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SLIP OPINION NO. 2026-OHIO-3747

THE STATE EX REL. DUCKETT *v.* HANCOCK COUNTY BOARD OF ELECTIONS ET AL.

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Duckett v. Hancock Cty. Bd. of Elections*, Slip Opinion No. 2026-Ohio-3747.]

Elections—Mandamus—R.C. 3503.24—R.C. 3503.02—Writ sought to compel board of elections to strike elector's name from its voting rolls—Address provided by elector on voter-registration form is not elector's residence for purposes of voting—Writ granted.

(No. 2026-1151—Submitted September 11, 2026—Decided September 24, 2026.)

IN MANDAMUS.

DETERS, J., authored the opinion of the court, which DEWINE and SHANAHAN, JJ., joined. KENNEDY, C.J., concurred, with an opinion. FISCHER, J., dissented, with an opinion joined by BRUNNER, J. HAWKINS, J., dissented, with an opinion.

DETERS, J.

{¶ 1} Aadam Duckett filed this original action in mandamus against the Hancock County Board of Elections and its members, Melinda Williams, Thomas Liebrecht, David Spahr, and Steven Walker. He seeks to compel the board of elections to strike Rachelle Hill's voter registration from its voting rolls. He claims that the address Hill provided on her change-of-registration form is not her residence for purposes of voting. We agree. The address of a vacant lot where Hill intends to live in the future does not constitute a habitation that is fixed and so does not qualify as a residence under Ohio's voting scheme. Therefore, we grant the writ.

BACKGROUND

{¶ 2} For approximately 14 years, until July 2026, Hill lived in a house on Main Street ("the Main Street property") in the Village of Arcadia in Hancock County. She was registered to vote at that address. In July, Hill and her husband entered into an agreement to buy a vacant lot on Farmers Lane ("the Farmers Lane property"), which is also in Arcadia. At the end of July, Hill and her husband sold the Main Street property and moved into her father-in-law's house in Biglick Township ("the Biglick property"). Her father-in-law's house is in Hancock County but not in Arcadia.

{¶ 3} On August 18, Hill filed a form to change her voter-registration address from the Main Street property to the Farmers Lane property. Later that day, Duckett, a resident and elector of Arcadia, filed under R.C. 3503.24, a challenge to Hill's voter registration. He claimed that the Farmers Lane address was not the address of Hill's fixed habitation.

{¶ 4} The board of elections held a hearing on Duckett's challenge on August 24. During the hearing, Hill testified about her and her husband's plans to build a house on the Farmers Lane property. According to Hill, there was a mailbox on the property, electric service had been established there, and trees had been

cleared from the property. But Hill also acknowledged that "no one [lived at the Farmers Lane property] yet," that she and her husband were living with her father-in-law, and that they had moved "the big stuff" from their Main Street home to a barn at her father-in-law's property. Hill, who at the time of the hearing was serving on Arcadia's village council, explained that her intent was to remain in Arcadia. She testified that the house at Farmers Lane would be completed in four to seven months and stated, "That's my dream home. I'm not leaving the village."

{¶ 5} At the conclusion of the hearing, the board voted three to one to deny Duckett's challenge. Three days later, Duckett filed his complaint for a writ of mandamus, seeking to compel the board of elections "to strike from the voting rolls the registration of Rachelle Hill." The case has proceeded as a S.Ct.Prac.R. 12.08 expedited election case.[1]

ANALYSIS

{¶ 6} Duckett seeks a writ of mandamus to compel the board of elections to strike Hill's registration. To be entitled to a writ of mandamus, Duckett must establish, by clear and convincing evidence, (1) a clear legal right to the requested relief, (2) a clear legal duty on the part of the board of elections to provide it, and (3) the lack of an adequate remedy in the ordinary course of the law. *State ex rel. Miller v. Union Cty. Bd. of Elections*, 2023-Ohio-3664, ¶ 15. The parties do not dispute the lack of an adequate remedy in the ordinary course of the law. The questions here are whether Duckett had a clear legal right to the relief he requested and whether the board had a legal duty to provide the relief sought by Duckett. "In a mandamus action challenging the decision of a county board of elections, the standard is whether the board engaged in fraud, corruption, or abuse of discretion, or acted in clear disregard of applicable legal provisions." (Cleaned up.) *Miller* at

1. Hill is not a party to this case and has not moved to intervene.

¶ 16. Duckett maintains that the board clearly disregarded legal provisions and abused its discretion.

