Received 5/1/2025 8:07:29 AM Commonwealth Court of Pennsylvania

**IN THE SUPREME COURT OF PENNSYLVANIA**

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| IN RE: NOMINATION PETITION<br><br>Michael N. Huff<br><br>AS DEMOCRATIC CANDIDATE FOR<br>COMMON PLEAS COURT JUDGE<br>IN THE FIRST JUDICIAL DISTRICT<br>(PHILADELPHIA)<br><br>Petition of Julian Domanico | :<br>:<br>:<br>:<br>:<br>:<br>:<br>:<br>: | <br><br>ELECTION MATTER<br><br>105 MD 2025 |
| IN RE: NOMINATION PETITION<br><br>Michael N. Huff<br><br>AS DEMOCRATIC CANDIDATE FOR<br>MUNICIPAL COURT JUDGE<br>IN THE FIRST JUDICIAL DISTRICT<br>(PHILADELPHIA)<br><br>Petition of Julian Domanico | :<br>:<br>:<br>:<br>:<br>:<br>:<br>:<br>: | <br><br>ELECTION MATTER<br><br>106 MD 2025 |

## JURISDICTIONAL STATEMENT

Appellant Michael N. Huff respectfully submits this Jurisdictional Statement in support of his Notices of Appeal from the Commonwealth Court's April 30, 2025 Memorandum Opinions and Orders in 105 M.D. 2025 and 106 M.D. 2025 to the Supreme Court of Pennsylvania.

## I. OPINIONS OF THE COMMONWEALTH COURT

This is an appeal from the orders of the Commonwealth Court entered in 105 M.D. 2025 and 106 M.D. 2025, dated April 30, 2025. Copies of the Honorable Lori Dumas'

opinions are attached hereto as Exhibit "A" (105 M.D. 2025) and Exhibit "B" (106 M.D. 2025). The opinions are currently unreported.

## II. STATEMENT OF JURISDICTION

This Court has jurisdiction pursuant to 42 Pa. C.S. § 723(a) and Pa. R.A.P. 1101(a)(1), because the Supreme Court of Pennsylvania has appellate jurisdiction to review the final order of any matter, such as these matters, over which the Commonwealth Court has original jurisdiction. Section 723(a) states that "[t]he Supreme Court shall have exclusive jurisdiction of appeals from final orders of the Commonwealth Court entered in any matter which was originally commenced in the Commonwealth Court." Similarly, Pa. R.A.P. 1101(a)(1) (Appeals as of Right from the Commonwealth Court) states that "[t]his rule applies to any appeal to the Supreme Court from an order of the Commonwealth Court entered . . . [a]ny matter which was originally commenced in the Commonwealth Court and which does not constitute an appeal to the Commonwealth Court[.]" The matter was commenced in the Commonwealth Court under the Commonwealth Court's original jurisdiction over election contests and other matters. *See* 42 Pa. C.S. § 764(2).

This appeal is taken from the final orders of the Commonwealth Court pursuant to Pa. R.A.P. 341. A final order "disposes of all claims and of all parties." Pa. R.A.P. 341(b)(1). The April 30, 2025 orders disposed of all of the claims under the Pennsylvania Election Code. This appeal has been timely filed pursuant to Pa. R.C.P. 903(c)(1)(ii).

## III. ORDERS OF THE COMMONWEALTH COURT

### ORDER (105 M.D. 2025)

AND NOW, this 30th day of April, 2025, we GRANT the petition, filed by Objector Julian Domanico, to set aside the nomination petition of Michael Huff as Democratic Candidate for Common Pleas Court Judge in the First Judicial District.

The Secretary of the Commonwealth is directed to REMOVE Michael Huff as a Democratic candidate for Common Pleas Court Judge in the First Judicial District from the May 20, 2025 primary election ballot.

Objectors shall bear the cost of the stenographer. Otherwise, each party shall bear their own costs.

The Prothonotary must notify the parties hereto and their counsel of this Order and shall also certify a copy hereof to the Secretary of the Commonwealth of Pennsylvania forthwith.

We DISMISS Candidate's application for relief, filed on April 4, 2025, Objector's application for emergency relief, filed on April 25, 2025, and Candidate's application, in the alternative, to file a supplemental brief, filed on April 28, 2025, as MOOT.

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LORI A. DUMAS, Judge

AND

### ORDER (106 M.D. 2025)

AND NOW, this 30th day of April, 2025, we GRANT the petition, filed by Objector Julian Domanico, to set aside the nomination petition of Michael Huff as

> Democratic Candidate for Municipal Court Judge in the First Judicial District.
>
> The Secretary of the Commonwealth is directed to REMOVE Michael Huff as a Democratic Candidate for Municipal Court Judge in the First Judicial District from the May 20, 2025 primary election ballot. Objectors shall bear the cost of the stenographer. Otherwise, each party shall bear their own costs.
>
> The Prothonotary must notify the parties hereto and their counsel of this Order and shall also certify a copy hereof to the Secretary of the Commonwealth of Pennsylvania forthwith.
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> We DISMISS Candidate's application for relief, filed on April 4, 2025, Objector's application for emergency relief, filed on April 25, 2025, and Candidate's application, in the alternative, to file a supplemental brief, filed on April 28, 2025, as MOOT.
>
> _____
> LORI A. DUMAS, Judge

## IV. PROCEDURAL HISTORY

On March 25, 2025, Appellee filed Petitions to Set Aside Nominating Petitions of Michael N. Huff in the Commonwealth Court's original jurisdiction. The Petitions challenged the veracity of Respondent Michael N. Huff's candidate's affidavit and the preamble of his nominating petitions listing his residence at 6618 Greene Street, Philadelphia, PA 19119, which is located within the First Judicial District.

The Commonwealth Court held an evidentiary hearing on the Petitions on March 28, 2025. After this hearing, the Commonwealth Court issued orders and opinions on April 1,

2025 to set aside the nomination petitions of Michael Huff. On April 15, 2025, Michael Huff appealed to the Supreme Court of Pennsylvania. Court. On April 24, 2025, the Supreme Court of Pennsylvania held that the orders of the Commonwealth Court, dated April 1, 2025, were vacated and remanded the matter back to the Commonwealth Court for expedited reconsideration. The Commonwealth Court issued orders and opinions on April 30, 2025 to set aside the nomination petitions of Michael Huff.

## V. QUESTIONS PRESENTED FOR REVIEW

1. Did the Commonwealth Court correctly apply the "totality of circumstances test" when it granted the Objector's petitions?

2. Was the Commonwealth Court's factual determination that Appellant was not domiciled in the First Judicial District supported by substantial evidence?

Respectfully submitted,

**WILLIG, WILLIAMS & DAVIDSON**

Date: May 1, 2025

By: Ryan Allen Hancock, Esquire
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*Counsel for Appellant Michael N. Huff*

# EXHIBIT A

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

| | | |
|---|---|---|
| In re: Nomination Petition of Michael Huff as Democratic Candidate for Common Pleas Court in the First Judicial District (Philadelphia) | : | No. 105 M.D. 2025 |
| | : | Heard: March 28, 2025 |
| Objection of: Julian Domanico | : | |

BEFORE: HONORABLE LORI A. DUMAS, Judge

***OPINION NOT REPORTED***

**MEMORANDUM OPINION BY**
**JUDGE DUMAS** **FILED: April 30, 2025**

Objector Julian Domanico (Objector) filed a petition to set aside the nomination petition of Michael Huff (Candidate) as a Democratic Candidate for Common Pleas Court in the First Judicial District (Philadelphia), alleging that Candidate resides outside of the First Judicial District. This case returns to us on remand from the Pennsylvania Supreme Court, which held that we must expeditiously assess Candidate's credibility and weigh the evidence in resolving Candidate's residency under the totality of the circumstances. *In re: Huff* (Pa., Nos. 11-12 EAP 2025, filed Apr. 24, 2025) (*Huff II*), 2025 WL 1187222, at *13. Following careful deliberation and attention to our Supreme Court's mandate, we grant Objector's petition.

## I. BACKGROUND[1]

In 1999, Candidate and his wife purchased a home at 6618 Greene

[1] Generally, substantial evidence of record must support our findings of fact. *In re Beyer*, 115 A.3d 835, 838 (Pa. 2014). This Court, as factfinder, also renders credibility determinations, which may support our findings. *Id.* at 841; *Cnty. of Fulton v. Sec'y of Commonwealth*, 292 A.3d 974, 1044 (Pa. 2023); *Daniels v. Workers' Comp. Appeal Bd. (Tristate Transp.)*, 828 A.2d 1043, 1052 (Pa. 2003) ("Many factors may affect the probative value of testimony, such as age[,] intelligence, experience, occupation, demeanor or temperament of the witness. A trial court or

Street, which is located in Philadelphia. The home had been renovated into a triplex, and Candidate and his wife occupied one of the three apartments. Several years thereafter, in 2004, they decided to relocate to 309 Bryn Mawr Avenue in Bala Cynwyd, Montgomery County, where they raised three children. The family remained in Bala Cynwyd for 20 years; the children attended local public schools; Candidate works as an attorney both in private practice and in the Montgomery County Office of the Public Defender; and his wife serves as a local committee person and chairperson of Candidate's campaign committee. Although the family had established themselves in Montgomery County, Candidate and his wife retained ownership of 6618 Greene Street as a rental property.

In May 2024, Candidate purportedly returned to the 6618 Greene Street address and occupied an apartment on the second floor (Candidate retained tenants on the first and third floors). Candidate's wife remained in Bala Cynwyd. Nevertheless, Candidate and his wife remain married and, per stipulation, are not separated.

