



ATTORNEY FOR APPELLANT
Karen Celestino-Horseman
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE
Theodore E. Rokita
Attorney General of Indiana

Justin F. Roebel
Supervising Deputy Attorney
General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

Jennifer R. Teising,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

December 15, 2022
Court of Appeals Case No.
22A-CR-548
Appeal from the Tippecanoe
Superior Court
The Honorable Kristen E. McVey,
Judge
Trial Court Cause No.
79D05-2105-F6-368

Altice, Judge.

Case Summary

- [1] In June 2020, Jennifer R. Teising, the elected Wabash Township Trustee (Trustee), sold her home and moved furniture and personal possessions into

another home in Wabash Township. She then, like many other Americans during the COVID-19 pandemic, purchased a camper and traveled while working remotely. Throughout this time, her officer manager, with whom Teising regularly communicated, kept the office open, though physically closed to the public.

- [2] Teising began camping in Florida at the end of October 2020, around which time questions surfaced regarding her residency. In December, she refused demands for her to resign as Trustee and ignored local media coverage regarding her residency. The Tippecanoe County Prosecutor, with the assistance of the Indiana State Police, began investigating the matter, and Teising was eventually indicted by a grand jury on twenty-one counts of Level 6 felony theft for taking her salary as Trustee while not residing in the township.
- [3] Following a three-day bench trial, Teising was convicted of all twenty-one counts of theft. The trial court imposed an aggregate sentence of 1095 days of which 248 were ordered executed – 124 days in jail and 124 days on community corrections – and the remaining 847 days were suspended to unsupervised probation. Teising was also ordered to pay restitution of nearly \$28,000 to the Wabash Township Trustee’s Office. Teising’s sentence was stayed by order of this court pending appeal.
- [4] Our task on appeal is not to determine whether Teising was derelict in her duties as Trustee while camping outside the township and working remotely for many months during the pandemic. Indeed, her constituents may have

compelling cause for concern. The question before us, rather, is whether her acts constituted theft. We conclude that the evidence presented in this case does not support the twenty-one convictions of theft, as the State failed to establish that Teising ceased being a resident of Wabash Township.¹

[5] We reverse.

Facts & Procedural History

[6] Teising was elected Trustee in 2018 and took office in January 2019. At the time of her election, Teising owned a residence on Princess Drive in Wabash Township, West Lafayette. She had lived at the Princess Drive residence for about four years. Prior to that, Teising and her daughter Maggie, who is now a young adult, lived with Gregg Michalski for several years at his residence on Knox Drive, also in Wabash Township. Teising and Michalski's romantic relationship ended when Teising moved to the Princess Drive residence, but they remained friends.

[7] In January 2020, Teising spent several weeks in Florida, which was not uncommon for her, as she enjoyed traveling, especially to Florida in the winter. Upon her return, Teising withdrew from the Tippecanoe County Commissioner's race on February 7 due to a perceived lack of support from the local democratic party. Thereafter, she expressed general discontent to others

¹ Because we decide this case on sufficiency grounds, we need not reach Teising's as-applied constitutional challenge, her claim that twenty-one convictions for theft violate double jeopardy, or her challenge to the trial court's denial of her request for a special prosecutor.

and indicated a desire to sell her home, resign as Trustee, and move to Florida. For example, that same month, she commented to Edward Ward, the township fire chief, that she was “potentially selling her house and moving to Florida” and that she “just kind of felt as if maybe that’s where she belonged.” *Transcript Vol. 2* at 118.

[8] Anne Mulliken, Teising’s office manager at the time, believed Teising was intent on selling her home and moving to Florida. Teising had been working on securing an emergency loan for the fire department since October 2019, and Teising expressed to Mulliken that the move would likely not occur until after that project was finalized.

[9] On February 12, 2020, Teising had a lunch meeting with Michelle Wietbrock, who was about to be sworn in as chair of the Wabash Township Board (the Board) after being caucused by the democratic party.² Teising indicated that she wanted to resign and move to Florida and asked Wietbrock if she would be interested in stepping in as Trustee. Wietbrock declined.

[10] In March 2020, the COVID-19 lockdowns began, and Teising no longer pursued resigning as Trustee. She terminated Mulliken’s employment on March 30, after Mulliken sent an inappropriate text message, and then hired Tricia Fultz as Mulliken’s replacement. The Trustee’s office remained open but

² The Board consists of three members and has “pretty limited scope” in township governance, with duties all relating to the budget. *Id.* at 215.

closed to the public. That is, Fultz worked alone in the office Monday through Thursday from 10:00 a.m. to 3:00 p.m., which were the regular office hours pre-pandemic, and Teising worked remotely.³ Fultz scanned everything that came into the office so that Teising could review the documents online, and she regularly communicated with Teising.

