



ALLISON CHOPRA LAW

Monroe County Election Board:

It is my pleasure to write to you on behalf of Mr. David Wolfe Bender. Please see my legal analysis as an extension of the letter that he sent to you this morning, setting out the facts which I will rely on to come to my legal conclusion that Mr. Bender has not violated any election laws or committed any election-related crimes.

As held in *Teising v. State*, Court of Appeals of Indiana, 2022, 201 N.E.3d 212 (2022): “Ind. Code Chap. 3-5-5 sets out standards that ‘shall be used’ in determining residency in certain contexts, including the residency of ‘[a] person holding elected office.’”

I.C. 3-5-5-7 establishes special rules governing residency applicable to “a student attending a postsecondary educational institution in Indiana”, allowing for such a student to state their residence as “either of the following, but not both: (A) The address where the student lives when the student attends the postsecondary educational institution where the student pursues the student's education. (B) The address where the student lives when the student is not attending the postsecondary educational institution where the student pursues the student's education.”

For a currently enrolled student attending a postsecondary educational institution in Indiana, this provision is thus properly interpreted as allowing the student to declare as their residence, for both voter registration and candidate filing purposes, the address where they plan to live following any course of enrollment. It is proper for a student to register in the place where they reside in the summer, if not enrolled in a postsecondary institution.

I.C. 3-5-5-6 clarifies that the rules of Section 7 (above) are only for the purposes of establishing “presumptions regarding the residency of a person in a precinct,” so that a “person can rebut these presumptions by demonstrating intent to reside in another precinct and conduct taken to implement that intent.”

Thus, for a currently enrolled student attending a postsecondary educational institution in Indiana, the key legal question is ultimately whether the student has demonstrated intent to reside in the precinct listed on voter registration and candidate filings and what conduct he has taken to implement that intent.

In combination, the facts surrounding Mr. Bender’s voter registration and candidacy filings satisfy the legal requirements of Ind. Code Chap. 3-5-5 and any contentions to the contrary appear to be based on a misunderstanding of either the facts or the applicable

law. First, Mr. Bender filed a voter registration and a candidacy filing at a place where he was to live when he was not attending classes or receiving credit at Indiana University. Mr. Bender, in fact, was planning on moving there only for the summer during the period of the year when he was not in school. He demonstrated his intent and his conduct was consistent with his summer residency when he signed a sublease. Those who came forward to complain that Mr. Bender did not live in the home at the time of his filing were misguided - they most likely did not apply I.C. 3-5-5-7 when protesting his candidacy.

It is my understanding that the laws that this board have been discussing are I.C. 3-14-1-13, Filing Fraudulent Report Under I.C. 3-9, and I.C. 3-14-3-1.1, False, Fictitious, or Fraudulent Voter Registration Applications and Ballots. Importantly, both are criminal statutes that require the State, by a prosecutor, to prove an element of “knowingly” beyond a reasonable doubt.

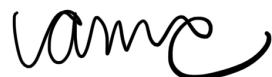
I.C. 3-14-1-13 states that “a person who knowingly files a report required by IC 3-9 that is fraudulent commits a Level 6 felony.” None of the reports Mr. Bender submitted were knowingly fraudulent. He had no knowledge of the state of the sublease when he filed either of them. He had every reason to believe they were accurate when filing the forms. And, as discussed above, he intended to reside at that address over the summer while his enrollment at the postsecondary institution was paused.

I.C. 3-14-3-1.1, says that, “A person who knowingly does any of the following commits a Level 6 felony: 1. Procures or submits a voter registration application known by the person to be materially false, fictitious, or fraudulent, or 2. Procures, casts, or tabulates a ballot known by the person to be materially false, fictitious, or fraudulent.

Mr. Bender had no intent for his voter registration application to be inaccurate. Again, he thought the sublease was in effect and accurate. His sublessor signed the sublease agreement in front of him, and in it, it stated that he had the “actual authority and the right to lease the property” to him. Second, he never voted using that address. He will not vote using that address. Knowing what he knows now about the state of the sublease contract, he is in complete agreement with this board that doing so would be a serious violation of Indiana state law.

Thank you for your time in this important matter. Election integrity, especially now, where accusations of voter fraud are rampant in local to nation elections, is of utmost importance to both myself and my client.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lance".

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