IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE
June 21, 2023 Session

ROBIN M. MCNABB v. GREGORY HARRISON

Appeal from the Chancery Court for Loudon County
No. 12997 Tom McFarland, Chancellor

No. E2022-01577-COA-R3-CV

This case involves an election contest filed by the plaintiff based on the defendant's residency eligibility for the office of Lenoir City Municipal Court Judge. Following a hearing, the trial court determined that the defendant had complied with article VI, section 4 of the Tennessee Constitution because the clause required, *inter alia*, that he be a resident within the judicial district, not necessarily within the city limits, to preside over the municipal court, which has concurrent jurisdiction with a general sessions court. The plaintiff has appealed. Upon review, we determine that the language of article VI, section 4 of the Tennessee Constitution requiring a judge elected to an inferior court to have been a resident of the "district or circuit" to which he or she is assigned means, under these circumstances, that the Lenoir City Municipal Judge must have been a resident of Loudon County for at least one year prior to the judge's election because the Lenoir City Municipal Court has concurrent jurisdiction with the Loudon County General Sessions Court. Accordingly, inasmuch as the defendant had been a resident of Loudon County for at least one year prior to the election, we affirm the trial court's dismissal of the plaintiff's election contest. However, we modify the trial court's judgment to state that the defendant complied with the residency requirement at issue because he had been a resident of Loudon County for at least one year rather than because he had been a resident of the Ninth Judicial District for the prescribed time period.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court Affirmed as Modified; Case Remanded

THOMAS R. FRIERSON, II, J., delivered the opinion of the court, in which JOHN W. MCCLARTY and KRISTI M. DAVIS, JJ., joined.

Robin M. McNabb, Knoxville, Tennessee, Pro Se.[1]

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[1] In her appellate brief, Ms. McNabb, who is an attorney, has listed a Knoxville address for her legal office. We note that her home address is within Lenoir City, Tennessee.

T. Scott Jones, Knoxville, Tennessee, for the appellee, Gregory Harrison.

OPINION

I. Factual and Procedural Background

The plaintiff, Robin M. McNabb, served as Municipal Court Judge for the City of Lenoir City, Tennessee, from 2016 through the August 4, 2022 election at issue. The defendant, Gregory Harrison, won his bid for the office of Lenoir City Municipal Court Judge on August 4, 2022, defeating Ms. McNabb and one other candidate. Mr. Harrison resides at 3040 Calloway Circle, Lenoir City, Tennessee, 37772, outside the Lenoir City limits. No one challenged Mr. Harrison's qualifications prior to the election, and the Loudon County Election Commission certified the election results on August 18, 2022.

On August 23, 2022, Ms. McNabb filed a complaint contesting the election in the Loudon County Chancery Court ("trial court"). *See* Tenn. Code Ann. § 2-17-101(b) (2023) ("The incumbent office holder and any candidate for the office may contest the outcome of an election for the office."); Tenn. Code Ann. § 2-17-105 (2023) ("The complaint contesting an election under § 2-17-101 shall be filed within five (5) days after certification of the election."). Ms. McNabb challenged Mr. Harrison's qualifications for office based upon his residence outside the city limits. On August 24, 2022, Ms. McNabb filed an affidavit in support of her request for a temporary restraining order to prohibit Mr. Harrison from taking office.

On August 26, 2022, Mr. Harrison filed a motion to dismiss the complaint for failure to state a claim upon which relief could be granted pursuant to Tennessee Rule of Civil Procedure 12.02(6). The trial court entered an order denying Ms. McNabb's request for a temporary restraining order on September 1, 2022.[2]

During a hearing conducted on September 12, 2022, the trial court denied Mr. Harrison's motion to dismiss and proceeded to hear the case on the merits. As the trial court stated in its final order, "the arguments for purposes of this hearing center[ed] on the language of Article VI, Section 4 of the Tennessee State Constitution[.]" This constitutional section provides:

> The Judges of the Circuit and Chancery Courts, and of the other inferior Courts, shall be elected by the qualified voters of the district or circuit to which they are to be assigned. Every Judge of such Courts shall be thirty

[2] Loudon County Circuit Court Judge Michael Pemberton entered the order denying Ms. McNabb's request for a temporary restraining order, noting in the order that then Chancellor-elect Tom McFarland would be assuming the case thereafter.

