

LAST-MINUTE DEAL SETTLES RIVALS' DISPUTE OUT OF COURT

[FINAL Edition]

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Political rivals Robert D. Hicks and Damian T. Horne cut a deal on a dispute before a court hearing Saturday morning, ending two months of huffing and puffing.

But Gloucester voters may feel they got blown off, because the two lawyers and their lawyers agreed not to make any statement, written or oral, "to the press or other media" about the settlement.

So it wasn't known Saturday what prompted the agreement. Witnesses and records had been subpoenaed and more than 50 people, including the just curious, were in the Circuit courtroom for the unusual Saturday session.

Also unclear Saturday was what effect, if any, the agreement would have on the Nov. 2 election, in which Horne is challenging Hicks for his job as commonwealth's attorney.

It took about three minutes for Judge James A. Cales, who usually presides in Portsmouth, to announce there was a settlement. The judge noted that part of the agreement - which is called a consent order - was that everyone would keep quiet, go on with whatever they're doing for the next few months, and get along with each other.

"It's best that all of us get this behind us," he said.

One of Horne's lawyers, who wouldn't comment on the order specifically, did say later in the day that Horne is still qualified as a candidate and would be on the ballot.

But the Gloucester voter registrar and the chairman of the county Republican Committee, which nominated Horne, weren't so sure.

Hicks and four other Gloucester residents filed a civil petition in Circuit Court May 19 asking that Horne's April 5 voter registration in Gloucester be declared "void and fraudulently obtained." The petitioners claimed Horne lived in Williamsburg, not on Mumford View Drive in Gloucester as he swore on the registration form.

In a statement, Horne replied that since 1990 he had spent nights and weekends at the apartment above his Gloucester law office, at a home in Williamsburg and an apartment on Mumford View.

On May 10, Horne changed his address with the Gloucester voter registrar to 6512 Main Street, the apartment above his law office. The paperwork indicated he moved to that address April 24.

Horne submitted his candidacy papers on June 8, using the Main Street address.

Saturday's settlement contains three major points:

- * Horne's registration to vote, dated April 5, which was amended May 10, will be canceled effective May 10.
- * The cancellation of the April 5 registration, which was amended May 10, will not prohibit Horne from re-registering with the registrar.
- * Everyone acknowledges that Horne bought residential property in Gloucester on June 30.

One of Horne's attorneys, Andrew A. Protogyrou of Norfolk, said Horne meets the requirements of state law to run: being a resident of the state for at least a year and a resident of the county in which he's running at least 30 days before the election.

Gloucester Registrar Carole Sekula and Robert L. Marble, chairman of the local electoral board, discussed a copy of the order, provided by the Daily Press, for more than an hour Saturday afternoon.

Sekula said it is unclear to her what Horne's status as a candidate is.

"Frankly, I need a legal interpretation of this order," said Sekula.

Warren Deal, chairman of the county Republican Committee, said Saturday afternoon that he was asked to look at the terms and conditions of the order before court started, but there are some issues yet to be clarified.

Of Horne's candidacy he said, "Obviously, it is our intent, and his intent, to run."

However, he said he would need to consult the state Board of Elections to find out if anything needs to be done. He said he hopes to have an answer within a week.

Sekula and Marble agreed that the order could be interpreted several ways. "I agree with the registrar that it's unclear what the order means," said Marble.

Among their possible concerns were:

* Canceling the April 5 registration would appear to eliminate any contention that a false statement was made on that form. But the April 5 registration technically already was canceled when Horne changed his address on May 10, said Sekula.

* The order is unclear as to whether the May 10 voter registration still stands. If it does, why the part about Horne being allowed to re-register and a reference to a June 30 property purchase?

* If both voter registrations here were canceled, could that potentially mean Horne wasn't registered to vote anywhere when he filed for office on June 8? Sekula said he was automatically deleted from the Williamsburg voter rolls when he registered in Gloucester.

* If he were not a registered voter anywhere in Virginia at the time he filed on June 8, is he a qualified candidate?

Sekula said she was unable to reach Gloucester's county attorney for an opinion Saturday afternoon. She said she will seek advice from him, the state Board of Elections and the state Attorney General's Office on Monday.

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THE CONSENT ORDER

Here is the text of the points agreed to Saturday by all parties regarding the registration of Damian T. Horne to vote in Gloucester County:

"1. The petitioners are qualified voters of Gloucester County, and this court has proper jurisdiction of this case.

"2. Damian T. Horne's present registration to vote, dated April 5, 1999, which was amended May 10, 1999, shall be cancelled on the registrar's records, effective May 10, 1999.

"3. The cancellation of the April 5, 1999, registration, which was amended May 10, 1999, shall absolutely be without prejudice to Damian T. Horne's right to reregister with the registrar according to law. The parties acknowledge that Damian T. Horne purchased residential real property in Gloucester County on June 30, 1999.

"4. The court enjoins all parties and their counsel from making any statement, whether written or oral, to the press or other media concerning this consent order."

Source: Gloucester Circuit Court

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Abstract (Document Summary)

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