

COMMONWEALTH OF KENTUCKY

COURT OF APPEALS

NO. _____

JAMES ROBERT CRAIG
PLAINTIFF/RESPONDENT

v.

GAY PERRY-ADELMANN
DEFENDANT/APPELLANT

DAVID YATES, JEFFERSON COUNTY CLERK
and
JEFFERSON COUNTY BOARD OF ELECTIONS
RESPONDENTS

MOTION TO SET ASIDE ORDER PURSUANT TO KRS 118.176(4), FOR EXPEDITED CONSIDERATION, AND FOR ALTERNATIVE RELIEF

Comes now Appellant, Gay Perry-Adelmann, pro se, pursuant to KRS 118.176(4), and respectfully moves this Court to set aside the September 18, 2026 Order of the Jefferson Circuit Court, Division 7, in Case No. 26-CI-006104.

The Circuit Court's order disqualified Appellant as a candidate for Jefferson County Board of Education, District 3, based principally upon its conclusion that Appellant's use of hotel/extended-stay lodging could not constitute residence or domicile in the district. Appellant respectfully submits that this conclusion presents a question of statutory interpretation subject to de novo review and that Kentucky law does not establish the categorical rule applied by the Circuit Court.

Appellant therefore requests that this Court set aside the order. Alternatively, Appellant requests that this Court separately resolve the legal question whether extended-stay hotel lodging is categorically excluded from constituting residence or domicile under KRS 160.210(5)(a), and, if necessary, remand for application of the correct legal standard and further factual findings. If the Court determines that additional factual development is necessary, Appellant respectfully requests an expedited evidentiary hearing or other opportunity to present relevant evidence.

I. JURISDICTION AND TIMELINESS

The Jefferson Circuit Court entered its Opinion and Order on September 18, 2026, finding Appellant not to be a bona fide candidate and directing the Jefferson County Clerk to certify that determination.

KRS 118.176(4) expressly provides for a motion to set aside such an order in the Court of Appeals within five days after entry of the Circuit Court order. The statute further provides that the motion may be heard and tried upon the original papers and that the Court of Appeals' order shall be final.

This Motion is filed pursuant to that expedited statutory procedure. KRS 118.176(4) expressly provides that the motion to set aside must be made within five days after entry of the Circuit Court order.

Notice Regarding Entry and Service of Order

The Circuit Court's Opinion and Order was entered on September 18, 2026. Appellant has not, as of the filing of this Motion, received a copy of the Order from the Circuit Court or the Circuit Court Clerk. Appellant first learned of the Court's ruling through media reporting on September 18, 2026, and thereafter obtained a copy of the entered Order for purposes of seeking the expedited review authorized by KRS 118.176(4).

Appellant files this Motion within five days of the Order's entry so as to preserve her statutory right to review under KRS 118.176(4), while expressly noting that she has not received formal notice or service of the Order from the Circuit Court or Clerk.

Appellant does not seek to delay the statutory proceeding based upon the absence of service. Rather, she files promptly to ensure that the statutory five-day period is fully protected.

II. ISSUE PRESENTED

Whether the Circuit Court erred as a matter of law by treating an extended-stay hotel as categorically incapable of constituting a candidate's residence or domicile under KRS 160.210(5)(a), rather than applying Kentucky's fact-specific legal standards governing residence and domicile.

A related issue is:

Whether, after incorrectly treating hotel lodging as legally incapable of constituting residence, the Circuit Court effectively shifted the burden of proof from the challenger, contrary to KRS 118.176(3), by requiring Appellant to establish a conventional District 3 dwelling rather than determining whether the challenger proved that Appellant was not a bona fide candidate.

III. STANDARD OF REVIEW

KRS 118.176(4) provides a specific expedited procedure for appellate review of an order disqualifying a candidate.

The Kentucky Supreme Court has recognized that the Court of Appeals properly exercises jurisdiction under KRS 118.176(4) and that the statutory procedure permits review of a Circuit Court determination concerning a candidate's bona fides. *Kulkarni v. Horlander*, 701 S.W.3d 181 (Ky. 2024).

