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Instances where Candidates or Members were Impacted by Residency Requirements

Compiled by the Legislative Reference Library, 12/3/2024

I did not find any instances of seated legislators who were removed from office based on the residency requirements. There were [many contested elections](#) and it would take some digging to see if the older ones were contested for residency. There could have also been other legislators unseated by the chamber based on this requirement, which I was not able to find.

According to a *Memorandum in Support of Contestee's Motion to Dismiss*, filed on November 27, 2024 in the case: Paul Wikstrom v. Curtis Johnson (62-CV-24-7378), "there is no case law showing that a court ever entertained a residency challenge under the election contest statute after an election has been held."

One of the tricky parts about this type of research is that in many cases, the name is stricken from the ballot so it doesn't appear in [election results](#).

Here are the instances that I was able to discover:

2024

As of December 3, 2024, there is an ongoing court case: Paul Wikstrom v. Curtis Johnson (62-CV-24-7378).

2016

[Rep. Bob Barrett](#) was an incumbent running for House district 32B in the 2016 general election. The Minnesota Supreme Court ruled that he did not meet the constitutional requirement for residency in that district and that he should be removed from the ballot, but it was too close to the election. The election results were nullified and the seat was vacant when the legislature convened on January 3, 2017. There was a special election held in February of 2017 to fill the seat. He could have run in the special election, but decided not to run. The successful candidate was [Anne Neu Brindley](#).

2005

In the [special election on December 27, 2005](#), Sue Ek was removed from the ballot by the courts because of residency requirements. Her relative, Kay Ek ran an unsuccessful write-in campaign. [Larry Haws](#) was elected to House district 15b in that 2005 special election. See the clipping attached below about this race.

2002

In 2002, the Minnesota Supreme Court ruled that Jason Samuels (a green party candidate) didn't meet the residency requirements and required Hennepin County to remove his name from the ballot. See the attached article. He was running against incumbent [Rep. Kahn](#).

1970

In 1970, the Minnesota Supreme Court ruled that Gladys Baker Swanson did not fulfill the residency requirements. Beltrami county was ordered not to print her name on the ballot. She was running against incumbent, [Rep. Falk](#).

Republican Party left in limbo with no state law for guidance

By David Unze

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ST. PAUL — The Republican Party likely will try to add a replacement candidate in the Dec. 27 special election for the House 15B seat after the Supreme Court on Monday removed Sue Ek from the race.

The state's highest court agreed with a lower court judge that Ek hasn't lived in St. Cloud long enough to be a candidate for the seat vacated when Joe Opatz retired.

More court action could be inevitable because there are no state statutes that address replacing a candidate who has been removed from the ballot by court order.

The Republican Party asked for direction on the issue, but the court's Monday ruling offered no answers.

"I think we have a unique situation again," said Tony Trimble, a Republican Party attorney who represented Ek. "The court decided not to make



Alan Weinblatt, the attorney representing St. Cloud Democrat Ric Studer, argues Monday in front of the Minnesota Supreme Court in St. Paul.

new law, which from a jurisprudence aspect is wise perhaps. But it is now going to be left to other proceedings, which could make it ripe to lead to other judicial proceedings."

Those proceedings will have to happen quickly. The special election is one week away, and county auditors are in limbo about

printing ballots.

About the only certainty is that Ek's name won't be listed as Larry Haws' opponent.

"Today the Supreme Court of Minnesota confirmed what the facts have already shown: Sue Ek doesn't live in St. Cloud, and wasn't telling the truth when she ran for elected office saying that she did," DFL Party Chairman Brian Melendez said in a statement.

See EK, 4A ►

Timeline

Dec. 7:

■ Questions are raised about whether Sue Ek, the Republican-endorsed candidate for the House special election, met residency qualifications that require candidates to live within the district six months before the election.

Dec. 9:

■ The St. Cloud Times reports that Ek signed an affidavit on July 9, declaring she lived at 1258 Niles Ave., St. Paul.

■ St. Cloud Democrat Ric Studer files a lawsuit saying Ek should be removed from the ballot.

Wednesday:

■ Ramsey County District Court Judge George Stephenson, a Gov. Jesse Ventura appointee, is assigned to hear the evidence in the case Friday. The Minnesota Supreme Court is scheduled hear the case.

