

Application of Theodore F. STEVENS For admission to the Alaska Bar Association. No. 64.

Supreme Court of Alaska. Aug. 8, 1960.

Proceeding with respect to admission of applicant to bar by reciprocity. The Supreme Court, Nesbett, C. J., held under statute requiring that person in order to be eligible for admission to the Alaskan bar must have been a resident of Alaska for at least 90 days prior to date of application for admission, term "resident" is interpreted to mean the same as domicile and it is not necessary for applicant to have been physically present in Alaska for the time stated.

Applicant admitted.

1. Attorney and Client  4

Under Alaska statute providing that person in order to be eligible for admission to Alaska bar must have, among other things, been a "resident" of Alaska for 90 days prior to date of application for admission, word "resident" is equivalent to "domicile" and it is not necessary for applicant to have been physically present in Alaska for the stated period. A.C.L.A.Supp. § 35277i.

See Publication Words and Phrases, for other judicial constructions and definitions of "Domicile" and "Resident".

See. 9. Ch. 196, S.L.A.1955, as amended by See. 1. Ch. 33, S.L.A.1957 Q 35277i A.C.L.A.Cum.Supp.1957) as amended by Sec. 4, Ch. 178 S.L.A.1960, provides in part as follows:

1. "Section 9. Eligibility for Admission. Any person may apply and shall be eligible for admission to the Alaska Bar, upon examination or by reciprocity as provided in this Act, if such person (1) is a citizen of the United States, over 21 years of age, and has been a resident of Alaska for at least 90 days prior to the date of application for admission by examination or by reciprocity, and the date for the examination for admission or for certi-

2. Attorney and Client  7

In proceeding with respect to application for admission by reciprocity to Alaska bar, facts showing that applicant had lived in Alaska for some three years prior to accepting employment with federal government in Washington, D. C., and ever since moving to Washington, D. C., applicant had voted in Alaskan elections by absentee ballot and had on many occasions stated that he intended to maintain his Alaska residence, justified finding of board that applicant was in fact a "resident of Alaska at time he applied for admission. A.C.L.A. Supp. §§ 35277i.

Clifford J. Groh, Harold J. Butcher and Peter J. Kalamarides, President, Secretary and Chairman, Admission and Reciprocity Committee of the Alaska Bar Association, respectively, Anchorage, for applicant.

James E. Fisher, Anchorage, objecting. Before NESBETT, C. J. and DIMOND and REND, JJ.

NESBETT, Chief justice.

The Board of Governors of the Alaska Bar Association certified to this court that applicant was qualified to be admitted to the Bar by reciprocity. Objection to applicant's admission was filed based on the ground that applicant's actual continuous residence in Washington, D. C. for the preceding four years disqualified him under the residence requirements of Alaska law. The applicable provisions of Alaska law which govern are quoted below.¹

*fication by the Board of Governors that the person be admitted on reciprocity shall be at least 90 days after the application is made; * * *."*

See. 11, Ch. 196, S.L.A.1955 (§ 35277kA.C.L.A.Cum.Supp.1957) as amended by See. 5, Ch. 178 S.L.A.1960, provides as follows:

"Section 11. Procedure for Admission. The Board of Governors shall pass upon all applications for permission to practice law before the courts of Alaska, and when satisfied that an applicant has the requisite qualifications to (cont'd)

[1] The question presented is whether the requirement that an applicant have been a "resident" of Alaska for the stated period before making application should be interpreted to mean that applicant must have been physically present in Alaska for the time stated. This court is of the opinion that it should not be so interpreted.

Evidence presented at the hearing disclosed that applicant's request for admission on reciprocity was considered several times by the Board of Governors between December 11, 1955 and May 26, 1960. On December 1, 1956, his application was denied on the ground that he was not an "actual resident" of Alaska. The Board, however, agreed to reconsider the matter and on February 6, 1960, the Secretary of the Board advised applicant to affirmatively establish his residence in Alaska by affidavit. This had not previously been done.

Pursuant to the request of the Secretary, applicant then filed with the Board an affidavit dated March 5, 1960, which reads in pertinent part as follows: "Theodore Fulton Stevens, having been duly sworn, on oath states:

"That I moved to Fairbanks, Alaska, in 'March 1953, and resided there continuously until June 9, 1956;

"That I was United States Attorney in Fairbanks, Alaska, from September 1, 1953, to June 8, 1956;

"That I am a legal resident of Alaska, having voted in Alaska continuously since becoming qualified to vote there;

"That I have not become a legal resident of any other State, and that I have not voted in any State other than Alaska since 1956;

"That I have continued to assert my legal residence as Fairbanks, Alaska, based upon the following facts: 1) When I left Fairbanks to accept my

present position with the Federal Government my legal residence was Fairbanks, Alaska; 2) that I made known my intention to maintain Fairbanks as a legal residence to many friends before leaving Alaska in 1956; 3) that I have voted as an absentee in the general elections held in Alaska since 1956; 4) that it is still my intention to return to Alaska and maintain my home there; and 5) that my claim of legal residence was reaffirmed by an eminent attorney from Fairbanks, Alaska, when the latter was asked for advice by me as to whether he concurred in my position that I was a legal resident of Alaska, entitled to vote there by absentee ballot;

"and, that I declare, that to the best of my knowledge and belief, I am now a legal resident of the State of Alaska."