> years of age, and shall before his election, have been a resident of the State for five years, and of the circuit or district one year. His term of service shall be eight years.

TENN. CONST. art. VI, § 4.

Ms. McNabb contended that when the section was first written in 1870, the terms, "circuit" and "district," had not been established as terms of art as they are today but rather referred to a subdivision within the county, such as a town or city. She thereby posited that because Mr. Harrison had not resided within the city limits of Lenoir City for a year prior to the election, he was ineligible for election as the municipal judge. In response, Mr. Harrison argued that he was eligible for election as the municipal judge because he was a resident within the Ninth Judicial District, the district within which the municipal judge would preside with concurrent jurisdiction with the general sessions court. Mr. Harrison relied upon a 2020 Tennessee Attorney General opinion stating that the residency requirements for a judge sitting on a municipal court exercising concurrent jurisdiction with an inferior court included that the judge have resided one year in the judicial district in which the municipal court was located but did not include a requirement that the judge have resided within the municipality. *See* Tenn. Op. Atty. Gen. No. 20-16, 2020 WL 6112990 (Oct. 2, 2020).

At the close of the hearing, the trial court ruled in favor of Mr. Harrison, dismissing Ms. McNabb's complaint. In its November 2, 2022 final order, the trial court found that "the district as defined by the Constitution applied to the Ninth Judicial District" and that Mr. Harrison had therefore "complied with Article VI, Section 4, of the Tennessee Constitution." Ms. McNabb timely appealed.

II. Issue Presented

Ms. McNabb presents the following issue on appeal, which we have restated slightly as follows:

> Whether the trial court erred in concluding that a municipal judge who exercises concurrent general sessions court jurisdiction does not have to be a resident of that municipality provided that the judge is a resident of the judicial district in which the municipality is located.

III. Standard of Review

This appeal involves an issue of constitutional interpretation, which is a question of law. *See State v. Burns*, 205 S.W.3d 412, 414 (Tenn. 2006). Therefore, "the standard

of review is de novo without any presumption of correctness given to the legal conclusions of the courts below." *Id.* (citing *S. Constructors, Inc. v. Loudon County Bd. of Educ.*, 58 S.W.3d 706, 710 (Tenn. 2001)). Regarding constitutional interpretation, our Supreme Court has set forth the following principles:

> Courts are to construe constitutional provisions as written without reading any ambiguities into them. As [the plaintiff] urges, the words and terms in the Constitution should be given their plain, ordinary and inherent meaning. When a provision clearly means one thing, courts should not give it another meaning. The intent of the people adopting the Constitution should be given effect as that meaning is found in the instrument itself, and courts must presume that the language in the Constitution has been used with sufficient precision to convey that intent. *State ex rel. Sonnenburg v. Gaia*, 717 S.W.2d 883, 885 (Tenn. 1986).
>
> Constitutional provisions will be taken literally unless the language is ambiguous. When the words are free from ambiguity and doubt and express plainly and clearly the sense of the framers of the Constitution there is no need to resort to other means of interpretation. *Shelby County v. Hale*, 200 Tenn. 503, 292 S.W.2d 745, 748 (1956). But if there is doubt about the meaning, the Court should look first to the proceedings of the Constitutional Convention which adopted the provision in question as an aid to determining the intent of the framers. *Id.*

Hooker v. Haslam, 437 S.W.3d 409, 426 (Tenn. 2014).

IV. Local Residency Requirement of article VI, section 4

The trial court found and the parties have stipulated that interpretation of article VI, section 4 of the Tennessee Constitution is dispositive of this action. To reiterate, this section provides:

> The Judges of the Circuit and Chancery Courts, and of other inferior Courts, shall be elected by the qualified voters of the district or circuit to which they are to be assigned. Every Judge of such Courts shall be thirty years of age, and shall before his election, have been a resident of the State for five years and of the circuit or district one year. His term of service shall be eight years.

