

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

IN THE MATTER OF THE CONTEST OF)
THE CANDIDACY OF **SEAN THE**)
PATRIOT ROBERTS FOR THE OFFICE) CAUSE NO. 2022-03
OF LABOR COMMISSIONER)

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER

The above-styled cause was heard by the Election Board of the State of Oklahoma on Monday, April 25, 2022, meeting pursuant to lawful notice under the Open Meeting Act, 25 O.S. 2021, § 301 *et seq.* All testimony was taken under oath. The hearing was transcribed, and a permanent record of such will be kept.

The following members of the State Election Board (“Board”) were present: Tom Montgomery, Chair; Dr. Tim Mauldin, Vice Chair; and Heather Cline, Member. Also present were Paul Ziriaux, Secretary; and counsel for the State Election Board, Niki Batt, Deputy Attorney General; and Thomas R. Schneider, Deputy General Counsel to the Attorney General. Also present, but not participating were Jerry Buchanan, Alternate Member; and Debi Thompson, Alternate Member.

Petitioner, Leslie Osborn, appeared in person and with counsel Mike Hunter. Contestee Sean The Patriot Roberts appeared in person and with counsel Lexie Norwood. Contestee Roberts filed an answer along with a cashier's or certified check in the amount of \$250.00, as required under 26 O.S. 2021, § 5-129.

The Petition was timely filed and Notice of Hearing issued on Tuesday, April 19, 2022. The Board received proof from the Petitioner that the Osage County Sheriff served Contestee within 24 hours of setting the Petition for hearing, as required by 26 O.S. 2021, § 5-124. The Petitioner delivered an executed return of service to the Secretary of the State Election Board on the date of the hearing.

The Board made the following findings of fact and conclusions of law:

1. Contestee Roberts filed with the State Election Board a Declaration of Candidacy for the Office of Labor Commissioner during the 2022 Candidate Filing Period starting April 13, 2022, and ending on April 15, 2022.

2. Petitioner Osborn filed with the State Election Board a Declaration of Candidacy for the Office of Labor Commissioner during the 2022 Candidate Filing Period starting April 13, 2022, and ending on April 15, 2022.

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. 2021, §§ 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.” In order to sustain his or her burden of proof, the petitioner must prove the allegations set forth in the Petition by the greater weight of the evidence.

5. Petitioner Osborn alleges that Contestee Roberts’ name, as provided in his Declaration of Candidacy, violates 26 O.S. 2021, § 6-101 and OKLA. ADMIN. CODE § 230:20-3-38.

6. Under 26 O.S. 2021, § 5-120, grounds for contest of candidacy “must allege that the contestee was not qualified to become a candidate for the office for which he filed a Declaration of Candidacy and must contain the reasons therefor.”

7. Pursuant to 26 O.S. 2021, § 6-101, “[t]he name of any candidate for any office shall be printed on the official ballot as said candidate designated on the declaration of candidacy; provided, however, that no candidate shall have any prefix, suffix, or title placed before or after the candidate’s name.”

8. OKLA. ADMIN. CODE § 230:20-3-38 provides:

- a. The candidate's name shall appear on the ballot exactly as it appears on the designated line of the Candidate Information and Oath. A candidate who is generally known by or who does business using a nickname, birth name, or any name other than his or her legal name may choose to appear on the

ballot by providing that name on the designated line of the Candidate Information and Oath form.

- b. Quotation marks and parentheses are not permitted to appear in, before, or after a candidate's name. Prefixes, suffixes, and titles are not permitted.

To determine the foregoing, the following examples are offered:

1. Mr., Mrs., Miss, Ms., Dr., M.D., Rev., Prof., Father, Judge, Sen., Gen., Col., Major, Capt., Sgt., etc., are not permitted.
2. Jr., Sr., II, III, etc., may be permitted if they are part of the candidate's name.