[11] In April 2020, Teising discussed with Michalski the idea of selling her home. She believed the real estate market was at its peak, and she wanted to “cash out.” *Transcript Vol. 3* at 43. Teising indicated that she planned on renting an apartment “to keep her residency in the township” and buying a camper to travel while working remotely. *Id.* at 44. In May, after Teising received an offer on her house, Michalski suggested that she move into his home on Knox Drive rather than rent an apartment, as he planned to be traveling out of the country on sabbatical much of the coming year. He offered the two upstairs bedrooms of his four-bedroom home to her, as well as use of the kitchen. The second bedroom was for Maggie when she came to visit from Vincennes, Indiana, which she did on a couple subsequent occasions. Michalski asked Teising not to use his half of the house. Michalski believed the agreement was

³ Fultz preferred working in the office alone because she had a special needs child at home whom she particularly wanted to protect from COVID-19.

“mutually beneficial” and that rent was not important to him, but Teising indicated that she wanted to pay \$500 in rent per month.⁴ *Id.* at 49.

[12] Upon making a significant profit on the sale of her home, Teising purchased a small travel trailer – a nineteen-foot Jayco Hummingbird Ultra Lite 17RK – on June 10, 2020. Two days later, she purchased a Dodge Ram truck.

[13] Teising transferred possession of the Princess Drive residence to the new owners on June 22, 2020. Prior to that date, her belongings were moved to two locations. She hired a professional moving company to move the following to the Knox Drive residence: two queen-size bedroom sets, eleven large boxes, power tools, and three shelving units. Teising also rented a ten-foot U-Haul moving van that Maggie and a friend drove to Vincennes with some personal belongings, totes, and an heirloom dresser to store at Teising’s mother’s home. Another friend helped Teising move additional items in a pickup truck to the Knox Drive residence.

[14] On July 7, 2020, Teising obtained a new Indiana driver’s license that listed the Knox Drive residence as her address, and she changed her voter registration. Similarly, the titles for her new truck and camper were issued in July with the Knox Drive address. Teising’s bank statements also began being issued with

⁴ Teising’s bank records reflect only two \$500 payments to Michalski, one in July and one in August 2020, with the latter being transferred back to Teising that same month.

this address after June 30, 2020. Teising voted in the 2020 general election from the Knox Drive address via absentee ballot.

[15] Despite moving belongings into the Knox Drive residence, Teising spent most of the next nine months traveling in her camper. She visited her close friends Amber and Andrew Jones in Anderson, staying in their driveway, for the last part of June and the majority of July and August, with daytrips or short stays in Lafayette, West Lafayette, and Noblesville and one overnight at the Knox Drive residence on August 6. Teising hooked her camper up to the Joneses' electric and water, and she contributed by paying their August electric bill. Teising and the Joneses were part of "each other's bubble," offering support and companionship during "a time where [they] were alone and were afraid" and all working remotely. *Id.* at 115, 127.

[16] While staying in Anderson, on July 27, 2020, Teising mailed documents for township emergency loan funding to Wietbrock, who also needed to sign the documents. They were sent by overnight mail from a post office in Anderson to Wietbrock's home in West Lafayette, and Teising listed the Knox Drive residence as the return address.

[17] On September 4, 2020, Teising and Amber took the camper on a ten-day trip to Colorado. After returning briefly to Anderson, Teising spent the last half of September in West Lafayette, Lafayette, and Evansville. She visited the Joneses in Anderson again from October 4 through 16 and then stayed at the Knox Drive residence from October 16 through 24 before traveling to Florida.

[18] On October 29, 2020, Teising arrived at an RV park in Panama City Beach, Florida, where she had reserved a site through April 30, 2021. Prior to leaving Indiana, she discussed her trip with Fultz and indicated that she would be in Florida from November until March. The two also discussed the need for a backup to keep the office open, and Fultz suggested her mother-in-law Julie Gregory. In early November, Teising held a video interview with Gregory to determine whether Gregory could fill in as needed to keep the Trustee’s office open. Teising explained that she was currently “snow birding” in Florida and would not be available to open the office if Fultz was out sick. *Id.* at 12. Gregory understood this to mean that Teising was living temporarily in Florida and would return to West Lafayette once the weather improved. Ultimately, Teising never ended up needing a backup for Fultz.