In March 2025, Candidate declared his candidacy to serve as a judge in Philadelphia County, and Objector timely objected. According to Objector, Candidate does not reside at the Greene Street address but instead remains domiciled

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jury before whom witnesses appear is at least in a position to take note of such factors." (cleaned up)); *Commonwealth (Dep't of Gen. Servs.) v. U.S. Mineral Prods. Co.*, 956 A.2d 967, 973 (Pa. 2008); *Commonwealth v. Minerd*, 753 A.2d 225, 230 (Pa. 2000) ("In assessing the credibility of a witness, jurors must rely on their ordinary experiences of life, common knowledge of the tendencies of human behavior, and observations of the witness' character and demeanor."); *see also* Pa.R.E. 607(b) (providing that unless otherwise provided by rule or law, the "credibility of a witness may be impeached by any evidence relevant to that issue"). "Such a credibility determination may involve nothing more than the fact-finder's on-the-spot, and oftentimes instinctive, determination that one witness is more credible than another. The basis for the conclusion that certain testimony has the 'ring of truth,' while other testimony does not, may be difficult or impossible to articulate—but that does not make such judgments invalid or unworthy of deference." *Daniels*, 828 A.2d at 1053.

with his wife in Bala Cynwyd. Thus, Objector claims that Candidate is not eligible to be a Philadelphia judge.

To resolve Objector's allegations, this Court held an evidentiary hearing, at which several witnesses testified. *See generally* Notes of Testimony (N.T.), 3/28/25.[2] Subsequently, we granted Objector's petition to set aside, holding as a matter of law that Candidate could not establish a Philadelphia domicile without evidence of marital separation or, in the alternative, that his wife would return to Greene Street as well.[3] Candidate appealed to our Supreme Court, which vacated and remanded with instructions. Specifically, this Court must assess Candidate's "credibility as to his physical circumstances and his intent to remain" in Philadelphia as part of a totality of circumstances test, which we address below. *See Huff II*, 2025 WL 1187222, at *13.

## II. ISSUE

On remand, the sole issue before this Court is whether Candidate resides in Philadelphia County and genuinely intends to make this residence his permanent home.

## III. DISCUSSION[4]

### A. Arguments

Objector argues that because Candidate does not actually reside in

[2] At the hearing, Candidate's counsel stated that Candidate "was not actually properly served with a subpoena at his residence, 6618 Greene Street, where he lives. A subpoena was dropped off on Bryn Mawr Avenue," *i.e.*, the Bala Cynwyd home. N.T. at 54. It appears that Candidate was served in Bala Cynwyd, Montgomery County. *See id.*

[3] This Court had relied on caselaw providing that a candidate's marital status and living arrangements alone could be dispositive of a candidate's domicile. *See Huff II*, 2025 WL 1187222, at *9-10 (discussing *In re Prendergast*, 673 A.2d 324 (Pa. 1996), and *In re Hanssens*, 821 A.2d 1247 (Pa. Cmwlth. 2003)). The *Huff II* Court distinguished that caselaw and refocused this Court on a totality of circumstances test. *Id.* at *13.

[4] In "reviewing election issues, we must consider the longstanding and overriding policy

Philadelphia, he is ineligible to run for any Philadelphia judicial office. Objector contends that the record establishes that Candidate is domiciled in Bala Cynwyd, Montgomery County, where his family has resided since 2004. Objector emphasizes that Candidate is not separated from his spouse and their children were enrolled in Montgomery County public schools. Objector anticipates that Candidate would present evidence of his intent to change his residence to Philadelphia County. In that regard, Objector asserts that Candidate's intent is insufficient as a matter of law and Candidate cannot amend his affidavit. *See generally* Objector's Br. at 9-10 (discussing, *inter alia*, *In re Driscoll*, 847 A.2d 44 (Pa. 2004), and *In re Prendergast*, 673 A.2d 324 (Pa. 1996)).

Candidate disagrees, arguing that courts have consistently examined numerous other factors in resolving residency. Further, Candidate construes Objector's argument as absurd in that it relies on antiquated law that should not bar him from running for a Philadelphia judicial office simply because his wife resides in Bala Cynwyd. *See generally* Candidate's Br. at 5-6.[5]

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in our Commonwealth to protect the elective franchise, and that the Election Code must be liberally construed to protect a candidate's right to run for office and the voters' right to elect the candidate of their choice." *In re James*, 944 A.2d 69, 72 (Pa. 2008) (cleaned up). Nevertheless, "while our overriding concern at all times must be to be flexible in order to favor the right to vote, we must also strictly enforce all provisions to prevent fraud." *Id.* (cleaned up). "A party alleging defects in a nominating petition has the burden of proving such defects, as nomination petitions are presumed to be valid." *Beyer*, 115 A.3d at 838.

Our Supreme Court may reverse this Court's order resolving an objector's petition only (1) if we abused our discretion, which includes making an error of law, or (2) if our findings of fact are unsupported by substantial evidence of record. *Id.*; *Hangey v. Husqvarna Pro. Prods., Inc.*, 304 A.3d 1120, 1150 (Pa. 2023).

[5] To the degree that Candidate suggests the Code is antiquated, recourse to revise an allegedly antiquated statute lies through the legislature and not this Court. We construe the law as it is and not how Candidate wishes it to be. *King v. Burwell*, 576 U.S. 473, 498 (2015).

At the hearing, Candidate also asserted that Objector had failed to serve the Department of State with the petition to set aside the nomination petition. Objector, after the hearing concluded, filed a date-stamped copy reflecting timely service on the Department of State. *See Praecipe*,

**B. Residency**

The Pennsylvania Constitution establishes eligibility requirements to be a judge in the court of common pleas and a magisterial district judge. Pa. Const. art. V, § 12(a) ("Other judges and justices of the peace, for a period of one year preceding their election or appointment and during their continuance in office, shall *reside* within their respective districts, except as provided in this article for temporary assignments." (emphasis added)). The Pennsylvania Election Code (Code), Act of June 3, 1937, P.L. 1333, No. 320, *as amended*, 25 P.S. §§ 2600-3591,[6] requires a candidate running for such an office to file an affidavit stating, *inter alia*, his residence. 25 P.S. § 2870. If the candidate's affidavit contains a material error or defect regarding, *e.g.*, a candidate's residency, then we must set aside the candidate's nomination petition. *Huff II*, 2025 WL 1187222, at *10 (discussing 25 P.S. §§ 2936-2937).

"Residency, in this context, means domicile." *Id.* at *11 (citing *In re Lesker*, 105 A.2d 376, 380 (Pa. 1954)). Domicile is "the place at which an individual has fixed his family home and principal establishment for an indefinite period of time." *Id.* at *12 (cleaned up). Once a candidate has fixed his family home and principal establishment indefinitely, his domicile "is presumed to continue until it is shown to have been changed . . . ." *Id.* (cleaned up). In other words, an "established domicile . . . can be retained without physical presence or residence until it be proven that a new domicile has been acquired." *Id.* (cleaned up). The burden of proving a

3/28/25 (attaching date-stamped proof of service on the Department of State); *accord* https://perma.cc/7QZW-VEE9 (last visited April 30, 2025) (reflecting service date on Department of State).

[6] The Code provides section numbers that "are distinct from, but correspond to, the sections provided in Purdon's Pennsylvania Statutes, which is an unofficial codification of Pennsylvania law." *Herold v. Univ. of Pittsburgh*, 329 A.3d 1159, 1166 n.1 (Pa. 2025). For expediency, we refer to Code sections "only by their Purdon's citation." *Id.*

change in domicile "rests upon whoever makes the allegation." *Id.* at *7 (cleaned up); *In re Dorrance's Est.*, 163 A. 303, 310 (Pa. 1932) (stating that "the burden of showing a change from a former domicile is upon the party asserting it, but the fact of residence in a particular place is *prima facie* evidence of domicile" and proving a new domicile necessarily encompasses proving the abandonment of the old domicile).

Per *Huff II*, proving a change in domicile requires the co-existence of two elements: (1) physical presence at the new residence, and (2) a genuine intent to make that residence one's principal home permanently, *i.e.*, *animus manendi*, or intention to remain. *Huff II*, 2025 WL 1187222, at *13.[7] Stated differently, domicile requires "(1) physical presence in the place where domicile is alleged to have been acquired; [and] (2) intent to make that place the home of the party." *Dorrance's Est.*, 163 A. at 310 (cleaned up); *Lesker*, 105 A.2d at 380 (explaining that because a person's domicile "is as deep rooted as a tree," transferring domicile is equivalent to "digging up, loading, transportation, and replanting of an elm or maple").

In the context of domicile jurisprudence, the term "intent" is a term of art: "intent is the *actual* state of facts, not what one declares them to be." *Huff II*, 2025 WL 1187222, at *7 (emphasis in original and cleaned up). A candidate's sworn testimony of an intent to reside in Philadelphia "is not dispositive or controlling. Rather, a candidate's intent must further be tested against the totality of other

[7] To paraphrase *Huff II*, to accomplish a change of domicile there must not only be *animus*, *i.e.*, the intention to remain, but also the *factum*, *i.e.*, an actual transfer of bodily presence from one place to the other. *Huff II*, 2025 WL 1187222, at *13 (stating "to accomplish a change of domicile there must be not only the *animus* to change but the *factum* as well. There must be an actual transfer of bodily presence from one place to the other. The *animus* and the *factum* do not need to be simultaneous, but until they coincide the change of domicile is not effected" (quoting *Lesker*, 105 A.2d at 380)). Given our jurisprudence's focus on time, proof of concurrency of the two elements may be an inferred third element. *See id.*

discernable facts from the record to support the candidate's claim . . . ." *Id.* at *13. Our Supreme Court has cautioned us that a candidate's "'intent' is not the same as 'motive.' A candidate may be motivated by any number of reasons to make a certain location his domicile, including the desire to run for public office; the relevant inquiry, however, focuses on the candidate's actual domicile, meaning the candidate's physical presence and intent to remain." *Id.* (cleaned up).[8]

In determining a candidate's domicile, *i.e.*, (1) physical presence at the residence, and (2) genuine intent to make that residence one's principal home permanently, we apply a totality of the circumstances framework. *Id.* This framework requires consideration of at least six non-exclusive factors:[9] (1) "a candidate's presence or absence at an address;" (2) "where the members of his household reside;" (3) "whether he rents or leases the property;" (4) "where he sleeps;" (5) "what belongings and personal effects he keeps at the address;" and (6) "whether he owns another home to which he is more permanently attached." *Id.* In addition to those six factors, we may also consider additional factors such as "marital status and a couple's living arrangements." *Id.*[10]

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[8] The *Huff II* Court also discussed *Prendergast*, in which a Pennsylvania resident moved to Virginia in 1990 for school before returning to Pennsylvania in 1994 and decided to run for state office in 1996. *Huff II*, 2025 WL 1187222, at *7. The issue was whether the candidate satisfied the four-year residency requirement prior to the election. *Id.* Because the candidate voted as a Virginia citizen, registered her vehicle there, and qualified for reduced tuition as a Virginia citizen, the *Prendergast* Court held that the candidate was not a Pennsylvania citizen. *Id.*

[9] To be clear, these six factors "must be considered," but they are not necessarily the only factors, as we explain below. *Huff II*, 2025 WL 1187222, at *13.

