

STATE OF MICHIGAN
COURT OF APPEALS

TODD HEYWOOD,

Plaintiff-Appellant,

v

OLGA HOLDEN,

Defendant-Appellee.

UNPUBLISHED

June 4, 2002

No. 229948

Ingham Circuit Court

LC No. 00-091338-AW

Before: Fitzgerald, P.J., and Holbrook, Jr., and Doctoroff, JJ.

MEMORANDUM.

Plaintiff appeals as of right the order granting defendant summary disposition in this quo warranto action. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff brought this action asserting that defendant is unqualified to serve as a trustee of Lansing Community College because her residence is outside of the voting district. Plaintiff claimed that defendant's declaration of her home in Richland, in Kalamazoo County, as her legal principal residence for purposes of the homestead tax exemption established Richland as her residence for voting purposes.

The community college act governs qualifications for board trustees. MCL 389.151 states:

Any qualified elector residing within the community college district or proposed community college district is eligible to be chosen as a board member.

Under the community college act, an elector is required to possess the qualifications provided for in article 2 of the state constitution. MCL 389.107. Const 1963, art 2 § 1 states that the legislature shall define residence for voting purposes. The Michigan Election Law, MCL 168.11 states:

(1) "Residence", as used in this act, for registration and voting purposes means that place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If a person has more than 1 residence, or if a wife has a residence separate from that of the husband, that place at which the person resides the greater part of the time shall be his or her official residence

for purposes of this Act. This section shall not be construed to affect existing judicial interpretation of the term residence.

In response to plaintiff's motion for summary disposition, defendant produced an affidavit stating that her principal address is in Delta Township, within the voting district for Lansing Community College, that her voter's registration and driver's license show that address, that she habitually sleeps there, and her personal effects are there. Defendant lives in the Lansing area, while her husband lives in Richland. Where they file a joint income tax return, they are entitled to only one homestead exemption. MCL 211.7cc(3). The homestead declaration is not inconsistent with defendant's affidavit establishing her residence in Lansing. The court properly granted summary disposition to defendant under MCR 2.116(I)(2).

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ Donald E. Holbrook, Jr.
/s/ Martin M. Doctoroff