[19] On November 10, 2020, Wietbrock, as chair of the Board, sent the following inquiry to Teising via email:

The board has received numerous inquiries about your residency. The inquiries are specifically referencing that you sold your home at the beginning of the summer 2020 and do not appear to be in West Lafayette on a regular basis. These inquiries have been from residents of the township, elected officials, and additionally have come through the democratic party ... as well as GOP members.

Concerns expressed to us are that you are not here on a consistent basis.

Exhibit Vol. 2 at 75. Teising responded, “I have complied with the requirements of the office. Please address people’s complaints to the [State Board of Accounts].” *Id.*

[20] In an early December 2020 phone call, Wietbrock made what she considered a “Hail Mary” and told Teising that if she still wanted to resign, as indicated in February, Wietbrock would reconsider taking over as Trustee. *Transcript Vol. 2* at 222. Teising responded that she had decided not to resign or move and that “she was going to keep her word that she had given to some people here.” *Id.*

[21] Thereafter, on December 21, 2020, the Board issued a statement calling for Teising’s resignation based on a lack of confidence in her leadership as Trustee. That same day, the Lafayette Journal & Courier published a news article – the first of many – regarding the situation and, specifically, Teising’s residency.

[22] Teising returned to the Knox Drive residence on December 24, staying there until January 5, 2021. While there, she paid for a water heater and plumbing repair at the residence. She also signed a lease, backdated to July 1, 2020, that Michalski had created to reflect their prior verbal agreement. After receiving notice from the city that he was going to be fined for having an unregistered rental property, Michalski prepared a lease termination agreement in January, with an effective date of March 1, 2021. Teising later signed the termination agreement.

[23] After returning to her campsite in Florida on January 5, Teising stayed until the beginning of March 2021. On March 4, Teising returned to West Lafayette and

stayed at the Knox Drive residence for ten out of the next sixteen nights. The other nights she stayed in her camper in Anderson.

[24] An analysis from Teising’s cell site location data from the time of her move in June 2020 to March 19, 2021, according to Indiana State Police Detective Greg Edwards, revealed that 22% of her calls occurred while Teising was in Florida, 18 % in Anderson, and 15% in West Lafayette. Detective Edwards estimated that, throughout the relevant time period, Teising spent 27 overnights at the Knox Drive residence in West Lafayette and “[o]ften” returned there during her travels. *Id.* at 209.

[25] On May 11, 2021, Teising was indicted by a grand jury on twenty counts of theft, as a Level 6 felony, based on consecutive bi-monthly salary payments from July 2, 2020 through March 26, 2021. The indictments alleged, in relevant part, that Teising knowingly or intentionally exerted unauthorized control over the salary paid to her as Trustee of Wabash Township “when she did not reside in said township.” *Appellant’s Appendix Vol. 2* at 41. An additional count of theft was later added for salary payments from April 9 through July 2, 2021.

[26] Teising’s motions for change of venue and appointment of a special prosecutor were denied by the trial court, and her bench trial commenced on December 13, 2021. At the conclusion of the State’s evidence, Teising moved for judgment on the evidence, which the trial court denied. Teising also asserted that the theft statute was unconstitutionally vague as applied. The trial court took the matter

under advisement and issued its order on January 5, 2022, rejecting Teising’s constitutional argument and finding her guilty of the twenty-one counts of theft.

[27] Teising now appeals. Additional information will be provided below as needed.

Standard of Review

[28] When reviewing the sufficiency of evidence supporting a conviction, we neither reweigh the evidence nor assess the credibility of witnesses. *Fix v. State*, 186 N.E.3d 1134, 1138 (Ind. 2022). We consider only the probative evidence and the reasonable inferences supporting the conviction and will affirm “unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt.” *Id.* (quoting *Jackson v. State*, 50 N.E.3d 767, 770 (Ind. 2016)). Where resolution of a sufficiency claim, however, turns on interpretation of statute(s), we are presented with a pure question of law, to which a de novo standard of review applies. *Id.*

