

AUG 08 2022

FILED
H 1:30 pm

STATE OF MINNESOTA
IN SUPREME COURT

Court File No. _____

Christine Marie Fischer and
Ashley Jo Klingbeil
Petitioners,

Vs.

Steve Simon, in his official capacity as
Minnesota Secretary of State,
Keith Ellison, in his official capacity as
Minnesota Attorney General,
Torrey Westrom, current candidate for
Senate District 12,
Michelle Knutson, in her official capacity
as Big Stone County Auditor,
Vicki Doehling, in her official capacity as
Douglas County Auditor,
Stephanie Rust, in her official capacity as
Pope County Auditor,
Randy R. Schreifels, in his official capacity
as Stearns County Auditor,
Stephanie Buss, in her official capacity as
Stevens County Auditor,
Kim Saterbak, in her official capacity as
Swift County Auditor,

Respondents

**PETITION PURSUANT TO MINN. STAT. §204B.44
TO REMOVE CANDIDATE FROM BALLOT**

Pursuant to Minn. Stat. §204B.44 (a) “any individual may file a petition in the manner provided in this section for the correction of any of the following errors, omissions, or wrongful acts which have occurred or are about to occur: (1) an error or omission in the placement or

printing of the name or description of any candidate or any question on any official ballot, including the placement of a candidate on the official ballot who is not eligible to hold the office for which the candidate has filed;” Petitioners Christine Marie Fischer and Ashley Jo Klingbeil, pro se, submit this petition to the Supreme Court of the State of Minnesota for an Order directing the Respondents, Steve Simon, Minnesota Secretary of State, and applicable County Auditors for counties within Minnesota Senate District 12 to remove Torrey Westrom’s name from the ballot for the November 8, 2022 general election for the office of State Senator for District 12 on the grounds that Torrey Westrom has not satisfied the elements of legal residency of a candidate as defined in Minn. Stat. §200.031.

Petitioners allege and state the following:

PARTIES & JURISDICTION

1. Petitioner Christine Marie Fischer is a Minnesota citizen and resides within Minnesota State Senate District 12 at [REDACTED] Glenwood, Minnesota 56334.
2. Petitioner Ashley Jo Klingbeil is a Minnesota citizen and resides within Minnesota State Senate District 12 at [REDACTED] Alexandria, Minnesota 56308. Klingbeil also filed for and was confirmed as a candidate for State Senate District 12 and will appear on the ballot in the general election on November 8, 2022.
3. Respondent Steve Simon is the Minnesota Secretary of State (“Respondent Simon”).

1 The ADDENDUM TO Petitioners’ brief is referred to as “PA” followed by relevant page numbers.

In his capacity as Secretary of State, Respondent Simon is responsible for the administration of elections in the State of Minnesota, including the November 8, 2022 general election.

4. Respondent Vicki Doehling, in her official capacity as Douglas County Auditor accepted the Affidavit of Candidacy of Torrey Westrom for the office of State Senator for District 12 on May 31, 2022 [See PA 4-5 Exhibit A]

5. Torrey Westrom is one of the current candidates for State Senate District 12 in the general election to be held on November 8, 2022.

6. In order to be eligible for election to the office of State Senator for District 12 in the general election of November 8, 2022, Torrey Westrom must have resided in State Senate District 12 for six (6) months prior to the November 8, 2022 general election pursuant to Article IV, Section 6 of the Minnesota Constitution as incorporated into Minnesota law under Minn. Stat. § 204B.06, Subd. 4a (4).

7. As a result of the foregoing, Torrey Westrom must have resided in District 12 since at least May 8, 2022 in order to be eligible to be on the general election ballot for Senate District 12.

8. Respondents Michelle Knutson, Big Stone County Auditor, Vicki Doehling, Douglas County Auditor, Stephanie Rust, Pope County Auditor, Randy R. Schreifels, Stearns County Auditor, Stephanie Buss, Stevens County Auditor, and Kim Saterbak, Swift County Auditor (collectively the “County Auditors”) are the county auditors for the counties located within State Senate District 12.

9. The county auditors are responsible for the administration of elections within their applicable counties, including the general election for State Senate District 12 on November 8, 2022.

10. This action is necessary to correct errors and omissions made by Respondent Simon and/or the County Auditors in accepting Torrey Westrom's Affidavit of Candidacy for the office of State Senator for District 12. This correction must take place prior to ballots being ordered, which is believed to take place August 15, 2022.

11. This Court has jurisdiction over this action pursuant to Minn. Stat. § 204B.44 to correct any error or wrongful act by the Secretary of State, a County Auditor, or any other individual charged with any duty concerning an election.