{¶ 7} As Duckett notes in his complaint, the basis of his challenge before the board of elections was that Hill "[had] not satisfied the statutory requirements to be a valid elector at the address claimed as [her] voting residence." He alleges that the address Hill listed on the form to change her voter-registration address—209 Farmers Lane—is not her residence under R.C. 3503.02(A).

{¶ 8} The statute is straightforward: "[T]he residence of a person offering to register or vote" is "[t]hat place . . . in which the person's habitation is fixed and to which, whenever the person is absent, the person has the intention of returning." R.C. 3503.02(A). To constitute a residence for purposes of voting, two elements must be satisfied: the person's habitation must be presently fixed at the place and there must be an intention to return to that place whenever the person isn't there. The Farmers Lane property satisfies neither element.

{¶ 9} Start with the first element. "Habitation" means "the act of inhabiting," "occupancy," "a dwelling place." *Webster's Third New International Dictionary* (2002). "Fixed" means "securely placed or fastened." *Id*. To qualify as Hill's residence, the Farmers Lane property must be the place where her occupancy is presently securely placed or fastened.

{¶ 10} The record is clear that at the present time, the Farmers Lane property is not Hill's dwelling place. Hill herself stated during the hearing before the board of elections that "no one's lived there yet." And at the time of the hearing, there were no structures on the property that could serve as a habitation.

{¶ 11} Because Hill has not yet lived at 209 Farmers Lane, the property cannot satisfy the second element of R.C. 3503.02(A)—that it is a place to which Hill intends to return. While there seems to be no question that Hill intends to live in a house at that address sometime in the future, there is no evidence of her intention to *return* to the place. "Return" means "to go back or come back again."

Webster's Third New International Dictionary. If Hill has never lived at 209 Farmers Lane, she cannot go back to it again. At best, Hill intends to *begin* living at the address when construction is completed. She will not *return* to living there. The evidence clearly and convincingly shows that the Farmers Lane property does not satisfy either element of R.C. 3503.02(A), so it is not Hill's residence for voting purposes.

{¶ 12} The board of elections' arguments to the contrary are unavailing. The board notes that "Hill was taking steps to make 209 Farmers Lane her residence prior to her temporary displacement and then continued to take steps to make 209 Farmers Lane her residence up to the date of the [board-of-elections] hearing." And it points to caselaw in which we have emphasized the importance of a person's intent in determining whether a place constitutes a residence for voting purposes. For example, the board points to *State ex rel. Husted v. Brunner*, 2009-Ohio-5327, in which we stated, "R.C. 3503.02 provides that the person's intent is of great import and thus emphasizes the person's intent to make a place a fixed or permanent place of abode." (Cleaned up.) *Id.* at ¶ 30. But in that case, the question was not whether then-Ohio State Senator Jon Husted had established the existence of a fixed habitation—it was undisputed that he had a house in Kettering, Ohio, where he spent some of his time—but whether he had an intent to return to it after completion of his duties as a senator in Columbus. A person's intent is relevant only when the fixed habitation has been established, and this court's decision in *Husted* does not hold to the contrary. The case cited by the first dissenting opinion likewise supports the idea that a person's intent is relevant only when a fixed habitation has been established. *See* dissenting opinion of Fischer, J. In *State ex rel. Duncan v. Portage Cty. Bd. of Elections*, 2007-Ohio-5346, there was evidence that the relator had lived at two different addresses, so the issue before the court was which address he intended to make his fixed habitation.