Where the issue involves interpretation of KRS 118.176 and related election statutes, the legal question is reviewed de novo. *Deters v. Massie*, No. 2024-CA-0365-EL, slip op. at 3 (Ky. App. May 17, 2024) (not to be published).

The question presented here is principally one of statutory interpretation: what does Kentucky law require when it provides that a school-board candidate “shall reside” in the division from which the candidate seeks election?

IV. THE STATUTE REQUIRES RESIDENCE IN THE DIVISION; IT DOES NOT CREATE A CATEGORICAL CONVENTIONAL-DWELLING REQUIREMENT

KRS 160.210(5)(a) provides that, to be eligible to be elected from a division, “a candidate shall reside in that division.”

The statute does not state that a candidate must:

- own real property in the division;
- lease an apartment or house;
- maintain a conventional single-family dwelling;
- have a permanent lease;
- have a particular type of utility account; or
- reside in a structure that is not classified as a hotel.

The statutory command is residence.

The Circuit Court nevertheless concluded that a hotel is, by its nature, transitory and therefore cannot constitute residence. The Court stated that “temporary hotel occupancy, even in District 3, is not residence” and treated the hotel lodging as incapable of satisfying the statutory requirement. The Court further stated that residence for purposes of the statute means domicile and characterized a hotel as “transitory lodging.”

Respectfully, that conclusion adds a categorical limitation that does not appear in KRS 160.210(5)(a).

The relevant legal inquiry should be whether the facts and circumstances establish residence or domicile under Kentucky law—not whether the building in which a person resides bears the label “hotel.”

V. KENTUCKY CONSTITUTION § 6 FURTHER SUPPORTS CAREFUL CONSTRUCTION OF BALLOT-ACCESS RESTRICTIONS

Section 6 of the Kentucky Constitution provides that “[a]ll elections shall be free and equal.” Ky. Const. § 6. Appellant does not contend that Section 6 eliminates statutory qualifications for office. Rather, where the General Assembly has required that a school-board candidate “reside in that division,” KRS 160.210(5)(a), but has not expressly excluded hotel or extended-stay lodging from the meaning of residence, the statutory requirement should not be expanded by judicial construction to impose an additional housing requirement not contained in the statute.

The question is therefore not whether Appellant has satisfied some judicially created preference for conventional residential housing, but whether the statutory residence requirement has been violated under the governing legal standards. Construing an election-qualification statute to impose an unstated categorical exclusion would unnecessarily restrict access to the ballot and should be avoided where the statutory language does not require that result.

VI. KENTUCKY LAW DOES NOT ESTABLISH A CATEGORICAL RULE THAT HOTEL LODGING CAN NEVER BE A RESIDENCE OR DOMICILE

Kentucky domicile law has historically recognized that no single rigid rule determines every residence or domicile question.

In *Robinson v. Paxton*, 210 Ky. 575, 276 S.W. 500 (1925), the Kentucky Court of Appeals stated that “no fixed and unalterable rule can be applied in every case” and that domicile questions must be determined according to the particular facts, circumstances, and conditions presented.

The Court explained that legal domicile may arise from actual residence coupled with the requisite intention.

Significantly, *Robinson* itself involved a person who took up lodging at a hotel and kept personal belongings there. The Court's analysis did not adopt a categorical rule that hotel lodging was legally incapable of being associated with domicile. Instead, it examined the person's circumstances, movements, belongings, and intentions.

The Circuit Court's categorical rule therefore requires authority that Kentucky law has not clearly supplied.

A. *Hensley v. Gadd* does not establish the rule applied below

The Circuit Court's conclusion should not be supported by treating *Hensley v. Gadd*, 560 S.W.3d 516 (Ky. 2018), as establishing that hotel occupancy can never constitute residence.

Hensley concerned restrictive covenants governing the **use of real property** in a residential subdivision. The Kentucky Supreme Court held that the short-term, transient rental of houses on the property was the functional equivalent of a hotel and violated restrictions limiting the property to residential use.

The case concerned whether a property owner's **short-term rental business** constituted a prohibited commercial use under a deed restriction. It did not present the question whether an individual who actually lives in hotel or extended-stay lodging can, under Kentucky election law, have a residence or domicile there.

