

**THE REVEREND DENINAH
WEBB-GOODWIN**

*

NO. 2004-CA-0280

*

COURT OF APPEAL

VERSUS

*

FOURTH CIRCUIT

**KIMBERLY WILLIAMSON
BUTLER, ETC.**

*

STATE OF LOUISIANA

* * * * *

APPEAL FROM
CIVIL DISTRICT COURT, ORLEANS PARISH
NO. 2004-1931, DIVISION "A"
Honorable Carolyn Gill-Jefferson, Judge

* * * * *

**Charles R. Jones
Judge**

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(Court composed of Judge Charles R. Jones, Judge Patricia Rivet Murray,
Judge Michael E. Kirby, Judge Max N. Tobias Jr., and Moon Landrieu
Judge Pro Tempore)

TOBIAS, J. CONCURS IN PART AND DISSENTS IN PART

Reverend Deninah Webb-Goodwin
P.O. Box 872922
New Orleans, LA 70187

IN PROPER PERSON, PLAINTIFF/APPELLANT

REVERSED

This suit involves a question of the qualifications of a candidate for the office of Member, Louisiana Democratic State Central Committee, 100th Representative District, Office “A.” La. R.S. 24:35.5. The plaintiff/appellant, Deninah Webb-Goodwin (hereinafter, “Ms. Goodwin”), appeals a judgment dated February 18, 2004, of the district court finding that the defendant/appellee, Crystal Walker-McCullom (hereinafter, “Ms. McCullom”), shall remain a candidate in the election scheduled for March 9, 2004.

On February 6, 2004, Ms. Goodwin timely filed her “Suit Objection to Candidacy” alleging that Ms. McCullom was a resident and domiciliary of the Parish of Jefferson residing at 207 Appletree Lane, Gretna, Louisiana, and not properly qualified as a candidate for the office of Member, Democratic State Central Committee, 100th Representative District, Office “A”. Further, she alleges that Ms. McCullom and her now ex-husband,

purchased the Appletree Lane property in 1998, that Ms. McCullom was registered as a voter from that Appletree Lane address, and that her suit for divorce in June, 2002, alleged her domicile to be in Jefferson Parish.

Pursuant to La. R.S. 18:1409, the district court set the trial of the matter for 10:00 a.m. on February 17, 2004. The district court signed the order setting the trial on February 12, 2004. (We note that February 16, 2004 was a legal holiday, President's Day. La. R.S. 1:55E.)

On the morning of February 17, 2004, Ms. Goodwin filed a Motion to Continue the trial asserting that she had been unable to serve subpoenas because the office of the Clerk of Court had been closed the preceding day (for the legal holiday). The district court denied the motion, noting that given the statutory time delay for holding a trial was four days, and the district court was required to render a decision within twenty-four hours from the close of evidence. Further, the district court held the record open until 5:00 p.m. on February 17, 2004, in order for Ms. Goodwin to supplement the record with additional evidence. However, Ms. Goodwin did not supplement the record with filings until 5:40 p.m. on February 18, 2004, and again on February 19, 2004; this Court, on appeal, cannot consider those untimely-filed documents.

At trial, only Ms. McCullom testified. She indicated that she co-

owned the home at 207 Appletree Lane with her ex-husband, and that a homestead exemption was on file in Jefferson Parish for at least the year 2002. She testified that she was a registered voter in Orleans Parish from the address of 4700 Dodt Avenue, New Orleans, Louisiana, and that at the time of filing her Petition for Divorce she was domiciled in Jefferson Parish. She denied being a registered voter in Jefferson Parish. She acknowledged having a toll tag for the Mississippi River Bridge attached to a white Ford Expedition SUV that she drives, testifying that the vehicle was part of the community assets with her husband and registered in his name. Ms. McCullom explained that she travels in the morning across the bridge to the Orleans Parish School Board office at 3510 General DeGaulle Drive, where she is a contract worker, to drop off work. She further testified that from there, she travels to the office of the Orleans Parish District Attorney, where she is employed as a full-time administrative assistant. Her son attends a private school on Dorgenois Street in New Orleans.

The district court then asked Ms. Goodwin if she had anything else she wished “to state for the record.” Ms. Goodwin stated that Ms. McCullom did own a home in Jefferson Parish and that Ms. McCullom was not shown as an owner or co-owner of a dwelling at 4700 Dodt Avenue. Further, Ms. Goodwin said that she would provide a title for 4700 Dodt

Avenue, that Ms. McCullom had never filed for a homestead exemption in Orleans Parish, and that 4700 Dodt Avenue is not in Representative District 100. She stated that she had a “copy of her [Ms. McCullom’s] toll tag where we can prove activity on a daily basis coming from Jefferson Parish within the hours of 7:15 in the morning to 9:00.” Ms. McCullom also stated that the human resource record of the Orleans Parish District Attorney’s office showed that Ms. McCullom stated her primary residence to be on Appletree Lane and that the last time that Ms. McCullom voted in Jefferson Parish was in November 2003. Ms. Goodwin finally requested twenty-four hours to provide the district court with her telephone bill, water bill, “Office of Public Works, human resources [, and] the Jefferson Parish Registrar of Voters Form.” She also said that Ms. McCullom’s divorce petition was filed in Jefferson Parish. The record on appeal does not reflect that Ms. Goodwin was ever sworn and her statements are not properly considered as evidence. La. C.C.P. art. 1633.

