

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

IN THE MATTER OF CONTEST OF THE)
CANDIDACY OF **ROBERT ELIOT SISSON**)
FOR THE OFFICE OF DISTRICT) CAUSE NO. 2018-04
JUDGE, DISTRICT 7, OFFICE 10)

FINDINGS AND ORDER

The above-styled cause was heard by the Election Board of the State of Oklahoma on April 23, 2018, 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 Ziriach, Secretary; and counsel for the State Election Board, Lyn Martin-Diehl, Assistant Attorney General; and Rachel Rogers, Assistant Attorney General. Also present, but not participating were Jerry Buchanan, Alternate Member; and Debi Thompson, Alternate Member.

Petitioner Susan Stallings appeared personally without counsel. Contestee Robert Sisson appeared personally and with counsel Michael Johnson.

The Petition was filed and Notice of Hearing issued on April 16, 2018, at 3:15 p.m. The Board received proof of personal service made on Contestee by the Oklahoma County Sheriff on April 16, 2018, at 4:58 p.m., within 24 hours of setting the Petition for hearing, as required by 26 O.S. § 5-124.

Contestee answered the Petition and submitted a cashier's or certified 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 bearing arguments of the parties, the Board makes the following findings of fact and conclusions of law:

1. Ms. Stallings filed with the Board a Declaration of Candidacy for the office of District Judge, District 7, Office 10, during the filing period of April 11-13, 2018.
2. Mr. Sisson filed with the Board a Declaration of Candidacy for the office of District Judge, District 7, Office 10, during the filing period of April 11-13, 2018.
3. The Board received proof of personal service made on Contestee within 24 hours of setting the Petition for hearing, as required by 26 O.S. § 5-124.

4. Mr. Sisson answered the Petition and submitted the proper cashier's check or certified check in the amount of \$250.00, as required by 26 O.S. § 5-129.
5. 26 O.S. § 5-130 provides: "The burden of proof shall be upon the petitioner to sustain the allegations in his petition."
6. The allegations contained in the Petition filed by Ms. Stallings are that:

Contestee's residence, located in precinct 550101, is in electoral Division No. 3. Pursuant to 20 O.S. § 92.8a, for Judicial District 7, candidates for Office 10 shall be legal residents of electoral Division No. 2.
7. Title 20 O.S. § 92.8a provides:

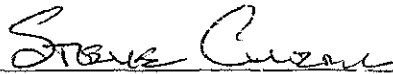
Beginning January 11, 1999, District Court Judicial District No. 7 shall have fifteen (15) district judges. For elections held after 1994, district judges shall be nominated and elected as follows: candidates for office Nos. 1 and 9 shall be nominated and elected from and be legal residents of electoral Division No. 1, **candidates for office Nos. 3 and 10 shall be nominated and elected from and be legal residents of electoral Division No. 2**, candidates for office Nos. 2 and 11 shall be nominated and elected from and be legal residents of electoral Division No. 3, candidates for office Nos. 4 and 12 shall be nominated and elected from and be legal residents of electoral Division No. 4, and candidates for office Nos. 5, 6, 7, 8, 13 and 14 shall be nominated and elected at large. Beginning with elections held in 1998, candidates for office No. 15 shall be nominated and elected at large.
8. Title 20 O.S. § 92i provides in pertinent part:

To file as a candidate for the office of district judge or associate district judge, one must have been a registered voter and actual resident of the appropriate county for at least six (6) months prior to the first day of the filing period.
9. Mr. Sisson contended 20 O.S. § 92i was the only residential requirement prior to filing for candidate for District Judge, also citing *Matthews v. State Election Bd. Of Okla.* 582 P.2d 1318, 1978 OK 113 and Attorney General Opinion 1984-9. However, we note that both the *Matthews* case and the cases cited in the 1984 Attorney General opinion were decided prior to the enactment of 20 O.S. § 92.8a in 1993.
10. "Where a matter is addressed by two statutes, one specific and the other general, the specific statute governs over the general provision." *Davis v. Martin Marietta Materials, Inc.*, 2010 OK 78, ¶ 1, 246 P.3d 454, 455.

11. The specific residency requirements of 20 O.S. § 92.8a controls for individuals to become candidates for the offices in Judicial District 7 over the more general requirements found in 20 O.S. § 92i.
12. “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.
13. A reading of Section 92.8a that permits candidates to move into an electoral Division after they are elected, as Mr. Sisson argued, renders superfluous the Legislature’s use of “**candidates**...shall be nominated and **elected from** and be legal residents of...”. As such, the ordinary and plain meaning of Section 92.8a requires that in order for a candidate to run for a Judicial District 7 office, they must be a legal resident of the electoral division (for offices that are not at large) when they declare their candidacy.
14. During the hearing, evidence was presented that Mr. Sisson’s residence at 1701 Drakestone Ave., Nichols Hills, OK 73120 and his precinct #550101, as listed on his Declaration of Candidacy and voter ID card, are located within electoral Division No. 3 for Judicial District 7.
15. Therefore, Mr. Sisson is not a legal resident of electoral Division No. 2 as is required to become a candidate for District Judge, District 7, Office 10, pursuant to 20 O.S. § 92.8a.
16. Ms. Stallings’s Petition is sustained, and Mr. Sisson’s name will not appear on the ballot as a candidate for the office of District Judge, District 7, Office 10.
17. Costs are assessed against Mr. Sisson pursuant to 26 O.S. § 5-131.

Done this 23rd day of April, 2018, by a unanimous vote of the Election Board of the State of Oklahoma.

OKLAHOMA STATE ELECTION BOARD



STEVE CURRY, Chairman