

STATE ELECTION BOARD OF THE
STATE OF OKLAHOMA

IN THE MATTER OF CONTEST OF THE)
CANDIDACY OF **TERRY AUTRY**)
FOR THE OFFICE OF STATE) CAUSE NO. 2014-04
REPRESENTATIVE, DISTRICT 32)

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 State Election 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 Kevin Wallace appeared, pro se. Contestee Terry Autry was present and was represented by counsel, Matthew Flies.

The Board received proof of personal service made on Contestee by the Sheriff of Lincoln County.

Mr. Autry answered the petition and submitted a cashier's check in the amount of \$250.00, as required by 26 O.S.2011, § 5-129.

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

1. Mr. Wallace timely filed with the Board a Declaration of Candidacy for the office of State Representative, District 32, during the filing period of April 9-11, 2014.
2. Mr. Autry timely filed with the Board a Declaration of Candidacy for the office of State Representative, District 32, during the filing period of April 9-11, 2014.
3. Title 14 O.S.2011, § 108 provides, in pertinent part:

To file as a candidate for the House of
Representatives in any representative district a
person must have been a registered voter in such

district and a resident residing within such district for at least six (6) months immediately preceding the filing period prescribed by law.

4. Mr. Wallace's Petition alleges, as the basis for the contest, that Mr. Autry was not a registered voter in House District 32 for the six-month period immediately preceding the filing period.
5. The filing period began on April 9, 2014, pursuant to 26 O.S.2011, §5-110. Consequently, Mr. Autry was required to have been a registered voter in House District 32 on or before October 9, 2013.
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. Certified copies of documents from the State Election Board showed Mr. Autry's registration was received by the State Election Board on November 12, 2013 and his voter registration was activated on December 5, 2013.
8. During the proceedings, Mr. Autry admitted he was not a registered voter in House District 32 for the requisite six month period. However, when he filed his declaration of candidacy, he was not aware that one of the requirements for being a candidate for State Representative was being a registered voter in the House District for at least six months prior to the filing period.
9. It appears Mr. Autry filed as a candidate for State Representative, House District 32, in good faith and simply was not aware of the six-month registration requirement.
10. Nevertheless, Mr. Wallace has sustained his burden of proof in showing Mr. Autry does not meet the six-month registration requirement set forth in 14 O.S.2011, § 108. Mr. Wallace's petition is therefore sustained, and Mr. Autry's name will not appear on the ballot as a candidate for the office of State Representative, District 32.
11. Costs are assessed against Mr. Autry 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