Thus, *Hensley* cannot reasonably be converted into a general rule that the word “hotel” automatically defeats a claim of residence for every legal purpose.

VII. KENTUCKY ELECTION LAW RECOGNIZES THAT RESIDENCE MAY EXIST IN NONTRADITIONAL HOUSING CIRCUMSTANCES

Kentucky's statutory treatment of voter residence further demonstrates that residence is not necessarily synonymous with ownership or occupancy of a conventional house.

KRS 116.035 generally provides that a voter's residence is the place where the person's habitation is and to which, when absent, the person intends to return. The statute also specifically addresses persons lacking an established and fixed nighttime residence and recognizes mechanisms for identifying a place of habitation in circumstances involving temporary living accommodations and other nontraditional housing arrangements.

That statutory framework is consistent with a fact-specific inquiry into habitation and intent rather than an automatic exclusion based solely upon the physical classification of the structure.

The Legislature could have provided that residence for purposes of KRS 160.210 requires ownership or tenancy in a conventional dwelling. It did not do so.

VIII. THE RECENT KRS 118.176 ELECTION CASE OF *DETERS v. MASSIE* FURTHER SUPPORTS A FACT-SPECIFIC RESIDENCE ANALYSIS

Although *Deters v. Massie*, No. 2024-CA-0365-EL (Ky. App. May 17, 2024), is unpublished and therefore cited only for its persuasive value, it is instructive because it involved a KRS 118.176 challenge and temporary housing.

In *Deters*, the Court considered whether an individual lost his residence after his home burned and he temporarily slept in an apartment during reconstruction. The Court relied upon KRS 116.035 and considered whether the individual's temporary circumstances caused a change in residence. The Court reviewed the interpretation of KRS 118.176 and KRS 116.035 de novo.

The significance here is not that *Deters* establishes that every hotel occupant is a resident.

It does not.

Its significance is that Kentucky election law does not mechanically equate temporary physical lodging with loss of legal residence. The analysis turns upon the statutory residence standard and the particular circumstances.

That is precisely the inquiry the Circuit Court should have undertaken before concluding that hotel lodging was legally incapable of satisfying the statutory residence requirement.

IX. THE CIRCUIT COURT'S APPLICATION OF THE BURDEN OF PROOF WARRANTS REVIEW

KRS 118.176(3) places the burden of proof as to a candidate's bona fides upon the person challenging the candidate.

The statute therefore does not place an affirmative burden upon a candidate to prove every conceivable fact concerning his or her housing circumstances before candidacy may continue.

The Circuit Court found that the address listed on Appellant's nominating petition, 9111 Hurstwood Court, was located in District 2. The Court also considered Appellant's subsequently submitted hotel and other documentation.

The Court ultimately concluded that Appellant had not identified, with unredacted proof, a District 3 “dwelling” that was home at the time of filing and that the hotel documentation did not establish the necessary residence.

But once the categorical hotel rule is removed, the absence of a conventional “dwelling” does not answer the statutory question.

The question becomes whether the challenger established, under the correct Kentucky legal standard, that Appellant was not a bona fide candidate.

The statutory allocation of the burden matters. KRS 118.176(3) places that burden on the challenger.

Appellant does not contend that the existence of a hotel room automatically establishes domicile. Rather, Appellant contends that the existence of hotel lodging cannot automatically defeat domicile either.

X. THE LEGAL QUESTION SHOULD BE RESOLVED SEPARATELY FROM ANY NECESSARY FACTUAL DETERMINATION

The Circuit Court's order presents two analytically distinct questions:

1. **Can extended-stay hotel lodging ever constitute a person's residence or domicile under Kentucky law?**
2. **If it can, did the particular evidence establish Appellant's residence or domicile in District 3 under the applicable legal standard?**

The first is a question of law.

The second, to the extent it remains disputed after resolution of the first, is a question requiring application of law to facts.

The Circuit Court's categorical treatment of hotel lodging effectively resolved the second question by answering the first incorrectly.

This Court can therefore resolve the legal question independently without requiring the Court at this stage to decide every factual issue concerning Appellant's living arrangements.

