

What should have happened

Midway through the 2020-2021 school year, Bruce Moreton, a longtime Mill River teacher, abruptly retired. Shortly after, he petitioned to run for the school board as a representative from Wallingford, and was subsequently elected in March of 2021.

In October of 2021, he had to vacate the house he had been renting in Wallingford, and not being able to find another rental in our town, he relocated to Rutland.

**What should have happened:** He should have stepped down from the Mill River Board immediately. He did not. On November 3<sup>rd</sup>, 2021 he told me prior to a Mill River Board meeting that he would be living at his camp in East Wallingford. I replied “That sounds like fun.”, and he replied enthusiastically “Yes!”

I didn’t think too much about it - not knowing much about his camp - until early in 2022, when it was pointed out to me he had actually been living in Rutland for several months. After minimal investigation, I determined that his claim that he would be making 2126 Wallingford Pond Road his permanent address was preposterous on several levels. A group of Wallingford residents, myself included, petitioned the Wallingford Board of Civil Authority to challenge Mr. Moreton’s residency pursuant to 17 VSA 2150; the board convened on 3-23-22.

**What should have happened:** The BCA should have conducted an investigation, pursuant to 2150 (d)(2)(A)(i): If the board of civil authority does not immediately know that the voter is still qualified to vote in the municipality, the board shall attempt to determine with certainty what the true status of the voter’s eligibility is.

and then issue a challenge letter if there were unanswered questions. They opted to go directly to authorizing the Wallingford Town Clerk to issue a challenge letter on March 23<sup>rd</sup>, 2022, pursuant to 2150 (d)(3)(A)(i): If after conducting its inquiry the board of civil authority or town clerk is unable to locate a voter whose name is on the checklist, or if the inquiry reveals facts indicating that the voter may no longer be eligible to vote in the municipality, the board of civil authority or, upon request of the board, the town clerk shall send a written notice to the voter.

which she did. Mr. Moreton replied in writing on March 25<sup>th</sup>, 2022, signing a document – “Challenge Voter Response Form” – provided with the challenge letter attesting that his physical address was 2126 Wallingford Pond Road. Curiously, that same address was already filled in at the top of the form, as if the response had been predetermined. Perhaps more importantly, in a signed narrative included with the form Mr. Moreton wrote that he had moved to Rutland in October of 2021.

**What should have happened:** The BCA should have reconvened upon receipt of Mr. Moreton's response to the challenge letter; that did not happen until nearly a year later. They would have been within their rights to remove him from the checklist in March of 2022, pursuant to 2150(d)(4): If the voter confirms in writing that the voter has changed his or her residence to a place outside the area covered by the checklist, the board of civil authority shall remove the voter's name from the checklist.

as he wrote that he was living in Rutland. This interpretation of that part of statute is seen as debatable, as he also wrote that he intended to upgrade a cabin on his property where he conducts a business – a summer camp for boys – that he had built a couple of decades previously, to make it his residence. That notwithstanding, he did put into writing that he had moved to Rutland.

It is noteworthy that Mr. Moreton registered his dog in Wallingford in late January or early February of 2022, saying he was still living on Depot Street in Wallingford - a glaring contradiction to what he later wrote in response to the challenge letter, that he had removed to Rutland in October of 2021, and a testament to him having no compunction about making false statements.

Absent removing Mr. Moreton from the checklist under (d)(4), the other option available to the BCA would be to challenge the veracity of the challenged voter's claim in court; from Will Senning, director of the Elections Division of the Vermont Secretary of State's office:

If the person responds to the notice confirming that they remain a resident of the town, they must be returned to active status.

**If the Board questions the veracity of the response and believes the person is no longer a resident despite their assertion to the contrary, the Town can take the matter to court and ask a judge to decide on their person's residency for voting purposes under 17 VSA 2121.**

The bold print is Mr. Senning's. I cannot find either statement in Vermont Statutes, but Will explained to me, as I stated at the BCA meeting of February 15<sup>th</sup>, 2023, that all 50 states have laws on their books about removing somebody from a checklist that parallel federal laws on the matter that are designed to protect people from being prevented from voting (this is, of course, not the case here, as Bruce Moreton could easily register to vote in Rutland). I suspect the above quote was paraphrased from 52 US Code 20507, which Mr. Senning also provided to me.

Neither option was made available to the BCA at the time, as the town clerk advised them via e-mail that she had changed Mr. Moreton's status from challenged back to active voter on the Wallingford Checklist, pursuant to a recommendation from the secretary of state's office, and that seemed to be the end of it. It is important to note he was never removed from the checklist, only listed as challenged for about five and a half days.