9. In his Declaration of Candidacy submitted on April 15, 2022, Contestee Roberts wrote his ballot name as “Sean the Patriot Roberts.” **See Exhibit No. 1.**

10. A Federal Election Commission (“FEC”) filing form lists Contestee’s name as “Kevin Sean Roberts” and designates the principal campaign committee for Contestee Roberts as “Patriots for Sean Roberts.” **See Exhibit No. 2.**

11. Contestee Roberts offered two (2) exhibits indicating that he had been called or referred to as a patriot. One is a birthday card calling him a patriot. The second is a plaque from the Oklahoma Second Amendment Association naming Contestee Roberts the 2013 Patriot Legislator. **See Exhibit Nos. 5 & 6.**

12. Testimony from Contestee’s fellow lawmakers showed that, according to them, neither they nor other colleagues refer to Contestee as “[T]he Patriot.” **See Testimonies of Garry Mize & Chris Kannaday (Hrg. Tr. 41:12 and 50:23-51:4).**

13. Testimony from Contestee himself elicited that Contestee was elected to the Oklahoma House of Representatives in 2010 and appeared on the ballot as “Sean Roberts.” **See Testimony of Contestee Sean Roberts (Hrg. Tr. 14:3).** Contestee also admitted that during the seven times he has previously run for public office, the name he requested to appear on the ballot was either “Kevin Sean Roberts” or “Sean Roberts.” **See Testimony of Contestee Sean Roberts. (Hrg. Tr. 13-14).**

14. Contestee further stated he estimates “200 to 600” people know him as “The Patriot.” **See Testimony of Contestee Sean Roberts (Hrg. Tr. 21:10-13).** When asked about the location in which “the Patriot” is used when people refer to him, Contestee Roberts testified: “No, it changes. I mean, sometimes it’s one of those things where it’s like, ‘Here’s the Patriot, you know, Sean Roberts’, or, ‘Here’s the Patriot Roberts’, or, ‘Representative Roberts, the Patriot’, so they move it around, it’s not always specific in that order.” **See Testimony of Contestee Sean Roberts (Hrg. Tr. 36:14-19)**

15. When asked about the length of time the Contestee has used the name “Sean the Patriot Roberts” on his social media accounts, Mr. Roberts estimated it had been “two weeks on Facebook, maybe longer on the other. TikTok’s been a little bit longer.” **See Testimony of Contestee Sean Roberts (Hrg. Tr. 35:15-17).**

16. Contestee Roberts also testified that in regard to his physical therapy business, he did not have anything that reflects the name of “Sean the Patriot Roberts,” and that additionally, “...a lot of patients don’t even know I am a state representative.” **See Testimony of Contestee Sean Roberts (Hrg. Tr. 16-17).**

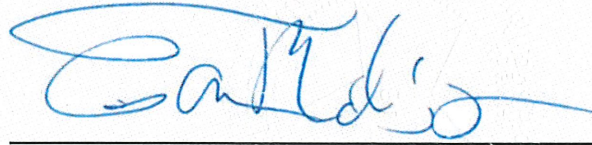
17. Under 26 O.S. 2021, § 5-128, “[i]f said contestee’s Declaration of Candidacy may be amended or corrected to conform to law, the election board may order the same to be done, if the board determines such amendment or correction to be proper at the time of its order or decision.”

18. Accordingly, considering all the evidence and testimony presented, the Board finds and concludes that it is more probably true than not true that Contestee Roberts is not generally known by or does business as Sean “[T]he Patriot” Roberts. Pursuant to 26 O.S. 2021, § 5-128, Contestee is **ORDERED** to amend his original Declaration of Candidacy remove the words “[T]he Patriot” from his ballot name.

19. Contestee Roberts shall bear the costs incurred pursuant to 26 O.S. 2021, § 5-131.

On the 25th day of April 2022, all members of the State Election Board, constituting a quorum, voted unanimously to **ORDER** the Contestee to amend his Declaration of Candidacy by removing “The Patriot” from his ballot name and to bear the costs incurred. Petitioner Osborn’s Petition to strike Contestee Roberts from the ballot is therefore **DENIED**. Contestee Roberts’ request to retain “[T]he Patriot” on the ballot is also **DENIED**.

OKLAHOMA STATE ELECTION BOARD



June 22, 2022

Date

TOM MONTGOMERY, *Chairman*

CERTIFICATE OF MAILING

I hereby certify that on the 22 day of June 2022, the above and foregoing Findings of Fact, Conclusions of Law, and Final Order in the above-captioned matter was mailed to:

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ATTORNEY FOR CONTESTEE ROBERTS

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PETITIONER



DAVID DUNN

Clerk to the State Election Board