Ms. McNabb specifically focuses on the definition of "district or circuit." Without making an express finding regarding whether the language at issue was ambiguous, the

trial court found that "the district as defined by the Constitution applied to the Ninth Judicial District." The trial court did not address the meaning of "circuit." Mr. Harrison maintains that the plain meaning of the terms, "district" and "circuit," "hold no ambiguity" and that the trial court properly found the "established" meaning of district to be the judicial district in which the municipality lies.

Upon thorough consideration, we determine that the plain meaning of the terms, "district" and "circuit," as they must be applied in this case to a municipal judgeship, is ambiguous because there is doubt about the terms' meaning in this context and because they may be interpreted in more than one way. *See Hooker*, 437 S.W.3d at 426; *Bryant v. HCA Health Servs. of N. Tenn., Inc.*, 15 S.W.3d 804, 809 (Tenn. 2000) (explaining that "[a] statute is ambiguous if the statute is capable of conveying more than one meaning."); *but see McFarland v. Pemberton*, 530 S.W.3d 76, 89 (Tenn. 2017) (stating in the context of a challenge to a circuit judge election that "[t]he relevant constitutional language is clear, it requires a candidate for circuit judge to 'have been a resident . . . of the circuit or district one year.'" (citing TENN. CONST., art. VI, § 4)).

At the outset, we review the parties' stipulation, expressly found to be accurate by the trial court, that interpretation of article VI, section 4 is dispositive of this action. In support of this overall finding, the parties made the following pertinent stipulations, as recorded in the trial court's order:

> The Lenoir City Judge is required to satisfy the requirements in Article VI, Section 4, due to being a popularly elected City Judge;
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> The Lenoir City Judge is also required to satisfy the requirements of Article VI, Section 4, due to the Court exercising concurrent General Sessions Criminal jurisdiction.
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> * * *
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> That the parties agreed that the Lenoir City ordinance instituted during the tenure of Judge Vann, and repealed during the tenure of Judge McNabb, was not applicable and that this was merely a State constitutional question;
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> That the arguments for purposes of this hearing center on the language of Article VI, Section 4 of the Tennessee State Constitution;
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> That the Municipal Judge in Lenoir City falls under the definition of an Inferior Court in the Tennessee State Constitution[.]

(Paragraph numbering omitted.)

Article VI, section 4 does not typically apply to municipal judgeships when the judge is appointed by city leadership. *See* Tenn. Code Ann. § 6-21-501(a) (2015) (providing for appointment of a city judge by a board of commissioners); *Summers v.* Thompson, 764 S.W.2d 182, 185-86 (Tenn. 1988). However, when a municipal court judge is elected by popular vote, the judge must meet the requirements of article VI, section 4. *See* Tenn. Code Ann. § 16-18-202 (2021). Ergo, because the Lenoir City Municipal Judge is popularly elected, he or she must meet the requirements of article VI, section 4. Additionally, when a municipal court exercises concurrent jurisdiction with a general sessions court, which is an inferior court as that term is utilized in the Tennessee Constitution, the "city judge[] exercising inferior court jurisdiction must meet the qualifications of Article VI, § 4." *State by & through Town of S. Carthage v. Barrett*, 840 S.W.2d 895, 899 (Tenn. 1992). Hence, the Lenoir City Municipal Judge must also comply with article VI, section 4 because the municipal court exercises concurrent criminal jurisdiction with the general sessions court. *See State ex rel. Newsom v. Biggers*, 911 S.W.2d 715, 717 (Tenn. 1995) ("Thus, while the city court is not an 'inferior court' because its jurisdiction consists solely of the enforcement of municipal ordinance violations, it must be in compliance with the provisions of the Tennessee Constitution relating to inferior courts and judges when it exercises concurrent jurisdiction over state offenses."). Accordingly, we agree with the trial court's findings that the Municipal Judge of Lenoir City must comply with article VI, section 4 of the Tennessee Constitution and that the proper application of this section is dispositive of the instant action.[3]

