

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

IN THE MATTER OF THE CONTEST OF )  
THE CANDIDACY OF **CARTER DAVIS** )  
**ROGERS** FOR THE OFFICE OF STATE ) CAUSE NO. 2024-01  
REPRESENTATIVE, HOUSE DISTRICT 37 )

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER**

The above-styled cause was heard by the Election Board of the State of Oklahoma on Thursday, April 18, 2024, meeting pursuant to lawful notice under the Open Meeting Act, 25 O.S. 2021, § 301 *et seq.*

The following members of the State Election Board (“Board”) were present: Heather Mahieu Cline, Chair; Dr. Tim Mauldin, Vice Chair; and Mignon Lambley, Member. Also present were Paul Ziriak, Secretary; Rusty Clark, Assistant Secretary; counsel for the State Election Board, Niki Batt, Deputy Attorney General; and Bailey Warren, Assistant Attorney General; Rachel Rogers, Director of Policy and in-house counsel; and Garris Dennis, Clerk to the Board. Also present, but not participating were Jerry Buchanan, Alternate Member; and Debi Thompson, Alternate Member.

Petitioner, Ken Luttrell, appeared in person and with counsel Anthony J. Ferate. Contestee, Carter Davis Rogers, appeared in person for himself to answer the Petition. Contestee Rogers presented a cashier's check in the amount of \$250.00, as required under 26 O.S. 2021, § 5-129.

During the hearing, exhibits were offered into the record and testimony was heard from two witnesses. All testimony was taken under oath. The hearing was recorded, and a court reporter was present.

After considering all evidence and testimony offered and admitted, and after hearing arguments of the parties, the Board makes the following findings of fact and conclusions of law:

1. Contestee Rogers filed with the Secretary of the State Election Board a Declaration of Candidacy for the Office of State Representative, House District 37, during the 2024 Candidate Filing Period starting April 3, 2024, and ending on April 5, 2024.
2. Petitioner Luttrell filed with the Secretary of the State Election Board a Declaration of Candidacy for the Office of State Representative, House District 37, during the 2024 Candidate Filing Period starting April 3, 2024, and ending on April 5, 2024.
3. The Petition was timely filed and accompanied by a cashier's check in the amount of \$250.00. A Notice of Hearing was issued on Tuesday, April 9, 2024.
4. The Board received proof of personal service made on Contestee within twenty-four (24) hours of setting the Petition for hearing, as required by 26 O.S. 2021, §§ 5-124 & 5-125. The Petitioner delivered a properly executed return of service to the Secretary of the State Election Board on the date of the hearing.
5. Under 26 O.S. 2011, § 5-130, “[t]he burden of proof shall be upon the petitioner to sustain the allegations in his petition.” In order to sustain his or her burden of proof, the petitioner must prove the allegations set forth in the Petition by the greater weight of the evidence.
6. Petitioner Luttrell alleges that Contestee Rogers “failed to re-register as a voter in Oklahoma since his return to the state, and is therefore ineligible for a candidacy until he does so six months before filing.”
7. Pursuant to 14 O.S. 2021, § 108, a candidate for State Representative for any House district “must have been a registered voter in such district and a resident residing within such district for the six-month period immediately preceding the first day of the filing period prescribed by law.”

8. Consequently, Contestee Rogers was required to have been a registered voter and resident of District 37 on or before October 2, 2023. Neither party disputes that Contestee Rogers was a resident of District 37 on or before October 2, 2023.
9. Pursuant to 26 O.S. 2023, § 4-120(A)(5), “The registration of any registered voter shall be canceled *only* for one of the following reasons: . . . registration in another county or state.” (emphasis added).
10. Pursuant to 26 O.S. § 4-120.6, “The secretary of each county election board shall cancel the registration of all registered voters who have been registered in another county in Oklahoma, or in another state, upon receipt of notice of same.”
11. Okla. Admin. Code § 230:15-11-4(a) provides, “Upon receipt of proper notice, and upon positive identification of the voter, the Secretary of the County Election board shall cancel a voter’s registration. Cancellations shall be processed immediately after the receipt of proper notice.”
12. Under section (a)(1) and (5) of Okla. Admin. Code § 230:15-11-4, “Proper notice shall include potential deletion report . . . notice of registration in another state.”
13. Okla. Admin. Code § 230:15-11-5 provides, “Information received by the State Election Board from . . . other states, and from other counties in Oklahoma is entered manually or imported electronically into MESA. . . . The voter registrations of persons listed on the Potential Deletion Report shall be cancelled only upon positive identification of the voter’s registration record. If there is any doubt that the match is not correct and valid match, the registration of the matched voter in the county shall be retained.”
14. Constestee filed his application for voter registration with the Osage County Election Board on February 7, 2020 – listed as the transaction date. **See Petitioner Exhibit F.**

