

Analysis - Confusion over voter residence and domicile

April 3, 2022



Del Norte County Clerk-Registrar Alissia Northrup said she verifies the residency of voter registrants, and that a candidate is “living in the district they are running for by the time they bring their papers back.”

When former Sheriff Randy Waltz registered to vote on February 8 using the 16855 Highway 101, Smith River address, Northrup verified that he had already been registered to vote in Del Norte County at a different county address, Northrup said. She would not disclose the previous address.

Waltz submitted his declaration of candidacy for Sheriff on February 14, and paid the \$1,048.47 filing fee. However, “he withdrew his candidacy and did not submit the rest of the papers,” said Northrup. Papers not submitted included other nomination documents and signatures, as well as a statement attesting to his professional qualifications to hold the office of sheriff, required under Government Code section 24004.3.

Northrup noted that a voter can have multiple residences. Some local voters have residences in other counties, even in other states, she said. They might live in Arizona for six months of the year before they

return to Del Norte County. “You have to choose where your domicile is.”

California Election Code section 349 defines residence and domicile as follows:

(a) “Residence” for voting purposes means a person’s domicile.

(b) The domicile of a person is that place in which his or her habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning. At a given time, a person may have only one domicile.

(c) The residence of a person is that place in which the person’s habitation is fixed for some period of time, but wherein he or she does not have the intention of remaining. At a given time, a person may have more than one residence.

Northrup pointed out that the law does not state how long a person must reside in a domicile. Presumably, someone can register to vote from a residence the same day they move in.

“Nothing says I need to check how long they lived there,” Northrup said. “I just register to vote. If I had to physically confirm each registration, I’d never get anything done.”

When Waltz was appointed by the Board of Supervisors after the resignation of Erik Apperson, Northrup checked Waltz’s voter registration to determine that he was already registered “here in Del Norte County. Not at the Smith River address; prior to the Smith River address.”

The issues that come to mind are:

1. Was Randy Waltz a Del Norte County registered voter when appointed to the position of Sheriff? Yes, according to Clerk-Registrar Alissia Northrup.
2. Is there anything that would prevent Waltz from moving to another Del Norte County residence that he intends to occupy as his domicile after he made a decision to run for sheriff in the June primary? No, there is no “length of domicile” requirement, according to Northrup.
3. What is the effect of having moved away from one domicile before another domicile has been established?

This third question may have been answered by the California Supreme Court in the case of *Walters v. Reed* (1988) 45 Cal.3d 1. The court was asked to determine “whether voters who leave their domiciles with no intention of returning to live there lose their right to vote in their former domiciles even though they have not yet established new domiciles.”

The court determined, “In light of the principle that everyone must have a domicile somewhere, we conclude that such individuals retain their right to vote in the precinct of their former domiciles.”

As applied to the Waltz controversy, even if there are some imperfections with regard to Waltz’s establishment of a new domicile, he would still qualify as a Del Norte County voter under his former Del

Norte County address.

And as a voter with the requisite professional qualifications, he would be eligible to seek and hold the office of sheriff.

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