

STATE ELECTION BOARD OF THE  
STATE OF OKLAHOMA

IN THE MATTER OF CONTEST OF THE )  
CANDIDACY OF **CATHERINE KAY** )  
**GRAY**, STATE SENATE, DISTRICT 32, ) CAUSE NO. 2014-08  
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 Ziriaux, 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 Randy Bass was personally present and was represented by counsel, Scott Inman. Contestee Catherine Kay Gray did not appear, but appeared through a “surrogate”, Dave Weston. Mr. Weston announced that Ms. Gray could not appear because she was attending a family funeral.

Ms. Gray 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 Ms. Gray by the Comanche County Sheriff.

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

1. Ms. Gray timely filed her Declaration of Candidacy for Oklahoma State Senate, District 32, during the April 9-11, 2014, filing period.
2. Mr. Bass timely filed his Declaration of Candidacy for Oklahoma State Senate, District 32, during the April 9-11, 2014, filing period.

3. The allegations contained in the petition of Mr. Bass are that:
  1. Contestee is ineligible to be a candidate for the Oklahoma State Senate, District 32, pursuant to 26 O.S. §5-105a because she has been charged with and/or convicted of embezzlement in Oklahoma or in another state.
  2. Contestee is ineligible to be a candidate for the Oklahoma State Senate, District 32, pursuant to Article 5, § 18 of the Oklahoma Constitution due to past criminal history.
  3. Contestee is ineligible to be a candidate of the Oklahoma State Senate, District 32, pursuant to 26 O.S. 2011, §5-111.
4. 26 O.S. 2011, §5-105a(A) provides:
  - A. A person who has been convicted of a misdemeanor involving embezzlement or a felony under the laws of this state or of the United States or who has entered a plea of guilty or nolo contendere to such misdemeanor involving embezzlement or felony or who has been convicted of a crime in another state which would have been a misdemeanor involving embezzlement or a felony under the laws of this state or has entered a plea of guilty or nolo contendere to such crime shall not be eligible to be a candidate for or to be elected to any state, county, municipal, judicial or school office or any other elective office of any political subdivision of this state for a period of fifteen (15) years following completion of his sentence or during the pendency of an appeal of such conviction or plea.
5. Okla. Const. art. 5, § 18 provides, “No person shall serve as a member of the Legislature who is, at the time of such service, an officer of the United States or State government, or is receiving compensation as such; nor shall any person be eligible to election to the Legislature, who has been adjudged guilty of a felony.”
6. 26 O.S. 2011, §5-111(B) provides, in pertinent part:
  - B. If the candidate has ever been ultimately determined by a court of proper authority to be guilty of an offense specified in subsection A of Section 5-105a<sup>1</sup> of this title or at the

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<sup>1</sup> 26 O.S. 2011, §5-105a(A) provides, “A person who has been convicted of a misdemeanor involving embezzlement or a felony under the laws of this state or of the United States or who has entered a plea of guilty or nolo contendere to such misdemeanor involving embezzlement or felony or who has been convicted of a crime in another state which would have been a misdemeanor involving embezzlement or a felony under the laws of this state or has entered a plea of guilty or nolo contendere to such crime shall not be eligible to be a candidate for or to be elected to any state, county, municipal, judicial or school office or any other elective office of

time of filing the Declaration of Candidacy is named in an outstanding warrant for arrest for such an offense, in this or any other state, the candidate shall provide the following information on a form prescribed by the Secretary of the State Election Board:

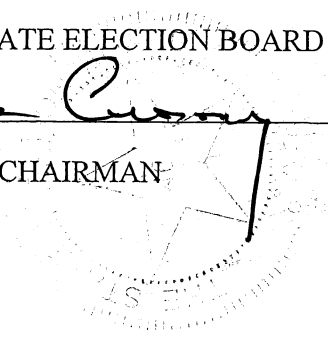
1. The name of the offense;
  2. The date of conviction or issuance of the outstanding warrant; and
  3. The county and state of conviction or issuance of the outstanding warrant.
7. The evidence showed that on or about March 6, 2011, in Case No. 2010-CR-0895, in the District Court of Riley County, State of Kansas, Ms. Gray pled nolo contendere to felony charges against her for identity theft and making false information.
8. 26 O.S. 2011, §5-130 provides: "The burden of proof shall be upon the petitioner to sustain the allegations in his petition."
9. Mr. Bass has sustained his burden of proof in showing that Ms. Gray is not qualified to be a candidate for the State Senate because she pled nolo contendere to felony charges in Kansas in March, 2011. Mr. Bass's petition is therefore granted. Ms. Gray's name will be stricken from the ballot as a candidate for Oklahoma State Senate, District 32.
10. Costs are assessed to Ms. Gray, 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



STEVE CURRY, CHAIRMAN



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any political subdivision of this state for a period of fifteen (15) years following completion of his sentence or during the pendency of an appeal of such conviction or plea."