[10] Our Supreme Court stated that "courts most assuredly may consider marital status and a couple's living arrangements when determining a candidate's domicile for residency purposes, but those marital circumstances cannot be the only factor considered nor can the circumstances of a married couple living separate and apart, alone, function as a bar to constitutional eligibility" to be a judge. *Huff II*, 2025 WL 1187222, at *13. Other relevant factors may include considering whether a candidate (1) has fixed his habitation; (2) temporarily left his home with the intention of returning; and (3) lacks the intention of making a residence "his permanent place of abode." *Id.* at *11

In applying this multi-factor framework, we must make credibility determinations and weigh the evidence of record. *Id.* In weighing the evidence, we recognize that we may weigh facts, actions, and conduct more heavily than a candidate's expressions of intent. *Id.*; *accord id.* at *7 (noting that the *Prendergast* Court weighed some factors more heavily than others).

**C. The Totality of the Circumstances Factors**

There is no dispute that Candidate resided in Montgomery County for many years. Nevertheless, to be clear, we find that Candidate, by living in Bala Cynwyd for 20 years and raising a family with his wife, "fixed his family home and principal establishment indefinitely" in Bala Cynwyd. *See id.* at *7. Candidate's domicile in Montgomery County "is presumed to continue until it is shown to have been changed and where a change is alleged, the burden of proving it rests upon whoever makes the allegation . . . ." *See id.* Thus, Candidate bears the burden of proving that he is now domiciled in Philadelphia.

Additionally, before addressing each of the factors, we discuss our assessment of the credibility of Candidate and some of the witnesses, as they inform the weight we give their testimony and other evidence. Unless otherwise stated herein, we generally disbelieve Candidate's testimony, including his testimony that he would remain in Philadelphia following an election loss, based on his demeanor and temperament, *i.e.*, it rang hollow. *See Daniels*, 828 A.2d at 1052-53.[11] Further informing our assessment, we note that Candidate's license to rent the Greene Street property expired in 2022, yet he continued to collect rent. *See* Ex. R-3. We are

(citation omitted); *cf. Commonwealth v. DeJesus*, 58 A.3d 62, 86-87 (Pa. 2012) (vesting in the factfinder the discretion to consider other factors as needed to decide the legal question at issue).

[11] So there is no misunderstanding, Candidate's expression of his intent to remain at Greene Street is not dispositive or controlling. *See Huff II,* 2025 WL 1187222, at *13. We examine the entire record.

deeply troubled by a judicial candidate collecting rent for almost three years without a license. Candidate's apparent inattention to such legal requirements detracted from his credibility. We also find Candidate not credible because his presence at the Greene Street address is belied by the electric bills, particularly during the summer months of 2024, when he allegedly lived in the second-floor apartment with his daughter.

The testimony of the two Greene Street apartment tenants was also suspect, but only to the extent their testimony purports to establish Candidate's daily or regular presence at the Greene Street address. Candidate is their landlord, and thus we view the tenants' testimony with a degree of skepticism given the power dynamics inherent in a landlord-tenant relationship and their testimony as to his presence did not always have the ring of truth. *See Daniels*, 828 A.2d at 1052-53. Against the backdrop of our credibility findings, we next discuss the testimony and evidence for each of the factors.

**1. Candidate's Presence or Absence at the Philadelphia Residence**[12]

The first *Huff II* factor requires examination of "a candidate's presence or absence at an address." *Huff II*, 2025 WL 1187222, at *13. The objective evidence before us starkly contradicts Candidate's claims of a permanent, consistent presence at the Greene Street address.

Candidate's utility bills constitute the most telling evidence undermining his purported domicile. The electric bills for the two-bedroom unit range from a mere $10.35 in May 2024 to a high of only $50.90 in July 2024, with a March 2025 bill of just $32.45. Ex. R-6.[13] The March 2025 bill further indicates an

[12] This factor appears to incorporate the other relevant factors identified by the *Huff II* Court. *See Huff II*, 2025 WL 1187222, at *11 (citation omitted).

[13] Specifically, the electric bills reflect a low of $10.35 in May 2024, $29.85 in June, $50.90 in July, $44.13 in August, $36.61 in September, $32.44 in October, $31.55 in November, $29.06 in

average daily use of merely 3.7kWh and a total monthly use of 112kWh. *Id.* The gas bills are similarly negligible, ranging from $2.86 in May 2024 to $28.69 for January 2025. Ex. R-7.

We are simply not persuaded that these extraordinarily low utility bills for a two-bedroom unit with a single window air conditioner accurately reflect Candidate's presence. *See Minerd*, 753 A.2d at 230. The implausibility of these bills is particularly evident for the summer months when Candidate claims his daughter Madeline also resided there. *See id.* Further, we note that any utility bills addressed to the Greene Street second-floor unit could merely reflect Candidate's ownership or role as landlord rather than his physical presence.

Against this objective evidence, Candidate testified that on May 1, 2024,[14] he moved all his clothing into the second-floor unit at Greene Street. N.T. at 52, 69-70, 88, 93-95. He further claimed to have brought office equipment, rugs, television, books, artwork, a fan, toiletries, bed sheets, and food from the Bala Cynwyd home. *Id.*; *see also id.* at 200.[15] Candidate also testified to purchasing a

December, $31.92 in January 2025, $36.67 for February 2025, and $32.45 for March 2025, which reflects a median bill of $32.44. Ex. R-6.

The March 2025 bill also includes figures for February 2025, specifically daily use of 4.2kWh and a total monthly use of 134 kWh. The term "kWh" is an abbreviation for kilowatt hour and is used as a measure of power consumption. For example, a 100-watt light bulb left on for 10 hours consumes 1 kWh, and a 1,000-watt appliance left on for 100 hours consumes 100 kWh. *See generally* 52 Pa. Code § 57.34; *Pa. Pub. Util. Comm'n v. PECO Energy Co.* (Pa. Pub. Util. Comm'n, No. R-2024-3046931, filed Dec. 12, 2024), 2024 WL 5135361, at *19 (noting PECO's argument that a "typical residential customer [uses] 700 kilowatt hours (kWh) per month"); *Hettinger v. PPL Elec. Util. Corp.* (Pa. Pub. Util. Comm'n, No. F-2020-3015938, filed Sept. 14, 2020), 2020 WL 5876964, at *2 (finding two-person household averages 40 kWh per day). The March 2025 bill reflects an average of 128kWh per month and a prorated "annual" use of 1,403 kWH.

[14] We recognize that any motive behind the timing of Candidate's move is not a factor. *See Huff II*, 2025 WL 1187222, at *13.

[15] Precisely, Candidate testified, without elaboration: "My pillow, bed sheets, toilet paper, paper towels, food for the refrigerator" in listing items he brought over from the Bala Cynwyd

bed frame, mattress, *see* Ex. R-2 (receipt), furniture, and other daily necessities including a microwave, coffee maker, dishes, and silverware.[16] N.T. at 69-70. Most implausibly, he emphatically testified that he eats "every day" and sleeps "almost every day" at Greene Street. *Id.* at 66, 94. Yet, Candidate's own testimony directly contradicts his subsequent testimony admitting to sometimes dining elsewhere and sleeping at his Bala Cynwyd home several times monthly. *Cf. id.* at 155-56, 162.

Candidate's testimony about his daughter Madeline's presence at the Greene Street address also contained at least one glaring inconsistency. Candidate claimed, somewhat equivocally, that she moved into Greene Street in May or June 2024, *id.* at 72-73, yet in support produced an email from July 2024, suggesting that Candidate had purchased a mattress for her use at Greene Street. Ex. R-4. It strains credulity that Madeline would have moved into the apartment without a mattress for one to two months. *See id.*

The testimony of Candidate's tenants warrants significant skepticism, for the reasons we stated herein. Third-floor tenant Ann Jonik claimed to have "regularly" heard someone in the second-floor unit and suggested that she saw Candidate "on a daily basis." N.T. at 201-02. Jonik, however, also testified that Candidate could be away for the weekend visiting "his son in college," which further undermines Candidate's claim of a consistent presence at the Greene Street address. *Id.* at 209; *see also id.* at 162. First-floor tenant Margaret Tileston similarly alleged that she saw Candidate "five to six times a week," *id.* at 226; *accord id.* at 216, and heard him "coming in almost every night." *Id.* at 223. Additionally, in our view, both tenants merely agreed with counsel's questions regarding their belief about Candidate's presence, without establishing any specific timeframes for these

address. N.T. at 70.

[16] Candidate presented no other receipts.

purported observations. *See, e.g.*, *id*. at 207-08, 223. In that light, we view the tenants' testimony as to Candidate's presence at the Greene Street address with skepticism, although we credit the testimony of Brian Eckenrode, a next-door neighbor, who testified that he saw Candidate in the mornings.

Candidate's claim of performing building maintenance, including leaf removal, snow shoveling, painting, electrical work, and lawn care, *id.* at 104-07, merely demonstrates the activities any attentive landlord might perform and does not demonstrate any genuine residency. Similarly, Candidate exhaustively discussed his active social and civic life in Philadelphia, including evidence that he participated in various neighborhood activities including voter engagement, a debate watch party, and cultural events. *See, e.g.*, *id.* at 81, 87, 120-25, 221-22; Exs. R-13 to R-18. We discount Candidate's focus on the social and civic opportunities in Philadelphia, as these opportunities are abundant, open to all, and readily accessible to those who reside anywhere in the surrounding metropolitan area, including Bala Cynwyd.

