

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

IN THE MATTER OF CONTEST OF THE )  
CANDIDACY OF AYSHIA "AJAY" PITTMAN )  
FOR THE OFFICE OF STATE ) CAUSE NO. 2018-13  
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 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 Nkem House appeared, represented by Alana House, Counsel. Contestee Ayshia "Ajay" Pittman appeared, represented by Jason Sansone, Counsel.

The Petition was filed and Notice of Hearing issued on April 17, 2018, at 4:54 p.m. The Board received proof of personal service made on Contestee by the Oklahoma County Sheriff on April 18, 2018, at 9:20 a.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. Ms. Pittman 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. The allegations contained in the Petition filed by Mr. House are that:

Contestee failed to comply with 26 O.S. § 5-107 and 14 O.S. § 108. Specifically, Mr. House asserts that Ms. Pittman violated section 5-107 in that her name is similar or identical to that of her mother, State Senator Anastasia Pittman, who is the former State Senator for Senate District 48/House District 99 and currently running for Lieutenant Governor. Further, Petitioner asserts that Ms. Pittman has not resided in the district six months prior to the filing date.

5. 26 O.S. §5-107 provides in pertinent part:

No person may become a candidate for any office enumerated in Section 26-5-102<sup>1</sup> of this title whose name is identical to the name of the incumbent or of any publicly announced candidate for such office, or similar thereto, where it appears that the identity or similarity of names is used for the purpose of confusing the voters. Any person desiring to become a candidate for one of said offices whose name is identical or similar to the name of the incumbent or of any publicly announced candidate for said office shall observe the following procedure... (Footnote added).

6. Title 26 O.S. § 5-130 provides: “The burden of proof shall be upon the petitioner to sustain the allegations in his petition.
7. Contestee argued that 26 O.S. §5-107 is inapplicable to her candidacy as her name is neither identical to that of her mother nor is her mother the incumbent in the race for which she seeks election. Moreover, her name has always been Ayshia “Ajay” KM Pittman.
8. The Board finds that Contestee’s name is neither identical to nor similar to the incumbent’s name nor of any publically announced candidate for such office, and therefore Contestee is not in violation of 26 O.S. § 5-107. Consequently, any inquiry into Ms. Pittman’s good faith or lack thereof regarding similarity of campaign materials with that of her mother is irrelevant.
9. Mr. House has therefore failed to sustain his burden of proof pursuant to 26 O.S. § 5-130, and his Petition is denied with regard to 26 O.S. § 5-107.
10. Mr. House further asserts that Ms. Pittman has not resided in the district six months prior to the filing date as required by 14 O.S. § 108.
11. 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

---

<sup>1</sup> 26 O.S. §5-102 provides, “Candidates for United States Senator, United States Representative, state officer, State Senator, State Representative, district judge, associate district judge and district attorney shall file Declarations of Candidacy with the Secretary of the State Election Board.”

residing within such district for at least six (6) months immediately preceding the filing period prescribed by law.

12. The filing period began on April 11, 2018 pursuant to 26 O.S. § 5-110. Consequently, Ms. Pittman was required to have been a resident of the district on or before October 10, 2017.
13. Mr. House alleges that Ms. Pittman was not a resident of District 99 on or before October 10, 2017, having abandoned her domicile either at 601 Bath Circle and/or 924 NW 109th St.—both Oklahoma City and both of which lie within District 99—without making another location within district 99 her domicile prior to April, 2018.
14. Ms. Pittman submitted the following evidence that was admitted into the record:
  - Exhibit C –A copy of a Residential Lease for property at 1606 NE 10th Street, Oklahoma City, OK, between Contestee and a Mr. Robert Foster.
15. Ms. Pittman attested that the address on her voter registration from 6/19/12 to 4/12/18 was 601 Bath Circle, District 99, Oklahoma City, OK. On 4/12/18, Ms. Pittman notified the State Election Board of a change in her residence from 601 Bath Circle to 1606 NE 10th St., District 99, Oklahoma City, OK 73117.
16. In *Bixby v. Bixby*, 261 P.2d 1075, 1076 (Okla. 1961), the Oklahoma Supreme Court stated that the word “resident” contemplates an actual residence with substantially the same attributes as are included when the word “domicile” is used.
17. In *Suglove v. Oklahoma Tax Commission*, 605 P.2d 1315, 1317-18 (Okla. 1979), the Oklahoma Supreme Court held:

Over the years certain principles have evolved in connection with the determination of domicile which harken back to the courts' earlier reluctance to allow a change of domicile. First, a person may have only one domicile at a time. Second, domicile, once fixed, is presumed to continue until a new one is established. Third, to effect a change of domicile, there must be (a) actual abandonment of the first domicile, coupled with (b) the intention not to return to it and (c) actual residence in another place with intention of making it a permanent home. Indicia of a changed domicile are to be found in the habits of the person, his business and domestic relations, declarations, exercise of political rights, community activities and other pertinent objective facts ordinarily manifesting the existence of requisite intent. As a general principle, Oklahoma domicile, once established, is presumed to continue unless an individual can show that a change has occurred. One's intent with respect to domicile presents a question of fact.

