

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

IN THE MATTER OF THE CONTEST OF)	
THE CANDIDACY OF JENNIFER)	
KERSTETTER FOR THE OFFICE OF)	CAUSE NO. 2022-10
STATE REPRESENTATIVE, HOUSE)	
DISTRICT 65)	

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.*

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, Toni Hasenbeck, appeared by counsel, Matthew Flies. Contestee Jennifer Kerstetter failed to appear or answer and did not submit 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 Stephens 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 the 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 Kerstetter filed with the State Election Board a Declaration of Candidacy for the Office of State Representative, District 65, during the 2022 Candidate Filing Period starting April 13, 2022, and ending on April 15, 2022.
2. Petitioner Hasenbeck filed with the State Election Board a Declaration of Candidacy for the Office of State Representative, District 65, 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 Hasenbeck alleges that Contestee Kerstetter was not a registered voter in House District 65 by December 31, 2021.
6. Pursuant to 14 O.S. 2021, § 108, a candidate for State Representative for any House district in 2022 “must have been a registered voter and a resident residing in such district no later than December 31, 2021.”
7. Consequently, Contestee Kerstetter was required to have been a registered voter and resident of House District 65 on or before December 31, 2021.
8. Under 26 O.S. 2021, § 5-129, a contestee is required “to deposit with the secretary of the election board a cashier's check or certified check in the same amount as that filed by the petitioner.”
9. Okla. Stat. tit. 26, § 5-130 (2021) also states:

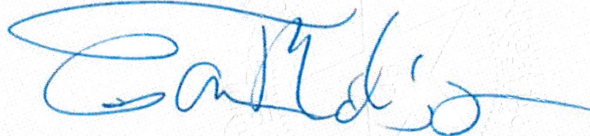
[F]ailure of the contestee to appear or answer thereto shall be deemed to place him in default, and shall constitute an admission of the allegations of the

petition, in which event, if the board determines that the factual allegations of the petition constitute appropriate grounds for disqualification, such contestee's candidacy shall be stricken.

10. Having failed to appear or answer and post a deposit of \$250.00 with the Secretary of the State Election Board, Contestee Kerstetter was deemed to have defaulted.
11. The Board finds and concludes that the factual allegations set forth in the Petition constitute appropriate grounds for disqualification pursuant to 26 O.S. 2021, § 5-130.
12. Accordingly, Petitioner Hasenbeck's Petition is therefore **SUSTAINED**, pursuant to 26 O.S. 2021, § 5-130, and Contestee Kerstetter's name shall not appear on the ballot as a candidate for the Office of State Representative, House District 65.
13. Petitioner Hasenbeck 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 **SUSTAIN** the petition and **STRIKE** the candidacy of Jennifer Kerstetter from the ballot in the above-captioned cause pursuant to its duty under 26 O.S. 2021, § 5-126.

OKLAHOMA STATE ELECTION BOARD



TOM MONTGOMERY, *Chairman*

June 22, 2022

Date

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:

Jennifer Kerstetter
165808 N. 8 Mile Rd.
Marlow, OK 73055

CONTESTEE

Toni Hasenbeck
P.O. Box 274
Elgin, OK 73538

PETITIONER



DAVID DUNN

Clerk to the State Election Board