We likewise find Candidate's documentary evidence unconvincing. His April 2024 change-of-address form for his employer, *see* N.T. at 137, Ex. R-19, bears no hallmark of actual receipt. His updated voter registration and driver's license from April and June 2024, respectively, *see* N.T. at 143, 145, also represent easily reversible administrative changes that in no way demonstrate an uprooting of domicile. The Form 1098 statement reflecting the Greene Street address, *see* Ex. R-12, likely indicates Candidate's status as a property owner rather than any evidence of his domicile. The four undated ride-share receipts, *see* Ex. R-9, prove virtually nothing about his habitual presence.

The clear conflicts between Candidate's testimony, the objective utility bills, and the credibility issues with tenants' testimony compel us to resolve this

factor decidedly against Candidate. We emphatically do not believe Candidate was routinely present at, regularly returned to, or stayed overnight at Greene Street.[17] We find that the evidence on this factor was insufficient to prove Candidate's physical presence and genuine intent to make Greene Street his principal home permanently, and thus weigh this factor heavily against Candidate.

**2. Where Members of Candidate's Household Reside**

The second *Huff II* factor requires that we consider "where the members of his household reside." *Huff II*, 2025 WL 1187222, at *13. Like the first factor, the record undermines Candidate's domicile claim, as the entirety of his family remains firmly established in Bala Cynwyd.

The uncontroverted evidence confirms that Candidate's intact nuclear family—his wife and all three children—maintain their residency in Montgomery County. The SURE operator testified that Candidate's wife and oldest child were registered to vote from the Bala Cynwyd address. Similarly, their two youngest children, both college students, are registered to vote from the Bala Cynwyd address. We reasonably infer that they return to Bala Cynwyd—and not Candidate's purported Philadelphia domicile—when not at college. *See Minerd*, 753 A.2d at 230.

Particularly damaging to Candidate's position is his wife's stipulated testimony. The parties stipulated that Candidate's wife would have testified that their marriage remains intact, that they have no intent to divorce, and that she resides in Bala Cynwyd. N.T. at 190. Candidate himself reinforced this with testimony acknowledging he wears a wedding ring and remains married to his wife. *Id.* at 60.

Further, we find unconvincing Candidate's testimony that his "wife has her own life" in Bala Cynwyd while he has his own "life here in Philadelphia." *Id.* at 154. The record reflects significant connections between Candidate and Bala

[17] Indeed, it appears that Candidate was served in Bala Cynwyd.

Cynwyd. Candidate admitted he sleeps over at the Bala Cynwyd home "a couple times a month." *Id.* at 66-67. When Candidate spends the night in Bala Cynwyd, he brings a bag with clothing and toiletries. *Id.* at 162. Most tellingly, Candidate's wife serves as a "committee person locally" and is the chairperson of his campaign committee, which is registered at their Bala Cynwyd address. *Id.* at 74-75.

In sum, these facts undermine Candidate's position that he genuinely severed his connections to the Bala Cynwyd residence and established a new domicile at the Greene Street address. Because Candidate's family does not live at Greene Street, and in conjunction with the role that Candidate's wife plays in his campaign, we weigh this factor against Candidate. We weigh this factor against him because, traditionally, married yet unseparated spouses typically maintain a shared household. *See Huff II*, 2025 WL 1187222, at *13; *see also infra*, at § C.7.

**3. Whether Candidate Rents or Leases the Philadelphia Property**

The third *Huff II* factor requires us to examine whether Candidate "rents or leases" the Greene Street property. *Huff II*, 2025 WL 1187222, at *13. As noted herein, Candidate and his wife purchased the Greene Street property in 1999 and kept it as a rental property even after relocating to Bala Cynwyd in 2004. N.T. at 52, 83. In 2004, Candidate obtained a rental license, but the license expired in 2022, although he continued to lease the units to tenants. *Id.* at 48; Ex. P-3. Indeed, Candidate continues to pay the mortgage on the property, which is reflected by the Form 1098 statement. Ex. R-12 (mortgage statement)

Instantly, Candidate's continuous ownership of the Greene Street property since 1999 demonstrates a long-term connection to the property, which could potentially support his claim of domicile. This same ownership, however, equally supports Candidate's long-established role as a landlord that has rented to

tenants since 2004. We find this factor favors neither party, as evidence of Candidate's long-term ownership of Greene Street neither proves nor disproves Candidate's domicile.

**4. Where Candidate Sleeps**

The fourth *Huff II* factor is "where he sleeps." *Huff II*, 2025 WL 1187222, at *13. As noted above, the objective utility bills undermine Candidate's claim that he regularly sleeps at the Greene Street address. Specifically, the electric utility bills reveal remarkably low amounts, particularly during the summer months, when Madeline allegedly stayed with Candidate at Greene Street. The bills directly contradict Candidate's testimony that he sleeps at the Greene Street address "almost every day." N.T. at 66. Tileston testified that she hears Candidate "coming in almost every night," *id.* at 223, and both tenants testified they had no reason to believe Candidate did not sleep at the Greene Street address "on a nightly basis." *Id.* at 207-08, 223. Yet, Candidate subsequently testified that he sleeps at the Bala Cynwyd residence "several times a month," *id.* at 162, and Jonik testified that Candidate could be away for the weekends visiting "his son in college." *Id.* at 209. The tenants' inconsistent testimony, coupled with the fact that Candidate is their landlord, renders their testimony particularly unreliable.

We credit the testimony of Eckenrode, a next-door neighbor, who testified that he saw Candidate in the mornings, but such testimony hardly establishes daily overnight stays. Further, Candidate's morning appearances could reflect his role as an attentive landlord.

In sum, because of the significant contradictions between the objective utility bills and the inconsistent, flawed testimony, we reject Candidate's contention that he sleeps regularly at the Greene Street address. Accordingly, this factor weighs

heavily against Candidate's claim of having established a new domicile in Philadelphia.

**5. What Belongings and Personal Effects Candidate Keeps in Philadelphia**

The fifth *Huff II* factor is "what belongings and personal effects he keeps at the address." *Huff II*, 2025 WL 1187222, at *13. As noted above in our discussion of the first *Huff II* factor, Candidate testified that he allegedly moved all of his clothing to Greene Street. He purportedly purchased or moved numerous furnishings and various necessities of daily living. *See, e.g.*, Ex. R-2. Candidate claimed he keeps toiletries, books, artwork, and food at Greene Street.

On balance, we credit the testimony that Candidate moved his belongings and other personal effects to Greene Street. Because we credit the testimony and evidence on this point, we find that the evidence on this factor weighs in favor of holding that the Greene Street address is Candidate's current residence, *i.e.*, this evidence favors a finding that Candidate is physically present at the Greene Street address. Nevertheless, we ascribe little weight to this factor. Candidate's belongings and personal effects are *movable* property, and, as such, under the totality of the circumstances, they provide little insight into whether Candidate intends to make the Greene Street address his permanent home.

**6. Whether the Candidate Owns Another Home to Which He Appears More Permanently Attached**[18]

The sixth *Huff II* factor is "whether he owns another home to which he is more permanently attached." *Huff II*, 2025 WL 1187222, at *13. Candidate and his wife lived at Greene Street for only 5 years after purchasing it in 1999, but they have lived in Bala Cynwyd for over 20 years. N.T. at 43-44, 52. During those two

[18] This factor also appears to address whether a person "leaves his home and goes into . . . another election district" temporarily, "with the intention of returning," which is another rule we may consider in resolving residency. *See Huff II*, 2025 WL 1187222, at *11 (citation omitted).

decades, they raised their three children and undoubtedly created deep-rooted memories and community connections—indeed Candidate's wife is a local committee person. Underscoring that deep connection are the facts that his wife lives there, his oldest daughter lives there, his remaining adult children likely return there when home from college, and even his campaign committee uses the Bala Cynwyd address. *Id.* at 74-75. They also decided to refinance the Bala Cynwyd home in October 2024, which reflects a significant financial commitment. *Id.* at 189.

Against this backdrop, we contrast Candidate's self-serving testimony that he intends to remain in Philadelphia even if he loses the election and would never move back to Bala Cynwyd. *Id.* at 151-52. As explained above, we disbelieve Candidate's testimony on this point. We acknowledge Candidate's testimony that in 2004, he "did not want to leave Philly, but it seemed like it was the best thing, you know, for my family at that time." *Id.* at 80. He further claimed that he had conversations with his wife about moving back to Philadelphia after their youngest children left for college. *Id.* at 81-82. But Candidate's testimony rings hollow because, after weighing his testimony against his actions, the credible evidence demonstrates that Candidate has not yet abandoned his domicile in Bala Cynwyd to establish a new domicile at the Greene Street address. In our view, the evidence on this factor strongly weighs in favor of a more permanent attachment to the Bala Cynwyd home.

**7. Marital Status and Candidate's Living Arrangement**

Finally, "courts most assuredly may consider marital status and a couple's living arrangements when determining a candidate's domicile for residency purposes, but those marital circumstances cannot be the only factor considered nor can the circumstances of a married couple living separate and apart, alone, function

as a bar to constitutional eligibility." *Huff II*, 2025 WL 1187222, at *13. The parties stipulated that Candidate and his spouse are married, their marriage is intact, they have no intent to divorce, and Candidate's wife resides in Bala Cynwyd. N.T. at 190. There is no evidence that Candidate has separated from his wife, although we credit Candidate's assertion that he moved all of his clothes and personal effects to Philadelphia. As noted herein, we discredit Candidate's testimony that his wife has her life in Bala Cynwyd and he has his life in Philadelphia, given the unmistakable ties Candidate has to Bala Cynwyd. Based on the record evidence, including his wife's and family's residence, his campaign committee's registration at the Bala Cynwyd address, and his continued overnight visits to Bala Cynwyd, Candidate has not persuaded us that he has abandoned Bala Cynwyd for Philadelphia. Accordingly, we strongly weigh this factor against Candidate's domicile claim.

