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IN THE CIRCUIT COURT, THIRD
JUDICIAL CIRCUIT, IN AND FOR
COLUMBIA COUNTY, FLORIDA.

CASE NO. 2018-257-CA

GLENEL BOWDEN,

Petitioner,

vs.

CLARENCE TUCKER,

Respondent.

**FINAL JUDGMENT GRANTING EMERGENCY PETITION FOR
INJUNCTIVE RELIEF AND MOTION FOR EMERGENCY HEARING**

THIS CASE was before the Court on July 18, 2018, for emergency hearing on the Petition for Injunctive Relief and for Emergency Hearing (“the Petition”) filed by the Petitioner, Glenel Bowden (“Bowden”), against the Respondent, Clarence Tucker (“Tucker”), and having carefully considered the Petition; reviewed the docket of this case; received documentary evidence; and heard the testimony of witnesses, it is upon due consideration that the Court

ORDERS:

1. The Court has jurisdiction of the subject matter of this case and the parties.
2. The Court construes the Petition as a request for declaratory judgment pursuant to §86.011, Florida Statutes.
3. The Election Code of the City of Lake City, Florida, its Charter and the Candidate Qualifying Information Handbook specify that a candidate for City Council must be eighteen (18) years of age or older and must have resided for a minimum of one (1) year in the district for which office election is sought.

4. The issue to be considered in this case is whether the Respondent, Clarence Tucker, has complied with the residency requirements.

5. The Court had the opportunity to consider the demeanor, credibility and plausibility of the witnesses presented.

6. Based on the evidence and testimony presented, the Court makes the following findings of fact:

- a. Tucker receives mail at three different mailing addresses.
- b. Tucker claims, for purposes of qualifying as a candidate for City Council, District 10, to reside at 923 N.E. Coldwater Avenue, Lake City, Florida 32055.
- c. The 923 N.E. Coldwater Avenue premises are occupied by Willie J. Bradley and Teretha Bradley, husband and wife, as tenants pursuant to a written lease agreement dated September 2017.
- d. The lease agreement does not allow for sub-letting.
- e. Willie J. Bradley was served with a Subpoena by Bowden to testify at the evidentiary hearing held on July 18, 2018. When Bradley did not appear at the hearing as required by the Subpoena, the Court requested the bailiff to locate this witness and bring him to the courtroom. When asked why he failed to appear as required by the Subpoena, Bradley claimed that he spoke with someone at the Hamilton County Courthouse and was excused. This explanation is wholly lacking in credibility. Neither Court's Judicial Assistant nor any Clerk personnel has the authority to excuse a witness from a party Subpoena, and the Court is confident that

such a communication never occurred.¹ It is readily apparent to the Court that Bradley did not attend as required because he was trying to avoid testifying under penalty of perjury about his friend's residence.²

- f. Bradley stated that he was a good friend of Tucker's and considered "like a brother." Bradley testified that Tucker received mail at Bradley's residence and stayed a few nights per month at his house. Bradley said that Tucker had been residing a few nights per month at his house since sometime earlier this year.
- g. Bradley acknowledged that he had told a newspaper reporter in May or June of this year that Tucker had started using his home as a residence for the past four months and that he, Bradley, was trying to do Tucker a favor.
- h. Tucker did not provide very much direct evidence on his own behalf other than to show the Court mail addressed to him that had been delivered to the 921 N.E. Coldwater Avenue location.
- i. Tucker was served with the Petition and the Court's Order Setting Hearing on Emergency Petition for Injunctive Relief and Motion for Emergency Hearing at

¹ Bradley testified that he never read the lease agreement and that he could not read. However, he was apparently able to examine the Subpoena he was served with and figure out how to putatively call the Court's judicial office or Clerk in Jasper, Florida.

² Bowden also served a Subpoena on Teretha Bradley, but she failed to attend in compliance with this legal process. In addition, Bowden served or attempted to serve a Subpoena on Tucker's mother, Selena Tucker, but she did not appear. The Court agrees with the district court in Martinez v. State, 478 So.2d 871, 871 (Fla. 3d DCA 1985), review denied, 488 So.2d 830 (Fla.1986), that "an inference adverse to a party based on the party's failure to call a witness is permissible when it is shown that the witness is peculiarly within the party's power to produce and the testimony of the witness would elucidate the transaction." Id. at 250 (citation omitted) (alteration in original). Certainly, one would think that Tucker's mother, who by love, affection and familial relationship is peculiarly within his power to produce, would be an ideal witness to testify that Tucker does not reside at 1356 N.E. Washington Street.

1356 N.E. Washington Street, Lake City, Florida 32055. In response to this service, Tucker appeared at the evidentiary hearing on July 18, 2018.

j. The greater, credible weight of the evidence clearly demonstrates that Tucker's claim that 923 N.E. Coldwater Avenue is his residence is simply a contrived effort to establish and comply with the City of Lake City Charter requirements for residence.


k. Tucker receives his mail at 1356 N.E. Washington Street, Lake City, Florida, where he resides in the home located on that property in which he holds an ownership interest with his mother, Selena Tucker, and with respect to which property the Columbia County Property Appraiser has granted a homestead exemption.

xx. Based on the totality of the evidence, the Court finds that Tucker has not resided at 923 N.E. Coldwater Avenue, Lake City, Florida 32055 for the requisite period of residence to qualify as a candidate for City Council, District 10.

xx. The Court grants the Petition and declares, orders and enters this declaratory judgment that the Respondent, Clarence Tucker, did not qualify to be a candidate for City of Lake City, Florida, City Council, District 10.

xx. The Columbia County Supervisor of Elections is authorized to take such action as she may deem appropriate based on this Final Judgment.

DATE: July 18, 2018, at Lake City, Columbia County, Florida.



Andrew J. Decker, III
Circuit Judge

Copies furnished by Florida E-Portal and/or U.S. Mail to:

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