In addition to the affidavit it was established that applicant had been employed in a private law office in Fairbanks, Alaska, from April 8, 1953, to August 1, 1953. An investigation by a member of the Board of Governors verified applicant's claim that he had voted in Alaska by absentee ballot at all general elections since his departure in June of 1956, to accept employment with the United States Government in Washington, D. C. No evidence was introduced that contradicts any of applicant's statements. On May 27, 1960, the Board of Governors reconsidered applicant's request for admission and found him to be qualified.

It is the view of this court that it was the intent of the legislature that the word "resident" be construed as being synonymous with "domicile". This appears to be the view adopted by the courts of other jurisdictions where the use of the word "resident" is not qualified by further language.²

practice as an attorney and counselor, the Board shall so certify to the Supreme Court of Alaska. Upon receiving such certification, unless objection be raised therein within five days, the Court shall make an order admitting the applicant, and the Clerk shall issue him a

certificate of admission. In the event that an objection is raised, the sufficiency thereof shall be finally determined within thirty days."

2. *Baker v. Varser, 1954, 240 N.C. 260, 82 S.E.2d 90, 96.*

[2] The uncontradicted facts upon which the Board of Governors acted in this case show that applicant came to Alaska in March of 1953, was employed in a private law office in Fairbanks until September of 1953, when he became United States Attorney there, serving in this position until June of 1956. Applicant departed Alaska in June of 1956 to accept employment with the United States Government in Washington, D. C. and is still so employed there. He has voted in Alaska by absentee ballot in the general elections in Alaska since his departure and has on many occasions since stated that his intent was to maintain his Alaska residence and eventually return to maintain his home there.

We hold that under these facts the finding of the Board of Governors was justified, the objection has not been sustained and applicant will be admitted to the Alaska Bar.



Letters from the Bar

More from Obermeyer

On October 22, 1993 Alaska Bar Association passed 64 of 102 applicants or 63% of July, 1993 Alaska Bar Exam *In the Matter of the Application of Thomas S. Obermeyer*, 717 *Pacific Reporter 2d* 382,57 *American Law Reports 4th* 1195 (Alaska 1986) has brought national attention to the inherent unfairness of this test. Of 102 applicants, possibly up to half of the test takers were repeaters which would reduce the passage rate to 30-40 percent. In past exams the mailing labels of the successful applicants show that over 25 percent have out of state addresses. This "3-M Post It Scam" is a single digit score on the upper right side of applicants' papers run through a computer after the desired passage rate is decided. Due process is the opportunity to "pay to play" for another Alaska Bar Exam. On December 14, 1992 *Anchorage Daily News* published: "2,513 Alaska attorneys control resources and taxes on oil worth billions more that oil produced by Texas, which has 55,319 licensed attorneys." While our population has doubled, the number of attorneys has only risen by one third. Some states, such as Virginia, Washington, Wisconsin, either do not require a written bar exam at all for licensure or offer optional clerkships.

Please review *Application of Theodore F. Stevens*, 355 *Pacific Reporter 2d* 164 (Alaska 1960). Senator Stevens was admitted in Alaska by reciprocity one year after statehood after several denied petitions and a residency battle because he was living in D.C. The case does not state he was licensed in another state or that he ever sat for a written bar exam. Senator Stevens' application papers are inexplicably blank at Alaska Supreme Court. *Alaska Directory of Attorneys* has incorrectly listed Senator Stevens' admission date as 1953 for many years.

I went to Anchorage Chamber of Commerce Meeting on December 20, 1993 at which time Senator Stevens told a room full of people that he had been licensed in 1953.

When I was criticized for using Anchorage School Board stationery inappropriately, it only brought up the lack of ethics of the current Chief Justice, Alaska Supreme Court, who actually was promoted to Chief Justice after he used his Alaska Supreme Court stationery to be bought out of City Mortgage for \$500,000 in 1980. His Alaska Supreme Court salary has provided his family over \$1,000,000 during the last ten years while Tom Obermeyer has faithfully and conscientiously taken Alaska Bar Exam seventeen times which should test minimal competence since February, 1984. Unlike Senator Stevens, Tom has gone through the system that has been established and was licensed in 1990 in State of Missouri by written only to find that a Alaska Bar Rule was then proposed targeted specifically to exclude him from reciprocity until five years after his last failed Alaska Bar Exam.

It is time for the majority of well intentioned Alaska attorneys who care about your profession to rise up against the few attorneys and judges who control the entire process in the only state in our nation without a law school. Board of Governors, Alaska Bar Association, do your job and supervise Alaska Bar Exam. If you pay \$450 to allow this sham, you are part of the problem. Lastly, do not give access to Alaska Court System to a Russian, over Tom Obermeyer, an American who has served his country as a former officer in U. S. Air Force Reserves and a lawyer duly licensed' in another state.

—Theresa Nangle Obermeyer