**D. The Totality of the Circumstances**

As instructed, we have assessed Candidate's "credibility as to his physical circumstances and his intent to remain" in Philadelphia in applying the *Huff II* factors. *See Huff II*, 2025 WL 1187222, at *13. The factors are neither a mechanical checklist nor impose a bare-minimum 51% threshold. *See id.* at *7.[19] Rather, after assessing credibility, we respectfully weighed "the evidence of record to make a determination, based on the totality of the circumstances," *id.* at *13, as to whether Candidate established his concurrent physical presence at, and a genuine intent to make, the Greene Street address his principal home permanently. *See id.*

[19] We emphasize that a party alleging a change of domicile does not have to prevail on all factors or 51% of the factors because we may weigh some factors more than others in evaluating the totality of the circumstances. *See Huff II*, 2025 WL 1187222, at *7 (noting that the *Prendergast* Court held that some factors "are outweighed by those establishing a domicile" elsewhere); *cf. Commonwealth v. Miller*, 819 A.2d 504, 518 (Pa. 2002) (balancing aggravating versus mitigating circumstances is qualitative not quantitative). We may weigh some factors more heavily than others because of the evidence and testimony.

After careful consideration and reflection, we weigh factor (3) in favor of neither party. The evidence presented in support of this factor neither proves nor disproves Candidate's physical presence and intent to remain. We weigh factor (5) slightly in Candidate's favor, as we believe the evidence presented for this factor proves Candidate's physical presence, but not necessarily an intent to remain, in Philadelphia. We weigh the remaining factors against Candidate, *i.e.*, the evidence presented for those factors does not prove Candidate's physical presence and intent to remain in Philadelphia permanently. Accordingly, after careful assessment of Candidate's credibility, as well as the credibility of the other witnesses, and after considering the totality of circumstances, we respectfully cannot find that Candidate has established a simultaneous physical presence at 6618 Greene Street and a genuine intent to permanently make 6618 Greene Street his principal home. Should Candidate decide to run next election, any change in the factual circumstances may weigh more heavily in his favor—but not at this time, not on this record, and not based on our present evaluation of his demeanor and temperament.

Turning to the remedy, Candidate cannot cure his nomination petition for a Philadelphia judicial office with an address outside of Philadelphia. Because the objections are material, we must set aside, as a matter of law, Candidate's nomination petition. *See* 25 P.S. § 2937.

## IV. CONCLUSION

For these reasons, we grant Objector's petition to set aside Candidate's nomination petition.[20]

**LORI A. DUMAS, Judge**

[20] We dismiss Candidate's application for relief, filed on April 4, 2025, Objector's application for emergency relief, filed on April 25, 2025, and Candidate's application, in the alternative, to file a supplemental brief, filed on April 28, 2025, as moot.

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

| | | |
|---|---|---|
| In re: Nomination Petition of Michael Huff as Democratic Candidate for Common Pleas Court in the First Judicial District (Philadelphia) | : | No. 105 M.D. 2025 |
| Objection of: Julian Domanico | : | |

**O R D E R**

AND NOW, this 30th day of April, 2025, we GRANT the petition, filed by Objector Julian Domanico, to set aside the nomination petition of Michael Huff as Democratic Candidate for Common Pleas Court Judge in the First Judicial District.

The Secretary of the Commonwealth is directed to REMOVE Michael Huff as a Democratic candidate for Common Pleas Court Judge in the First Judicial District from the May 20, 2025 primary election ballot.

Objector shall bear the cost of the stenographer. Otherwise, each party shall bear their own costs.

The Prothonotary must notify the parties hereto and their counsel of this Order and must also certify a copy hereof to the Secretary of the Commonwealth of Pennsylvania forthwith.

We DISMISS Candidate's application for relief, filed on April 4, 2025, Objector's application for emergency relief, filed on April 25, 2025, and Candidate's application, in the alternative, to file a supplemental brief, filed on April 28, 2025, as MOOT.

**LORI A. DUMAS, Judge**

Order Exit
04/30/2025

# EXHIBIT B

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

| | | |
|---|---|---|
| In re: Nomination Petition of Michael Huff as Democratic Candidate for Municipal Court Judge in the First Judicial District (Philadelphia) | : | No. 106 M.D. 2025 |
| | : | Heard: March 28, 2025 |
| Objection of: Julian Domanico | : | |

BEFORE: HONORABLE LORI A. DUMAS, Judge

***OPINION NOT REPORTED***

**MEMORANDUM OPINION BY JUDGE DUMAS** **FILED: April 30, 2025**

Objector Julian Domanico (Objector) filed a petition to set aside the nomination petition of Michael Huff (Candidate) as a Democratic Candidate for for Municipal Court Judge in the First Judicial District (Philadelphia), alleging that Candidate resides outside of the First Judicial District. This case returns to us on remand from the Pennsylvania Supreme Court, which held that we must expeditiously assess Candidate's credibility and weigh the evidence in resolving Candidate's residency under the totality of the circumstances. *In re: Huff* (Pa., Nos. 11-12 EAP 2025, filed Apr. 24, 2025) (*Huff II*), 2025 WL 1187222, at *13. Following careful deliberation and attention to our Supreme Court's mandate, we grant Objector's petition.

## I. BACKGROUND[1]

In 1999, Candidate and his wife purchased a home at 6618 Greene

[1] Generally, substantial evidence of record must support our findings of fact. *In re Beyer*, 115 A.3d 835, 838 (Pa. 2014). This Court, as factfinder, also renders credibility determinations, which may support our findings. *Id.* at 841; *Cnty. of Fulton v. Sec'y of Commonwealth*, 292 A.3d 974, 1044 (Pa. 2023); *Daniels v. Workers' Comp. Appeal Bd. (Tristate Transp.)*, 828 A.2d 1043, 1052 (Pa. 2003) ("Many factors may affect the probative value of testimony, such as age[,] intelligence, experience, occupation, demeanor or temperament of the witness. A trial court or

Street, which is located in Philadelphia. The home had been renovated into a triplex, and Candidate and his wife occupied one of the three apartments. Several years thereafter, in 2004, they decided to relocate to 309 Bryn Mawr Avenue in Bala Cynwyd, Montgomery County, where they raised three children. The family remained in Bala Cynwyd for 20 years; the children attended local public schools; Candidate works as an attorney both in private practice and in the Montgomery County Office of the Public Defender; and his wife serves as a local committee person and chairperson of Candidate's campaign committee. Although the family had established themselves in Montgomery County, Candidate and his wife retained ownership of 6618 Greene Street as a rental property.

In May 2024, Candidate purportedly returned to the 6618 Greene Street address and occupied an apartment on the second floor (Candidate retained tenants on the first and third floors). Candidate's wife remained in Bala Cynwyd. Nevertheless, Candidate and his wife remain married and, per stipulation, are not separated.

In March 2025, Candidate declared his candidacy to serve as a judge in Philadelphia County, and Objector timely objected. According to Objector, Candidate does not reside at the Greene Street address but instead remains domiciled

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jury before whom witnesses appear is at least in a position to take note of such factors." (cleaned up)); *Commonwealth (Dep't of Gen. Servs.) v. U.S. Mineral Prods. Co.*, 956 A.2d 967, 973 (Pa. 2008); *Commonwealth v. Minerd*, 753 A.2d 225, 230 (Pa. 2000) ("In assessing the credibility of a witness, jurors must rely on their ordinary experiences of life, common knowledge of the tendencies of human behavior, and observations of the witness' character and demeanor."); *see also* Pa.R.E. 607(b) (providing that unless otherwise provided by rule or law, the "credibility of a witness may be impeached by any evidence relevant to that issue"). "Such a credibility determination may involve nothing more than the fact-finder's on-the-spot, and oftentimes instinctive, determination that one witness is more credible than another. The basis for the conclusion that certain testimony has the 'ring of truth,' while other testimony does not, may be difficult or impossible to articulate—but that does not make such judgments invalid or unworthy of deference." *Daniels*, 828 A.2d at 1053.

with his wife in Bala Cynwyd. Thus, Objector claims that Candidate is not eligible to be a Philadelphia judge.

To resolve Objector's allegations, this Court held an evidentiary hearing, at which several witnesses testified. *See generally* Notes of Testimony (N.T.), 3/28/25.[2] Subsequently, we granted Objector's petition to set aside, holding as a matter of law that Candidate could not establish a Philadelphia domicile without evidence of marital separation or, in the alternative, that his wife would return to Greene Street as well.[3] Candidate appealed to our Supreme Court, which vacated and remanded with instructions. Specifically, this Court must assess Candidate's "credibility as to his physical circumstances and his intent to remain" in Philadelphia as part of a totality of circumstances test, which we address below. *See Huff II*, 2025 WL 1187222, at *13.

## II. ISSUE

On remand, the sole issue before this Court is whether Candidate resides in Philadelphia County and genuinely intends to make this residence his permanent home.

## III. DISCUSSION[4]

### A. Arguments

Objector argues that because Candidate does not actually reside in

[2] At the hearing, Candidate's counsel stated that Candidate "was not actually properly served with a subpoena at his residence, 6618 Greene Street, where he lives. A subpoena was dropped off on Bryn Mawr Avenue," *i.e.*, the Bala Cynwyd home. N.T. at 54. It appears that Candidate was served in Bala Cynwyd, Montgomery County. *See id.*

[3] This Court had relied on caselaw providing that a candidate's marital status and living arrangements alone could be dispositive of a candidate's domicile. *See Huff II*, 2025 WL 1187222, at *9-10 (discussing *In re Prendergast*, 673 A.2d 324 (Pa. 1996), and *In re Hanssens*, 821 A.2d 1247 (Pa. Cmwlth. 2003)). The *Huff II* Court distinguished that caselaw and refocused this Court on a totality of circumstances test. *Id.* at *13.

[4] In "reviewing election issues, we must consider the longstanding and overriding policy

Philadelphia, he is ineligible to run for any Philadelphia judicial office. Objector contends that the record establishes that Candidate is domiciled in Bala Cynwyd, Montgomery County, where his family has resided since 2004. Objector emphasizes that Candidate is not separated from his spouse and their children were enrolled in Montgomery County public schools. Objector anticipates that Candidate would present evidence of his intent to change his residence to Philadelphia County. In that regard, Objector asserts that Candidate's intent is insufficient as a matter of law and Candidate cannot amend his affidavit. *See generally* Objector's Br. at 9-10 (discussing, *inter alia*, *In re Driscoll*, 847 A.2d 44 (Pa. 2004), and *In re Prendergast*, 673 A.2d 324 (Pa. 1996)).

