

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

IN THE MATTER OF THE CONTEST OF)
THE CANDIDACY OF SHAWN WILSON)
FOR THE OFFICE OF STATE) CAUSE NO. 2020-02
REPRESENTATIVE, DISTRICT 37)

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER

The above-styled cause was heard by the State Election Board for the State of Oklahoma on Tuesday, April 21, 2020, meeting pursuant to lawful notice and posting of an agenda consistent with the Open Meeting Act and SB 661, 2020 O.S.L. 3, § 3, amending the Open Meeting Act.

The following members of the State Election Board (“Board” or “SEB”) were present: Mr. Tom Montgomery, Chair¹; Dr. Tim Mauldin, Vice Chair²; and Ms. Heather M. Cline³, Member (videoconference). Also present were Paul Ziriaux, Secretary; and counsel for the State Election Board, Niki Batt, Vice-Deputy Attorney General; and Thomas R. Schneider, Assistant Attorney General. Also present, but not participating were Jerry Buchanan, Alternate Member⁴; and Debi Thompson, Alternate Member⁵.

Petitioner State Rep. Ken Luttrell appears personally and without counsel. Contestee Shawn Wilson appears not.

Petitioner State Rep. Ken Luttrell’s Petition was filed and Notice of Hearing was issued on Monday, April 13, 2020. The Board received proof from the Petitioner that the Kay County Sheriff’s Office successfully served Contestee Wilson within 24 hours of setting the Petition for hearing, as required by 26 O.S. 2011, § 5-124. The Petitioner provided the Return of Sheriff Service to the Secretary of the State Election Board before or on the date of the hearing.

Contestee did not submit a cashier’s or certified 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 bearing arguments by the Parties, the Board makes the following findings of fact and conclusions of law:

1. Contestee Wilson filed with the State Election Board a Declaration of Candidacy for the office of State Representative, District 37, during the 2020 Candidate Filing Period occurring on April 8 – April 10, 2020.

¹ Chairman Montgomery appeared by videoconference.

² Vice Chair Dr. Mauldin appeared by teleconference.

³ Member Cline appeared by videoconference.

⁴ Alternate Member Buchanan appeared by videoconference.

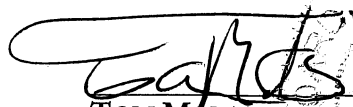
⁵ Alternate Member Thompson appeared by videoconference.

2. Petitioner Luttrell filed with the State Election Board a Declaration of Candidacy for the office of State Representative, District 37, during the 2020 Candidate Filing Period occurring on April 8 – April 10, 2020.
3. The SEB received proof of personal service made on Contestee within twenty-four (24) hours of setting the Petition for hearing, as required by 26 O.S. 2011, §§ 5-124 & 5-125.
4. Under 26 O.S. 2011, § 5-130, “[t]he burden of proof shall be upon the petitioner to sustain the allegations in his petition.”
5. The allegations contained in the Petition filed by Petitioner Luttrell are:
 - a. Contestee Shawn Wilson is not a resident of House District 37 as his residential address falls within House District 38, and
 - b. Contestee Shawn Wilson is not a registered voter in House District 37.
6. During the hearing on this matter, Petitioner Luttrell was placed under oath, and he swore to accuracy of the facts and allegations as set forth in his petition were true and correct to the best of his knowledge at the time of filing.
7. Pursuant to 14 O.S. 2011, § 108, a candidate for State Representative “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.”
8. The filing period began on Wednesday, April 8, 2020, pursuant to 26 O.S. 2011, § 5-110. Consequently, Contestee Wilson was required to have been a registered voter of and a resident residing within House District 37 on or before October 7, 2019.
9. Certified copies of documents from the State Election Board show that the earliest transaction date for Contestee Wilson’s registration in Kay County was January 8, 2009, and his voter registration was registered on January 9, 2009. State Election Board records show that Contestee possesses an active voter registration with a residential address outside of House District 37.
10. Under 26 O.S. 2011, § 5-130, if a contestee fails to appear, he or she is in default.
11. Upon a contestee’s failure to appear or answer the allegations set forth in the Petition, the contestee is deemed to have admitted all allegations set forth in the Petition. If the factual allegations set forth in the Petition constitute appropriate grounds for disqualification, the Board must strike the contestee’s candidacy. *See* 26 O.S. 2011, § 5-130.
12. Petitioner Luttrell has sustained his burden of proof by the greater weight of the evidence in showing that Contestee Wilson does not meet the six-month registration and residency requirements set forth in 14 O.S. 2011, § 108.
13. Petitioner Luttrell’s Petition is therefore **SUSTAINED**, pursuant to 26 O.S. 2011, § 5-130, and Contestee Wilson’s name shall not appear on the ballot as a candidate for the office of State Representative, District 37.

14. Costs are assessed against Petitioner Luttrell pursuant to 26 O.S. 2011, § 5-131, due to Contestee failing to appear.

On the 21st day of April, 2020, all members of the State Election, constituting a quorum, voted to **SUSTAIN** the Petitioner's Petition for Contest of Candidacy and **STRIKE** the candidacy of Contestee Shawn Wilson from the ballot.

5-18-20
Date

OKLAHOMA STATE ELECTION BOARD

TOM MONTGOMERY, *Chairman*