Friday:

■ After hearing



Tony Trimble

Situation may be unique one

Friday:

■ After hearing about six hours of evidence, Stephenson rules that Ek does not meet the state's residency requirements.

Saturday:

■ Ek skips a televised candidates' forum at St. Cloud City Hall.

Monday:

■ The Supreme Court hears arguments from lawyers representing Ek and Studer. It orders Stearns, Sherburne and Benton counties to remove Ek's name from the ballot.

More on Page 4A

What happened and what's to come? And what does this situation mean for absentee voters and you? Find out in a Times question and answer.

From Page 1A

Ek

Haws reacts

Said Haws: "I'm going to try to continue on in my focus that I'm running for an office. I don't know all the rules and regulations, and I didn't pay much attention other than the academic curiosity because we're running against each other."

Trimble said he wouldn't be surprised if the Republican Party quickly sought to add a replacement for Ek.

"We don't think Larry Haws deserves a free ride, and we don't think the voters of Central Minnesota are interested in a coronation," said Mark Drake, Republican Party of Minnesota communications director.

State law allows for replacement of a candidate after the deadline for withdrawal only when the candidate dies or suffers from a catastrophic illness. Secretary of State Mary Kiffmeyer asked the Supreme Court for clarification on replacing a candidate who has been removed. The court offered no guidance in its Monday

ruling, which ordered Ek's name removed from 15B ballots.

"We specifically asked the court for guidance because statute is a bit ambiguous," Kiffmeyer said. "It speaks only to death or withdrawal, and this is a vacancy."

She also sent an e-mail late Monday to Attorney General Mike Hatch, asking him for a written, advisory opinion. She doesn't expect to get one, she said late Monday, because there has been no legal action initiated to require an answer.

"My biggest concern here is for the voters," Kiffmeyer said. "It's very, very hard on them, being put in this situation."

Six Supreme Court justices Monday heard about 75 minutes of argument before issuing the order to remove Ek's name from the ballot. They questioned attorneys on what significance to give the ruling late last week by Ramsey County District Court Judge George Stephenson that Ek hadn't lived in St. Cloud for six months prior to the election. They also heard about the affidavit Ek signed July 9 stating that she lived at 1258 Niles Ave. in St. Paul.

And they asked Trimble whether the Republican Party could get a replacement candidate picked

in time for the Dec. 27 election, should they decide to remove Ek.

"Clearly we were hoping that would be an alternative, to allow a replacement to the seat so that a contest would still exist," Trimble said. "But I also understand the court's reticence because the issue (Monday) was disqualification of a candidate."

Ek didn't return phone calls to her home seeking comment. She didn't show at a candidate forum Saturday and has declined to answer questions about the residency issue.

What's next?

Ek is waiting to see how things play out, Trimble said, and voters might not have seen the last of her.

"Sue is a very, very realistic person. She understands this is a slip, but not a fall. She's very bright, a good candidate, and she may be a candidate again some day," he said. "I think her credibility is intact in my mind. She simply made a quick decision based on confusion and hurriedness, I suppose."

The Democrats were less understanding late Monday.

"From day one, the Republicans have been playing political games with the people of St. Cloud,"

Melendez said. "Gov. Pawlenty scheduled the special election two days after Christmas, which would ensure low voter turnout and disfranchise the students of St. Cloud State University. Then the Republicans advanced a candidate who didn't even live in the district. The Supreme Court wasn't fooled. The voters won't be fooled either."

Times reporter Lawrence Schumacher contributed to this report.



Questions and answers: The Sue Ek situation

Q: Can Sue Ek's name be replaced on the House 15B ballot?

A: State election laws address the issue of candidates who withdraw after the deadline because of death or catastrophic illness.

There are no state statutes addressing whether a party can replace a candidate who is removed from the ballot by court order. And the Supreme Court, in its order Monday, said it was expressing no opinion on the whether Ek's removal "creates a vacancy that may be filled in accordance with statute."

If a candidate withdraws after the 16th day before the general election but before four days before the general election, the secretary of state shall instruct the election judges to strike the name of the withdrawn candidate from the general election ballot and shall substitute no other candidate's name, according to state elec-

tion law.

But that deals with candidates who withdraw, not candidates who have been removed by court order for failing to meet residency requirements.