{¶ 13} An apt case is this court's decision in *State ex rel. Bobovnyik v. Mahoning Cty. Bd. of Elections*, 2020-Ohio-4003. There, the relator sought a writ of mandamus to compel the Mahoning County Board of Elections to certify his name to the ballot as an independent candidate for sheriff. There was a question whether his residence was in Mahoning or Columbiana County. While acknowledging that the relator's intent was important, this court noted that the board had not disbelieved the relator's stated intent to reside in Mahoning County. *Id.* at ¶ 21-22. Instead, "the board did not believe that [the relator's] 'habitation [wa]s fixed' in Mahoning County." (Second bracketed text in original.) *Id.* at ¶ 22, quoting R.C. 3503.02(A). Here, while Hill's intent to eventually live at the Farmers Lane property is not disputed, the evidence is clear that she, like the relator in *Bobovnyik*, does not presently have a fixed habitation at the property. Taking steps to make a place a residence is not the same as inhabiting or occupying the place.

{¶ 14} The board also suggests that rather than asking whether Hill satisfied R.C. 3503.02(A)'s fixed-habitation requirement, this court should consider R.C. 3503.02(I), which provides that "[i]f a person does not have a fixed place of habitation, but has a shelter or other location at which the person has been a consistent or regular inhabitant and to which the person has the intention of returning, that shelter or other location shall be deemed the person's residence for the purpose of registering to vote." The board contends that under that provision, the Farmers Lane property could qualify as Hill's residence for purposes of voting if Hill lived in a camper or a tent there. But there is no evidence in the record that Hill was camping on the property. Instead, the evidence shows that she was living at the Biglick property, which *would* qualify as Hill's residence under R.C. 3503.02(I).

{¶ 15} The second dissenting opinion does not reach the issue whether the Farmers Lane property was Hill's residence for voting purposes. Instead, the second dissent would deny the writ based on an argument not made by

respondents—that Duckett did not present evidence of which precincts the relevant properties are in. Dissenting opinion of Hawkins, J., ¶ 32. It is not clear why the second dissent believes that Duckett needed to specify which precincts the properties are in. Duckett is not seeking to prevent Hill from voting in a certain precinct. Instead, Duckett is challenging Hill's registration based on an invalid address. Even if the Farmers Lane property were in the same precinct as the Biglick property where Hill is currently living, her registration would be invalid because it is based on an incorrect address.

{¶ 16} The second dissenting opinion does not sufficiently explain why pinpointing the precincts for the relevant addresses matters in this case. Nevertheless, assuming the precincts of the relevant properties are pertinent, this court can take judicial notice of the precincts "whether requested or not," Evid.R. 201(C), if that information is "capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned," Evid.R. 201(B)(2). The precincts for each of the properties can be readily determined from the Hancock County Board of Elections website. https://hancockcountyohioelections.gov (accessed Sept. 23, 2026) [https://perma.cc/UGJ6-VZ5W]. There, a person can enter an address to determine its precinct (click on "Check Your Information," select "Where Do I Vote," and then select "Search by Residence Address"). To the extent it is relevant, then, this court takes judicial notice that the Farmers Lane property and the Biglick property are in different precincts (Precinct 60 and Precinct 38, respectively).[2]

2. The second dissenting justice would not take judicial notice, because "[t]his type of action has the potential result of preventing an Ohio citizen from voting in an upcoming election." Dissenting opinion of Hawkins, J., at ¶ 31. But the result in this case does not prevent Hill from voting at the upcoming election. As discussed above, under R.C. 3503.02(I), Hill could register to vote using the Biglick property as her residence. Or if Hill desires to vote in a precinct in Arcadia, she has time to establish residency there. The deadline for establishing residency is October 5, 2026, or 30 days prior to the general election. R.C. 3503.01(A).

CONCLUSION

{¶ 17} The board of elections clearly disregarded R.C. 3503.02(A)'s requirement that Hill's habitation at Farmers Lane be fixed to qualify as her residence for voting purposes. That she has an intent to live there in the future once a house is built is not sufficient under the statute. We conclude that Duckett had a clear legal right under R.C. 3503.24(A) to have Hill's registration struck and that the board had a clear legal duty to strike the registration based on an invalid residence. We therefore grant the writ.