18. In *Moore v. Hayes*, 1987 OK 82, ¶9, the Oklahoma Supreme Court held:

A person's intention as to residence is a question of fact to be determined by the trier of facts, and is conclusive on appeal unless shown to be clearly against the weight of the evidence. One's place of present abode is only one of the factors which may be considered, but it cannot be regarded as conclusive. A temporary absence, even if it extends for a period of years will not effect a change of residence. Nor is the maintenance of a separate home inconsistent with the continuance of a person's legal residence in but one locality. Other factors which have been recognized as persuasive in determining intent are the holding of local office, the exercise of the right to vote in local elections, business and domestic relations, community activities, personal habits, and other objective facts ordinarily manifesting the existence of intent.

19. Ms. Pittman offered testimony that she physically resided at 601 Bath Circle during her minority (*See also, In the Matter of the Candidacy of Anastasia Pittman for Office of State Representative, District 99, Cause No. 2006-12*); pursued her education from 2012-2016; and in 2017 her family moved from Bath Circle to 924 NW 109<sup>th</sup> St., Oklahoma City, while the Bath Circle property was being renovated, but expected to return to that address upon completed renovations. Ms. Pittman was physically present at 924 NW 109 Street periodically from January to April, 2017. Thereafter, she spent much of her time staying with her elderly grandmother who did not reside in District 99. Although Contestee was only sometimes physically present in District 99 during the time period from 2017 to 2018, she considered her domicile to be and intended to return to 601 Bath Circle. Contestee established a new domicile also in District 99 at 1606 NE 10<sup>th</sup> St., Oklahoma City, OK, on April 2, 2018. *See Exhibit C.*
20. Mr. House presented testimony by Kenneth Pitre, stepfather to Contestee and leaseholder at 924 NW 9th St., that Ms. Pittman did not spend many nights at 924 NW 9th St., Oklahoma City, from 2017 to 2018 but sometimes received mail there. He further attested that Contestee was not welcome to live in his home.
21. Counsel for Petitioner further contended that Ms. Pittman and her family had no legal interest in the home at 601 Bath Circle, subsequent to Contestee's family's departure from that address but produced neither evidence to that effect nor legal precedent showing the relevance of said fact.
22. Mr. Reynolds, a private investigator hired by Petitioner, testified that 1606 NE 10th is not a valid address recorded by the Oklahoma County assessor and that the address likely corresponds to a vacant lot adjacent to 1604 NE 10th. He further attested that hat he could find no legal record of Ayshia "Ajay" Pittman at the 924 NW 9th St. address or physical evidence of Ms. Pittman's residence at either 1604 or 1606 NE 10th Street during four drive-bys on four consecutive days in a particular week are also not dispositive evidence as to Ms. Pittman's domicile.
23. Neither of these facts, however, refutes Ms. Pittman's testimony that she had not abandoned as her true domicile 901 Bath Circle, Oklahoma City, OK during the period prior to April

1, 2018 and intended to establish a new domicile at 1606 NE 10th St., Oklahoma City, OK, thereafter.

24. Further, the Oklahoma County Sheriff's office was able to locate Ms. Pittman and serve her with the Notice of Hearing in this matter at 1606 NE 10th on April 18, 2018.
25. The weight of the evidence presented indicates Ms. Pittman has been domiciled in House District 99 for more than six months immediately precedent to the filing period of April 11-13, 2018.
26. Because Petitioner failed to sustain his burden of proving Ms. Pittman did not reside in District 99 on or before October 10, 2017, Mr. House's Petition is therefore denied with regard to this allegation as well. Ms. Pittman's name will appear on the ballot as a candidate for the office of State representative, House District 99.
27. Costs are assessed against Mr. House, pursuant to 26 O.S. § 5-131.

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

OKLAHOMA STATE ELECTION BOARD



STEVE CURRY, Chairman