Discussion & Decision

[29] Tiesing’s convictions were based on the trial court’s conclusion that she continued to accept her salary as Trustee after she no longer resided in Wabash Township. In support of this conclusion, the court noted: Teising’s declarations to various individuals in February 2020 of plans to resign and move to Florida; her actions of selling her house and buying a truck and travel trailer; her extensive travel for the following nine months, which was “nearly entirely outside of Wabash Township”; and her spending only twenty-seven nights

during this period at the Knox Drive residence. *Appellant's Appendix Vol. 2* at 25. Further, the trial court determined that the Knox Drive residence “appeared designed to maintain the appearance of residency.” *Id.* In this regard, the trial court found that Teising kept minimal property there, made only one rent payment, and paid no utilities, with the payment of the plumbing repair being “an incidental event for issues discovered when she arrived and briefly spent time there at Christmas.” *Id.* The court found that the backdated lease prepared after the news articles evidenced “a desire to conceal her actual whereabouts,” as did her listing of the Knox Drive address when mailing the documents to Wietbrock from Anderson in July 2020. *Id.* The trial court further concluded:

10. The Defendant’s move to Anderson, payment of utilities and the receipt of Amazon and Lowes shipments suggest she did not intend to maintain a permanent residence in Wabash Township.

11. The Defendant’s lifestyle and activities in Anderson, Indiana followed by her commitment to a six-month lot rental in Florida lend further credence to the conclusion that the Defendant did not *actually reside* in Wabash Township as required by Indiana Constitution, Article 6, § 6 and interpreted by [caselaw].

12. A township officer, as an elected official takes on a special obligation to reside in her district when elected, and obligation to do so is a long-held value enshrined in the Indiana Constitution, followed by statute and affirmed by judicial opinion, including some authority well more than a hundred years old.

13. Upon the Defendant’s move out of Wabash Township in June 2020 to live a nomadic RV lifestyle, she ceased to make her “true, permanent and fixed” home in Wabash Township, West Lafayette, Indiana and forfeited the office of Township Trustee.

14. Upon forfeiture of the office of Wabash Township Trustee, the Defendant’s continued collection of her salary constituted the crime of Theft.

Id. at 26 (emphasis in original).

[30] As recognized by the trial court, Article 6, Section 6 of the Indiana Constitution requires that township officers, such as Teising, “reside within their respective ... townships.” Ind. Code § 36-6-4-2(b) codifies this requirement and provides: “The township trustee must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The trustee forfeits office if the trustee ceases to be a resident of the township.” This forfeiture provision in the statute was the cornerstone of the State’s case against Teising. That is, the State had to establish beyond a reasonable doubt that, among other things, Teising ceased being a resident of Wabash Township when she moved from her home on Princess Drive in June 2020.

[31] Ind. Code Chap. 3-5-5 sets out standards that “shall be used” in determining residency in certain contexts, including the residency of “[a] person holding elected office.” I.C. § 3-5-5-1(3).⁵ “Residence” is statutorily defined as “the place: (1) where a person has the person’s true, fixed, and permanent home and

⁵ The State’s assertion that I.C. Chap. 3-5-5 applies only to “candidates and voters” is without merit. *Appellee’s Brief* at 27. The statutes in this chapter are controlling in determining whether Teising ceased to be a resident of Wabash Township and, thus, forfeited her office.

principal establishment; and (2) to which the person has, whenever absent, the intention of returning.”⁶ I.C. § 3-5-2-42.5.

[32] A person may not have residence in more than one precinct in Indiana or both within and outside Indiana. I.C. § 3-5-5-3. Further,

A person who has a residence in a precinct retains residency in that precinct until the person abandons the residence by:

- (1) having the intent to abandon the residence;
- (2) having the intent to establish a new residence; and
- (3) acting as provided in this intent by establishing a residence in a new precinct.

I.C. § 3-5-5-4.

[33] There are several statutory presumptions regarding residency. For example, “[a]n individual who makes a statement regarding the residence of the individual, under the penalties for perjury, is presumed to reside at the location specified by the individual, as of the date of making the statement.” I.C. § 3-5-5-6(b). The residency statutes also make clear that a person does not change residency by the mere fact of being physically present in another location; rather, the person must have intent to reside in the new location. I.C. § 3-5-5-7(a) (temporary physical presence in another Indiana precinct does not change residency “without intent of making a permanent home in the precinct”); I.C. §

⁶ “Domicile” and “residence” have the same meaning. I.C. § 3-5-2-16.4.

3-5-5-8 (“[I]f a person is physically present within another state with the intention of making that state the person’s residence, the person loses residency in Indiana.”); I.C. § 3-5-5-9 (“[I]f a person is physically present within another state with the intention of remaining in the other state for an indefinite time as a place of residence, the person loses residency in Indiana, even if the person intends to return at some time.”).

