

Election runner-up files civil complaint against Howard County sheriff



A suit filed in Howard County Circuit Court challenges the current sheriff's position.

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<http://www.baltimoresun.com/news/maryland/howard/columbia/ph-ho-cf-sheriff-lawsuit-0421-20160419-story.html>

The runner-up in Howard County's 2014 race for sheriff is demanding the county's circuit court immediately replace Sheriff James Fitzgerald, citing allegations that Fitzgerald is not legally eligible for the position, according to a civil complaint filed in Howard County Circuit Court.

John McMahon, who lost the general race by nearly 13,000 votes, argues Fitzgerald failed to take an oath of office required by the state constitution in 2014 and does not permanently live in the county, making Fitzgerald ineligible for the position, according to the complaint.

Fitzgerald did not return several requests for comment.

According to an exhibit accompanying the complaint, the clerk of the court, Wayne Robey, confirmed the last oath of office was administered to a Howard County sheriff on Dec. 14, 2010, the year Fitzgerald was re-elected to a second term.

If the sheriff fails to take and subscribe an oath within 30 days from the date the commission is received by the clerk, the sheriff has effectively refused the office and the position shall be considered vacant, unless the time is extended by the court, according to the complaint, which references the state's court and judicial proceedings statute.

The sheriff must live in the county where he or she is elected, according to the state's constitution. A homestead tax credit application, approved in 2008, shows Fitzgerald's principal residence is in Worcester County, according to the complaint.

"As a Howard County voter I am stunned, but, as a person who stood before the public and offered to serve as their Sheriff, I feel obligated and honored to renew my willingness to serve as Sheriff," wrote McMahon in a March 28 letter to Gov. Larry Hogan.

The lawsuit is among other investigations of the sheriff's office during Fitzgerald's term.

Last month, Howard County officials called for more stringent guidelines for employee use of union leave after an internal audit found that several employees of the county sheriff's office were paid by taxpayers to work on the sheriff's 2014 election campaign.

The Feb. 24 internal investigation found that four employees of the office improperly used union leave, costing taxpayers more than \$8,000 and granting Fitzgerald "county-subsidized campaign labor" not available to opponents. One employee was promoted since the investigation.