The district court then questioned Ms. McCullom. The judge’s questioning confirmed that Ms. McCullom was divorced from her husband, Gary McCullom, but that the community property had not been divided, that at the time of her divorce she was domiciled in Jefferson Parish, that before moving to 207 Appletree Lane she lived on West Pond in Gonzales,

Louisiana, and that “[d]uring my divorce and really [sic] my domicile is for 38 years has been with my mother and my father [at 4700 Dodt Avenue].” Ms. McCullom stated that she lived on Dodt Avenue with her son, father, mother, and aunt. She further stated that she used the 4700 Dodt Avenue address on the qualifying papers that she filed in order to qualify for the office of Member, the Democratic State Central Committee.

The record on appeal contains an “EXHIBIT LIST” clocked with the Clerk of the Civil District Court at 5:40 p.m. on February 18, 2004. The documents listed and attached to the list include a copy of Ms. McCullom’s divorce petition filed on June 27, 2002; a facsimile transmittal sheet dated “2-18-04” from the Clerk of the 24th Judicial District Court for the Parish of Jefferson indicating a 5 page transmittal that includes the transmittal sheet; an e-mail transmittal from Larry Preston Williams & Associates, Ltd., Detectives and Security Consultants, dated February 8, 2004, relating to seven subpoenas and a second e-mail from the same entity dated February 16, 2004, advising that because of the holiday additional time to serve the subpoenas was needed and that Ms. Goodwin should file a motion for a continuance; and copies of subpoenas duces tecum to the Orleans Registrar of Voters to produce Ms. McCullom’s voter registration documents and to Ms. McCullom to produce the following: “ 1. Copy of Application Form [;]

2. W-2's for 2002, 2001 [;] 3. Copy of Driver's License (sic) [; and] 4. Credit Card Bills, Utility Bills, Cell Phone Bills." These subpoenas duces tecum call for the production of the documents on February 18, 2004, at Civil District Court.

The district court rendered judgment on February 18, 2004, although it failed to note the time of day that the judgment was rendered as required by La. R.S. 18:1409C. The district court judge did note however, that as of noon on February 18, 2004, the documents that Ms. Goodwin was given time to produce had not been submitted. In the Reasons for Judgment refusing to remove Ms. McCullom as a candidate, the district court found that Ms. Goodwin had not met her burden of proof as mandated by La. R.S. 18:492. Further, the court noted that the plaintiff had pointed to no statute that required that a candidate for the Democratic State Central Committee be domiciled in the representative district from which the candidate sought election. This timely appeal followed.

Both Sections 443 and 443.2 of Title 18 of the Louisiana Revised Statutes require that a member of a state central committee of a recognized political party shall meet the qualifications established by the rules and regulations of the state central committee of that recognized party, and that the rules and regulations establishing or changing the qualifications for

membership on the state central committee shall be filed with the secretary of state within ten days after their adoption and published by the state central committee in the Louisiana Register. La. R.S. 18:443 A and E; La. R.S. 18:443.2 (1) and (5). In the section “POTPOURRI” of the Louisiana Register appears Resolutions 1 and 2 of the Democratic State Central Committee of Louisiana’s Executive Committee, which in pertinent part read as follows:

RESOLUTION NO. 1

* * *

ARTICLE ONE

(Democratic State Central Committee of Louisiana)

Section 2. – Membership

* * *

(c) Any registered Democrat may seek membership on the Democratic State Central Committee.

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RESOLUTION NO. 2

* * *

ARTICLE VII – Election

Any registered Democrat residing in the district in which he or she seeks election shall be eligible for election to membership on the Democratic State Central Committee or a Parish Democratic Central Committee. ... Such candidates shall be elected pursuant to state law. (Emphasis added)

Thus, as a matter of state law and the rules and regulations of the Louisiana Democratic party, the only qualifications for a member

of the Democratic State Central Committee are being a registered Democrat and residing in the district from which the person seeks election. Although a person can have but one domicile, a person can have multiple residences.

That is, domicile and residence are not synonymous terms; a person can have several residences but only one domicile. *Taylor v. State Farm Mutual*

Auto. Ins. Co., 248 La. 246, 178 So.2d 238, 242 (La. 1965); *Butler v. Cantrell*, 630 So.2d 852, 855 (La. App. 4 Cir. 1993); *Reeves v. Johnson*, 36,836, p.2 (La. App. 2 Cir. 9/11/02), 824 So.2d 177, 1279.

The sole issue on appeal is whether Ms. McCullom is qualified to seek election to the Democratic Central Committee from district 100. In seeking to qualify, Ms. McCullom states in her notice of candidacy, that her domicile address is 4700 Dodt Street, New Orleans. However, the website for the Secretary of State indicates that 4700 Dodt Street is actually in District 101. Thus, by her own qualifying documents, Ms. McCollum admits that she is domiciled outside of District 100. For this reason, the district court committed manifest error, or was clearly wrong, in not granting petitioner relief.

Decree

Thus, for the reasons herein stated, we reverse the judgment of the district court and find that Crystal Walker-McCullom is not a qualified candidate for the office of Member, Louisiana Democratic State Central Committee, 100th Representative District, Office "A". It is further ordered that Secretary of State, Fox McKeithen, strike from the ballot, for the election of March 9, 2004, the candidacy of Crystal Walker-McCullom.

REVERSED