

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Court File No. 62-CV-24-7378

Paul Wikstrom,

Contestant

v.

Curtis Johnson,

Contestee.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
RECOMMEDATION TO
MINNESOTA SUPREME COURT**

This matter came on for an evidentiary hearing before the undersigned Referee Appointed by the Minnesota Supreme Court and Judge of District Court on December 5, 6 & 7, 2024 at the Ramsey County Courthouse in St. Paul, Minnesota.

Erick Kaardal and Nicholas Morgan appeared on behalf of the Plaintiff.

David Zoll and Rachel A. Kitze Collins appeared on behalf of the Defendant.

Based upon the testimony and evidence adduced at the evidentiary hearing, the Court makes the following Findings of Fact, Conclusions of Law and Recommendation to the Minnesota Supreme Court.

FINDINGS OF FACT

1. Paul Wikstrom is the Contestant in this case.
2. Curtis Johnson is the Contestee in this case.
3. Both of these men were candidates in 2024 for the Minnesota House of Representatives seat District 40B.

4. Mr. Johnson filed a handwritten affidavit of candidacy on May 21, 2024, affirming his commitment to reside in the new House District thirty days before the general election. The address listed on this affidavit of candidacy is 2735 Rice Street, Apartment 103, Roseville, Minnesota.
5. Curtis Johnson is an elected member of the ISD 623 School Board, elected from his Little Canada residence at 3084 Payne Avenue. He testified that he never changed his address with ISD 623.
6. Shari Thompson from ISD 623 confirmed that ACH payments to Curtis Johnson were sent to his Little Canada address and the address for those checks and tax documents went unchanged in 2024.
7. Mr. Johnson co-owns 3084 Payne Avenue, Little Canada with his wife, Dr. Jill Johnson, and keeps many personal possessions, appliances, electronics, and kitchen supplies in the house.
8. According to Ramsey County Property Records and his own testimony, Curtis Johnson claims a Homestead Tax Exclusion pursuant to Minn. Stat. § 273.124 subd. 13. In order to claim this exemption, Mr. Johnson had to file a sworn affidavit with the Ramsey County that he is living in this house and should get a reduction on their property taxes. He testified that he did nothing to update this and continues to get this tax benefit as if he is residing there.
9. Mr. Johnson's family lives in the Little Canada home and has lived there since moving into the home in 2017. Contestee's family has never moved or attempted to reside elsewhere. His daughter Jamie lives at the home and son Charlie claims the home as a residence but lives in an apartment in Eugene, Oregon paid for by Mr. and Dr. Johnson. Mr. and Dr. Johnson also pay for Charlie's food.
10. Mr. Johnson was aware of living outside House District 40B since the district boundary lines changed in 2022.
11. Mr. Johnson claimed to retain a realtor but provided no documentation memorializing the relationship. He did not know he retained a realtor to buy a property or to sell his property or both. He testified that he had looked at several properties he would have liked to purchase but could not purchase for financial reasons, as his Little Canada house is in need of extensive repairs, and he needs to sell that house before he purchases another house.
12. The repairs needed for sale of the Little Canada house include, but are not limited to: a new roof, carpet, electrical work, drywall, and doors. No progress

- has been made on any of these repairs. Dr. Jill Johnson testified she was “optimistic” these repairs could be completed next year and the house put up for sale but did not explain the path to this happening.
13. Mr. Johnson claimed to put one bid on a property in 40B but provided no documentation or further details memorializing this bid.
 14. Dr. Johnson testified Timeline "hope for February or March of 2025" to place Little Canada house on the market but depends on the market and finances to complete the things that need to be done on the house – “optimistic.” She testified that: “want to move to the Roseville area” and that “we would move [to the Roseville area].”
 15. Dr. Johnson testified that the carpet could not be replaced until their geriatric cat died, which was three weeks before the trial. Carpet replacement was established as a necessity to market the Little Canada house for sale.
 16. Dr. Johnson says it is tough to move because her daughter objects and gets very emotional. She testified that the daughter refusing to move and this has affected the timeline in selling the house.
 17. Dr. Johnson testified that Mr. Johnson has stayed overnight at the Little Canada house since filing to run for office. She was vague about the frequency of these overnight visits.
 18. The Johnsons have been in contact with a realtor about their desire to move. This realtor, Becky Penttila, testified about inchoate efforts to move on the part of the Johnsons that she had been in communication with them about. There is no representation agreement to sell the house according to Ms. Penttila.
 19. Mr. Johnson owns and drives a blue Mitsubishi automobile.
 20. Mr. Johnson rented a POD in mid-October to begin moving items. The POD has never left their driveway and packing is ongoing. Dr. Jill Johnson testified that she had packed some books in to the POD.
 21. Mr. Johnson stated he moved into Apartment 103 at Rosedale Estates on March 5, 2024. He signed the lease on February 28, 2024.
 22. Mr. Johnson stated he moved into Apartment 303 on October 15, 2024, following maintenance issues with Apartment 103.

