

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

IN THE MATTER OF CONTEST OF THE)	
CANDIDACY OF SAMUEL BRIAN HILL)	
FOR THE OFFICE OF STATE)	CAUSE NO. 2016-08
REPRESENTATIVE, DISTRICT 87)	

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 Zirix, Secretary; and counsel for the State Election Board, Janis W. Preslar, Deputy Attorney General; and Jason T. Seay, Assistant Attorney General. Also present, but not participating, were Jerry Buchanan, Alternate Member; and Debi Thompson, Alternate Member.

Petitioner Bruce Lee Smith was present and represented by counsel, Kevin Calvey. Contestee Samuel Brian Hill appeared *pro se*.

The Petition was filed and Notice of Hearing issued on April 18, 2016, at 4:05 p.m.

The Board received proof of personal service made on Mr. Hill by the Oklahoma County Sheriff on April 18, 2016, at 4:38 p.m., within 24 hours of setting the Petition for hearing, as required by 26 O.S. 2011, § 5-124.

Mr. Hill answered the contest, and presented a cashier’s check in the amount of \$250.00, as prescribed in 26 O.S. 2011, § 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. Mr. Smith filed with the Board a Declaration of Candidacy for the office of State Representative, District 87, during the filing period April 13-15, 2016.
2. Mr. Hill filed with the Board a Declaration of Candidacy for the office of State Representative, District 87, during the filing period April 13-15, 2016.
3. Mr. Smith challenges Mr. Hill’s candidacy on the grounds that he has not been *continuously* registered to vote, and has not been a resident, in the district for which he filed as a candidate for at least six months immediately preceding April 13, 2016, as required by 14 O.S. 2011, § 108.

4. 14 O.S. 2011, § 108 in pertinent part states, “[t]o 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.”
5. “The fundamental rule of statutory construction is to ascertain and give effect to legislative intent, and that intent is first sought in the language of the statute.” *YPF Inc. v. Schlumar, Inc.*, 2006 OK 32, 136 P.3d 656, 658. In doing so, “statutes are to be interpreted in accordance with their plain, ordinary meaning according to the import of the language used.” *Hubbard v. Kaiser-Francis Oil Co.*, 2011 OK 50, 256 P.3d 69, 72. “A statute will be given a reasonable and sensible construction: one that will reconcile its provisions and avoid inconsistencies and absurdities.” *City of Jenks v. Stone*, 2014 OK 11, 321 P.3d 179, 183.
6. A reading of Section 108 that permits intermittent voter registration, or residence, in the district for which a person seeks to stand as a candidate for office renders superfluous the Legislature’s use of “at least six (6) months immediately preceding” in Section 108. It may not be presumed the legislature “created an absurdity or to have done a vain and useless act.” *Johnson v. City of Woodward*, 2001 OK 85, 38 P.3d 218, 225, *as corrected* (Dec. 6, 2001). “[E]very word and sentence” of a statute must be given effect if possible. *Hill v. Bd. of Educ.*, 1997 OK 107, 944 P.2d 930, 933. As such, the ordinary and plain meaning of Section 108 requires *continuous* voter registration, and residence, within the district for which a candidate seeks office for the six months immediately preceding the first day of the filing period.
7. The following evidence offered by Mr. Smith was admitted into the record without objection:

Exhibit 1: Certified copies of Mr. Hill’s voter registration records; and
Exhibit 2: Certified list of polling places within State House District 84.
8. Exhibit 1 shows that prior to October 1, 2015, Mr. Hill’s residence on his voter registration was an address on North Sapulpa Avenue, Oklahoma City, Oklahoma.
9. Exhibit 1 shows that Mr. Hill filed a voter registration application on October 1, 2015, showing an updated address on North West 31st Terrace, Oklahoma City, Oklahoma. It shows his registered voting precinct is Precinct No. 174.
10. Exhibit 1 further shows that Mr. Hill executed a voter registration application on February 10, 2016, showing an updated address as his previous residence on North Sapulpa Avenue, Oklahoma City, Oklahoma.
11. Exhibit 2 shows that Precinct No. 174 is within the boundaries of State House District 84.
12. Mr. Hill does not dispute the fact that he was not registered to vote in State House District

87 between October 1, 2015, and February 10, 2016. Instead, he suggests that 14 O.S. 2011, § 108 should not be read to require *continuous* voter registration within the office district, in which he seeks to run as a candidate, for at least six months immediately preceding the first date of filing for office. As discussed above, such an interpretation of Section 108 is contrary to its plain meaning.

13. The Board finds by the weight of the evidence that Mr. Hill was not registered to vote in State House District 87 between October 1, 2015 and February 10, 2016.
14. As such, Mr. Hill was not registered to vote in District 87 for a *continuous* six-month period immediately preceding April 13, 2016, which was the beginning of the filing period for this election cycle. 26 O.S. 2011, § 5-110.
15. Mr. Smith's petition is therefore granted and Mr. Hill's name will not appear on the ballot as a candidate for the office of State Representative, District 87.
16. Costs are assessed against Mr. Hill, pursuant to 26 O.S. 2011, § 5-131.

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

OKLAHOMA STATE ELECTION BOARD


STEVE CURRY, Chairman