Article VI, section 4 was enacted in 1870. The current scheme of judicial districts in Tennessee was established by the General Assembly in 1984 and, as amended effective September 2022, divides the state into thirty-two judicial districts. *See* Tenn. Code Ann. § 16-2-506 (Supp. 2023). Loudon County is one of four counties located in the Ninth Judicial District; the other three are Meigs, Morgan, and Roane. *See* Tenn. Code Ann. §

[3] The appellate record does not include the Lenoir City ordinance referred to in the parties' stipulation. We note that in the transcript of the November 2022 hearing during which the court reviewed Mr. Harrison's proposed order, Ms. McNabb questioned whether she had stipulated that the ordinance had been repealed. However, because "a court speaks through its orders," *see In re Conservatorship of Alexander v. JB Partners,* 380 S.W.3d 772, 777 (Tenn. Ct. App. 2011), and because we are unable to review a city ordinance not provided in the record unless prompted by a party to take judicial notice of the ordinance, *see Williams v. Epperson*, 607 S.W.3d 289, 297 (Tenn. Ct. App. 2020) (citing Tenn. R. Evid. 202(b)), we must assume for purposes of this analysis that the ordinance was repealed. In the conclusion of her appellate brief, Ms. McNabb asks this Court to "declar[e] Lenoir City's ordinance pertaining to residence of the municipal judge to be void because it violates the Tennessee Constitution." For the reasons stated, we are unable to consider this request.

16-2-506(9)(A). Ms. McNabb posits that the phrase, "district or circuit," as used in the 1870 enactment of article VI, section 4, cannot be directly equated to the current judicial districts that were created by statute in 1984. As our Supreme Court has explained:

> As used in the Constitution, a "district" is a political subdivision, usually a subdivision of a county, as determined by the legislature. *See, e.g.*, Art. VI, § 15 (repealed in 1978, but previously providing that the legislature was to divide Tennessee's counties into "districts of convenient size" for the purpose of electing justices of the peace and constables); and Art. VII, § 1 (providing for the division of counties into districts from which legislators are to be elected and providing for the reapportionment of the districts from time to time).

Hooker, 437 S.W.3d at 434.

Presented with a constitutional question concerning the selection of state appellate judges, the Court in *Hooker* differentiated between a "district," as the term is used in the Tennessee Constitution, and the three "grand divisions" ("east, middle, and west") provided in the statutory scheme establishing residency requirements for appellate judges. *Id.* at 430. The *Hooker* Court explained: "Pursuant to these statutes, the Court of Appeals and the Court of Criminal Appeals are each comprised of twelve judges, no more than four of whom may 'reside' in any one of the three 'grand divisions' of the State." *Id.* (citing Tenn. Code Ann. §§ 16-4-101 *et seq.*, 16-5-101 *et seq.*). The Court further explained: "While a 'district' usually connotes a subunit of a county and may be subject to reconfiguration (*see, e.g.*, Art. VII, § 1, requiring that districts be reapportioned at least every ten years), a 'grand division' refers to one of three permanently defined, large umbrella units, each composed of many counties—and, accordingly, of many districts." *Hooker*, 437 S.W.3d at 430 (citing Tenn. Code Ann. §§ 4-1-201-204).

Relying in part on this explanation in *Hooker*, Ms. McNabb maintains that "the 'district or circuit' referred to in our state Constitution is that of a political subdivision within a county" (emphasis added) and that "[a]s a result, Article VI, Section 4 requires that a municipal judge live within the bounds of the municipality." Noting that the *Hooker* Court stated that "district" in the state Constitution refers to "a political subdivision, usually a subdivision of a county," 437 S.W.3d at 434 (emphasis added), we do not agree that "district" as used in article VI, section 4 necessarily refers to a subdivision of a county. However, we also do not find that "district" necessarily refers to the judicial districts established across the state in 1984.