23. Mr. Johnson could not recall where he slept from October 1 to 15 except for October 10 when he slept at the Little Canada home.
24. Mr. Johnson has no documentation of living, dining, cooking, or engaging in any activities in Apartment 103 or 303.
25. Mr. Johnson has not ever signed up for Internet service in Apartment 103 or Apartment 303 and he testified that the studio apartment in Rosedale Estates is a “temporary” arrangement.
26. Mr. Johnson changed his driver’s license to Apartment 103 in March 2024. He has not updated his address on his driver’s license to reflect apartment 303 as required by Minn. Stat. § 171.11.
27. Curtis Johnson’s Minnesota voter registration as of December 3, 2024, is currently for apartment 103 despite his testimony of having lived in apartment 303 on that date.
28. Mr. Johnson was not in Apartment 103 from May 17, 2024, to May 19, 2024, or from September 18 to September 28, 2024.
29. Mr. Johnson offered Exhibit 303, which is a record of maintenance requests for his apartment 103 at Rosedale Estates. According to this Exhibit, on June 9, 2024, he submitted a request for maintenance because that stated: “Was out of the apartment for about a week came back and it looks like an explosion of something in my toilet.” Mr. Johnson testified that he mistakenly wrote that he was out of the apartment for about a week on this request because he was “just tired from all the campaigning.” This explanation strains credulity.
30. Exhibit 303 reflects that the work to fix the toilet explosion was completed on June 10, 2024, in apartment 103. Mr. Johnson testified that he moved to apartment 303 on October 15, 2024, because of the problems with apartment 103.
31. Mr. Johnson testified that he made contributions to Kamala Harris for President this year and he used his Little Canada address, not his Rosedale Estates address, for Federal Election Commission reporting purposes.
32. Mr. Johnson testified that he often does not use lights at night in his apartment even when he is awake.
33. Dr. Johnson testified that she has spent the night twice at the apartment. She did not testify whether it was apartment 103 or 303 or even what month this

- occurred. She further testified that she “visited apartment itself about 5 to 10 times.” She similarly did not specify which apartment she visited.
34. Contestant Paul Wikstrom was provided specific concerns regarding Mr. Johnson’s residency on September 7, 2024, following an interaction with Roseville resident Robert Willmus. He informed his campaign team, and they were also concerned about this information. A team was formed that dedicated itself to investigating claims regarding Mr. Johnson’s residency.
 35. The investigation team consisted of Elizabeth Guthrie, Chris Bakeman, Kristin Bakeman, Denise Kruse and Christofer Sears.
 36. Mr. Johnson filed a handwritten affidavit of candidacy on May 21, 2024, affirming his commitment to reside in the new House District thirty days before the general election. The address listed on this affidavit of candidacy is 2735 Rice Street, Apartment 103, Roseville, Minnesota.
 37. Mr. Wikstrom put out a video on October 15, 2024, alleging impropriety by Mr. Johnson. Contemporaneous with the release of that video, Mr. Johnson increased his visits and frequency of his presence at an apartment in the new house district.
 38. Julie Nordstrom is a neighbor of Mr. Johnson for the last 5 years who could view the Little Canada home from her front window.
 39. Due to extensive surgeries, Ms. Nordstrom slept in the front bedroom of her house and could view Mr. Johnson’s driveway. She no longer sleeps there but is in there frequently after work before he goes to bed.
 40. From mid-May 2024, Ms. Nordstrom would view his blue Mitsubishi car in the mornings when she left at 9 am about three days a week and would see him come back to the Little Canada home a little after 3 to 4 in the afternoon, grab the mail, and would observe his car out in the Little Canada driveway in the evenings.
 41. Ms. Nordstrom also regularly viewed Mr. Johnson performing household tasks at the Little Canada home from mid-May onward until September 2024.
 42. Ms. Nordstrom observed that his behavior at the Little Canada home only changed when he rented a moving POD in mid-October, and she placed a May Lor Xiong sign in her yard. She did not see him around the Little Canada home as often.