[34] These statutes codified much of the common law. *See Allsup v. Swalls-Thompson*, 169 N.E.3d 1128, 1136 n.2 (Ind. Ct. App. 2021) (recognizing the codification of definitions of residence and domicile, as discussed in *State Election Bd. v. Bayh*, 521 N.E.2d 1313 (Ind. 1988), and the standards for determining residency), *trans. denied*. Further, they reflect the long-held understanding that every person has a residence somewhere and that a person does not lose the one until gaining one in another place. *See Bayh*, 521 N.E.2d at 1317; *State ex rel. White v. Scott*, 86 N.E. 409, 413 (1908); *Culbertson v. Bd. of Comm’rs of Floyd Cnty.*, 52 Ind. 361, 370 (1876) (“The general rule, and, for practical purposes, a fixed rule, is, that a man must have a habitation somewhere; he can have but one; and therefore, in order to lose one, he must acquire another.”). As our Supreme Court explained in *Bayh*:

A change of domicile requires an actual moving with an intent to go to a given place and remain there. It must be an intention coupled with acts evidencing that intention to make the new domicile a home in fact. There must be the intention to abandon the old domicile; the intention to acquire a new one; and residence in the new place in order to accomplish a change of domicile.

521 N.E.2d at 1317 (cleaned up). In other words, “a purpose to change, unaccompanied by actual removal or change of residence, does not constitute a change of domicil[e]. The fact and intent must concur.” *Culbertson*, 52 Ind. at 370. Ultimately, a residency determination requires consideration of all the circumstances in a given case of which physical presence is but one circumstance to consider. *See Bayh*, 521 N.E.2d at 1318; *see also Allsup*, 169 N.E.3d at 1136.

[35] In this case, shortly after Teising sold her Princess Drive residence and moved belongings to the Knox Drive residence, she changed her voter registration to this address, which form was signed under penalty of perjury. She made similar affirmations regarding her address when she filed her application for absentee ballot and when she submitted her absentee ballot in September and October 2020, respectively. In light of these affirmations, she was presumed to reside at the Knox Drive residence at those times. *See* I.C. § 3-5-5-6(b).

[36] While the trial court believed Teising’s move to Knox Drive was a sham, the court made no finding that she had established residency elsewhere. As discussed above, under both the common law and statutes, Teising could not lose her residency in Wabash Township until she established a new residence elsewhere.⁷ This she did not do.

⁷ The State attempts to equate this case to *Relender v. State ex rel. Utz*, 49 N.E. 30, 32 (Ind. 1898), where the defendant, a county commissioner, moved with his family from Indiana to Colorado and pursued his usual occupation of a groceryman there. The Supreme Court recognized that “a merely temporary removal or absence for a limited time by the officer from the county ... with no intention to abandon his office, or to

[37] The State’s own evidence establishes that Teising used professional movers to take furniture and other personal belongings to the Knox Drive residence in Wabash Township. Over the next nine months, Teising stayed at this residence sporadically and only about ten percent of the time. But her lack of physical presence in Wabash Township during much of this period must be considered in context. There was an ongoing worldwide pandemic and she, like countless others, was working remotely. Instead of working in Wabash Township, Teising traveled in her camper to Anderson, where she interacted with close friends who were in her COVID-19 bubble. She also traveled to Colorado, to other locations in Indiana, and ultimately to Florida for the winter months. There is no indication in the record that any of Teising’s travels during this time were intended to be permanent or to affect a change in residency. In February 2020, Teising had expressed a desire to sell her house, resign, and move to Florida, but only the first of these ultimately came to fruition. *Cf. Scott*, 86 N.E. at 413 (“An unsettled, or indefinite, or floating intention ... to establish a permanent home or residence in some undetermined locality does not affect the actual residence.”).

[38] In sum, the State failed to present sufficient evidence that Teising intended to abandon her Wabash Township domicile and establish a new residence

cease to discharge the duties thereof, will not result in terminating his title.” *Id.* at 32. The Court, however, found that the defendant’s removal from the county was not temporary. Aside from the factual differences between the cases, we observe that there now exist statutes addressing residency of elected officials who are physically present in another state. *See* I.C. §§ 3-5-5-8, -9. Accordingly, we do not find *Relender* controlling.

elsewhere and that she in fact established said new residence. Accordingly, the trial court erred in finding her guilty of the twenty-one counts of theft.

[39] Judgment reversed.

Brown, J. and Tavitas, J., concur.