

Clarence Blount's 'Domicile' in City, Despite County Condominium— CA

Senator Reasonably Wanted to Spend Nights in Pikesville With Wife, CA Rules, Saying This Was Not 'Mail' Drop' Case

BY STACEY WINAKUR 10.7.98
Daily Record Legal Affairs Writer

Explaining a decision that had been criticized by many area residents, officials and media outlets, the Court of Appeals yesterday released its opinion supporting last month's ruling that State Sen. Clarence W. Blount, D-Balto. City, resides in the 41st legislative district and could stay on the ballot in the Democratic primary.

"[T]here is a presumption that the Senator's Baltimore City domicile continued, and that there would be no change in domicile unless Senator Blount intended to abandon his 41st district domicile and intended to establish a new domicile in Baltimore County," Judge John C. Eldridge wrote for the court.

Blount testified that he spent most nights at the Baltimore County condominium in Pikesville because his wife was there all the time, but that he spent 99 percent of his waking hours in the city district. That may have been evidence of his intent to change his abode, but not his domicile, the court reasoned.

"It is not unreasonable for Senator Blount to wish to spend a majority of his nights at the Pikesville condominium so that he can be with his wife," Eldridge wrote.

Most of the other evidence presented at trial, including Blount's testimony, indicated that Blount did not intend to abandon his domicile in the city until he retired. He used the Copley Road address for his voter registration, tax returns and most bank accounts. He received all of his mail there and used the apartment to meet with constituents.

"This is not a case where someone desires to run for office in an area where he or she has not lived, and does not wish to live, but merely establishes a 'mail drop,'" Eldridge wrote, rejecting the claim of Blount's Democratic primary opponent, State Del. Frank D. Boston Jr., D-Balto. City.

Boston filed the suit to remove Blount from the ballot but was soundly defeated in last month's primary. He received 30 percent of the vote, compared with 68 percent for Blount, who was first elected to the seat 1970.

Blount, 77, had considered retiring before the election, but constituents and

colleagues persuaded him to run one more time.

Boston's attorney, Steven A. Allen, said he was not critical of the court's decision but he is concerned it will lead to a flood of litigation over political residency requirements.

"I think the court's opinion is a very significant decision because it establishes a new residency standard for incumbent politicians and public appointees," he said.

"Under the court's decision, an incumbent politician or public official can remain in office by maintaining ties to a local jurisdiction even if they choose to primarily reside somewhere else."

Allen argued that, particularly in the political context, there should be a bright-line test to determine the candidate's place of residence or domicile, rather than having the court weigh the candidate's other ties to the district.

"I don't think you can represent constituents unless you are a constituent," Allen said. "I think you have to live there — in the real sense of the word — to represent people."

"Why is the time when you're asleep so much more important than the time when you're awake?" asked George A. Nilson, one of Blount's lawyers, questioning the reasoning behind the lower court's decision.

"The law does not lightly presume that you've abandoned a place you've spent a lot of time in."