43. Elizabeth Guthrie testified that on October 4, 2024, Mr. Johnson's blue Mitsubishi car was in his Little Canada Driveway at 12:19 a.m. and 11:00 p.m.
44. Elizabeth Guthrie testified that on October 5, 2024, Mr. Johnson's blue Mitsubishi car was in his Little Canada Driveway at 11:19 p.m.
45. Elizabeth Guthrie testified that on October 6, 2024, Mr. Johnson's blue Mitsubishi car was in his Little Canada Driveway at 7:23 a.m. and 11:22 p.m.
46. Elizabeth Guthrie testified that on October 26, 2024, she viewed the POD in Mr. Johnson's driveway for the first time.
47. Elizabeth Guthrie testified that on November 8, 2024, the same POD was still in the Little Canada driveway.
48. Kristin Bakeman saw the POD on October 18, 2024, at 11:33 a.m. at the Johnson's Little Canada residence.
49. Christofer Sears testified regarding the authenticity and metadata for the exhibits introduced by Contestant Paul Wikstrom. The investigative team kept everything in a spreadsheet updated in real time to prevent confusion and keep track of what was taken on each day. These video and picture exhibits were admitted as evidence.
50. Mr. Sears satisfactorily explained the reason for discrepancies in the metadata or date and time when photos or videos were uploaded into a Google drive for storage.
51. On October 1, 2024, Mr. Sears put invisible tape on the door of Apartment 103 at Rosedale Estates several inches below the door handle.
52. On October 1, 2024, Mr. Sears also looked under the door and saw no furniture or items of any type from the door to the patio window and blinds.
53. On October 1, 2024, Mr. Sears demonstrated the lights were not on in Apartment 103.
54. On October 9, 2024, Mr. Sears returned and checked on the tape on the door. It had not been disturbed or moved since the last time Mr. Sears saw the tape on October 1, 2024.
55. Chris Bakeman testified that on August 31, 2024, at around 11:00 am he took photos confirming the 2735 Rice Street was the building where Mr. Johnson

- leased an apartment and his name was on the electronic directory listing his apartment as #103. Mr. Bakeman also identified Mr. Johnson's voice on the message played when the button for Apartment #103 was pushed. Mr. Bakeman also took a photo of the Little Canada residence
56. Chris Bakeman testified that on 9.16.2024 at around 2:13 p.m. the blue Mitsubishi was in the driveway of the Little Canada residence. The blue Mitsubishi was confirmed to be Mr. Johnson's due to Mr. Bakeman observing Mr. Johnson driving it to a public forum.
 57. Chris Bakeman testified that on 9.17.2024 in the morning he recorded Mr. and Dr. Johnson walking their two dogs near the Little Canada residence. The blue Mitsubishi was in the driveway of the Little Canada residence. Mr. Johnson testified that he spent the night at the house this evening.
 58. Denise Kruse testified that on September 17, 2024, at 5:30 pm leaving the Little Canada residence in his blue Mitsubishi.
 59. Chris Bakeman testified that on September 17, 2024, at 6:46 pm he recorded the blue Mitsubishi at the Roseville City Hall for a forum debate.
 60. Denise Kruse testified that on September 18, 2024, around 9 to 10 p.m. the blue Mitsubishi was in the driveway of the Little Canada residence.
 61. Chris Bakeman testified that on September 18, 2024, at 7:00 am he recorded the blue Mitsubishi in the driveway of the Little Canada home.
 62. Denise Kruse testified that on September 19, 2024, around 1 pm the blue Mitsubishi is in the driveway of the Little Canada residence.
 63. Denise Kruse testified that on September 19, 2024, around 8:00 pm the blue Mitsubishi is in the driveway of the Little Canada residence.
 64. Chris Bakeman testified that on September 20, 2024, at 7:15 am he recorded the blue Mitsubishi at Little Canada residence.
 65. Denise Kruse testified that on September 20, 2024, around 3:45 pm the blue Mitsubishi is in the driveway of the Little Canada residence.
 66. Denise Kruse testified that on September 20, 2024, around 9:30 pm the blue Mitsubishi is in the driveway of the Little Canada residence.

