

**BEFORE THE STATE ELECTION BOARD OF THE
STATE OF OKLAHOMA**

IN THE MATTER OF CONTEST OF THE)	
CANDIDACY OF COREY PERRY)	
FOR THE OFFICE OF STATE)	CAUSE NO. 2016-02
REPRESENTATIVE, DISTRICT 44)	

FINDINGS AND ORDER

The above-styled cause was heard by the Election Board of the State of Oklahoma on April 25, 2016, meeting pursuant to lawful notice.

The following members of the State Election Board (“Board”) were present: Steve Curry, Chair; Tom Montgomery, Vice-Chair; and Dr. Tim Mauldin, Member. Also present were Paul Ziriak, Secretary; and counsel for the State Election Board, Jan Preslar, Deputy Attorney General; and Jason Seay, Assistant Attorney General. Also present, but not participating were Jerry Buchanan, Alternate Member; and Debi Thompson, Alternate Member.

Petitioner Emily Virgin appeared *pro se*. Contestee Corey Perry appeared *pro se*.

The Petition was filed and Notice of Hearing issued on April 18, 2016, at 9:25 a.m.

The Board received proof of personal service made on Contestee by the Cleveland County Sheriff on April 18, 2016, at noon, within 24 hours of setting the Petition for hearing, as required by 26 O.S. § 5-124.

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

After considering all evidence and testimony offered and admitted, and after hearing arguments of counsel, the Board made the following findings of fact and conclusions of law:

1. Ms. Virgin filed with the Board a Declaration of Candidacy for the office of State Representative, District 44, during the filing period April 13-15, 2016.
2. Mr. Perry filed with the Board a Declaration of Candidacy for the office of State Representative, District 44, during the filing period April 13-15, 2016.
3. Petitioner’s petition alleges Mr. Perry did not meet the residency requirements of 14 O.S. § 108, because Mr. Perry did not live in District 44 for at least six months immediately preceding the filing period. Petitioner further alleges that Mr. Perry is disqualified under 26 O.S. § 5-105a because in June, 2008, he pled guilty to a felony of obtaining money/property/signature under false pretenses in Case

CF-2008-40, in the District Court of Cleveland County, Oklahoma.

4. 26 O.S. § 5-105a provides:

A. A person who has been convicted of a misdemeanor involving embezzlement or a felony under the laws of this state or of the United States or who has entered a plea of guilty or nolo contendere to such misdemeanor involving embezzlement or felony or who has been convicted of a crime in another state which would have been a misdemeanor involving embezzlement or a felony under the laws of this state or has entered a plea of guilty or nolo contendere to such crime shall not be eligible to be a candidate for or to be elected to any state, county, municipal, judicial or school office or any other elective office of any political subdivision of this state for a period of fifteen (15) years following completion of his sentence or during the pendency of an appeal of such conviction or plea.

B. The provisions of this section shall not be construed to preclude a person who has received a pardon from being eligible for or from holding public office.

5. The following exhibits offered by Petitioner were admitted into the record:

- Exhibit 1: Information in Case No. CF-08-40W
- Exhibit 2: Warrant request in Case No. 07-15319
- Exhibit 2A: Warrant in Case No. CF-08-40
- Exhibit 2B: Waiver of Extradition
- Exhibit 2C: Pictures and fingerprints
- Exhibit 2D: Temporary commitment in CF-08-40
- Exhibit 3: Plea of guilty and summary of Facts in Case CF-08-40
- Exhibit 4: Additional findings at sentencing in Case CF-08-40
- Exhibit 5: Journal Entry of Deferred Sentence in Case CF-08-40
- Exhibit 6: Copy of 26 O.S. § 5-105a
- Exhibit 7: Certified copy of Corey Perry's voter registration
- Exhibit 8: Forcible Entry and Detainer in Case No. SC-2014-3891-T
- Exhibit 9: Court Order in Case No. SC-14-3891-T
- Exhibit 10: Forcible Entry and Detainer in Case No. SC-2014-5864-14
- Exhibit 11: Court order in Case No. SC-2014-5864
- Exhibit 12: Certified copy of voter registration of Corey Perry
- Exhibit 13: Affidavit of Courtney Martin
- Exhibit 14: Certified copy of voter registration of Corey Perry
- Exhibit 15: Affidavit of Laura Levy
- Exhibit 16: Statement of Organization of Candidate Committee
- Exhibit 17: Statement of Organization of Candidate Committee

