GUNASEKARA V. BARTON: A CANDIDATE'S DECLARATION OF INTENT IS NOT SUFFICIENT TO ESTABLISH DOMICILE WHERE THERE IS EVIDENCE OF LIVING ARRANGEMENTS AND ACTIVITIES IN ANOTHER STATE

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Gunasekara v. Barton presented a notable development in case law regarding Mississippi election law. The *Gunasekara* decision marks a shift in Mississippi's domicile analysis, moving away from a declaration-based approach towards a more comprehensive, fact-intensive examination of domiciliary intent.

In November 2022, Amanda Gunasekara ("Gunasekara") announced her intention to run for Mississippi Public Service Commissioner, District 3, and on January 5, 2023, she filed documents to qualify for the position.[1] On February 9, 2023, Matthew Barton filed a contest with the Mississippi Republican Party Executive Committee to Gunasekara's qualifications for the position, claiming that she had been a Washington D.C. ("D.C.") resident within the five years preceding her qualifying documentation.[2] The Executive Committee denied Barton's contest, so Barton filed for review in the Hinds County Circuit Court.[3]

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[1] Gunasekara v. Barton, 359 So. 3d 1090, 1094-95 (Miss. 2023).

[2] *Id.* at 1095.

[3] *Id.*

The circuit court disqualified Gunasekara from the position after considering a "plethora of evidence" relating to Gunasekara's residency in the prior five years.[4] In its determination, the Court considered the Gunasekaras' homestead in D.C.,[5] their family's purchase and subsequent deed of a home in Mississippi,[6] their renewed car tag in D.C.,[7] their voting history in D.C.,[8] and their loan application to refinance their D.C. home.[9]

Following the circuit court's disqualification, Gunasekara appealed to the Mississippi Supreme Court.[10] The Supreme Court affirmed the judgment of the circuit court, holding that the trial court used the proper legal standard and did not err in considering evidence of Gunasekara's voting history.[11]

The Mississippi Supreme Court has made clear that the "first principle" of the law of domicile is that "no person has more than one domicile at a time."[12] When reviewing a domiciliary claim, the Court has long recognized that intent is the "foundation" of its domicile analysis.[13] However, as evidenced by the caselaw reviewed in *Gunasekara*, the Court has recognized that a party's intentions must also be balanced with the facts surrounding one's residency.[14]

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[4] *Id.*

[5] *Id.* at 1092 (citing DC.gov, Office of Tax and Revenue, https://otr.cfo.dc.gov/page/homesteadsenior-citizen-deduction [https://perma.cc/Y3VP-TT5P].

[6] *Id.* at 1093.

[7] *Id.*

[8] *Id.*

[9] *Id.* at 1094.

[10] *Id.* at 1095.

[11] *Id.* at 1103.

[12] *Id.* at 1096 (quoting Newman v. Newman, 558 So. 2d 821, 825 (Miss. 1990)).

[13] Stubbs v. Stubbs, 211 So. 2d 821, 825 (Miss. 1968).

[14] *Gunasekara*, 359 So. 3d at 1098 (citing Hairston v. Hairston, 27 Miss. 704, 718-19 (1854)) (noting that "[t]wo things must concur . . . 'first, residence; and secondly, the intention of making it the home of the party'").

Early cases in Mississippi jurisprudence held that "declarations of the party . . . are the best evidence of his intention . . . ."[15] Consistent with this, the *Hairston* Court—notably the oldest case in the Court's series of domicile analyses—evaluated the declarations of intent quite liberally.[16] Similarly, in *Stubbs v. Stubbs*, although the Court considered evidence of the parties' "physical presence" and "all relevant facts and circumstances," it held that the declarations of the party himself are "most important."[17]

More recently, though, the Mississippi Supreme Court has favored more stringent proof of permanent residency. As the *Young* Court stated, the residency requirement "is not satisfied with a simple declaration that one intends to be a resident of a particular county when the overwhelming proof shows that he actually resides elsewhere. It is not enough that [a candidate] considers himself an official resident of [the state]. He must actually reside there permanently."[18] Consistent with this, the *Meredith* Court recognized that, although declarations of the party have been held to be most important, the party's physical presence is an essential element of any domiciliary claim.[19]

In *Gunasekara v. Barton*, the Court concluded that the trial court did not err in applying the legal standards, and further, that the trial court properly considered evidence of Gunasekara's voting history.[20] In the majority opinion, Justice King noted the "plethora of evidence" that the trial court cited in reaching its conclusion that Gunasekara was ineligible for the position of Public Service Commissioner.[21]

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[15] Hairston v. Hairston, 27 Miss. 704, 719-20 (1854).

[16] *Id.* ("[E]ven where a party has two residences at different seasons of the year, 'that will be esteemed his domicil[e] which he himself selects, or describes, or deems to be his home, or which appears to be the centre of his affairs, or where he votes or exercises the rights and duties of a citizen.'").

[17] *Stubbs*, 211 So. 2d at 825.

[18] Young v. Stevens, 968 So. 2d 1260, 1264 (Miss. 2007).

