

STATE ELECTION BOARD OF THE
STATE OF OKLAHOMA

IN THE MATTER OF CONTEST OF THE)
CANDIDACY OF **BILL LAYDEN**)
FOR THE OFFICE OF ASSOCIATE) CAUSE NO. 2014-01
DISTRICT JUDGE, PITTSBURG)
COUNTY, STATE OF OKLAHOMA.)

ORDER

The above-styled cause was heard by the Election Board of the State of Oklahoma on April 21, 2014, meeting pursuant to lawful notice.

The following members of the State Election Board ("Board") were present: Steve Curry, Chairman; Tom Montgomery, Vice-Chairman; Diana Spurlock, Member. Also present were Paul Ziriak, Secretary, and counsel for the Board, Neal Leader, Senior Assistant Attorney General, and Jan Preslar, Assistant Attorney General. Also present, but not participating, were alternate Board members Dr. Tim Mauldin and Jerry Buchanan.

Petitioner Timothy E. Mills was personally present and was represented by counsel, Richard Mildren. Contestee Bill Layden was personally present and was represented by counsel, Rob Nigh.

Mr. Layden answered the contest and presented a cashier's check in the amount of \$250.00 as prescribed in 26 O.S. 2011, § 5-129.

The Board received proof of personal service made on Mr. Layden by the Pittsburg County Sheriff.

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

1. Mr. Mills timely filed his Declaration of Candidacy for Associate District Judge, Pittsburg County, during the April 9-11, 2014, filing period.
2. Mr. Layden timely filed his Declaration of Candidacy for Associate District Judge, Pittsburg County, during the April 9-11, 2014, filing period.

3. The allegations contained in the petition of Mr. Mills are that:

Pursuant to 20 O.S. §92i, "No one who has been removed from judicial office pending disciplinary proceedings shall qualify to file as a candidate for judicial office." Bill Layden served as Pittsburg County Special Judge, and was terminated from said position after being indicted in Pittsburg County (CF-11-347A) and Oklahoma County (CF-11-5476). I have reason to believe that Mr. Layden was removed pending disciplinary proceedings by the OBA &/or AOC. To dispose of the criminal proceedings Mr. Layden entered into a Deferred Prosecution Agreement wherein he was not eligible for a public position for a minimum of one year. Additionally, in the States Motion to Dismiss, Mr. Layden admitted to hampering with an OSBI investigation.

4. 20 O.S. 2011, §92i provides in pertinent part:

No one who has been removed from judicial office or who has resigned from office pending disciplinary proceedings shall qualify to file as a candidate for judicial office.

5. The evidence showed that a felony indictment was filed against Mr. Layden on September 30, 2011, in the District Court of Pittsburg County, State of Oklahoma, Case No. CF 2011-347.

6. Mr. Layden was advised by letter dated October 14, 2011, from District Judge Thomas M. Bartheld, 18th Judicial District, that his services as a Special District Judge for Pittsburg and McIntosh County Courts were "no longer required, effective immediately."

7. After Mr. Layden received the October 14, 2011 letter from Judge Bartheld, disciplinary proceedings were initiated by the Oklahoma Bar Association against Mr. Layden.

8. On January 22, 2013, Mr. Layden entered into a deferred prosecution agreement with the Attorney General's Office in which the State of Oklahoma agreed not to file charges against Mr. Layden if, among other things, Mr. Layden agreed not to hold public office or employment in the State of Oklahoma for a period of one year. In connection with the deferred prosecution agreement, the State moved to dismiss Case No. CF-2011-347 against Mr. Layden.

9. By letter dated August 27, 2013, Gina Hendryx, General Counsel for the Oklahoma Bar Association, advised Mr. Layden the grievance against him was dismissed and no adverse action was being taken against him.

10. 26 O.S. 2011, §5-130 provides: "The burden of proof shall be upon the petitioner to sustain the allegations in his petition."

11. Mr. Mills has failed to sustain his burden of proof that Mr. Layden was removed from judicial office or resigned from office pending disciplinary proceedings. The discretionary dismissal of Mr. Layden from his position as special judge was not the kind of "removal from office" contemplated by 20 O.S. 2011, § 92i. Moreover, Mr. Layden was not dismissed from office and did not resign from office while the Oklahoma Bar Association disciplinary proceedings were pending. There was no evidence offered that the Administrator of the Courts ("AOC") initiated disciplinary proceedings against Mr. Layden, as alleged in Mr. Mills's petition. Mr. Mills's petition is therefore denied and Mr. Layden's name will appear on the ballot as a candidate for Associate District Judge, Pittsburg County.

12. Costs are assessed to Mr. Mills, pursuant to 26 O.S. 2011, §5-131.

Done this 21st day of April, 2014, by a vote of 3-0 of the Election Board of the State of Oklahoma.

OKLAHOMA STATE ELECTION BOARD



A handwritten signature in cursive script, reading "Steve Curry", is written over a horizontal line. The signature is dark and fluid, with a long, sweeping tail that extends to the right.

STEVE CURRY, CHAIRMAN