

**STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL**

October 2, 2020

Opinion No. 20-16

**Constitutional Residency Requirements for Judges on Municipal Courts Exercising
Concurrent Jurisdiction with General Sessions Courts**

Question

When a municipal court exercises concurrent jurisdiction with a general sessions court, must the judge of the municipal court have been a resident of the municipality for one year before his or her election to the municipal court in order to satisfy the residency requirements of article VI, section 4 of the Tennessee Constitution?

Opinion

No. Article VI, section 4 of the Tennessee Constitution requires only that a municipal court judge exercising concurrent jurisdiction with an inferior court, such as a general sessions court, must have been, for one year immediately preceding election to office, a resident of the district or circuit in which the inferior court has jurisdiction.

ANALYSIS

The Tennessee Constitution authorizes the General Assembly to establish circuit, chancery, and “other inferior courts.” Tenn. Const. art. VI, § 1. The General Assembly “may also vest such jurisdiction in Corporation Courts¹ as may be deemed necessary.” *Id.* Under this authority, the General Assembly has created municipal courts by general law,² as well as by Private Act,³ and it has given home rule municipalities the power to create their own municipal courts.⁴

These municipal courts, also known as city courts,⁵ typically have jurisdiction to enforce municipal ordinances, and, as long as their jurisdiction consists solely of the enforcement of municipal ordinances, they are not “inferior courts” within the scope of article VI, section 4. *State ex rel. Newsom v. Biggers*, 911 S.W.2d 715, 717 (Tenn. 1995). But when the General Assembly

¹ “Corporation courts” are municipal courts. *Hill v. State ex rel. Phillips*, 392 S.W.2d 950, 952 (Tenn. 1965).

² See Tenn. Code Ann. §§ 6-21-501; 6-33-102, -103; 16-18-302.

³ See, e.g., 1994 Tenn. Priv. Acts, ch. 137 (establishing municipal court for the Town of Oliver Springs).

⁴ See Tenn. Code Ann. §§ 16-17-101 to -105.

⁵ According to the Administrative Office of the Courts, 253 cities in Tennessee currently have municipal or city courts.

extends the jurisdiction of a municipal court to include enforcement of any state statutes,⁶ the municipal court becomes in effect an “inferior court” and must therefore “be in compliance with the provisions of the Tennessee Constitution relating to inferior courts and judges when it exercises concurrent jurisdiction over state offenses.” *Id.* In other words, a municipal court that exercises concurrent jurisdiction with an “inferior court” over state offenses is thereby “vested with constitutional judicial power under article VI.” *Summers v. Thompson*, 764 S.W.2d 182, 188 (Tenn. 1988) (Drowota, J., concurring).

Accordingly, municipal court judges properly exercising any concurrent jurisdiction with an inferior court must meet all of the qualifications that judges of inferior courts are required to meet by article VI, section 4 of the Tennessee Constitution. *State by S. Carthage v. Barrett*, 840 S.W.2d 895, 899 (Tenn. 1992)(expressly adopting “the reasoning of the concurring opinion in *Summers v. Thompson*, *supra*, and [holding] that city judges exercising any concurrent jurisdiction with an inferior court must meet the qualifications of Article VI, Section 4 of the Tennessee Constitution”). “Nothing in the Constitution . . . prevents the legislature from vesting inferior court jurisdiction in the municipal courts of this state,” but “if the legislature decides to vest inferior court jurisdiction in a municipal court, Article VI, § 4 requires that those judges be elected in compliance with that constitutional provision.” *Id.*; *see also State ex el. Newsom v. Roberts*, 881 S.W.2d 678, 680 (Tenn. Crim. App. 1993) (“Before a municipal court can act as an ‘inferior court’ the judge’s qualification, tenure, and method of selection must conform to the requirements of Article VI, Section 4 of the Tennessee Constitution.”).

In short, with respect to the requirements of article VI, section 4, the municipal court judge stands in the shoes of the inferior court judge with whom he or she exercises concurrent subject matter jurisdiction and must meet those requirements just as if he or she was an inferior court judge.

Article VI, section 4 of the Tennessee Constitution requires, among other things, that inferior court judges “be elected by the qualified voters of the district or circuit to which they are to be assigned,” and that every inferior court judge “shall before his election, have been a resident of . . . the circuit or district one year.” When construing the Tennessee Constitution, courts will give the words their plain, ordinary, and inherent meaning and will construe constitutional provisions as written without reading any ambiguities into them. *Hooker v. Haslam*, 437 S.W.3d 409, 426 (Tenn. 2014); *State ex rel. Sonnenburg v. Gaia*, 717 S.W.2d 883, 885 (Tenn. 1986).

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

⁶ For example, pursuant to Tenn. Code Ann. § 6-21-501(b) the Fairview City Court has concurrent jurisdiction with the general sessions court to hear criminal matters. *State v. Powell*, No. M2001-02955-CCA-R3-CD, 2002 Tenn. Crim. App. LEXIS 367 at *2 (Crim. App. Apr. 24, 2002).

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.

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”⁷ 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.

⁷ “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.

In sum, when a municipal court is vested with concurrent jurisdiction with an inferior court, the judge of the municipal court must comply with same 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.

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