[19] Meredith v. Clarksdale Democratic Exec. Comm., 340 So. 3d 315, 324-25 (Miss. 2022) (noting that declarations "must be accompanied by evidence of . . . actual living arrangements and activities in [the state]").

[20] *Gunasekara*, 359 So. 3d at 1103.

[21] *Id.* at 1094-95.

Departing from the Court's previous caselaw that characterized declarations of the party as the "most important" factor in establishing the requisite intent for domicile,[22] Justice King noted that declarations were merely "probative."[23] Considering the recitation of facts the trial court listed in determining that Gunasekara maintained an active residence in D.C., the opinion focused much more on Gunasekara's "actions and declarations at the time of the transition between residences."[24] The Court's justification for deemphasizing the party's declarations represent a rejection of the notion that a party's present declarations can be dispositive of their past intent.[25]

The Court's current approach to domicile analysis is that declarations "must be accompanied by evidence of . . . actual living arrangements and activities" in the state.[26] The analysis begins with the ostensibly simple notion that "no person has more than one domicile at a time."[27] But in cases such as *Gunasekara* that are filled with conflicting facts indicating physical presence in two forums,[28] the Court must make difficult determinations that prioritize some forms of evidence over others.[29]

Given the Mississippi Supreme Court's interpretation of domicile in *Gunasekara*, Mississippi courts may place greater emphasis on administrative or procedural actions related to residency rather than actual evidence of the parties' physical presence in the forum.[30] *Gunasekara's* interpretation of domicile certainly makes it plausible that the Court would declare a candidate ineligible who maintains certain incidental evidence of a

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[22] *See Stubbs*, 211 So. 2d at 825 (holding that "it has been held that the declarations of the party himself are most important.").

[23] *Gunasekara*, 359 So. 3d at 1099.

[24] *Id.*

[25] *Id.* (noting that "[i]f this Court accepted Gunasekara's argument . . . a candidate's present declaration regarding her past intentions would determine domicile").

[26] *Id.* at 1098-1099 (alteration in original).

[27] *Id.* at 1096 (quoting Newman v. Newman, 558 So. 2d 821, 825 (Miss. 1990)).

[28] *Id.* at 1092-95.

[29] *Id.* at 1099 (considering Gunasekara's actions at the time of transitioning domiciles, including her voting history in D.C., rather than Gunasekara's declared intent).

[30] *See, e.g.*, Meredith v. Clarksdale Democratic Exec. Comm., 340 So. 3d 315, 326 (Miss. 2022) (weighing the party's homestead exemption more heavily than "[p]hotos, receipts, and testimony" that indicated the party resided at the newly claimed domicile).

prior domicile in another forum, despite the party's declarations, actions, and physical presence otherwise satisfying the state's intent requirement for residency.

This scenario is not only plausible but reflected in the caselaw. Consider, for instance, the *Meredith* Court weighing the challenging party's homestead documentation more heavily than direct evidence of the party's physical presence and declaration of domiciliary intent in the new forum.[31] The outcome in *Meredith* represents a partial departure from prior precedent, which historically required that "[t]wo things must concur . . . 'first, residence; and secondly, the intention of making it the home of the party.'"[32]

Since the *Gunasekara* Court required that declarations—previously held to be "most important" to intent—"must be accompanied by evidence of . . . activities in [the state],"[33] it permitted Mississippi courts to prioritize which "activities" may override the party's declaration.[34] If the Mississippi Supreme Court chooses to weigh a party's homestead documentation more heavily than the party's declarations, the declarations are logically no longer "most important" in the intent analysis.[35]

To avoid this conflict, the appropriate remedy would be to restore declarations as the "best evidence" of a party's intent.[36] Further, the Court should reinstitute the broader requirements articulated in *Stubbs*, which held that "intention may be established by physical presence, declaration of intent, and *all relevant facts and circumstances*."[37] This language allows the Court to properly analyze whether relevant facts are so overwhelming as to override the party's declared intent.

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[31] *Id.*

[32] *Gunasekara*, 359 So. 3d at 1098 (citing Hairston v. Hairston, 27 Miss. 704, 719 (1854)).

[33] *Id.* (quoting *Meredith*, 340 So. 3d at 325).

[34] The Mississippi Supreme Court's precedent has traditionally only allowed "overwhelming proof" that the party resided elsewhere to override a declaration of intent. *See, e.g.,* Young v. Stevens, 968 So. 2d 1260, 1264 (Miss. 2007).

[35] *Id.*

[36] *See generally Hairston*, 27 Miss. 704, 712 (1854).

[37] *Id.* (emphasis added).

In essence, the *Gunasekara* Court held that a candidate's declaration of intent is not sufficient to establish domicile where there is evidence of living arrangements and activities in another state. However, the Court's analysis, following the framework from *Meredith*, departed from the underlying principles of the Court's original approach to domiciliary intent. The future jurisprudence by the Court is more likely to resemble *Meredith*, which prioritizes evidence such as homestead documentation and car registrations rather than analyzing whether the party's physical presence is consistent with their declaration of intent.