Filing officers may not accept a substitute candidate after the 14th day before the general election. But, again, that deals with a candidate who withdraws, not one who is removed from the ballot by court order.

Q: What if I already cast a vote in absentee balloting?

A: Voters who already have cast an absentee ballot can request a new one and can get one either by mail or in person.

Replacement ballots will be accompanied by instructions stating that either a regular absentee ballot or a replacement absentee ballot will be accepted if completed and re-

turned properly, that votes cast for Ek won't be counted and that a replacement absentee ballot will replace any absentee ballot that voter may already have cast.

If a voter casts two absentee ballots, the ballot with the later date on the return envelope will be counted.

Q: If the Republicans are allowed to replace Ek and pick a replacement, how soon would they have to have that name to county auditors in order for them to print new official ballots with that new candidate's name?

A: Counties wanted to have a decision by Monday in order to print new ballots. They could have photocopied ballots ready in time for the Dec. 27 election if they have a new candidate's name by late Thursday or early Friday, said Sherburne County Attorney Kathleen Heaney.

Intern's ethics scrutinized after he lusted for boss' job: [METRO Edition]

Whereatt, Robert; Staff Writer11 Staff Writer

[ProQuest document link](#)

ABSTRACT (ABSTRACT)

[Phyllis Kahn], a DFLer from Minneapolis, reluctantly consented. And [Jason Samuels], by all accounts, did an excellent job - writing, researching and helping out where needed.

Kahn was pleased with his work. Near the end of the legislative session, over lunch that she paid for, Kahn gave him a superior job review and said he could use her as a future reference.

"He did a really good job for me," Kahn said. "I had him writing some, getting names on bills, doing some research on some stuff. He wrote some op-ed pieces. One was published [under Kahn's byline] in the [Minnesota] Daily."

FULL TEXT

Early this year, University of Minnesota student Jason Samuels came calling at Rep. Phyllis Kahn's legislative office asking for a job as an unpaid intern.

Kahn, a DFLer from Minneapolis, reluctantly consented. And Samuels, by all accounts, did an excellent job - writing, researching and helping out where needed.

Kahn was pleased with his work. Near the end of the legislative session, over lunch that she paid for, Kahn gave him a superior job review and said he could use her as a future reference.

Then Samuels told Kahn something she never expected: He was going to run against her this fall.

"I went internally ballistic," Kahn said last week. "I told him I thought he was making a terrible mistake."

The turn-on-your-supervisor move has elicited concerns about the intern program within the University of Minnesota's Political Science Department, prompted head-shaking in political quarters, forced the state Supreme Court into the fray and raised a question of propriety with one of the highest arbiters of angst in the land - the New York Times Magazine's "The Ethicist."

In the end, Samuels, 25, who will graduate next spring with a degree in political science and history, is not on the ballot - not by his choice, but by Minnesota Supreme Court order.

But did he do something wrong?

"I know that my intents weren't malicious at all," he said. "But whether I crossed the line ethically? I hope I didn't, but it's still something I think about."

Interns are common during legislative sessions, often working for free. Some legislators accept several to give the students hands-on experience.

Kahn, though, has reservations. "I don't take a lot of interns because I usually think they're more trouble than they're worth. I want people who are self-starters . . . and who look like they're self-directed.

"So this kid came along and his big issue was drug legislation, which I told him we weren't going to [pass during the session]."

Samuels wanted the criminal penalties on marijuana ended. He co- founded the campus chapter of NORML, the National Organization for the Reform of Marijuana Laws, and was arrested in 1994 on campus for possessing a small amount of pot. (He said his punishment was a "one- day reeducation program.")

Kahn did sponsor a bill permitting marijuana for medical purposes, though it didn't go anywhere.

"He did a really good job for me," Kahn said. "I had him writing some, getting names on bills, doing some research on some stuff. He wrote some op-ed pieces. One was published [under Kahn's byline] in the [Minnesota] Daily."

Then on the day Kahn took Samuels to lunch, he handed the 30- year legislative member a press release announcing that he intended to run for her seat.

Kahn was mad. "I told him to get his stuff out and go."

She said she told Samuels she would still give him high marks on his job performance to anyone who asked her for a reference, but would add "that I think you're an ethically challenged person."