Candidate disagrees, arguing that courts have consistently examined numerous other factors in resolving residency. Further, Candidate construes Objector's argument as absurd in that it relies on antiquated law that should not bar him from running for a Philadelphia judicial office simply because his wife resides in Bala Cynwyd. *See generally* Candidate's Br. at 5-6.[5]

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in our Commonwealth to protect the elective franchise, and that the Election Code must be liberally construed to protect a candidate's right to run for office and the voters' right to elect the candidate of their choice." *In re James*, 944 A.2d 69, 72 (Pa. 2008) (cleaned up). Nevertheless, "while our overriding concern at all times must be to be flexible in order to favor the right to vote, we must also strictly enforce all provisions to prevent fraud." *Id.* (cleaned up). "A party alleging defects in a nominating petition has the burden of proving such defects, as nomination petitions are presumed to be valid." *Beyer*, 115 A.3d at 838.

Our Supreme Court may reverse this Court's order resolving an objector's petition only (1) if we abused our discretion, which includes making an error of law, or (2) if our findings of fact are unsupported by substantial evidence of record. *Id.*; *Hangey v. Husqvarna Pro. Prods., Inc.*, 304 A.3d 1120, 1150 (Pa. 2023).

[5] To the degree that Candidate suggests the Code is antiquated, recourse to revise an allegedly antiquated statute lies through the legislature and not this Court. We construe the law as it is and not how Candidate wishes it to be. *King v. Burwell*, 576 U.S. 473, 498 (2015).

At the hearing, Candidate also asserted that Objector had failed to serve the Department of State with the petition to set aside the nomination petition. Objector, after the hearing concluded, filed a date-stamped copy reflecting timely service on the Department of State. *See Praecipe*,

## B. Residency

The Pennsylvania Constitution establishes eligibility requirements to be a judge in the court of common pleas and a magisterial district judge. Pa. Const. art. V, § 12(a) ("Other judges and justices of the peace, for a period of one year preceding their election or appointment and during their continuance in office, shall *reside* within their respective districts, except as provided in this article for temporary assignments." (emphasis added)). The Pennsylvania Election Code (Code), Act of June 3, 1937, P.L. 1333, No. 320, *as amended*, 25 P.S. §§ 2600-3591,[6] requires a candidate running for such an office to file an affidavit stating, *inter alia*, his residence. 25 P.S. § 2870. If the candidate's affidavit contains a material error or defect regarding, *e.g.*, a candidate's residency, then we must set aside the candidate's nomination petition. *Huff II*, 2025 WL 1187222, at *10 (discussing 25 P.S. §§ 2936-2937).

"Residency, in this context, means domicile." *Id.* at *11 (citing *In re Lesker*, 105 A.2d 376, 380 (Pa. 1954)). Domicile is "the place at which an individual has fixed his family home and principal establishment for an indefinite period of time." *Id.* at *12 (cleaned up). Once a candidate has fixed his family home and principal establishment indefinitely, his domicile "is presumed to continue until it is shown to have been changed . . . ." *Id.* (cleaned up). In other words, an "established domicile . . . can be retained without physical presence or residence until it be proven that a new domicile has been acquired." *Id.* (cleaned up). The burden of proving a

3/28/25 (attaching date-stamped proof of service on the Department of State); *accord* https://perma.cc/7QZW-VEE9 (last visited April 30, 2025) (reflecting service date on Department of State).

[6] The Code provides section numbers that "are distinct from, but correspond to, the sections provided in Purdon's Pennsylvania Statutes, which is an unofficial codification of Pennsylvania law." *Herold v. Univ. of Pittsburgh*, 329 A.3d 1159, 1166 n.1 (Pa. 2025). For expediency, we refer to Code sections "only by their Purdon's citation." *Id.*

change in domicile "rests upon whoever makes the allegation." *Id.* at *7 (cleaned up); *In re Dorrance's Est.*, 163 A. 303, 310 (Pa. 1932) (stating that "the burden of showing a change from a former domicile is upon the party asserting it, but the fact of residence in a particular place is *prima facie* evidence of domicile" and proving a new domicile necessarily encompasses proving the abandonment of the old domicile).

Per *Huff II*, proving a change in domicile requires the co-existence of two elements: (1) physical presence at the new residence, and (2) a genuine intent to make that residence one's principal home permanently, *i.e.*, *animus manendi*, or intention to remain. *Huff II*, 2025 WL 1187222, at *13.[7] Stated differently, domicile requires "(1) physical presence in the place where domicile is alleged to have been acquired; [and] (2) intent to make that place the home of the party." *Dorrance's Est.*, 163 A. at 310 (cleaned up); *Lesker*, 105 A.2d at 380 (explaining that because a person's domicile "is as deep rooted as a tree," transferring domicile is equivalent to "digging up, loading, transportation, and replanting of an elm or maple").

In the context of domicile jurisprudence, the term "intent" is a term of art: "intent is the *actual* state of facts, not what one declares them to be." *Huff II*, 2025 WL 1187222, at *7 (emphasis in original and cleaned up). A candidate's sworn testimony of an intent to reside in Philadelphia "is not dispositive or controlling. Rather, a candidate's intent must further be tested against the totality of other

[7] To paraphrase *Huff II*, to accomplish a change of domicile there must not only be *animus*, *i.e.*, the intention to remain, but also the *factum*, *i.e.*, an actual transfer of bodily presence from one place to the other. *Huff II*, 2025 WL 1187222, at *13 (stating "to accomplish a change of domicile there must be not only the *animus* to change but the *factum* as well. There must be an actual transfer of bodily presence from one place to the other. The *animus* and the *factum* do not need to be simultaneous, but until they coincide the change of domicile is not effected" (quoting *Lesker*, 105 A.2d at 380)). Given our jurisprudence's focus on time, proof of concurrency of the two elements may be an inferred third element. *See id.*

discernable facts from the record to support the candidate's claim . . . ." *Id.* at *13. Our Supreme Court has cautioned us that a candidate's "'intent' is not the same as 'motive.' A candidate may be motivated by any number of reasons to make a certain location his domicile, including the desire to run for public office; the relevant inquiry, however, focuses on the candidate's actual domicile, meaning the candidate's physical presence and intent to remain." *Id.* (cleaned up).[8]

In determining a candidate's domicile, *i.e.*, (1) physical presence at the residence, and (2) genuine intent to make that residence one's principal home permanently, we apply a totality of the circumstances framework. *Id.* This framework requires consideration of at least six non-exclusive factors:[9] (1) "a candidate's presence or absence at an address;" (2) "where the members of his household reside;" (3) "whether he rents or leases the property;" (4) "where he sleeps;" (5) "what belongings and personal effects he keeps at the address;" and (6) "whether he owns another home to which he is more permanently attached." *Id.* In addition to those six factors, we may also consider additional factors such as "marital status and a couple's living arrangements." *Id.*[10]

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[8] The *Huff II* Court also discussed *Prendergast*, in which a Pennsylvania resident moved to Virginia in 1990 for school before returning to Pennsylvania in 1994 and decided to run for state office in 1996. *Huff II*, 2025 WL 1187222, at *7. The issue was whether the candidate satisfied the four-year residency requirement prior to the election. *Id.* Because the candidate voted as a Virginia citizen, registered her vehicle there, and qualified for reduced tuition as a Virginia citizen, the *Prendergast* Court held that the candidate was not a Pennsylvania citizen. *Id.*

[9] To be clear, these six factors "must be considered," but they are not necessarily the only factors, as we explain below. *Huff II*, 2025 WL 1187222, at *13.

[10] Our Supreme Court stated that "courts most assuredly may consider marital status and a couple's living arrangements when determining a candidate's domicile for residency purposes, but those marital circumstances cannot be the only factor considered nor can the circumstances of a married couple living separate and apart, alone, function as a bar to constitutional eligibility" to be a judge. *Huff II*, 2025 WL 1187222, at *13. Other relevant factors may include considering whether a candidate (1) has fixed his habitation; (2) temporarily left his home with the intention of returning; and (3) lacks the intention of making a residence "his permanent place of abode." *Id.* at *11

In applying this multi-factor framework, we must make credibility determinations and weigh the evidence of record. *Id.* In weighing the evidence, we recognize that we may weigh facts, actions, and conduct more heavily than a candidate's expressions of intent. *Id.*; *accord id.* at *7 (noting that the *Prendergast* Court weighed some factors more heavily than others).

**C. The Totality of the Circumstances Factors**

There is no dispute that Candidate resided in Montgomery County for many years. Nevertheless, to be clear, we find that Candidate, by living in Bala Cynwyd for 20 years and raising a family with his wife, "fixed his family home and principal establishment indefinitely" in Bala Cynwyd. *See id.* at *7. Candidate's domicile in Montgomery County "is presumed to continue until it is shown to have been changed and where a change is alleged, the burden of proving it rests upon whoever makes the allegation . . . ." *See id.* Thus, Candidate bears the burden of proving that he is now domiciled in Philadelphia.

Additionally, before addressing each of the factors, we discuss our assessment of the credibility of Candidate and some of the witnesses, as they inform the weight we give their testimony and other evidence. Unless otherwise stated herein, we generally disbelieve Candidate's testimony, including his testimony that he would remain in Philadelphia following an election loss, based on his demeanor and temperament, *i.e.*, it rang hollow. *See Daniels*, 828 A.2d at 1052-53.[11] Further informing our assessment, we note that Candidate's license to rent the Greene Street property expired in 2022, yet he continued to collect rent. *See* Ex. R-3. We are

(citation omitted); *cf. Commonwealth v. DeJesus*, 58 A.3d 62, 86-87 (Pa. 2012) (vesting in the factfinder the discretion to consider other factors as needed to decide the legal question at issue).

[11] So there is no misunderstanding, Candidate's expression of his intent to remain at Greene Street is not dispositive or controlling. *See Huff II,* 2025 WL 1187222, at *13. We examine the entire record.

deeply troubled by a judicial candidate collecting rent for almost three years without a license. Candidate's apparent inattention to such legal requirements detracted from his credibility. We also find Candidate not credible because his presence at the Greene Street address is belied by the electric bills, particularly during the summer months of 2024, when he allegedly lived in the second-floor apartment with his daughter.