67. Chris Bakeman testified that on September 21, 2024, at 10:30 am he recorded the blue Mitsubishi at Little Canada residence.
68. Denise Kruse testified that on September 21, 2024, around 11:00 pm the blue Mitsubishi was in the driveway of the Little Canada residence.
69. Denise Kruse testified that on September 22, 2024, around 9:30 pm the blue Mitsubishi was in the driveway of the Little Canada residence.
70. Chris Bakeman testified that on September 23, 2024, at 7:15 am he recorded the blue Mitsubishi at the Little Canada residence.
71. Denise Kruse testified that on September 23, 2024, around 2:00 pm the blue Mitsubishi was in the driveway of the Little Canada residence.
72. Denise Kruse testified that on September 23, 2024, around 10:30 pm the blue Mitsubishi was in the driveway of the Little Canada residence.
73. Chris Bakeman testified that on September 24, 2024, at 7:15 am he recorded the blue Mitsubishi at the Little Canada residence.
74. Denise Kruse testified that on September 24, 2024, around 5:20 pm the blue Mitsubishi was in the driveway of the Little Canada residence.
75. Denise Kruse testified that on September 24, 2024, around 10:00 pm the blue Mitsubishi was in the driveway of the Little Canada residence.
76. Chris Bakeman testified that on September 25, 2024, at 7:11 am he recorded the blue Mitsubishi at the Little Canada residence.
77. Denise Kruse testified that on September 25, 2024, around 12:00 pm the blue Mitsubishi was in the driveway of the Little Canada residence.
78. Denise Kruse testified that on September 25, 2024, around 9:30 pm the blue Mitsubishi was in the driveway of the Little Canada residence.
79. Chris Bakeman testified that on September 25, 2024, at 7:15 am he recorded the blue Mitsubishi at the Little Canada residence.
80. Denise Kruse testified that on September 26, 2024, around 2:45 pm the blue Mitsubishi was in the driveway of the Little Canada residence.

81. Denise Kruse testified that on September 26, 2024, around 9:45 pm the blue Mitsubishi was in the driveway of the Little Canada residence.
82. Chris Bakeman testified that on September 27, 2024, at 7:15 am he recorded the blue Mitsubishi at the Little Canada residence.
83. Denise Kruse testified that on September 27, 2024, around 2:11 pm the blue Mitsubishi was in the driveway of the Little Canada residence.
84. Denise Kruse testified that on September 27, 2024, around 10:15 pm the blue Mitsubishi was in the driveway of the Little Canada residence.
85. Chris Bakeman testified that on September 28, 2024, at 9:25 am he recorded the blue Mitsubishi not present at the Little Canada residence.
86. Denise Kruse testified that on September 28, 2024, around 9:30 pm the blue Mitsubishi is in the driveway of the Little Canada residence.
87. Between September 18, 2024, and September 28, 2024, Mr. Johnson did not store his blue Mitsubishi in his apartment garage that he paid for, but left it out in the open at his Little Canada residence. He testified that he was driving his child to live in Oregon during this time but also admitted he posted a live picture of the Vikings game inside US Bank Stadium of the September 22, 2024, Vikings game. He later testified that his sister took this picture and sent it to him and that he was actually “somewhere between Minnesota and Oregon.”
88. Chris Bakeman testified that on September 28, 2024, at 7:37 am he recorded the blue Mitsubishi at the Little Canada residence.
89. Chris Bakeman testified that on September 28, 2024, at 8:52 am he recorded the blue Mitsubishi at the Little Canada residence.
90. Chris Bakeman testified that on September 28, 2024, at 12:35 am he recorded the blue Mitsubishi not present at the Little Canada residence.
91. Chris Bakeman testified that on September 28, 2024, at 2:58 am he recorded the blue Mitsubishi at the Little Canada residence.
92. Denise Kruse testified that on September 28, 2024, around 11:39 pm the blue Mitsubishi was in the driveway of the Little Canada residence.