15. The Osage County Election Board approved Contestee's Application for Voter Registration on February 19, 2020 – listed as the audit date. **See Petitioner Exhibit F.**
16. Contestee filed a change in political affiliation with the Osage County Election Board on March 16, 2020 – listed as the transaction date. **See Petitioner Exhibit F.**
17. Contestee voted in the March 3, 2020 presidential preferential primary and the June 30, 2020 state primary elections. **See Testimony of Contestee Rogers; Petitioner Exhibit F.**
18. Contestee testified that he moved to Durango, Colorado to attend college in the Fall of 2020 until March 2023. **See Testimony of Contestee Rogers.**
19. Contestee completed his application for voter registration with the state of Colorado on September 3, 2020 and was received by La Plata County Clerk on October 13, 2020. **See Petitioner Exhibit G.**
20. Contestee filed his Candidate Filing Packet with Durango, Colorado on January 13, 2023, for city council. **See Petitioner Exhibit B.**
21. Contestee testified that upon moving back to Oklahoma in March of 2023, due to the death of his grandmother, he discovered his Oklahoma voter registration still existed and there was no need to re-register since his domicile address remains the same as it was since registering in 2020. **See Testimony of Contestee Rogers.**
22. Contestee's Colorado voter registration was cancelled on January 25, 2024. **See Petitioner Exhibit G.**
23. Petitioner neither alleged nor presented any evidence that the Contestee does not reside at the Fairfax, Oklahoma address listed on his Oklahoma voter registration record.

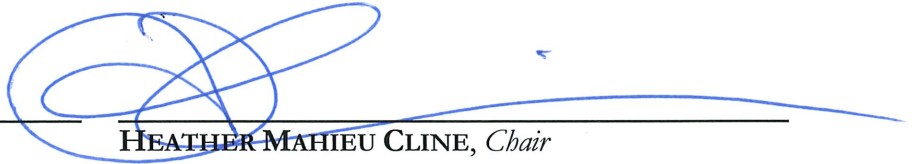
24. While 26 O.S. 2023, § 4-120 provides an exclusive list of reasons to cancel an individual's voter registration, the statutory provisions found in Title 26 of the Oklahoma Election Code must be taken in context with one another. 26 O.S. § 4-120.6 goes on to provide the process by which certain voter registrations must be cancelled, which requires notice from another jurisdiction. Even further, the Oklahoma Administrative Code prescribes for the election boards the procedure to process such notice by ensuring a valid match utilizing the voter information received from the previous jurisdiction. Therefore, submitting a voter registration application in another state does not automatically cancel a voter registration in Oklahoma without notice given to the county election board.
25. No evidence was presented that Oklahoma election officials received documentation from Colorado regarding the Contestee's 2020 voter registration application in that state as required by 26 O.S. § 4-120.6 nor that the Contestee voluntarily cancelled his Oklahoma registration pursuant to 26 O.S. 2023, § 4-120.1.
26. Accordingly, considering all the evidence and testimony presented, the Board finds and concludes that it is more probably true than not true that Contestee Rogers became a registered voter of District 37 in 2020, and his Oklahoma voter registration has never been cancelled. Contestee's original voter registration date in Oklahoma precedes the October 2, 2023 deadline prescribed in 14 O.S. 2021, § 108.
27. Therefore, Petitioner failed to meet his burden of proof in this matter. Petitioner Luttrell's Petition is therefore **DENIED**, and Contestee Rogers' name shall remain on the ballot as a candidate for the Office of State Representative, House District 37.
28. Petitioner Luttrell shall bear the costs incurred pursuant to 26 O.S. 2021, § 5-131.

On the 18th day of April 2024, all members of the State Election Board, constituting a quorum, voted unanimously to **DENY** the petition and **RETAIN** the candidacy of Carter Davis Rogers.

OKLAHOMA STATE ELECTION BOARD

Date

5-7-24



HEATHER MAHIEU CLINE, *Chair*

**CERTIFICATE OF MAILING**

I hereby certify that on the 8 day of May 2024, the above and foregoing Findings of Fact, Conclusions of Law, and Final Order in the above-captioned matter was mailed to:

Carter Davis Rogers  
525 North 7<sup>th</sup> Street  
Fairfax, OK 74637

CONTESTEE

Anthony J. Ferate  
Spencer Fane LLP  
9400 North Broadway Extension, Suite 600  
Oklahoma City, OK 73114

COUNSEL FOR PETITIONER



---

**GARRIS DENNIS**  
*Clerk to the State Election Board*