After a member of the Mill River UUSD Board of Directors called my attention to the fact on January 18<sup>th</sup>, 2023, that action by the Wallingford BCA from their meeting of 3-23-22 was still pending, I requested that the BCA reconvene; they did so on February 15<sup>th</sup>, 2023.

After reviewing the facts specific to the case at hand, state laws, and a ruling from Essex, Vermont Superior Court in 2018 – Saligman and McGill – which Vermont courts use as a case law reference when considering matters of residency that closely parallels this situation, the BCA rightly decided to remove Bruce Moreton from the Wallingford checklist.

**What should have happened:** Mr. Moreton should have appealed the BCA decision pursuant to 17 VSA 2148(a): Any person whose application to vote has been rejected or whose name has been removed from the checklist may appeal to any Superior judge in the county in which the applicant claims residence. If there is no judge available in the county the appeal may be taken to any Superior judge. When an appeal is initiated after the Thursday immediately preceding the day of an election, it shall be conducted at once by the judge. In all instances, the appeal shall be conducted with sufficient speed, in order to resolve, when possible, all issues on appeal in sufficient time to permit a successful appellant to vote at the pending election. Neither formal pleadings nor filing fee shall be required and an appellant may represent himself or herself.

but instead, he wrote a threatening letter to the chair of the Wallingford Selectboard. The chair requested of the town clerk to forward the letter to all members of the BCA, and advised her that he intended to read the letter into the record at the next selectboard meeting – which was warned for three days later – in order to honor Mr. Moreton’s request.

**What should have happened:** The letter should have been distributed to all members of the BCA – which includes the selectboard – in time for them to consider it and perhaps offer input, and it should have been added to the agenda of the selectboard meeting of 2-21-23 for members of the public to have the opportunity to weigh in. Instead, the letter was not sent out until a couple of hours prior to the meeting, and it was never added to the agenda prior to the meeting. At the meeting, during changes to the agenda the chair simply said they needed an executive session after Selectboard Concerns. When it came to that point in the meeting, the chair read the Moreton letter, the board went into executive session to discuss it, came back into open session, and voted to request “...the Board of Civil Authority reconvene to address the Bruce Morten voter checklist challenge as soon as possible.”

The BCA reconvened on 3-2-23, and after much spirited discussion, which included several statements based on misinformation, misquotes, partial quotes, scare tactics, and bullying through repeated violation of Roberts Rules, members present rescinded the decision of February 15<sup>th</sup>, and Mr. Moreton was returned to the Wallingford checklist. Public input was relegated to after that vote.

Mr. Moreton was present at that meeting, and never spoke a word, even when prodded by a board member. It is abundantly clear that he intends to draw this process out as long as possible through falsehoods and subterfuge. For example: He was given the benefit of the doubt in March of 2022 based upon his pledge that he would be upgrading his cabin at 2126

Wallingford Pond Road during the spring and summer, and move there as his permanent residence by the fall. He now writes that he plans to move there by *this* fall, blaming his inability to upgrade his cabin last year on delays from his solar contractor, but in the same statement saying he was able to stay there during the summer of 2022 because he had access to water and electricity from another part of his property. So, which is it?

And staying in a primitive camp for the period he claimed – and a member of the BCA purported that established his Wallingford residency at the March 2<sup>nd</sup> meeting – is a violation of Vermont wastewater regulations. To my knowledge, he has never stated any plans for a septic system at the cabin.

Finally, let's not lose sight of the fact that Mr. Moreton has lived in and registered to vote in multiple towns since purchasing the property and building the cabin in East Wallingford, circa 2000, but never has claimed he intended to make that into his residence until now.

Support of him by some Wallingford residents and town officials is nothing short of embarrassing. What is the justification? Fear of going to court? If the law had been followed, Mr. Moreton could have challenged the BCA decision of 2-15-23 in court at *no cost*, and perhaps been reinstated to the Wallingford checklist...or perhaps been charged with perjury.

It is truly frustrating to see elected officials, when presented with a choice between multiple falsehoods and clear facts, that some have chosen to act upon the falsehoods. We have a scofflaw among us, and are seemingly powerless to do anything about it while he continues to thumb his nose at us.

Where is the outrage? It lies within many citizens who are hesitant to speak up for fear of being shouted down by the few. Hopefully they will let their feelings be known anonymously, at the voting booth.

Ken Fredette