BACKGROUND

12. Torrey Westrom was elected to a third term of the MN Senate representing District 12 on November 3, 2020. He resides in Elbow Lake, MN and MN District 12 was, at the time, comprised of portions of Stearns, Douglas, and all of Pope, Stevens, Big Stone, Traverse, Grant and Wilkin counties. [see **PA 6-10** Exhibit B, Exhibit C]

13. On February 15, 2021, the Minnesota Special Redistricting panel released new boundaries for Minnesota Legislative Districts, including Legislative District 12. With redistricting, Torrey Westrom, residing at [REDACTED] Elbow Lake, MN 56531 in Grant County, his residency fell within the new boundaries of Senate District 9. [See **PA 11-14** Exhibit D, Exhibit E]

14. In order to be eligible for election to the office of State Senator for District 12 in the general election of November 8, 2022, Torrey Westrom must have resided in State Senate District 12 for six (6) months prior to the November 8, 2022 general election pursuant to Article IV, Section 6 of the Minnesota Constitution as incorporated into Minnesota law under Minn. Stat. § 204B.06, Subd. 4a (4).

15. On May 4, 2022 a listing was registered on the MLS with an MLS ID#6190259. The address of the listing is [REDACTED], Alexandria, MN 56308 (hereafter referred to as the “Alexandria Address”) and was listed by an agent of Century 21 Realty who was related to the seller. [See **PA 15-18** Exhibit F]

16. On May 6, 2022, the MN Department of Revenue accepted a completed eCRV stating the purchasers of the home included David Stamness, Torrey Westrom and Anna Westrom. The eCRV states that the Prior Use of the property was Residential/Cabin/Vacation Home. The Planned Use was listed as Residential/Single Family home. [See **PA 19-23** Exhibit G]

17. Minn. Stat. §200.031 (9) states “The mere intention to acquire a new residence, is not sufficient to acquire a new residence, unless the individual moves to that location; moving to a new location is not sufficient to acquire a new residence unless the individual intends to remain there.”

18. The Douglas County GIS Interactive Map lists “David Stamness et al” as the “taxpayers” on the Alexandria Address. The property is classified as “Seasonal Rec Residential” and is non-homesteaded. [See **PA 24-27** Exhibit H]

19. Minn. Stat. §200.031 (3) states “An individual does not acquire a residence in any

precinct of this state if the individual is living there only temporarily, without the intention of making that precinct home.”

20. The Alexandria Address shares a driveway with the Scenic View Resort and RV park, which has a physical address of [REDACTED], Alexandria, MN 56308 (W Lake Mary Dr and County Rd 91 are the same road). The Better Business Bureau (BBB) lists the business manager as Dennis Westrom. The season of operation for the Scenic View Resort and RV park is May 15 to October 15, indicating that no groundskeeping, including snow removal, would be performed on behalf of the Resort and RV park, leaving the responsibility of clearing the long, steep dirt driveway of snow during the winter to Torrey Westrom. [See PA 28-37 Exhibit I, Exhibit J]

21. The period to file an Affidavit of Candidacy for election to the office of State Senator for District 12 opened May 17, 2022 and closed on May 31, 2022.

22. Affidavits of Candidacy can be filed with Secretary of State or the County Auditor of the county in which the candidate resides.

23. On May 31, 2022, Torrey Westrom filed an Affidavit of Candidacy seeking election to the office of State Senator for District 12. [See PA 4-5 Exhibit A] The period of withdrawal of an Affidavit of Candidacy expired on June 2, 2022.

24. In his Affidavit of Candidacy, Torrey Westrom identifies his residence address as [REDACTED], Alexandria, MN 56308, which is located within Senate District 12. His Affidavit of Candidacy includes an affirmation that as a candidate for MN State Senate, he is a resident of the District for which he filed for not less than six (6) months before the general

election. The general election being held on November 8, 2022, Westrom would have needed to reside within District 12 since at least May 8, 2022.

25. However, as of May 8, 2022 and continuing up to the present date, Torrey Westrom actually resides at [REDACTED], Elbow Lake, MN 56531 (hereinafter the Elbow Lake Home).

26. Minn. Stat. §200.031 states “(6) Except as otherwise provided in this section, an individual's residence is located in the precinct where the individual's family lives, unless the individual's family is living in that precinct only temporarily. (7) If an individual's family lives in one precinct and the individual lives or does business in another, the individual's residence is located in the precinct where the individual's family lives, unless the individual establishes a home in the other precinct and intends to remain there, with or without the individual's family.”