Ms. McNabb begins her interpretation of the meaning of "district or circuit" with an historical analysis of the Tennessee judicial system far predating the 1870 enactment

of article VI, section 4. Referring to the Tennessee Constitution of 1796, Ms. McNabb states:

> At that time, disputes and petty offenses were primarily handled by local justices of the peace. These are provided for in the 1796 Constitution in Article V, § 12th: "There shall be Justices of the Peace appointed for each County, not exceeding two for each Captains [i.e. Captain's] Company, except for the Company which includes the County Town which shall not exceed three, who shall hold their offices during good behavior." Tenn. Const. of 1796, Art. V, § 12th. (In that Constitution, Article V was the section dealing with judges, but gave state lawmakers wide latitude in establishing courts for law and equity, referred to as Superior and Inferior Courts. By its inclusion in the judicial article, justices of the peace were clearly regarded as judicial officers.) The justices of the peace, therefore, were selected for subdivisions of each county in Tennessee, with approximately equal numbers for each district, except for towns, which were allowed one extra officer.

Ms. McNabb's historical analysis continues with an examination of the 1834 Tennessee Constitution, noting that judicial provisions were moved from article V to article VI. Ms. McNabb particularly focuses on article VI, section 15, which provided:

> The different counties in this State shall be laid off, as the general Assembly may direct, into districts of convenient size, so that the whole number in each county shall not be more than twenty five, or four for every one hundred square miles. There shall be two Justices of the peace and one Constable elected in each district, by the qualified voters therein, except districts including county towns which shall elect three Justices and two constables. The jurisdiction of said officers shall be co-extensive with the County. Justices of the peace shall be elected for the term of six, and constables for the term of two years. Upon the removal of either of said officers from the district in which he was elected, his office shall become vacant from the time of such removal. Justices of the peace shall be commissioned by the governor. The Legislature shall have power to provide for the appointment of an additional number of Justices of the peace in incorporated towns.

Ms. McNabb acknowledges that this 1834 clause was effectively repealed in 1978. *See Hooker*, 437 S.W.3d at 434. She posits that the "omission" of this section from the 1870 enactment of article VI, section 4 may be to blame for what she terms the "misinterpretation" of the terms, "district or circuit."

In support of her position, Ms. McNabb also relies on appellate decisions setting forth the history of judicial divisions throughout early versions of the state Constitution, including *Grainger Cnty. v. State*, 80 S.W. 750, 751-52 (Tenn. 1904), wherein our Supreme Court stated in pertinent part:

> Then, as now, the counties were already divided into civil districts, in which were to be elected justices of the peace and constables. The several counties were at that time also grouped into judicial circuits and chancery divisions; each circuit being presided over by a circuit judge, and served by a district attorney for the state, and each chancery division being presided over by a chancellor. These were also state officers, but assigned to limited areas—their respective circuits and divisions—and these areas were subject to change from time to time by the Legislature.

Although we appreciate and respect Ms. McNabb's well-researched historical analysis, we emphasize that when there is doubt about the meaning of a constitutional provision, our Supreme Court has instructed that we first look to the proceedings of the Constitutional Convention when the provision was adopted as an aid in determining the drafter's intent. *See Hooker*, 437 S.W.3d at 426. Upon reviewing the Journal of the Proceedings of the Constitutional Convention of 1870, we note that the terms, "civil district," "city," "town," and "municipality," are all utilized, indicating that the drafters were familiar with these particular terms. Ms. McNabb urges us to substitute the meaning of these various terms for "district," as used in article VI, section 4, yet the drafters refrained from their inclusion in the section. "The intent of the people adopting the Constitution should be given effect as that meaning is found in the instrument itself, and courts must presume that the language in the Constitution has been used with sufficient precision to convey that intent." *Hooker*, 437 S.W.3d at 426 (citing *State ex rel. Sonnenburg v. Gaia*, 717 S.W.2d 883, 885 (Tenn. 1986)). Presuming that the drafters conveyed this section with sufficient precision, we must assume that the drafters intended to omit language indicating that "district or circuit" equated to a municipality or similar term.

