

BEFORE THE STATE ELECTION BOARD OF THE
STATE OF OKLAHOMA

IN THE MATTER OF CONTEST OF THE)
CANDIDACY OF **CHRIS HARRISON**)
FOR THE OFFICE OF STATE) CAUSE NO. 2018-12
REPRESENTATIVE, DISTRICT 99.)

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 Ziriak, 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 Nkem House appeared and was represented by counsel, Alana House. Contestee Chris Harrison appeared and was represented by counsel, Cara Rodriguez.

The Petition was filed and Notice of Hearing issued on April 17, 2018, at 4:40 p.m. The Board received proof of personal service made on Contestee by the Oklahoma County Sheriff on April 18, 2018, at 12:30 p.m., within 24 hours of setting the Petition for hearing, as required by 26 O.S. § 5-124.

Contestee submitted 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. House filed with the Board a Declaration of Candidacy for the office of State Representative, District 99, during the filing period of April 11-13, 2018.
2. Mr. Harrison filed with the Board a Declaration of Candidacy for the office of State Representative, District 99, 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. § 5-130 provides: "The burden of proof shall be upon the petitioner to sustain the allegations in his petition.

5. Mr. House's Petition alleges, as a basis for the contest, that Mr. Harrison was neither a registered voter nor a resident of the district for the six months immediately preceding the filing period.

6. Title 14 O.S. § 108 provides in pertinent part:

To file as a candidate for the House of Representatives in any representative district, a person must have been a registered voter in such district and a resident residing within such district for at least six (6) months immediately preceding the filing period prescribed by law.

7. The filing period began on April 11, 2018 pursuant to 26 O.S. § 5-110. Consequently, Mr. Harrison was required to have been registered to vote in District 99 on or before October 10, 2017.

8. Petitioner presented certified documents from the Oklahoma County Election Board, Petitioner's Exhibit 5, indicating that Contestee changed his voter's registration address from 1405 NE 48th Street, Oklahoma City (District 97) to 1819 NE 11th Street, Oklahoma City, OK (District 99), dated October 11, 2017 and received by the Election Board on October 12, 2017.

9. Mr. Harrison argued that he is not in violation of the durational registration requirement in Section 108 if you considered the entire three-day filing period in calculating the previous six months.

10. "The fundamental rule of statutory construction is to ascertain and give effect to legislative intent, and that intent is first sought in the language of the statute." *YPF Inc. v. Schlumar, Inc.*, 2006 OK 32, 136 P.3d 656,658. In doing so, "statutes are to be interpreted in accordance with their plain, ordinary meaning according to the import of the language used." *Hubbard v. Kaiser-Francis Oil Co.*, 2011 OK 50, 256 P.3d 69, 72. "A statute will be given a reasonable and sensible construction: one that will reconcile its provisions and avoid inconsistencies and absurdities." *City of Jenks v. Stone*, 2014 OK 11,321 P.3d 179, 183.


11. An interpretation of Section 108 that requires consideration of the entire three-day filing period in calculating the durational requirement renders superfluous the Legislature's use of "at least six (6) months immediately **preceding** the filing period..." It may not be presumed the legislature "created an absurdity or to have done a vain and useless act." *Johnson v. City of Woodward*, 2001 OK 85, 38 P.3d 218,225, *as corrected* (Dec. 6, 2001). "[E]very word and sentence" of a statute must be given effect if possible. *Hill v. Bd of Educ.*, 1997 OK 107,944 P.2d 930,933. The word "preceding" must mean something

within the context of the statute. As such, the ordinary and plain meaning of Section 108 requires voter registration, and residence, within the district for which a candidate seeks office for the six months immediately preceding the first day of the filing period. *See, e.g. In the Matter of the Contest of Candidacy of Samuel Brian Hill for the Office of State Representative, District 87, Cause 2016-08* (Board held candidate must be registered to vote in District 87 for a continuous six-month period immediately preceding April 13, 2016, which was the first day of the filing period in that election cycle).

12. The State Election Board has long interpreted the clause *immediately preceding the filing period* in related election statutes to mean just that. *See, e.g. In the Matter of the Contest of Candidacy of Daniel Arnett for the Office of State Representative, District 16, Cause 2012-08* (Board held candidate was required to live in District 16 on or before 10/10/11 for 4/11/12 to 4/13/12 filing period); *In the Matter of the Contest of Candidacy of Mark Faulk for the Office of State Representative, District 88, Cause 2012-06* (Board held candidate was required to live in District 88 on or before 10/10/11 for 4/11/12 to 4/13/12 filing period).
13. Petitioner has, therefore, sustained his burden of proof in showing Mr. Harrison has not been a registered voter in the district for the six (6) months immediately preceding the filing period, as required by 14 O.S. § 108.
14. The Board finds this factual allegation constitutes appropriate grounds for disqualification of Contestee's candidacy. There is, therefore, no need to consider the separate residency allegation.
15. Mr. House's Petition is sustained, pursuant to 26 O.S. § 5-130, and Mr. Harrison's name will not appear on the ballot as a candidate for the office of State Representative, District 99.
16. Costs are assessed against Mr. Harrison, pursuant to 26 O.S. § 5-131.

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