27. Torrey Westrom’s own campaign website, as of August 3, 2022, stated that he and “his wife Anna own and operate a family business, and reside in Elbow Lake with their three children.” [See **PA 38-40** Exhibit K]

28. Torrey Westrom and his family live in the Elbow Lake Home. Video evidence collected by the Petitioners shows multiple evenings in which the family vehicle(s) and pet are present there, lights in the house are illuminated for several hours, the lawn is trim and garbage service is being utilized at the residence. The evidence shows that the Westroms are frequently present at the Elbow Lake Home. [See Declaration of Ashley Jo Klingbeil]

29. Torrey Westrom and his family do not live at the Alexandria Address. Video

evidence collected by the Petitioners shows a vacant house with no furniture or personal belongings inside. It shows an overgrown property that appears abandoned. No member of Torrey Westrom's family was present at the property during numerous residency checks and no personal vehicles were observed on the property. [See Declaration of Christine Marie Fischer]

30. Torrey Westrom was well aware of the residency requirements to be eligible for the State Senate seat in Senate District 12 as early as March 09, 2022. In a follow-up query to an interview from KMRS radio station, Westrom stated he "... has until May 8th (2022) to reside in the district, which he will establish by that time in Douglas County." [See PA 74-75 Exhibit LL]

31. Respondent Simon and the County Auditors are responsible for ensuring that candidates appearing on the ballot for the office of State Senator for District 12 are eligible for election to such office.

32. To date, Torrey Westrom is listed on the Secretary of State's website as a candidate on the Secretary of State's Candidate Filings website.

33. Article IV, Section 6 of the Minnesota Constitution provides, in pertinent part, that "Senators and representatives shall be qualified voters of the state, and shall have resided one year in the state and six months immediately preceding the election in the district from which elected." (Emphasis added.)

34. This state constitutional requirement is incorporated into Minnesota Law at Minn. Stat. § 204B.06, subd. 4a (4), which requires candidates to file an affidavit of candidacy and requires "[c]andidates who seek nomination for...senator...in the [state] legislature, that on the

day of the general or special election to fill the office the candidate will have resided not less than six months in the legislative district from which the candidate seeks election.”

35. Accordingly, to be eligible for election to the office of State Senator for District 12 in the November 8, 2022 general election, Torrey Westrom must have resided in the State Senate District 12 since at least May 8, 2022 in order to have resided in Senate District 12 for six (6) months prior to the November 8, 2022 general election.

36. As set forth above, Torrey Westrom’s “residence address” is not in State Senate District 12 and Torrey Westrom has provided no information establishing his residence in Senate District 12 as of May 8, 2022, six (6) months prior to the November 8, 2022 general election.

37. Petitioners’ investigative evidence shows, based upon the extensive investigative work documented in their Declaration, Addendum and via electronic files provided to all parties, that Torrey Westrom actually still resides at [REDACTED] Elbow Lake, MN 56531, which is in the old Senate District 12 (new Senate District 9), and that he did not reside at the Alexandria Address located at [REDACTED], Alexandria, MN 56308 identified in his Affidavit of Candidacy filed with the Secretary of State via the Douglas County Auditor on May 8, 2022, at least through August 2, 2022, which is in Senate District 12. Torrey Westrom fails to satisfy the applicable residency requirement provided by Article IV, Section 6 of the Minnesota Constitution and Minn. Stat. § 204B.06, subd. 4(f) by failing to satisfy the elements of residency as established in Minn. Stat. §200.031.

38. Based on the foregoing, Torrey Westrom is not eligible for election to the office of

State Senator for District 12, and therefore, Respondent Simon and the Respondent County Auditors erred in their election administration duties when they accepted Torrey Westrom as an eligible candidate for office for State Senator for District 12.

RELIEF SOUGHT

WHEREFORE, Petitioners are entitled to judgement as a matter of law from this court removing Torrey Westrom from the 2022 general election ballot; therefore, the Petitioners respectfully pray for an Order of the Court as follows:

1. Directing Respondent Simon and the Respondent County Auditors to immediately remove Torrey Westrom from, or otherwise prohibit Torrey Westrom from appearing on the ballot for the November 8, 2022 primary election for the office of State Senator for District 12.
2. Granting Petitioners such other relief as the Court deems just and appropriate.

Respectfully submitted,

PRO SE PETITIONER CHRISTINE MARIE FISCHER

Dated 8-8-2022

/s/ 

PRO SE PETITIONER ASHLEY JO KLINGBEIL

Dated 8/8/2022

/s/ 