93. Chris Bakeman testified that on September 30, 2024, at 7:07 am he recorded the blue Mitsubishi at Little Canada residence.
94. Denise Kruse testified that on September 30, 2024, around 10:42 am the blue Mitsubishi is in the driveway of the Little Canada residence.
95. Chris Bakeman testified that on October 1, 2024, at 7:14 am he recorded the blue Mitsubishi at Little Canada residence.
96. Denise Kruse testified that on October 1, 2024, around 12:05 am the blue Mitsubishi was in the driveway of the Little Canada residence.
97. Denise Kruse testified that on October 1, 2024, around 12:42 pm the blue Mitsubishi was in the driveway of the Little Canada residence.
98. Chris Bakeman testified that on October 2, 2024, at 7:08 am he recorded the blue Mitsubishi at Little Canada residence.
99. Denise Kruse testified that on October 2, 2024, around 12:12 am the blue Mitsubishi was in the driveway of the Little Canada residence.
100. Denise Kruse testified that on October 2, 2024, around 12:09 pm the blue Mitsubishi was in the driveway of the Little Canada residence.
101. Chris Bakeman testified that on October 3, 2024, at 7:03 am he recorded the blue Mitsubishi at Little Canada residence.
102. Denise Kruse testified that on October 3, 2024, around 12:05 am the blue Mitsubishi was in the driveway of the Little Canada residence.
103. Chris Bakeman testified that on October 4, 2024, at 7:08 am he recorded the blue Mitsubishi at Little Canada residence.
104. Denise Kruse testified that on October 4, 2024, around 12:30 am the blue Mitsubishi was in the driveway of the Little Canada residence.
105. Chris Bakeman testified that on October 7, 2024, at 7:14 am he recorded the blue Mitsubishi at Little Canada residence.
106. Chris Bakeman testified that on October 8, 2024, at 7:12 am he recorded the blue Mitsubishi at Little Canada residence.

107. Chris Bakeman testified that on October 8, 2024, at 9:02 pm he recorded the blue Mitsubishi at Little Canada residence.
108. Chris Bakeman testified that on October 9, 2024, at 7:14 am he recorded the blue Mitsubishi at Little Canada residence.
109. Chris Bakeman testified that on October 9, 2024, at 6:17 pm he recorded the blue Mitsubishi at Little Canada residence.
110. Chris Bakeman testified that on October 9, 2024, at 9:17 pm he recorded the blue Mitsubishi at Little Canada residence.
111. Chris Bakeman testified that on October 10, 2024, at 7:05 am he recorded the blue Mitsubishi at Little Canada residence.
112. Chris Bakeman testified that on October 10, 2024, at 8:13 am he recorded the blue Mitsubishi at Little Canada residence.
113. Chris Bakeman testified that on October 10, 2024, at 10:05 pm he recorded the blue Mitsubishi at Little Canada residence.
114. Chris Bakeman testified that on October 11, 2024, at 7:09 am he recorded the blue Mitsubishi at Little Canada residence.
115. Chris Bakeman testified that on October 11, 2024, at 12:21 pm he recorded the blue Mitsubishi at Little Canada residence.
116. Chris Bakeman testified that on October 11, 2024, at 10:36 pm he recorded the blue Mitsubishi at Little Canada residence.
117. Chris Bakeman testified that on October 12, 2024, at 7:15 am he recorded the blue Mitsubishi at Little Canada residence.
118. Chris Bakeman testified that on October 12, 2024, at 7:15 am he recorded the blue Mitsubishi at Little Canada residence.
119. Chris Bakeman testified that on October 12, 2024, at 9:07 am he recorded the blue Mitsubishi at Little Canada residence.
120. Chris Bakeman testified that on October 12, 2024, at 10:20 am he recorded the blue Mitsubishi at Little Canada residence.