Writ granted.

KENNEDY, C.J., concurring.

{¶ 18} I join the majority opinion because I must.

{¶ 19} R.C. 3503.02 sets forth a series of rules that "shall" control when determining the residence of a person "offering to register" to vote, and the primary rule is that his or her residence is considered to be the place "in which the person's habitation is fixed and to which, whenever the person is absent, the person has the intention of returning," R.C. 3503.02(A).

{¶ 20} In July, Rachelle Hill's "habitation" sold within 24 hours after the property was listed for sale. Under R.C. 3503.02(A), the house she sold was no longer her residence because she no longer intended to return there. Instead, she registered to vote at 209 Farmers Lane, the lot where, according to Hill, she is building her "dream home." But that lot has no habitation on it, and since she has never lived there, she cannot intend to *return* there. So although the Village of Arcadia solicitor advised her that she would be "okay" (with regard to her position on the village council, *see* R.C. 731.12, which requires members of the legislative authority of a village to be electors of the village) if her current house sold before the new one was completed, the lot at 209 Farmers Lane is not her residence for voting purposes under R.C. 3503.02(A).

{¶ 21} The remaining subdivisions of R.C. 3503.02 provide additional rules, but none of those rules apply to allow a finding that 209 Farmers Lane is Hill's residence. Most relevant are R.C. 3503.02(B) and (I).

{¶ 22} R.C. 3503.02(B) states that "[a] person shall not be considered to have lost the person's residence who leaves the person's home and goes into another state or county of this state, for temporary purposes only, with the intention of returning." But Hill has not moved out of county temporarily—she has moved temporarily to another address within the same county.

{¶ 23} R.C. 3503.02(I) provides that "[i]f a person does not have a fixed place of habitation, but has a shelter or other location at which the person has been a consistent or regular inhabitant and to which the person has the intention of returning, that shelter or other location shall be deemed the person's residence for the purpose of registering to vote." But Hill has never been a consistent or regular inhabitant at 209 Farmers Lane, so subdivision (I) does not apply either.

{¶ 24} I believe that Hill and her husband intend to build a home on the lot at 209 Farmers Lane and intend to move into that home when it is completed. But the General Assembly has not adopted a law that would permit this court to determine that a person's residence for purposes of registering to vote is property on which the voter intends to build or is building a home. Because of this, the lot at 209 Farmers Lane cannot be Hill's residence for voting purposes.

{¶ 25} Instead, when she moved into her father-in-law's home, that became her residence for voting purposes, since that is the only place to which she currently intends to return whenever she is absent.

{¶ 26} I recognize that the right to vote is a fundamental right. *Desenco, Inc. v. Akron*, 84 Ohio St.3d 535, 544 (1999), citing *Dunn v. Blumstein*, 405 U.S. 330, 336 (1972). But none of the parties have questioned the constitutionality of R.C. 3503.02's residency requirements. And if the statute does not conflict with the Ohio or United States Constitutions, we are obligated to apply R.C. 3503.02 as

written. For this reason, I join the majority today in concluding that relator, Aadam Duckett, has established his entitlement to a writ of mandamus to compel respondents, the Hancock County Board of Elections and its members (Melinda Williams, Thomas Liebrecht, David Spahr, and Steven Walker), to strike Hill's voter registration from the board's voting rolls.

FISCHER, J., joined by BRUNNER, J., dissenting.

{¶ 27} I would hold that respondents, the Hancock County Board of Elections and its members, Melinda Williams, Thomas Liebrecht, David Spahr, and Steven Walker, did not abuse their discretion or clearly disregard applicable law in rejecting Duckett's challenge to Rachelle Hill's voter registration, and thus, I would deny relator Aadam Duckett's request for a writ of mandamus. We have noted that the various rules set forth in R.C. 3503.02, a statute that provides guidance when determining residence issues, "emphasize[a] person's intent to make a place a fixed or permanent place of abode." *State ex rel. Duncan v. Portage Cty. Bd. of Elections*, 2007-Ohio-5346, ¶ 11. In applying those rules to Hill's situation, we should keep in mind, as the board did, Hill's clear "intent *to make*," (emphasis added) *Duncan* at ¶ 11, the Farmers Lane property a fixed or permanent place of abode. Because the majority does otherwise in this case, I respectfully dissent from the court's judgment.