- Exhibit 18: Certified Copy of Voter Registration of Corey Perry
- Exhibit 19: Petition filed in Case No. SC-2015-4850-S
- Exhibit 20: Journal Entry in Case No. SC-2015-4850
- Exhibit 21: Copy of 14 O.S. § 108
- Exhibit 22: Oklahoma Ethics Commission Schedule C
- Exhibit 23: Statement of Organization of Candidate Committee
- Exhibit 24: Statement of Organization of Candidate Committee
- Exhibit 25: Statement of Organization of Candidate Committee
- Exhibit 26: Declaration of Candidacy of Corey Perry
- Exhibit 27: Affidavit of Tammy McDaniel
- Exhibit 28: Return of Service by Sheriff
- Exhibit 29: Civil Process Report
- Exhibit 30: Affidavit of Rebecca Marcano
- Exhibit 31: House District 44 map
- Exhibit 32: Voter Registration information for Corey Perry
- Exhibit 33: Order granting application to unseal court file in CF-2008-40
- Exhibit 34: Timeline

6. The following exhibits offered by Contestee were admitted into the record:

- Exhibit 1: Court minute in Case No. CF-09-40 LW
- Exhibit 2: Voter registration of Corey Perry dated 8/13/15
- Exhibit 3: Lease Contract & Extension (Resident Corey Perry) dated 4/22/16
- Exhibit 4: Voter Registration application of Corey Perry dated 4/22/16

7. 26 O.S. § 5-130 provides:

The burden of proof shall be upon the petitioner to sustain the allegations in his petition.

8. Petitioner first argued that Mr. Perry had not been a resident of District 44 for the requisite six month period. She introduced testimony of a private investigator and documentary evidence in support of her contention. However, the Board found Petitioner did not sustain her burden of proving that Mr. Perry did not meet the six month residency requirement of 14 O.S. § 108 and denied her petition on this ground.
9. Petitioner next argued that Mr. Perry is not qualified to be a candidate because he pled guilty to a felony charge in Case No. CF-08-40W, in the District Court of Cleveland County, Oklahoma.
10. The evidence showed Petitioner obtained the records of Case No. CF-08-40W had been expunged, but Petitioner obtained an order to unseal the records without notice to Mr. Perry. (Exhibit 33.)

11. The evidence further showed that Mr. Perry received a deferred sentence in Case No. CF-08-40W, pursuant to 22 O.S. § 991c, and upon Mr. Perry's successful completion of the terms of his sentence, he was allowed to withdraw his plea of guilty, the case against Mr. Perry was dismissed, Mr. Perry was discharged and bond exonerated, and the record was expunged pursuant to 22 O.S. § 991c (Perry Exhibit 1).
12. Mr. Perry testified Case No. CF-08-40W had not prevented him from serving in the military, it had not prevented him from serving in law enforcement, it had not prevented him from obtaining a concealed carry license, and it should not prevent him from being a candidate for state representative.
13. Petitioner's petition is granted on the ground Mr. Perry's plea of guilty in Case No. CF-08-40W disqualifies Mr. Perry from being a candidate for House District 44, pursuant to 26 O.S. § 5-105a, where it has not been 15 years since the completion of his sentence, and despite the fact he was allowed to withdraw his plea of guilty, the case against him was dismissed, and he was discharged and the record expunged, pursuant to 22 O.S. § 991c. *Golden v. Okfuskee County Election Board*, 1985 OK 57, 723 P.2d 982.
14. Costs are assessed against Mr. Perry pursuant to 26 O.S. § 5-131.

Done this 25th day of April, 2016, by a vote of 3-0 of the Election Board of the State of Oklahoma.

OKLAHOMA STATE ELECTION BOARD


STEVE CURRY, Chairman