If this Court determines that hotel or extended-stay lodging is not categorically excluded from constituting residence or domicile, the matter may then be remanded for application of the correct legal standard if further factual findings are necessary.

Nothing in this Motion should be construed as waiving any factual or legal argument concerning Appellant's residence or domicile on the date of filing or at any other relevant time. Appellant respectfully submits that those issues should be addressed, if necessary, only after the Court determines the governing legal standard and whether the Circuit

Court correctly treated hotel or extended-stay lodging as categorically incapable of constituting residence or domicile.

Such an approach would also preserve the expedited nature of the statutory proceeding while preventing an erroneous categorical rule from becoming dispositive.

XI. AN EVIDENTIARY HEARING SHOULD BE AVAILABLE IF THE COURT DETERMINES THAT FACTUAL FINDINGS ARE NECESSARY

KRS 118.176(2) expressly provides that proof may be heard orally in a bona-fide-candidate proceeding and that the proceeding shall be tried summarily and without delay.

The Circuit Court denied Appellant's request for further evidentiary proceedings.

The Court of Appeals need not conduct a lengthy factual proceeding if the legal issue can be resolved from the existing record.

However, if this Court determines that the legal standard permits hotel/extended-stay lodging to constitute residence or domicile and that factual findings are necessary to apply that standard, Appellant respectfully requests an expedited evidentiary hearing or remand for such findings.

That request is not intended to delay the election process. It is intended to ensure that the statutory residence requirement is applied under the correct legal standard.

XII. KENTUCKY'S ELECTION LAWS SHOULD NOT BE EXPANDED BEYOND THEIR TEXT

The Kentucky Supreme Court has emphasized that clearly enacted mandatory election requirements must be enforced. *Kulkarni v. Horlander*, 701 S.W.3d 181 (Ky. 2024). The Court has also recognized that uncertainty or doubt in statutory language should be resolved in favor of allowing the candidacy to continue. *Id.*

Here, the Legislature enacted a residence requirement.

It did not enact a conventional-dwelling requirement.

It did not enact a homeownership requirement.

It did not enact an apartment-or-house requirement.

And it did not enact a categorical exclusion for hotel or extended-stay lodging.

The Court need not relax a mandatory statutory requirement to grant relief to Appellant. It need only apply the statutory requirement that the Legislature actually enacted.

XIII. REQUEST FOR EXPEDITED RELIEF AND, IF NECESSARY, ADDITIONAL TIME

Because KRS 118.176(4) establishes an unusually expedited appellate procedure, Appellant respectfully requests expedited consideration of this Motion.

Appellant recognizes that the statutory procedure requires the motion to be filed within five days of entry of the Circuit Court order. Appellant therefore does not request that the Court delay acceptance of this Motion while awaiting additional evidence.

Instead, Appellant respectfully requests that the Court:

1. accept and consider this Motion under KRS 118.176(4);
2. resolve the legal question concerning whether hotel/extended-stay lodging is categorically excluded from residence or domicile;
3. if necessary, permit supplemental evidence or briefing concerning that discrete legal and factual issue;
4. if factual development is necessary, conduct or order an expedited evidentiary hearing or remand for appropriate factual findings; and
5. grant such additional time as may be reasonably necessary to permit that process without prejudicing Appellant's statutory right to appellate review.

Appellant further requests that the Court preserve the status quo concerning Appellant's candidacy and ballot pending resolution of this Motion, including any relief necessary to prevent the appeal from becoming moot before the Court can decide the issues presented.

XIV. CONCLUSION

The Circuit Court was presented with a difficult and unusual residence question arising from changed district boundaries and circumstances involving nontraditional lodging.

Appellant recognizes that statutory qualifications for public office must be respected. She does not ask this Court to disregard a lawful qualification requirement. She asks the Court to determine, through the de novo review provided by KRS 118.176(4), what that requirement actually means and whether it was correctly applied to the circumstances presented.

The Court's order, however, ultimately rests upon a categorical legal proposition: that hotel occupancy, even when located within the relevant district, cannot constitute residence because a hotel is inherently transitory.

