

## [COA Opinion: in quo warranto action, runner-up in school board election was properly declared victorious](#)

5-18-2011 by Gaetan Gerville-Reache

In [Davis v. Chatman](#), No. 299021, the Court of Appeals affirmed the trial court's decision to invalidate Clifford Chatman's victory in the Highland Park school board election and declare Robert Davis the election winner.

After Chatman beat Davis by 30 votes to win one of two open positions on the Highland Park school board, Davis filed a writ of quo warranto to challenge Chatman's qualifications. The "crux of the matter" was whether Chatman resided at 56 Louise in Highland Park for 30 days prior to the February 9, 2010 filing deadline, thereby satisfying an eligibility requirement. After conflicting and confusing testimony, the trial court ultimately found that Chatman did not reside at 56 Louise during that time, relying particularly on energy company and water department witnesses who testified that the residence had no water, gas, or electricity during those cold winter days and nights.

On appeal, Chatman raised various allegations of procedural and factual error. The first three were easily addressed. First, the Court rejected Chatman's argument that leave to file a writ of quo warranto was improperly granted because of the court rules and statutes did not require notice, Davis's "verification" of the application, or supporting affidavits. Second, the Court declined to disqualify the judge for driving by the premises to see it boarded up because the trial court explicitly said the viewing played no role in its decision. For good measure, the Court held that Chatman waived that argument in any event by failing to provide a supporting affidavit with his disqualification motion, as required by the court rules. Finally, the Court held that Chatman had implicitly waived his right to jury trial by not objecting to the court's evidentiary hearing and requesting the court to resolve the issues at hand.

The Court saved the more substantive issues for last—(1) did the writ of quo warranto have merit, and (2) did the court have authority to declare a winner? The Court held that, yes, there was significant evidence in the "cold record" to conclude that Chatman did not reside at 56 Louise. And, yes, under MCL § 600.4505 the court had authority to "decide which of the parties is entitled to hold the office." Once Chatman's election was held invalid, Davis, as the runner-up, was the entitled to hold office.