

**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
MARYLAND**

MICHAEL A. DOOLING, SR., et al. *
Plaintiffs * v. * Civil Action No.: AMD-02-CV-650
TOWN OF PORT DEPOSIT, et al. *
Defendants *

ORDER

Upon consideration of Defendants' Motion for Summary Judgment, Plaintiffs' response in opposition to the Motion for Summary Judgment and Cross Motion for Summary Judgment, Defendants' reply to Plaintiffs' opposition to their Motion for Summary Judgment and in opposition to Plaintiffs' Cross Motion for Summary Judgment and Plaintiffs' reply, it is this 181th day of 2003, by the

United States District Court for the District of Maryland, ORDERED, that the Court finds as a matter of law that Michael A. Dooling, Sr. met in March 2001 the residency requirements contained in the Town of Port Deposit Charter, Article III, Section 302 to run for Town Council for the Town of Port Deposit and should have been permitted to run for the Office of Town Council in the May 2001 election; and it is further, ORDERED, that Mr. Dooling is a resident for purposes of voting and running for elective office in the Town of Port Deposit; and it is further, ORDERED, that this case BE and is hereby CLOSED.

The Honorable Andre M. Davis

MEMORANDUM

UNITED STATES DISTRICT COURT DISTRICT OF MARYLAND CHAMBERS OF
ANDRE M. DAVIS

UNITED STATES DISTRICT JUDGE U.S. COURTHOUSE 101 W. LOMBARD
STREET

BALTIMORE, MARYLAND 21201 (410) 962-0801 FAX (410) 962-0820
MDDAMDChambers@mdd.uscourts.gov June 8, 2003 MEMORANDUM TO
COUNSEL RE:

Dooling v. Town of Port Deposit Civil No. AMD 02-650

Ordinarily, counsel welcome the opportunity to have a judge provide counsel with his or her preliminary view of matters in dispute to help counsel focus their arguments in a hearing. I am happy to do that in this case, in anticipation of the hearing scheduled for Thursday, June 12, 2003, at 3:00 p.m.

Having carefully reviewed the summary judgment record and the controlling case law, it seems to me that this entire unhappy episode arises from what is in my view a deeply flawed analysis of the relevant issues, and thus, an unfortunate piece of advice provided

to the Town Council, by Mr. Buck, the Town Attorney for Port Deposit. I believe Mr. Buck (and frankly the defendants in litigating the case) has confused the issue of the “presumption” of a continuation of a person’s domicile with the wholly separate issue of whether Mr. Dooling established the Town as his domicile in the first instance.

In my view, defendants are simply wrong in their contention that “[t]his is not a case analogous to *Blount v. Boston*.” See Defendants’ Reply Memorandum at 12. To the contrary, the Court of Appeals’ reasoning in *Blount v. Boston*, 351 Md. 360, 718 A.2d 1111 (1998), is precisely applicable to this case. In my view, as a matter of law, at the latest in March 2000 (more than 12 months before the May 2001 local election), Mr. Dooling established the Town as his domicile when (coupled with the undisputed fact, among others, that he had been a registered voter in the Town for more than 20 years, and the absence of any affirmative evidence that he had any other domicile) he resided with his son and daughter-in-law at 13 N. Main Street in Port Deposit. There simply is no issue of any “presumption;” rather, the advice that Mr. Buck should have given to the Council is that as of March 2000 (again, at the latest), Mr. Dooling established the Town as his domicile.

With all respect, I view as mere distracting red herrings such issues as: (1) the houseboat, and whether it is within or without the legal boundaries of the Town; (2) whether Mr. Dooling had his sons’ permission to use their homes as his “mailing address” or, indeed, whether his son and daughter-in-law even believed in their own minds he was “living” with them; and (3) whether Mr. Dooling actually resided anywhere within the Town after he “moved off his son’s couch.”

In short, Memorandum to Counsel *Dooling v. Town of Port Deposit* Civil No. AMD 02-650 Page 2 I am prepared to rule as a matter of law that, under *Blount*, Mr. Dooling established his domicile within the Town more than one year before the 2001 election and there is not a scintilla of evidence that he ever changed his domicile. Having said all that, I also do not see any cognizable federal constitutional claim in this case. In other words, I agree with the defendants that the case involves nothing more than an erroneous application of state law in an individual instance. Indeed, I am confident that but for the fact, apparently, that Mr. Dooling’s previous lawyer failed to seek timely review of his disqualification in the county circuit court, this federal action would never have been filed, because the circuit court would have reversed the Council’s erroneous decision.

Thus, I am prepared to issue a declaratory judgment pursuant to 28 U.S.C. § 2201 and Fed.R.Civ.P. 57 that the Town Council’s determination that Mr. Dooling is disqualified from voting and/or standing as a candidate for election to office violates his rights under the Maryland Declaration of Rights.

With all sincere modesty, I am naive enough to suggest to you that Thursday’s hearing is not needed, and that if you will confer with your clients, this case can be quickly resolved without harm to any profound principles of freedom and liberty and without continuing acrimony. Whatever is the source of the extraordinary antipathy between Dooling, on the one hand, and (some of) the citizens and elected officials of the Town (including his own

son) on the other hand, the unexceptional application of state law spelled out above will offer a clean resolution of a regrettable conflict. If Dooling is truly the piranha that the resources expended on this case by defendants suggest he is, then it may be presumed that the fine people of Port Deposit will have nothing to do with him as a candidate for elected office. But as Blount and the numerous cases discussed by Judge Eldridge in Blount make pellucidly clear, Mr. Dooling simply is not required to actually physically reside in the Town in order to have his domicile in the Town. And this is true even though the Town charter requires that a candidate "shall have resided in the Town." In respect to voting and running for office, under Maryland law, "residence" means "domicile." On the other hand, however, I do understand that litigation is pursued for all kinds of reasons, some principled and some not. I am of course available to see this through to the bitter end if the fight must go on. Thus, unless I hear from you to the contrary, I shall leave the hearing on the calendar. Nevertheless, I am pulling from the calendar the August trial date because there simply is no dispute of material fact left to be tried.

Very truly yours, /s/

Andre M. Davis
United States District Judge

AMD:tt