Kentucky law does not clearly establish that categorical rule.

Kentucky law instead recognizes that domicile and residence are determined from the particular facts and circumstances, and Kentucky election law addresses temporary and nontraditional living circumstances. The proper question is therefore not whether Appellant occupied a conventional dwelling, but whether the challenger carried the statutory burden of establishing that Appellant was not a bona fide candidate under the correct Kentucky legal standard.

The significance of this issue extends beyond Appellant. A categorical rule that a particular form of lawful lodging can never constitute residence could affect future candidates who encounter temporary, nontraditional, or changing housing circumstances. Appellant respectfully asks this Court to consider the broader consequences of establishing such a rule when determining whether the Legislature actually enacted it.

Appellant has tried throughout this process to proceed in good faith and according to her conscience. One passage of Scripture has been a personal guide throughout this difficult process:

“Do you not know that in a race all the runners run, but only one receives the prize? So run that you may obtain it.”
— 1 Corinthians 9:24

Appellant understands that the “prize” is not simply a particular office or personal victory. It is the obligation to run the course faithfully, to stand for what one believes is right, and ultimately to allow the law, the voters, and the Court to determine the result.

WHEREFORE, Appellant Gay Perry-Adelmann respectfully requests that this Court:

A. SET ASIDE the September 18, 2026 Order of the Jefferson Circuit Court;

B. HOLD that an extended-stay hotel or other hotel lodging is not categorically excluded, as a matter of Kentucky law, from constituting residence or domicile for purposes of KRS 160.210(5)(a);

C. REVERSE the Circuit Court's contrary legal conclusion and deny the motion to disqualify Appellant;

D. ALTERNATIVELY, if the Court determines that factual findings remain necessary, remand the matter for application of the correct residence/domicile standard and proper allocation of the burden under KRS 118.176(3);

E. ALTERNATIVELY, permit or conduct an expedited evidentiary hearing if the Court determines that oral or additional proof is necessary;

F. GRANT expedited consideration and such supplemental briefing or additional time as may reasonably be necessary to resolve the foregoing issues; and

G. GRANT such other relief as the Court deems appropriate to preserve Appellant's statutory right to seek election and to prevent the matter from becoming moot before appellate review is completed.

Respectfully submitted,

Gay Perry-Adelmann, Pro Se

120 N. Hurstbourne Pkwy

Louisville, KY 40222

sv.nomad.421@proton.me

Date: September 25, 2026

EXHIBIT LIST

Appellant submits the following exhibits in support of the Motion to Set Aside Order Pursuant to KRS 118.176(4):

Exhibit 1 — Jefferson Circuit Court Opinion and Order Entered September 18, 2026

Copy of the Jefferson Circuit Court's most recent Opinion and Order, entered September 18, 2026, which is the subject of this appeal.

Exhibit 2 — Appellant's Kentucky Driver's License

Copy of Appellant's current Kentucky driver's license.

Exhibit 3 — Address Placement on District 3 Map Placement

Map showing the relevant address and its location within JCPS District 3.

Exhibit 4 — Appellant's Voter Registration

Copy of Appellant's current voter registration documentation reflecting her registration to vote in the precinct serving JCPS District 3.

ELECTRONIC MATERIALS

In addition to the paper exhibits identified above, Appellant provides the following materials on accompanying electronic media for reference and consideration in connection with the issues presented:

Electronic Copy of Previously Filed Materials

PDF containing copies of documents previously submitted and filed in the underlying case, including relevant materials from the case history.

Recordings of Circuit Court and Related Proceedings

A DVD containing recordings of the two Circuit Court hearings relevant to this matter. The DVD also contains the recording previously submitted to Chief Judge Haner in connection with Appellant's **Renewed Request for Chief Judge Review of Denial of Recusal and Request for Placement on Division 1 Motion Hour**, filed August 20, 2026.

Statutory and Constitutional Materials

Electronic copies of the following provisions referenced in the Motion:

- KRS 118.176;
- KRS 160.210;
- KRS 116.035; and
- Section 6 of the Kentucky Constitution.

The statutory and constitutional materials are provided for reference and convenience and are not separately designated as exhibits.