

NEW YORK COURT OF APPEALS

In the Matter of Steven Glickman v. Zackary Laffin et al.

27 N.Y.3d 810 (2016) · No. No. 187 · Decided August 23, 2016

SUMMARY

The New York Court of Appeals held that Steven Glickman's 2014 registration to vote in Washington, D.C. severed his continuous New York electoral residency for purposes of the State Constitution's five-year residency requirement for legislative candidates. The court reversed the Appellate Division and reinstated the order invalidating Glickman's designating petitions.

CASE DETAILS

COURT	New York Court of Appeals
WRITING FOR THE COURT	Per Curiam; Chief Judge DiFiore; Judge Pigott; Judge Rivera; Judge Abdus-Salaam; Judge Stein; Judge Fahey; Judge Garcia
JURISDICTION	New York
DECIDED	August 23, 2016
DOCKET	No. 187
DISPOSITION	reversed
PROCEDURAL POSTURE	Objectors appealed as of right from the Appellate Division's order reversing Supreme Court's invalidation of Glickman's designating petitions and validating the petitions.
STANDARD OF REVIEW	The party challenging the designating petitions bears the burden of proving failure to satisfy the constitutional residency requirements by clear and convincing evidence. The Court of Appeals reviewed the legal effect of Glickman's Washington, D.C. voter registration and reversed the Appellate Division.
PRECEDENTIAL VALUE	binding
PARTIES	Zackary Laffin, John D. Moffit, Jr., Silvio Palermo v. Steven Glickman

TOPICS

[election law](#)[ballot access](#)[appellate jurisdiction](#)[constitutional law](#)[appellate procedure](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Glickman's registration to vote in Washington, D.C., precluded him as a matter of law from establishing the continuous five-year New York residency required for legislative candidates by the New York Constitution.
2. Whether the designating petitions for Glickman's State Senate candidacy should be invalidated for failure to satisfy the constitutional residency requirements.

HOLDINGS

1. A candidate may have more than one residence but may not have more than one electoral residence. By registering to vote in Washington, D.C. and attesting that he did not claim voting residence or the right to vote in any state or territory, Glickman broke the chain of New York electoral residency and could not establish the constitutionally required continuous five-year New York residency.
2. Glickman's designating petitions were properly invalidated because he could not satisfy the five-year constitutional New York residency requirement.

KEY QUOTATIONS

"A person is permitted to have more than one residence, but is not permitted to have more than one electoral residence." (27 N.Y.3d at 817)

"These factors clearly demonstrate that Glickman broke the chain of New York electoral residency which did not recommence until he registered to vote in New York in 2015." (27 N.Y.3d at 818)

FACTUAL BACKGROUND

Steven Glickman had longstanding connections to New York, including use of his father's Tonawanda address, New York professional and religious affiliations, and repeated returns to New York. He moved to Washington, D.C. in 2013 and registered to vote there in November 2014, while D.C. law required him to attest that he did not claim voting residence or the right to vote in any state or territory. He returned to New York in 2015, registered to vote in New York, and later moved into the 55th Senate District. Objectors challenged his candidacy based on the five-year statewide and one-year district residency requirements.

PROCEDURAL HISTORY

Glickman petitioned Supreme Court for validation of designating petitions for the 2016 Democratic and Working Families Party primaries for State Senator in New York's 55th Senate District. Objectors petitioned to invalidate the same petitions, arguing that Glickman failed the constitutional five-year statewide and one-year Senate District residency requirements. Supreme Court invalidated the petitions, but the Appellate Division reversed and validated them. The Court of Appeals reversed the Appellate Division and reinstated Supreme Court's order.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The order of Supreme Court, Albany County, was reinstated. No further remand instructions were stated.

CASES CITED

- Matter of Newcomb, 192 N.Y. 238, 250 (1908)
- Matter of Weiss v. Teachout, 120 A.D.3d 701, 702 (2d Dep't 2014)
- People v. O'Hara, 96 N.Y.2d 378, 385 (2001)
- Matter of Ferguson v. McNab, 60 N.Y.2d 598, 600 (1983)
- Matter of Gallagher v. Dinkins, 41 A.D.2d 946, 947 (2d Dep't 1973), aff'd, 32 N.Y.2d 839 (1973)
- Matter of Bourges v. LeBlanc, 98 N.Y.2d 418, 420 (2002)
- Matter of Thompson v. Hayduk, 45 A.D.2d 955, 956 (2d Dep't 1974), aff'd without op., 34 N.Y.2d 980 (1974)
- In the Matter of Steven Glickman v. Zackary Laffin et al., 2016 N.Y. Slip Op. 05841 (3d Dep't 2016)