

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

IN THE MATTER OF CONTEST OF THE)
CANDIDACY OF **DONALD COLE GALLUP**)
FOR THE OFFICE OF STATE) CAUSE NO. 2018-03
REPRESENTATIVE, DISTRICT 20.)

FINDINGS AND ORDER

The above-styled cause was heard by the Election Board of the State of Oklahoma on April 23, 2018, 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, Lyn Martin-Diehl, Assistant Attorney General; and Rachel Rogers, Assistant Attorney General. Also present, but not participating were Jerry Buchanan, Alternate Member; and Debi Thompson, Alternate Member.

Petitioner Bobby Cleveland appeared personally and with counsel Stan Ward. Contestee Donald Cole Gallup did not appear.

The Petition was filed and Notice of Hearing issued on April 16, 2018, at 11:00 a.m. The Board received proof of personal service made on Contestee by the Garvin County Sheriff on April 16, 2018, at 5:03 p.m., within 24 hours of setting the Petition for hearing, as required by 26 O.S. § 5-124.

Contestee 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. Mr. Cleveland filed with the Board a Declaration of Candidacy for the office of State Representative, District 20, during the filing period of April 11-13, 2018.
2. Mr. Gallup filed with the Board a Declaration of Candidacy for the office of State Representative, District 20, during the filing period of April 11-13, 2018.
3. The Board received proof of personal service made on Contestee within 24 hours of setting the Petition for hearing, as required by 26 O.S. § 5-124.
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 two, 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. Mr. Gallup's failure to appear or 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 Mr. Gallup in default, pursuant to 26 O.S. § 5-130.
6. Pursuant to 26 O.S. § 5-130, Mr. Gallup's default constitutes an admission of the allegations of the petition.
7. Mr. Cleveland's Petition alleges, as the basis for the contest:

Mr. Gallup has not been a resident or registered to vote in House District 20 for at least six (6) months, as required by 14 O.S. § 108. Additionally, Mr. Gallup has not been a registered voter of the party for six (6) months, as required by 26 O.S. § 5-105.
8. The Board finds the factual allegations of the petition constitute appropriate grounds for disqualification of Contestee's candidacy.
9. Mr. Cleveland's Petition is sustained, pursuant to 26 O.S. § 5-130, and Mr. Gallup's name will not appear on the ballot as a candidate for the office of State Representative, District 20.

Done this 23rd day of April, 2018, by a unanimous vote of the Election Board of the State of Oklahoma.

OKLAHOMA STATE ELECTION BOARD



STEVE CURRY, Chairman