121. Chris Bakeman testified that on October 12, 2024, at 6:59 pm he recorded the blue Mitsubishi at Little Canada residence.
122. Chris Bakeman testified that on October 13, 2024, at 7:32 am he recorded the blue Mitsubishi at Little Canada residence.
123. Chris Bakeman testified that on October 13, 2024, at 8:56 am he recorded the blue Mitsubishi at Little Canada residence.
124. Chris Bakeman testified that on October 13, 2024, at 2:39 pm he recorded the blue Mitsubishi at Little Canada residence.
125. Chris Bakeman testified that on October 13, 2024, at 7:22 pm he recorded the blue Mitsubishi at Little Canada residence.
126. Chris Bakeman testified that on October 14, 2024, at 7:12 am he recorded the blue Mitsubishi at Little Canada residence.
127. Chris Bakeman testified that on October 14, 2024, at 3:03 pm he recorded the blue Mitsubishi at Little Canada residence.
128. Chris Bakeman testified that on October 14, 2024, at 7:51 pm he recorded the blue Mitsubishi at Little Canada residence.
129. Chris Bakeman testified that on October 15, 2024, at 6:58 am he recorded the blue Mitsubishi at Little Canada residence.
130. Chris Bakeman testified that on October 15, 2024, at 11:22 am he recorded the blue Mitsubishi at Little Canada residence. Mr. Johnson was visible loading the Mitsubishi with objects.
131. Chris Bakeman testified that on October 15, 2024, at 4:06 pm he recorded the blue Mitsubishi not present at Little Canada residence.
132. Chris Bakeman testified that on October 15, 2024, at 10:11 pm he recorded the blue Mitsubishi not present at Little Canada residence.
133. Chris Bakeman testified that on October 18, 2024, at 4:13 pm he recorded the blue Mitsubishi not present at Little Canada residence. This is the first day Mr. Bakeman observed the POD at the Little Canada residence.
134. Chris Bakeman testified that on November 10, 2024, at 7:35 am he recorded the ongoing presence of the POD in the Little Canada residence driveway.

135. Curtis Johnson testified that he is “uncertain” how much he stayed at the apartment in May and June of 2024. He further testified that he slept at the apartment “at least a couple times a week” from July to November.
136. Curtis Johnson was unclear about essentials of life that he had moved into the apartment.
137. The Court finds that Curtis Johnson’s assertions about residency in Rosedale Estates are not credible.

CONCLUSIONS OF LAW

1. A challenger to residency for the purposes of candidacy for office in Minnesota bears the burden of proof. *Monaghan v. Simon*, 888 N.W.2d 324 (Minn. 2016).
2. The parties are not in agreement regarding the burden of proof required in determining that Mr. Johnson does not reside in District 40B. In Supreme Court cases in which the issue was whether a judge resided in the district in which he/she was elected, the Supreme Court applied the clear and convincing standard. In *re Karasov*, 805 N.W.2d 255 (Minn. 2011); *in re Pendleton*, 870 N.W.2d 367 (Minn. 2015). *See Also* *Monaghan v. Simon*, 888 N.W.2d 324 (Minn. 2016).
3. Under Article IV, Section 6 of the Minnesota Constitution, 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.
4. In deciding whether a legislative candidate has resided in the district from which elected, as required by the Minnesota Constitution, the Court “focus[es] on physical presence and intent, as we have done in the voter residency context, “*Piepho v. Bruns*, 652 N.W.2d 40, 44 (Minn. 2002); *see also Studer v. Kiffmeyer*, 712 N.W.2d 552, 557 (Minn.2006).
5. The Supreme Court has not adopted outright the statutory residency principles established for voters in Minn. Stat. § 200.031 (2010) when interpreting the constitutional requirement for legislators. But the Court has said that “the concept of residency is captured and perhaps best summarized” in that statute. *Piepho*, 652 N.W.2d at 44., *Karasov*, 805 N.W.2d at 265.
6. Under the statute, 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. Minn. Stat. § 200.031(i)(2010). With this statutory guidance in mind, the foremost considerations with respect to residency in the election context are physical presence and intent.” *Piepho*, 652 N.W.2d at 44.
7. The two factors “inform” each other and “neither factor is determinative.” *Id.* In other words, “intent can be demonstrated in many ways, including but not limited to physical presence, and we consider physical presence to the extent that it manifests intent to reside in the district.” *Id.* Finally, the Court’s precedent recognizes that the factors that establish residency are “largely questions of fact.” *Studer*, 712 N.W.2d at 558 (quoting *Piepho*, 652 N.W.2d at 44-45), *Karasov* at 265.
 8. **Physical Presence:** The facts in this case establish clearly and convincingly that Mr. Barrett did not have the requisite physical presence at Apartment 103/303 during either the six month period before the general election or the thirty day period prior to the general election in November.
 - a. Mr. Johnson’s wife’s physical presence at Apartment 103/303 is virtually non-existent. She spent two nights in a nine-month period at the Apartment. The dates she slept over were not specifically provided.
 - b. Julie Nordstrom, Chris Bakeman, Kristin Bakeman, Elizabeth Guthrie, Denise Kruse, and Christofer Sears made more than sixty visits to Mr. Johnson’s Little Canada home spread out over two and a half months between August 31, 2024, and November 10, 2024, and at various times during the day as early as 12:05 am and as late as 11:30 pm.
 - c. Ms. Nordstrom clearly identified Mr. Johnson at the Little Canada residence at least 3-4 days a week from March to mid-October. The rest of the individuals identified Mr. Johnson’s blue Mitsubishi in the Little Canada driveway very early in the morning, in the middle of the day, and late at night between September 16, 2024, to October 15, 2024.
 - d. Mr. Sears testified to leaving tape on the Apartment 103 door while Mr. Johnson still lived in the apartment. The tape was untouched between October 1, 2024, and October 9, 2024. Mr. Sears also looked under the door and failed to see any furniture on one side of the apartment on October 1, 2024.
 - e. Mr. Johnson failed to entertain at either Apartment 103/303 and has no internet, cable or satellite television and failed to use electricity at the apartments.
 9. **Intent to Remain:** Mr. Johnson’s expressions of intent to make Roseville his permanent home are simply not credible and completely at odds with the facts.

