

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

IN THE MATTER OF CONTEST OF THE)
CANDIDACY OF **PHILLIP ARNOLD**)
FOR THE OFFICE OF STATE) CAUSE NO. 2016-19
REPRESENTATIVE, DISTRICT 96)

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 Lewis Moore appeared *pro se*. Contestee Phillip Arnold appeared *pro se*.

The Petition was filed and Notice of Hearing issued on April 19, 2016, at 4:23 p.m.

The Board received proof of personal service made on Contestee by the Oklahoma County Sheriff on April 19, 2016, at 8:25 p.m., within 24 hours of setting the Petition for hearing, as required by 26 O.S. § 5-124.

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

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

1. Mr. Arnold timely filed with the Board a Declaration of Candidacy for the office of State Representative, District 96, during the filing period of April 13-15, 2016.
2. Mr. Moore timely filed with the Board a Declaration of Candidacy for the office of State Representative, District 96, during the filing period of April 13-15, 2016.

3. Title 14 O.S. § 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. Moore's Petition alleges, as the basis for the contest, that Mr. Arnold was not a registered voter in House District 96 for the six-month period immediately preceding the filing period and was not residing in House District 96 for the six-month period immediately preceding the filing period.
5. The filing period began on April 13, 2016, pursuant to 26 O.S. 2011, § 5-110. Consequently, Mr. Arnold was required to have been a registered voter in House District 96 on or before October 13, 2016.
6. 26 O.S. § 5-130 provides: "The burden of proof shall be upon the petitioner to sustain the allegations in his petition."
7. Documents from the State Election Board, Exhibit 1 and Exhibit 2, showed Mr. Arnold changed his voter registration from House District 101 to House District 96 on March 1, 2016.
8. During the proceedings, Mr. Arnold admitted he was not a registered voter in House District 96 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. He said he interpreted the six-month requirement in 14 O.S. § 80.8 as only relating to the residency requirement, not the voter registration requirement (the applicable statute is 14 O.S. § 108, not 14 O.S. § 80.8.).
9. The unambiguous language of 14 O.S. § 108 requires a candidate to be both a registered voter in the House district for six months and a resident residing in the district for six months, and the State Election Board has long interpreted the statute in that manner. *See, e.g. In the Matter of the Contest of Candidacy of Terry Aury for State Representative District 21, Cause 2014-04; In the Matter of the Contest of Candidacy of Mark Faulk for State Representative District 88, Cause 2012-06; In the Matter of the Contest of Candidacy of Eric E. Bleu for State Representative District 53, Cause 2012-04; In the Matter of the Contest of Candidacy of David Roberts for State Representative District 68, Cause 2010-09; In the Matter of the Contest of Candidacy of Noah Ynclan for State*

Representative District 41, Cause 2008-04; In the Matter of the Contest of Candidacy of Daniel Keating for State Representative District 71, Cause 2002-01.

10. It appears Mr. Arnold filed as a candidate for State Representative, House District 96, in good faith and simply misinterpreted 14 O.S. § 108.
11. Nevertheless, Mr. Moore has sustained his burden of proof in showing Mr. Arnold does not meet the six month registration requirement set forth in 14 O.S. § 108.
12. Mr. Moore's petition is therefore sustained, and Mr. Arnold's name will not appear on the ballot as a candidate for the office of State Representative, District 96.
13. Costs are assessed against Mr. Arnold 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