HAWKINS, J., dissenting.

{¶ 28} With this action, relator, Aadam Duckett, aims to have elector Rachelle Hill's voter registration struck from the voter rolls. His arguments focus on whether Hill currently resides in the Village of Arcadia. By statute, Hill is qualified to vote if, among other requirements, she is "a resident of the county and precinct in which [she] offers to vote" and "has been registered to vote for thirty days." R.C. 3503.01(A). *See also* R.C. 3503.07 (tying a voter's registration to the

precinct in which the voter resides and providing generally that if a voter "continues to reside in the precinct until the next election," the voter will "be entitled to be registered as an elector in such precinct"); *State ex rel. Holwadel v. Hamilton Cty. Bd. of Elections*, 2015-Ohio-5306, ¶ 30.

{¶ 29} The relevant statutory distinction, then, is whether Hill resides in the *precinct* in which she is registered. Duckett recognizes this distinction in his complaint, noting that "[w]hile it is important that one not deny the right to vote to a person who meets the statutory requirements to be a valid elector in the appropriate precinct, it is equally just as important to not allow a person to vote if he or she does not satisfy the requirements to be a valid elector in the appropriate precinct." However, he has not submitted evidence that establishes which precincts the relevant properties are in, nor is this information established through other parts of the record.

{¶ 30} And Duckett does not ask this court to take judicial notice of the precincts in which the properties are located or offer a source from which this court can determine the information. "'A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.' Evid.R. 201(B). 'A court may take judicial notice, whether requested or not,' . . . Evid.R. 201(C), and it 'shall take judicial notice if requested by a party and supplied with the necessary information,' Evid.R. 201(D)." (Emphasis deleted.) *State ex rel. Harris v. Bruns*, 2023-Ohio-2344, ¶ 20.

{¶ 31} I would decline to take judicial notice of the precincts relative to each property at issue here. This type of action has the potential result of preventing an Ohio citizen from voting in an upcoming election and, in my view, is not so "extraordinary" in nature that it warrants unprompted intervention from this court to establish on a relator's behalf a fact material to granting the writ. *See State ex*

rel. Yost v. Holbrook, 2024-Ohio-1936, ¶ 3 (DeWine, J., concurring), quoting *Ohio High School Athletic Assn. v. Ruehlman*, 2019-Ohio-2845, ¶ 6 ("'We reserve the use of extraordinary writs for rare cases.' ") and *State ex rel. Corn v. Russo*, 2001-Ohio-15, ¶ 15 (extraordinary writs are "'granted in limited circumstances with great caution and restraint' ").

{¶ 32} Because no evidence was submitted to establish the precincts at issue, Duckett failed to demonstrate that Hill is not qualified to vote. *See* R.C. 3503.01(A); R.C. 3503.07; *Holwadel*, 2015-Ohio-5306, at ¶ 30. This deficiency precludes the relief Duckett seeks in mandamus—the striking of Hill's voter registration—and I would deny the writ on that limited basis. *See State ex rel. Miller v. Union Cty. Bd. of Elections*, 2023-Ohio-3664, ¶ 15 (a relator must establish entitlement to a writ of mandamus by clear and convincing evidence). As a result, while I generally agree with the majority opinion's "residence" analysis, I disagree with the court's decision to grant the writ. Therefore, I respectfully dissent.

The Law Firm of Curt C. Hartman, and Curt C. Hartman, for relator.

Sean M. Abbott, Hancock County Prosecuting Attorney, and Justin J. Kahle, Assistant Prosecuting Attorney, for respondents.