- a. Mr. Johnson's (and his family's) lack of physical presence at Apartment 103 or 303 demonstrate his lack of intent to remain there.
 - b. This court measures physical presence not only by the individual's bodily presence at Apartment 103/303 but by the presence or absence of creature comforts like internet, cable or satellite television, household appliances, furniture and pets.
 - c. Mr. Johnson does not anticipate legal separation or divorce from his wife.
 - d. While Mr. Johnson stated he would like to buy in Roseville, he admits he has provided no documentation on bids or a realtor relationship and they have walked through less than 5 houses in a calendar year.
 - e. Mr. Johnson admitted that he did not want to put the Little Canada house on the market because of needed fixes that have not been performed yet, finances that have not been fixed yet, no realtor to sell the house yet, and a favorable home selling environment that may or may not get better in the near future.
 - f. Mr. John has not moved beyond even an inchoate sale of the Little Canada residence
 - g. Mr. Johnson continues to have a homestead tax exclusion claimed via Ramsey County concerning Little Canada house reflected by the property tax statement and acknowledged by Curtis Johnson.
 - h. Mr. Johnson failed to change his address with the School Board to which he was an elected official for paycheck and tax purposes.
 - i. The failure to report his new address to the FEC for political contribution to the Kamala for Harris campaign. This is something that is so connected to politics and they were made contemporaneously with Mr. Johnson's House candidacy that it carries significant weight in this regard.
10. The totality of the circumstances outlined in the findings of fact above regarding the lack of physical presence at the apartment support a finding that Contestee Curtis Johnson committed a deliberate, material and serious violation of Minnesota Statute 204B.06 subd. 1(3).
 11. The totality of the circumstances outlined in the findings of fact above regarding the lack of physical presence at the apartment support a finding that Contestee Curtis Johnson committed a deliberate, material and serious violation of Minnesota Statute 204B.06 subd. 4a(4) and the Minnesota Constitution Article 4 Section 6.
 12. The totality of the circumstances outlined in the findings of fact above regarding the lack of physical presence at the apartment support a finding that the Contestee is not eligible to take office as Representative for House District 40B.

13. The Contestee lacks the requisite intent. This intent element in this case is substantiated by:
14. The Contestant has established by clear and convincing evidence that the Contestee, Curtis Johnson, does not reside in House District 40B and is ineligible to serve.

RECOMMENDATION

Based upon the foregoing, the undersigned recommends that the Minnesota Supreme Court issue an order as follows as to Contestee Curtis Johnson:

- 1) Until the matter of his eligibility is resolved, that Curtis Johnson is enjoined from taking the oath of office and from acting as a member of the House for House District 40B;
- 2) That the clerk is enjoined from recognizing him as a Member of the House;
- 3) That Secretary of State is not allowed to issue and or transmit to the Clerk Curtis Johnson's certificate of election.

Dated: _____

Leonardo Castro
Referee Appointed by the Minnesota Supreme Court
Judge of District Court
Second Judicial District