Returning to the plain language of the Constitution, we note the qualification that immediately follows "district or circuit": "the district or circuit to which they are to be assigned." TENN. CONST., art. VI, § 4 (emphasis added). Ms. McNabb asserts that the municipal judge is assigned to, or has jurisdiction over, the municipality. Her argument fails to consider that because the municipal court in Lenoir City also maintains concurrent jurisdiction with the general sessions court, the municipal judge is also assigned to Loudon County as the county in which Lenoir City lies. It appears the drafters purposefully chose the terms, "district or circuit," because those terms could be

modified by the qualifying phrase, "to which they are to be assigned," as opposed to choosing a term like municipality that could only apply to one geographic area.

Mr. Harrison relies on Tennessee Attorney General Opinion No. 20-16, 2020 WL 6112990, to support his position that the trial court properly applied "district" in article VI, section 4 to indicate the Ninth Judicial District in which Lenoir City and Loudon County are located. We note that although opinions of the attorney general may be considered persuasive authority, they are not controlling. *See State v. Black*, 897 S.W.2d 680, 683 (Tenn. 1995) ("Although opinions of the Attorney General are not binding on courts, government officials rely upon them for guidance; therefore, [such] opinion[s are] entitled to considerable deference."); *Whaley v. Holly Hills Mem'l Park, Inc.*, 490 S.W.2d 532, 533 (Tenn. Ct. App. 1972) ("It must be noted that an opinion of the attorney general may be persuasive but is in no way binding authority."). In answering a question directly on point with the issue in this case, the attorney general opined that when "a municipal court exercises concurrent jurisdiction with a general session court," the judge is not required to have been a resident of the municipality for at least one year prior to election. Tenn. Op. Atty. Gen. No. 20-16, 2020 WL 6112990, at *1. The attorney general stated in pertinent part:

> The plain, ordinary, and inherent meaning of the words imposing a one-year residency requirement in article VI, section 4 is that a judge of an inferior court must be elected by the voters of the district or circuit over which that inferior court has territorial jurisdiction and that the judge must have been a resident of that same district or circuit for at least one year before being elected. Since municipal court judges exercising concurrent jurisdiction with an inferior court must meet all the requirements of article VI, section 4, a judge of a municipal court that exercises concurrent jurisdiction with a general sessions court must have been elected to office by the qualified voters of the "district or circuit" to which he or she is assigned and must have been a resident of that "district or circuit" for at least one year before being elected.
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> The relevant district or circuit for such a municipal court judge would be the district or circuit in which the municipal court has jurisdiction. A "district" or a "circuit" connotes the geographic territory in which a court has jurisdiction. The State is divided into 31 judicial districts, each consisting of one or more counties. Tenn. Code Ann. § 16-2-506. Thus, a district is greater— in terms of both geographic territory and pool of voters—than any municipality within the district.

> Article VI, section 4 "only requires the judge [of an inferior court] to be a resident of the circuit or district that the judge is to serve." Tenn. Att'y Gen. Op. 04-139 (Aug. 24, 2004). For that reason, this Office has previously opined that legislation requiring at least one of the circuit court judges elected to a multi-county judicial district to be a resident of one particular county in the district would conflict with the provisions of article VI, section 4, which only require the judge to be a resident of the district, not of a particular county within the district. And for that same reason—i.e., because the Constitution requires only that the judge of an inferior court be a resident of the relevant judicial district—when a municipal court judge acting as an inferior court judge must comply with the residency requirements of article VI, section 4, that judge is required only to have been a resident of the judicial district in which the municipal court is located, not necessarily to have been a resident of the municipality.
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> In sum, when a municipal court is vested with concurrent jurisdiction with an inferior court, the judge of the municipal court must comply with . . . the article VI, section 4 requirements with which the inferior court judge must comply. He or she must, therefore, have resided within Tennessee for five consecutive years and within the judicial district in which the municipal court is located for one year immediately before being elected. Article VI, section 4 does not require residency within the municipality for a judge exercising concurrent jurisdiction with an "inferior court," such as a general sessions court.