The testimony of the two Greene Street apartment tenants was also suspect, but only to the extent their testimony purports to establish Candidate's daily or regular presence at the Greene Street address. Candidate is their landlord, and thus we view the tenants' testimony with a degree of skepticism given the power dynamics inherent in a landlord-tenant relationship and their testimony as to his presence did not always have the ring of truth. *See Daniels*, 828 A.2d at 1052-53. Against the backdrop of our credibility findings, we next discuss the testimony and evidence for each of the factors.

**1. Candidate's Presence or Absence at the Philadelphia Residence**[12]

The first *Huff II* factor requires examination of "a candidate's presence or absence at an address." *Huff II*, 2025 WL 1187222, at *13. The objective evidence before us starkly contradicts Candidate's claims of a permanent, consistent presence at the Greene Street address.

Candidate's utility bills constitute the most telling evidence undermining his purported domicile. The electric bills for the two-bedroom unit range from a mere $10.35 in May 2024 to a high of only $50.90 in July 2024, with a March 2025 bill of just $32.45. Ex. R-6.[13] The March 2025 bill further indicates an

[12] This factor appears to incorporate the other relevant factors identified by the *Huff II* Court. *See Huff II*, 2025 WL 1187222, at *11 (citation omitted).

[13] Specifically, the electric bills reflect a low of $10.35 in May 2024, $29.85 in June, $50.90 in July, $44.13 in August, $36.61 in September, $32.44 in October, $31.55 in November, $29.06 in

average daily use of merely 3.7kWh and a total monthly use of 112kWh. *Id.* The gas bills are similarly negligible, ranging from $2.86 in May 2024 to $28.69 for January 2025. Ex. R-7.

We are simply not persuaded that these extraordinarily low utility bills for a two-bedroom unit with a single window air conditioner accurately reflect Candidate's presence. *See Minerd*, 753 A.2d at 230. The implausibility of these bills is particularly evident for the summer months when Candidate claims his daughter Madeline also resided there. *See id.* Further, we note that any utility bills addressed to the Greene Street second-floor unit could merely reflect Candidate's ownership or role as landlord rather than his physical presence.

Against this objective evidence, Candidate testified that on May 1, 2024,[14] he moved all his clothing into the second-floor unit at Greene Street. N.T. at 52, 69-70, 88, 93-95. He further claimed to have brought office equipment, rugs, television, books, artwork, a fan, toiletries, bed sheets, and food from the Bala Cynwyd home. *Id.*; *see also id.* at 200.[15] Candidate also testified to purchasing a

December, $31.92 in January 2025, $36.67 for February 2025, and $32.45 for March 2025, which reflects a median bill of $32.44. Ex. R-6.

The March 2025 bill also includes figures for February 2025, specifically daily use of 4.2kWh and a total monthly use of 134 kWh. The term "kWh" is an abbreviation for kilowatt hour and is used as a measure of power consumption. For example, a 100-watt light bulb left on for 10 hours consumes 1 kWh, and a 1,000-watt appliance left on for 100 hours consumes 100 kWh. *See generally* 52 Pa. Code § 57.34; *Pa. Pub. Util. Comm'n v. PECO Energy Co.* (Pa. Pub. Util. Comm'n, No. R-2024-3046931, filed Dec. 12, 2024), 2024 WL 5135361, at *19 (noting PECO's argument that a "typical residential customer [uses] 700 kilowatt hours (kWh) per month"); *Hettinger v. PPL Elec. Util. Corp.* (Pa. Pub. Util. Comm'n, No. F-2020-3015938, filed Sept. 14, 2020), 2020 WL 5876964, at *2 (finding two-person household averages 40 kWh per day). The March 2025 bill reflects an average of 128kWh per month and a prorated "annual" use of 1,403 kWH.

[14] We recognize that any motive behind the timing of Candidate's move is not a factor. *See Huff II*, 2025 WL 1187222, at *13.

[15] Precisely, Candidate testified, without elaboration: "My pillow, bed sheets, toilet paper, paper towels, food for the refrigerator" in listing items he brought over from the Bala Cynwyd

bed frame, mattress, *see* Ex. R-2 (receipt), furniture, and other daily necessities including a microwave, coffee maker, dishes, and silverware.[16] N.T. at 69-70. Most implausibly, he emphatically testified that he eats "every day" and sleeps "almost every day" at Greene Street. *Id.* at 66, 94. Yet, Candidate's own testimony directly contradicts his subsequent testimony admitting to sometimes dining elsewhere and sleeping at his Bala Cynwyd home several times monthly. *Cf. id.* at 155-56, 162.

Candidate's testimony about his daughter Madeline's presence at the Greene Street address also contained at least one glaring inconsistency. Candidate claimed, somewhat equivocally, that she moved into Greene Street in May or June 2024, *id.* at 72-73, yet in support produced an email from July 2024, suggesting that Candidate had purchased a mattress for her use at Greene Street. Ex. R-4. It strains credulity that Madeline would have moved into the apartment without a mattress for one to two months. *See id.*

The testimony of Candidate's tenants warrants significant skepticism, for the reasons we stated herein. Third-floor tenant Ann Jonik claimed to have "regularly" heard someone in the second-floor unit and suggested that she saw Candidate "on a daily basis." N.T. at 201-02. Jonik, however, also testified that Candidate could be away for the weekend visiting "his son in college," which further undermines Candidate's claim of a consistent presence at the Greene Street address. *Id.* at 209; *see also id.* at 162. First-floor tenant Margaret Tileston similarly alleged that she saw Candidate "five to six times a week," *id.* at 226; *accord id.* at 216, and heard him "coming in almost every night." *Id.* at 223. Additionally, in our view, both tenants merely agreed with counsel's questions regarding their belief about Candidate's presence, without establishing any specific timeframes for these

address. N.T. at 70.

[16] Candidate presented no other receipts.

purported observations. *See, e.g.*, *id*. at 207-08, 223. In that light, we view the tenants' testimony as to Candidate's presence at the Greene Street address with skepticism, although we credit the testimony of Brian Eckenrode, a next-door neighbor, who testified that he saw Candidate in the mornings.

Candidate's claim of performing building maintenance, including leaf removal, snow shoveling, painting, electrical work, and lawn care, *id.* at 104-07, merely demonstrates the activities any attentive landlord might perform and does not demonstrate any genuine residency. Similarly, Candidate exhaustively discussed his active social and civic life in Philadelphia, including evidence that he participated in various neighborhood activities including voter engagement, a debate watch party, and cultural events. *See, e.g.*, *id.* at 81, 87, 120-25, 221-22; Exs. R-13 to R-18. We discount Candidate's focus on the social and civic opportunities in Philadelphia, as these opportunities are abundant, open to all, and readily accessible to those who reside anywhere in the surrounding metropolitan area, including Bala Cynwyd.

We likewise find Candidate's documentary evidence unconvincing. His April 2024 change-of-address form for his employer, *see* N.T. at 137, Ex. R-19, bears no hallmark of actual receipt. His updated voter registration and driver's license from April and June 2024, respectively, *see* N.T. at 143, 145, also represent easily reversible administrative changes that in no way demonstrate an uprooting of domicile. The Form 1098 statement reflecting the Greene Street address, *see* Ex. R-12, likely indicates Candidate's status as a property owner rather than any evidence of his domicile. The four undated ride-share receipts, *see* Ex. R-9, prove virtually nothing about his habitual presence.

The clear conflicts between Candidate's testimony, the objective utility bills, and the credibility issues with tenants' testimony compel us to resolve this

factor decidedly against Candidate. We emphatically do not believe Candidate was routinely present at, regularly returned to, or stayed overnight at Greene Street.[17] We find that the evidence on this factor was insufficient to prove Candidate's physical presence and genuine intent to make Greene Street his principal home permanently, and thus weigh this factor heavily against Candidate.

**2. Where Members of Candidate's Household Reside**

The second *Huff II* factor requires that we consider "where the members of his household reside." *Huff II*, 2025 WL 1187222, at *13. Like the first factor, the record undermines Candidate's domicile claim, as the entirety of his family remains firmly established in Bala Cynwyd.

The uncontroverted evidence confirms that Candidate's intact nuclear family—his wife and all three children—maintain their residency in Montgomery County. The SURE operator testified that Candidate's wife and oldest child were registered to vote from the Bala Cynwyd address. Similarly, their two youngest children, both college students, are registered to vote from the Bala Cynwyd address. We reasonably infer that they return to Bala Cynwyd—and not Candidate's purported Philadelphia domicile—when not at college. *See Minerd*, 753 A.2d at 230.

Particularly damaging to Candidate's position is his wife's stipulated testimony. The parties stipulated that Candidate's wife would have testified that their marriage remains intact, that they have no intent to divorce, and that she resides in Bala Cynwyd. N.T. at 190. Candidate himself reinforced this with testimony acknowledging he wears a wedding ring and remains married to his wife. *Id.* at 60.

Further, we find unconvincing Candidate's testimony that his "wife has her own life" in Bala Cynwyd while he has his own "life here in Philadelphia." *Id.* at 154. The record reflects significant connections between Candidate and Bala

[17] Indeed, it appears that Candidate was served in Bala Cynwyd.

Cynwyd. Candidate admitted he sleeps over at the Bala Cynwyd home "a couple times a month." *Id.* at 66-67. When Candidate spends the night in Bala Cynwyd, he brings a bag with clothing and toiletries. *Id.* at 162. Most tellingly, Candidate's wife serves as a "committee person locally" and is the chairperson of his campaign committee, which is registered at their Bala Cynwyd address. *Id.* at 74-75.

In sum, these facts undermine Candidate's position that he genuinely severed his connections to the Bala Cynwyd residence and established a new domicile at the Greene Street address. Because Candidate's family does not live at Greene Street, and in conjunction with the role that Candidate's wife plays in his campaign, we weigh this factor against Candidate. We weigh this factor against him because, traditionally, married yet unseparated spouses typically maintain a shared household. *See Huff II*, 2025 WL 1187222, at *13; *see also infra*, at § C.7.