In early May, Samuels wrote Kahn, saying he had decided not to run even though he believed he had done nothing unethical. "I do not wish to run a campaign in which my character, and not the issues I care about, becomes the central issue," he wrote.

Samuels also shared with Kahn thoughts from the journal he had written about his internship.

He said he thought he could get credit toward his degree by running for the Legislature. Further, he said, he thought he could win.

"I go to school here, am politically active here, and it is the largest concentration of young people in the state. Running for the Senate against [Minneapolis DFL Sen. Larry] Pogemiller would mean taking on an up-and-coming politician in the middle of a well- respected career.

"Phyllis Kahn is 65 years old and has served for 30 years. This is not meant to slight her, but one day a change has to come. I want to be the person who takes over for her," he confided to his journal.

But shortly before the filing period closed in July, Samuels reversed himself and filed for the seat as a Green Party candidate in the newly remapped District 59B, which takes in the university's Minneapolis campus.

Samuels said last week that he changed his mind when he saw that no one had filed against Kahn, particularly no

student. And, he said, he was passionate about changing state drug policy and legalizing marijuana.

"In the end, I saw how other candidates were getting their issues across just by being candidates," he said.

A wrong move

During the summer, though, Samuels had changed residences, inadvertently moving outside the boundaries of the reapportioned district, though still inside the old boundaries.

The DFL Party in the Senate district sought to remove him from the ballot. Ultimately, the Supreme Court ruled he did not meet the residency test and ordered Hennepin County to strike his name from the race.

Kahn said Samuels' candidacy "was embarrassing."

"My 'sympathetic' colleagues said, 'We'll put you in charge of interns next year.' It wasn't a fear that I was going to be defeated by this kid or that he had learned anything; it was just that everybody thought I was really dumb to let this happen to me. That was sort of the gist of my letter to 'The Ethicist.' "

Kahn is an avid reader of Randy Cohen's column, "The Ethicist," which runs each Sunday in the New York Times Magazine. The author delves into moral conflicts and questionable actions proffered to him by readers.

Kahn wrote the column and outlined the circumstances, noting that Samuels "had total access to my office, files, etc., but there is no evidence that he misused that."

She asked Cohen: "Are we being too sensitive? Should I have been more alert to this possibility?"

Cohen mildly challenged Kahn to be more alert to the ambitions of the young. And he suggested she should set up an ethics policy for future interns.

"It might, for example, clarify the restrictions on handling confidential information. It might also require would-be interns to pledge that upon leaving the job, for a finite period - one term? - they not run against a former boss."

Kahn's query and the response by "The Ethicist" thrust the gonna-run/didn't-run controversy into public view. But it already had made ripples.

At the University of Minnesota, Paul Soper, director of the Political Science Department's internship program, said he has rewritten the description of the program, inserting an ethics section.

It reminds students to honor confidential relationships between themselves and politicians for whom they work.

"I've been doing this now for about a year and a half. It completely caught me off guard," Soper said. "When we discovered it, Phyllis Kahn and I did some asking around. Nothing like this has happened at the state Legislature in the last 10 or 20 years."

Come Tuesday, for only the second time in her 16 election campaigns, Kahn will have had no primary opponent and

no general election opponent. And, unopposed, she will win.

Samuels has been left to muse about whether his action was unethical.

"It's really hard to say. I know when I went into the office I didn't have a fully developed plan. I had an inkling. It's something I will continue to think about."

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Illustration

Photo: PHOTO

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Woman barred from candidacy

ST. PAUL (AP) — A northwestern Minnesota woman was barred from the ballot as a candidate for the state legislature in an order issued Monday by the Minnesota Supreme Court.

The court order said Mrs. Gladys Baker Swanson would not fulfill a requirement of the state constitution that legislators live in their districts for six months prior to election.

Mrs. Swanson, a resident of Shevlin in Clearwater County, had filed as a candidate for the House from District 64A, which takes in part of Beltrami County.

The order signed by Associate Justice C. Donald Peterson directed Beltrami County Auditor Wayne Alsop not to print her name on the ballot.

Mrs. Swanson's candidacy had been challenged by Ole A. Moe, a Beltrami County voter.

Removal of her name from the ballot leaves incumbent state Rep. Robert Falk, Tenstrike, a DFLer, opposed by only one challenger, Raymond T. Jaakola, Bemidji.