Id. at *2-3 (emphasis added).[4]

We agree with the portion of the attorney general's opinion, underlined above, stating that "[t]he relevant district or circuit for such a municipal court judge would be

[4] This passage from the attorney general's opinion also includes the following footnote explaining the term, "circuit":

> "Circuit" refers to a judicial division in which hearings occur at several locations. *Black's Law Dictionary* 305 (11th ed. 2019). The concept of a "circuit" derives historically from the time when a single judge rode "the circuit" to hold court at various places within a designated territory consisting of several counties. In Tennessee today, there is no longer any meaningful difference between a judicial district and a judicial circuit; there is a circuit court in each judicial district.

Tenn. Op. Atty. Gen. No. 20-16, 2020 WL 6112990, at *2 n.7.

the district or circuit in which the municipal court has jurisdiction" and that "[a] 'district' or a 'circuit' connotes the geographic territory in which a court has jurisdiction." These statements logically follow from the modifying language that the judges of inferior courts "shall be elected by the qualified voters of the district or circuit to which they are to be assigned." *See* TENN. CONST., art. VI, § 4 (emphasis added). However, the attorney general's opinion then makes a logical leap to conclude that the district in which the municipal court has jurisdiction would be one of the judicial districts in the state. In support of this conclusion, the attorney general relies on Tennessee Attorney General Opinion No. 04-139, 2004 WL 2077449 (Aug. 24, 2004).

In the 2004 opinion, the attorney general opined that a statute requiring a judge in a four-county judicial district to be a resident of one particular county would violate article VI, section 4 because it would "impos[e] a county residency requirement for a circuit court judge to be assigned to a four-county judicial district." Tenn. Op. Atty. Gen. No. 04-139, 2004 WL 2077449, at *1-2. The attorney general reasoned that the circuit court judge would be assigned to all four counties of the judicial district. *Id.* As the 2004 attorney general opinion stated, "the Tennessee Constitution [particularly article VI, section 4] requires that a circuit court judge be a resident of the circuit or district to which the judge is assigned." *Id.* at *1. The fallacy in the 2020 opinion's reliance on the 2004 opinion is that a municipal court judge exercising concurrent jurisdiction with a general sessions court would not be assigned to the entire judicial district unless the general sessions court had jurisdiction over the entire judicial district.

In the case at bar, the Loudon County General Sessions Court has jurisdiction over Loudon County. *See* Tenn. Code Ann. § 16-15-503 (2021) ("The jurisdiction of general sessions courts, when not otherwise provided, is geographically coextensive with the limits of their respective counties."). The Loudon County General Sessions Court does not have jurisdiction over the other three counties in the Ninth Judicial District. *Id.* Because the Lenoir City Municipal Judge exercises concurrent jurisdiction with the Loudon County General Sessions Court, his or her jurisdiction is coextensive with the geographic limits of Loudon County.

We conclude that the "district or circuit to which [the Lenoir City Municipal Judge is] to be assigned" is Loudon County. *See* TENN. CONST. art. VI, § 4. Therefore, pursuant to article VI, section 4 of the Tennessee Constitution, the Lenoir City Municipal Judge must have been a resident of Loudon County for at least one year prior to election but is not required to have been a resident of the municipality of Lenoir City. Accordingly, we affirm the trial court's dismissal of Ms. McNabb's complaint contesting the election. However, we modify the trial court's order to state that Mr. Harrison complied with the residency requirement at issue because he had been a resident of

Loudon County for at least one year prior to the election rather than because he had been a resident of the Ninth Judicial District for the prescribed time period.

V. Conclusion

For the foregoing reasons, we affirm the judgment of the trial court dismissing Ms. McNabb's complaint. However, we modify the trial court's order to state that Mr. Harrison complied with the local residency requirement provided in article VI, section 4 of the Tennessee Constitution because he had been a resident of Loudon County for at least one year prior to the election rather than because he had been a resident of the Ninth Judicial District for the prescribed time period. We remand this case to the trial court for modification of the judgment and collection of costs below. Costs on appeal are taxed one-half to the appellant, Robin M. McNabb, and one-half to the appellee, Gregory Harrison.

s/ Thomas R. Frierson, II
THOMAS R. FRIERSON, II, J., JUDGE