**3. Whether Candidate Rents or Leases the Philadelphia Property**

The third *Huff II* factor requires us to examine whether Candidate "rents or leases" the Greene Street property. *Huff II*, 2025 WL 1187222, at *13. As noted herein, Candidate and his wife purchased the Greene Street property in 1999 and kept it as a rental property even after relocating to Bala Cynwyd in 2004. N.T. at 52, 83. In 2004, Candidate obtained a rental license, but the license expired in 2022, although he continued to lease the units to tenants. *Id.* at 48; Ex. P-3. Indeed, Candidate continues to pay the mortgage on the property, which is reflected by the Form 1098 statement. Ex. R-12 (mortgage statement)

Instantly, Candidate's continuous ownership of the Greene Street property since 1999 demonstrates a long-term connection to the property, which could potentially support his claim of domicile. This same ownership, however, equally supports Candidate's long-established role as a landlord that has rented to

tenants since 2004. We find this factor favors neither party, as evidence of Candidate's long-term ownership of Greene Street neither proves nor disproves Candidate's domicile.

**4. Where Candidate Sleeps**

The fourth *Huff II* factor is "where he sleeps." *Huff II*, 2025 WL 1187222, at *13. As noted above, the objective utility bills undermine Candidate's claim that he regularly sleeps at the Greene Street address. Specifically, the electric utility bills reveal remarkably low amounts, particularly during the summer months, when Madeline allegedly stayed with Candidate at Greene Street. The bills directly contradict Candidate's testimony that he sleeps at the Greene Street address "almost every day." N.T. at 66. Tileston testified that she hears Candidate "coming in almost every night," *id.* at 223, and both tenants testified they had no reason to believe Candidate did not sleep at the Greene Street address "on a nightly basis." *Id.* at 207-08, 223. Yet, Candidate subsequently testified that he sleeps at the Bala Cynwyd residence "several times a month," *id.* at 162, and Jonik testified that Candidate could be away for the weekends visiting "his son in college." *Id.* at 209. The tenants' inconsistent testimony, coupled with the fact that Candidate is their landlord, renders their testimony particularly unreliable.

We credit the testimony of Eckenrode, a next-door neighbor, who testified that he saw Candidate in the mornings, but such testimony hardly establishes daily overnight stays. Further, Candidate's morning appearances could reflect his role as an attentive landlord.

In sum, because of the significant contradictions between the objective utility bills and the inconsistent, flawed testimony, we reject Candidate's contention that he sleeps regularly at the Greene Street address. Accordingly, this factor weighs

heavily against Candidate's claim of having established a new domicile in Philadelphia.

**5. What Belongings and Personal Effects Candidate Keeps in Philadelphia**

The fifth *Huff II* factor is "what belongings and personal effects he keeps at the address." *Huff II*, 2025 WL 1187222, at *13. As noted above in our discussion of the first *Huff II* factor, Candidate testified that he allegedly moved all of his clothing to Greene Street. He purportedly purchased or moved numerous furnishings and various necessities of daily living. *See, e.g.*, Ex. R-2. Candidate claimed he keeps toiletries, books, artwork, and food at Greene Street.

On balance, we credit the testimony that Candidate moved his belongings and other personal effects to Greene Street. Because we credit the testimony and evidence on this point, we find that the evidence on this factor weighs in favor of holding that the Greene Street address is Candidate's current residence, *i.e.*, this evidence favors a finding that Candidate is physically present at the Greene Street address. Nevertheless, we ascribe little weight to this factor. Candidate's belongings and personal effects are *movable* property, and, as such, under the totality of the circumstances, they provide little insight into whether Candidate intends to make the Greene Street address his permanent home.

**6. Whether the Candidate Owns Another Home to Which He Appears More Permanently Attached**[18]

The sixth *Huff II* factor is "whether he owns another home to which he is more permanently attached." *Huff II*, 2025 WL 1187222, at *13. Candidate and his wife lived at Greene Street for only 5 years after purchasing it in 1999, but they have lived in Bala Cynwyd for over 20 years. N.T. at 43-44, 52. During those two

[18] This factor also appears to address whether a person "leaves his home and goes into . . . another election district" temporarily, "with the intention of returning," which is another rule we may consider in resolving residency. *See Huff II*, 2025 WL 1187222, at *11 (citation omitted).

decades, they raised their three children and undoubtedly created deep-rooted memories and community connections—indeed Candidate's wife is a local committee person. Underscoring that deep connection are the facts that his wife lives there, his oldest daughter lives there, his remaining adult children likely return there when home from college, and even his campaign committee uses the Bala Cynwyd address. *Id.* at 74-75. They also decided to refinance the Bala Cynwyd home in October 2024, which reflects a significant financial commitment. *Id.* at 189.

Against this backdrop, we contrast Candidate's self-serving testimony that he intends to remain in Philadelphia even if he loses the election and would never move back to Bala Cynwyd. *Id.* at 151-52. As explained above, we disbelieve Candidate's testimony on this point. We acknowledge Candidate's testimony that in 2004, he "did not want to leave Philly, but it seemed like it was the best thing, you know, for my family at that time." *Id.* at 80. He further claimed that he had conversations with his wife about moving back to Philadelphia after their youngest children left for college. *Id.* at 81-82. But Candidate's testimony rings hollow because, after weighing his testimony against his actions, the credible evidence demonstrates that Candidate has not yet abandoned his domicile in Bala Cynwyd to establish a new domicile at the Greene Street address. In our view, the evidence on this factor strongly weighs in favor of a more permanent attachment to the Bala Cynwyd home.

**7. Marital Status and Candidate's Living Arrangement**

Finally, "courts most assuredly may consider marital status and a couple's living arrangements when determining a candidate's domicile for residency purposes, but those marital circumstances cannot be the only factor considered nor can the circumstances of a married couple living separate and apart, alone, function

as a bar to constitutional eligibility." *Huff II*, 2025 WL 1187222, at *13. The parties stipulated that Candidate and his spouse are married, their marriage is intact, they have no intent to divorce, and Candidate's wife resides in Bala Cynwyd. N.T. at 190. There is no evidence that Candidate has separated from his wife, although we credit Candidate's assertion that he moved all of his clothes and personal effects to Philadelphia. As noted herein, we discredit Candidate's testimony that his wife has her life in Bala Cynwyd and he has his life in Philadelphia, given the unmistakable ties Candidate has to Bala Cynwyd. Based on the record evidence, including his wife's and family's residence, his campaign committee's registration at the Bala Cynwyd address, and his continued overnight visits to Bala Cynwyd, Candidate has not persuaded us that he has abandoned Bala Cynwyd for Philadelphia. Accordingly, we strongly weigh this factor against Candidate's domicile claim.

**D. The Totality of the Circumstances**

As instructed, we have assessed Candidate's "credibility as to his physical circumstances and his intent to remain" in Philadelphia in applying the *Huff II* factors. *See Huff II*, 2025 WL 1187222, at *13. The factors are neither a mechanical checklist nor impose a bare-minimum 51% threshold. *See id.* at *7.[19] Rather, after assessing credibility, we respectfully weighed "the evidence of record to make a determination, based on the totality of the circumstances," *id.* at *13, as to whether Candidate established his concurrent physical presence at, and a genuine intent to make, the Greene Street address his principal home permanently. *See id.*

[19] We emphasize that a party alleging a change of domicile does not have to prevail on all factors or 51% of the factors because we may weigh some factors more than others in evaluating the totality of the circumstances. *See Huff II*, 2025 WL 1187222, at *7 (noting that the *Prendergast* Court held that some factors "are outweighed by those establishing a domicile" elsewhere); *cf. Commonwealth v. Miller*, 819 A.2d 504, 518 (Pa. 2002) (balancing aggravating versus mitigating circumstances is qualitative not quantitative). We may weigh some factors more heavily than others because of the evidence and testimony.

After careful consideration and reflection, we weigh factor (3) in favor of neither party. The evidence presented in support of this factor neither proves nor disproves Candidate's physical presence and intent to remain. We weigh factor (5) slightly in Candidate's favor, as we believe the evidence presented for this factor proves Candidate's physical presence, but not necessarily an intent to remain, in Philadelphia. We weigh the remaining factors against Candidate, *i.e.*, the evidence presented for those factors does not prove Candidate's physical presence and intent to remain in Philadelphia permanently. Accordingly, after careful assessment of Candidate's credibility, as well as the credibility of the other witnesses, and after considering the totality of circumstances, we respectfully cannot find that Candidate has established a simultaneous physical presence at 6618 Greene Street and a genuine intent to permanently make 6618 Greene Street his principal home. Should Candidate decide to run next election, any change in the factual circumstances may weigh more heavily in his favor—but not at this time, not on this record, and not based on our present evaluation of his demeanor and temperament.

Turning to the remedy, Candidate cannot cure his nomination petition for a Philadelphia judicial office with an address outside of Philadelphia. Because the objections are material, we must set aside, as a matter of law, Candidate's nomination petition. *See* 25 P.S. § 2937.

## IV. CONCLUSION

For these reasons, we grant Objector's petition to set aside Candidate's nomination petition.[20]

**LORI A. DUMAS, Judge**

[20] We dismiss Candidate's application for relief, filed on April 4, 2025, Objector's application for emergency relief, filed on April 25, 2025, and Candidate's application, in the alternative, to file a supplemental brief, filed on April 28, 2025, as moot.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

| | | |
|---|---|---|
| In re: Nomination Petition of Michael Huff as Democratic Candidate for Municipal Court Judge in the First Judicial District (Philadelphia) | : | No. 106 M.D. 2025 |
| Objection of: Julian Domanico | : | |

**O R D E R**

AND NOW, this 30th day of April, 2025, we GRANT the petition, filed by Objector Julian Domanico, to set aside the nomination petition of Michael Huff as Democratic Candidate for Municipal Court Judge in the First Judicial District.

The Secretary of the Commonwealth is directed to REMOVE Michael Huff as a Democratic candidate for Municipal Court Judge in the First Judicial District from the May 20, 2025 primary election ballot.

Objector shall bear the cost of the stenographer. Otherwise, each party shall bear their own costs.

The Prothonotary must notify the parties hereto and their counsel of this Order and must also certify a copy hereof to the Secretary of the Commonwealth of Pennsylvania forthwith.

We DISMISS Candidate's application for relief, filed on April 4, 2025, Objector's application for emergency relief, filed on April 25, 2025, and Candidate's application, in the alternative, to file a supplemental brief, filed on April 28, 2025, as MOOT.

**LORI A. DUMAS, Judge**

Order Exit
04/30/2025