

STATE ELECTION BOARD OF THE
STATE OF OKLAHOMA

IN THE MATTER OF CONTEST OF THE)
CANDIDACY OF **JOSIAH STONE**)
FOR THE OFFICE OF DISTRICT) CAUSE NO. 2014-03
JUDGE, DISTRICT 15, OFFICE 3)

ORDER

The above-styled cause was heard by the Election Board of the State of Oklahoma on April 21, 2014, meeting pursuant to lawful notice.

The following members of the State Election Board ("Board") were present: Steve Curry, Chairman; Tom Montgomery, Vice-Chairman; Diana Spurlock, Member. Also present were Paul Zirix, Secretary, and counsel for the Board, Neal Leader, Senior Assistant Attorney General, and Jan Preslar, Assistant Attorney General. Also present, but not participating, were alternate Board members Dr. Tim Mauldin and Jerry Buchanan.

Petitioner Jeff Payton was personally present and was represented by counsel, Rex Earl Starr. Contestee Joseph Josiah Stone appeared, pro se.

Mr. Stone answered the contest and presented a cashier's check in the amount of \$250.00 as prescribed in 26 O.S. 2011, § 5-129.

The Board received proof of attempted personal service on Mr. Stone by the Adair County Sheriff, stating the Contestee could not be found. The provisions for constructive service on Contestee, set forth in 26 O.S.2011, §5-125, therefore apply.

The Board conducted the hearing. After considering all evidence and testimony offered and admitted, and after hearing arguments of Mr. Starr and Mr. Stone, the Board makes the following order:

1. Mr. Payton timely filed his Declaration of Candidacy for District Judge, District 15, Office 3, during the April 9-11, 2014, filing period.
2. Mr. Stone timely filed his Declaration of Candidacy for District Judge, District 15, Office 3, during the April 9-11, 2014, filing period.

3. The allegations contained in the petition of Mr. Payton are that:

The respondent, Josiah Stone has filed for, and does not meet the qualifications under the law for District Judge for the 15th Judicial District, Office #3. In and for the following reasons:

- A. Respondent does not have the min of 4 years experience as a licensed practicing attorney or as a judge of a court of record, or either within the State of Oklahoma.
 - B. Respondent is not a qualified elector of the 15th Judicial District as required by Title 20 § 92i of the Oklahoma Statutes.
 - C. Respondent has been convicted of a misdemeanor involving moral turpitude, fraud and embezzlement within the last 15 years. (Oklahoma Case No. CM-2010-4101)
 - D. That the name the respondent shows on this Declaration of Candidacy, is not his full legal name.
4. Okla. Const. art. 7, §8(g) provides, in pertinent part:

Each District Judge shall have had prior to election or appointment, a minimum of four years' experience as a licensed practicing attorney or as a judge of a court of record, or both, within the State of Oklahoma, shall be a qualified elector of the respective district; and shall have such additional qualifications as may be prescribed by statute.

5. During the course of the hearing, Mr. Stone admitted he had never been a licensed practicing attorney or a judge of a court of record within the State of Oklahoma.
6. 26 O.S. 2011, §5-130 provides: "The burden of proof shall be upon the petitioner to sustain the allegations in his petition."
7. Mr. Payton sustained his burden of proof of showing Mr. Stone does not meet the qualifications for district judge set forth in Okla. Const. art. 7, § 8, because Mr. Stone has never been a licensed practicing attorney or a judge of a court of record within the State of Oklahoma.
8. Costs are assessed to Mr. Stone, pursuant to 26 O.S. 2011, §5-131.

Done this 21st day of April, 2014, by a vote of 3-0 of the Election Board of the State of Oklahoma.

OKLAHOMA STATE ELECTION BOARD



STEVE CURRY, CHAIRMAN

