

SUPREME COURT OF NEW HAMPSHIRE

Caroline Casey & a. v. New Hampshire Secretary of State & a.

Caroline Casey & a. v. New Hampshire Secretary of State & a. · No. 2019-0693 · Decided May 20, 2020

SUMMARY

The Supreme Court of New Hampshire answered certified questions concerning the relationship between statutory definitions of domicile, residence, and residency, particularly as applied to college students voting in New Hampshire. The court held that a person with a New Hampshire domicile for voting purposes is necessarily a New Hampshire resident, and that such a student has established bona fide residency for purposes of driver's-license and vehicle-registration requirements. The court declined to answer a third certified question regarding residence in another state because it was not determinative of the federal litigation.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Hicks, J.; Bassett, J.; Hantz Marconi, J.; Donovan, J.; Brown, J., retired superior court justice, specially assigned
JURISDICTION	New Hampshire
DECIDED	May 20, 2020
DOCKET	2019-0693
DISPOSITION	remanded
PROCEDURAL POSTURE	The United States District Court for the District of New Hampshire certified five questions of New Hampshire law to the Supreme Court of New Hampshire under New Hampshire Supreme Court Rule 34.
STANDARD OF REVIEW	Questions of statutory interpretation are reviewed de novo; the Supreme Court of New Hampshire is the final arbiter of legislative intent as expressed in statutory language. Certified-question jurisdiction is discretionary under New Hampshire Supreme Court Rule 34.
PRECEDENTIAL VALUE	Published state supreme court opinion; binding New Hampshire precedent on the answered questions of state law.
PARTIES	Caroline Casey, Maggie Flaherty, New Hampshire Democratic Party v. New Hampshire Secretary of State, New Hampshire Attorney General

TOPICS

statutory interpretation

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voting rights

legislative intent

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PRACTICE AREAS

election law

statutory interpretation

constitutional law

appellate procedure

motor vehicle law

QUESTIONS PRESENTED

1. Whether a person with a New Hampshire domicile for voting purposes under RSA 654:1 is necessarily a New Hampshire resident under RSA 21:6.
2. Whether a student claiming a New Hampshire domicile for voting purposes under RSA 654:1, I-a is necessarily a New Hampshire resident under RSA 21:6.
3. Whether the court should answer whether a person with a New Hampshire domicile can claim residence in another state for purposes of RSA 259:88.
4. Whether a person with a New Hampshire domicile under RSA 654:1, I or I-a necessarily establishes a bona fide residency for purposes of RSA 261:45 and RSA 263:35.
5. Whether college students who reside in New Hampshire for more than six months in a year must register vehicles principally used in connection with their New Hampshire abode and obtain New Hampshire driver's licenses if they wish to drive in the state.

HOLDINGS

1. A person with a New Hampshire domicile under RSA 654:1 is necessarily a New Hampshire resident under RSA 21:6.
2. A student who claims a New Hampshire domicile under RSA 654:1, I-a is necessarily a New Hampshire resident under RSA 21:6.
3. The court declined to answer question 3 because its answer was not determinative of the cause pending in the federal district court.
4. A person with a New Hampshire domicile under RSA 654:1, I or I-a necessarily establishes bona fide residency in New Hampshire for purposes of RSA 261:45 and RSA 263:35.
5. A nonresident college student who resides in New Hampshire for more than six months in a year and whose vehicle is principally used in connection with the New Hampshire abode must register that vehicle in New Hampshire and obtain a New Hampshire driver's license if the student wishes to drive in the state.

KEY QUOTATIONS

"Therefore, regardless of whether the definitions of "resident" and "residence" in RSA 21:6 and :6-a are "effectively the same" as the definition of "domicile" set forth in RSA 654:1, a person who has a New Hampshire "domicile" under RSA 654:1 is necessarily a New Hampshire resident under RSA 21:6." (7)

“Accordingly, pursuant to the motor vehicle code, within 60 days of establishing a “bona fide residency” in New Hampshire — meaning that the individual, in good faith, has indicated through all of their actions that New Hampshire is their “most important” place of physical presence, to the exclusion of all other places in which they may live — the individual who previously was a nonresident of New Hampshire is required by RSA 263:35 to obtain a New Hampshire driver’s license and by RSA 261:45 to register their vehicle here.” (12)

“Thus, nonresident college students who wish to drive in New Hampshire, reside in New Hampshire for more than six months in any year, and whose vehicles are principally used in connection with their New Hampshire abode must (1) register those vehicles in New Hampshire and (2) obtain a New Hampshire driver’s license.” (13)

FACTUAL BACKGROUND

Caroline Casey and Maggie Flaherty were Dartmouth College students who wished to vote in New Hampshire while attending college but did not intend to remain in the state after graduation. Both registered to vote in New Hampshire and held driver's licenses issued by other states; neither owned a motor vehicle. They challenged the interpretation of 2018 amendments to New Hampshire's definitions of resident and residence, alleging that voter registration could trigger obligations to obtain a New Hampshire driver's license and vehicle registration and thereby burden voting rights.

PROCEDURAL HISTORY

The plaintiffs filed a federal constitutional challenge to the defendants' interpretation and implementation of 2018 amendments to New Hampshire statutes defining resident and residence. The federal district court determined that the constitutional claims were intertwined with unresolved questions of New Hampshire law and certified five questions to the state supreme court. The state supreme court answered questions 1, 2, 4, and 5 in the affirmative, declined to answer question 3 because it was not determinative of the federal case, and remanded the matter to the federal district court.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The federal district court was to proceed with the federal constitutional claims in light of the answers: questions 1, 2, 4, and 5 were answered affirmatively, and question 3 was not answered.

CASES CITED

- Opinion of the Justices (Definition of Resident and Residence), 171 N.H. 128 (2018)
- Petition of Carrier, 165 N.H. 719, 721 (2013)
- segTEL v. City of Nashua, 170 N.H. 118, 120 (2017)
- Concord v. Rumney, 45 N.H. 423, 427 (1864)
- Leach v. Pillsbury & Trustee, 15 N.H. 137, 138 (1844)

- Kerby v. Charlestown, 78 N.H. 301, 303 (1916)
- Blount v. Boston, 718 A.2d 1111, 1117 (Md. 1998)
- Atherton v. Thornton, 8 N.H. 178, 180 (1835)
- Newburger v. Peterson, 344 F. Supp. 559 (D.N.H. 1972)
- State v. Daniels, 44 N.H. 383, 386 (1862)
- District of Columbia v. Murphy, 314 U.S. 441, 451 n.2 (1941)
- City of Concord v. State, 164 N.H. 130, 141 (2012)
- Chagnon v. Union-Leader Co., 104 N.H. 472, 474 (1963)
- Hanchett v. Brezner Tanning Co., 107 N.H. 236, 241 (1966)
- EnergyNorth Natural Gas v. City of Concord, 164 N.H. 14, 16 (2012)
- Lopez v. Sony Electronics, Inc., 420 P.3d 767, 772 (Cal. 2018)

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