

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

IN THE MATTER OF CONTEST OF THE )	
CANDIDACY OF <b>KELLY LYNN</b> )	
FOR THE OFFICE OF STATE )	CAUSE NO. 2016-09
REPRESENTATIVE, DISTRICT 45. )	

**FINDINGS AND ORDER**

The above-styled cause was heard by the Election Board of the State of Oklahoma on April 25, 2016, meeting pursuant to lawful notice.

The following members of the State Election Board (“Board”) were present: Steve Curry, Chair; Tom Montgomery, Vice-Chair; and Dr. Tim Mauldin, Member. Also present were Paul Ziriaux, Secretary; and counsel for the State Election Board, Jan Preslar, Deputy Attorney General; and Jason Seay, Assistant Attorney General. Also present, but not participating were Jerry Buchanan, Alternate Member; and Debi Thompson, Alternate Member.

Petitioner Claudia Griffith appeared *pro se*. Contestee Kelly Lynn did not appear.

The Petition was filed and Notice of Hearing issued on April 19, 2016, at 9:45 a.m.

The Board received proof of attempts to personally serve within 24 hours from when the contest was set for hearing, on Kelly Lynn by the Cleveland County Sheriff, stating the Sheriff was unable to serve the notice of hearing. The provisions for constructive service on Contestee, set forth in 26 O.S. 2011, § 5-125, therefore apply.

Kelly Lynn did not submit a cashier’s or certified check in the amount of \$250.00, as required by 26 O.S. § 5-129.

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

1. Ms. Griffith filed with the Board a Declaration of Candidacy for the office of State Representative, District 45, during the filing period of April 13-15, 2016.
2. Kelly Lynn filed with the Board a Declaration of Candidacy for the office of State Representative, District 45, during the filing period of April 13-15, 2016.
3. The Board received proof of attempts to personally serve within 24 hours from when the contest was set for hearing, on Kelly Lynn by the Cleveland County Sheriff, stating the Sheriff was unable to serve the notice of hearing. The

provisions for constructive service on Contestee, set forth in 26 O.S. 2011, § 5-125, therefore apply.

4. Title 26 O.S. § 5-129 requires a contestee, at the time of filing his or her answer to the contest, or, if no answer is filed, at the time of his or her appearance, to deposit with the secretary of the election board a cashier's check or certified check in the amount of \$250.00. All persons filing a Declaration of Candidacy are referred to the State Election Board's website to obtain a Candidate Filing Packet. The packet contains, on page three, a notice to contestees that if they desire to respond to a petition contesting their candidacy, they must deposit with the election board secretary a cashier's check or certified check at the time of his or her appearance at the scheduled hearing on the contest.
5. Kelly Lynn's failure to answer the petition by submitting the proper cashier's check or certified check in the amount of \$250.00, as required by 26 O.S. § 5-129, places Kelly Lynn in default, pursuant to 26 O.S. § 5-130.
6. Pursuant to 26 O.S. § 5-130, Kelly Lynn's default constitutes an admission of the allegations of the petition.
7. Ms. Griffith's Petition alleges, as the basis for the contest:  
  
The candidate changed address of residence 4-15-16, the prior listed address is outside of House District 45. The change of residence was done well after the deadline of October 2015, as stated in O.S. Title 14, Chapter 3, Section 108. The address Greenwood Ct. is in Dist. 46.
8. The Board finds the factual allegations of the petition constitute appropriate grounds for disqualification of Contestee's candidacy.
9. Ms. Griffith's Petition is sustained, pursuant to 26 O.S. § 5-130, Kelly Lynn's name will not appear on the ballot as a candidate for the office of State Representative, District 45.

Done this 25<sup>th</sup> day of April, 2016, by a unanimous vote of the Election Board of the State of Oklahoma.

OKLAHOMA STATE ELECTION BOARD

  
STEVE CURRY, Chairman