemed critical in Dally v. Butler, 972 S.W.2d 603, 607 (Mo. App. S.D.1998). None of the cases relied upon by Contestee stand for the proposition that the procedures in Section 115.531, dealing with the contest of the results of a primary election, are applicable to a challenge to the qualifications of a candidate, as provided in Section 115.526.

JUDGMENT AND DECREE

The Court enters its judgment and decree that Contestee, Connie L. Johnson, is not qualified to be a candidate for nomination to the office of senator for the 5th district.

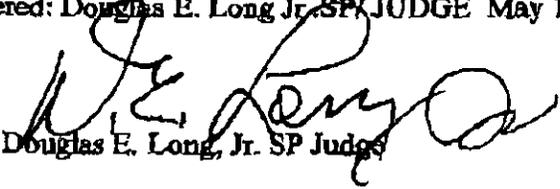
Contestee's name shall not be printed on the official ballot. The Clerk of the Court is directed to provide forthwith a certified copy of this judgment to the office of the Secretary of State.

Contestee's application for writ of prohibition is denied and all other motions inconsistent with this opinion which would include Contestee's counterclaim and allegations of denial of due process, are found moot and denied. This judgment is final.

Costs assessed against Contestee in the sum of \$1872.87 and for any additional costs of

Court herein.

So ordered: Douglas E. Long Jr. SP JUDGE May 14, 2008


Douglas E. Long, Jr. SP Judge

Certified copy to be sent to Robin Carnahan,
Secretary of State, Jefferson City, Mo.