

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

IN THE MATTER OF CONTEST OF THE)
CANDIDACY OF **WHITNEY COLE**)
FOR THE OFFICE OF STATE) CAUSE NO. 2016-11
REPRESENTATIVE, DISTRICT 72)

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, Janis W. Preslar, Deputy Attorney General; and Jason T. Seay, Assistant Attorney General. Also present, but not participating were Jerry Buchanan, Alternate Member; and Debi Thompson, Alternate Member.

Petitioner Monroe Nichols was present and represented by counsel, Scott Inman. Contestee Whitney Cole did not personally appear.

The Petition was filed and Notice of Hearing issued on April 19, 2016, at 2:20 p.m.

The Board received proof of personal service made on Ms. Cole by the Tulsa County Sheriff on April 19, 2016, at 5:15 p.m., within 24 hours of setting the Petition for hearing, as required by 26 O.S. 2011, § 5-124.

Ms. Cole answered the contest, and presented a cashier’s check in the amount of \$250.00, as prescribed in 26 O.S. 2011, § 5-129. Ms. Cole also filed a written answer in the cause.

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

1. Ms. Cole filed with the Board a Declaration of Candidacy for the office of State Representative, District 72, during the filing period April 13-15, 2016.
2. Mr. Nichols filed a Declaration for Candidacy for the office of State Representative, District 72, during the filing period April 13-15, 2016.
3. Mr. Nichols filed a Petition for Contest of Candidacy on April 19, 2016, challenging Ms. Cole’s candidacy for State Representative, District 72.
4. Mr. Nichols challenges Ms. Cole’s candidacy on the grounds that she has not been registered to vote in the district for which she filed as a candidate for at least six

months immediately preceding April 13, 2016, as required by 14 O.S. 2011, § 108.

5. 14 O.S. 2011, § 108 in pertinent part states, “[t]o 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.”
6. The following exhibits were introduced into evidence at the hearing of this matter without objection:

Exhibit 1 – introduced by Mr. Nichols and consisting of the following documents:

- a. Notice of Hearing for the above-captioned matter (1 page);
- b. Petition for Contest of Candidacy filed by Mr. Nichols (1 page);
- c. Ms. Cole’s Declaration of Candidacy (1 page);
- d. Return of Service for Notice of Hearing for the above-captioned matter executed by the Tulsa County Sheriff’s Office (2 pages);
- e. Text of 14 O.S. 2011, § 108 (1 page);
- f. Ms. Cole’s voting record (2 pages);
- g. Ms. Cole’s voter registration statement (1 page); and
- h. Tulsa County State House District Map (1 page);

Letter from Ms. Cole to the Board dated April 19, 2016, and received by the Board on April 25, 2016; and

Statement of Occupancy for Ms. Cole dated April 19, 2016, and received by the Board on April 25, 2016.

7. The evidence presented by Mr. Nichols shows that Ms. Cole was a registered voter in House District 73 until April 14, 2016. On April 14, 2016, Ms. Cole became a registered voter in House District 72.
8. In Ms. Cole’s April 19, 2016, Letter to the Board, she admits that she had been registered to vote in House District 73, although she currently resides in House District 72.
9. The Board finds by the weight of the evidence that Ms. Cole has not been registered to vote in House District 72 for at least six months immediately preceding April 13,

2016, which is the first date of the filing period for the office of State Representative, House District 72, for the current election cycle. 26 O.S. 2011, § 5-110.

10. Mr. Nichol's petition is therefore granted and Ms. Cole's name will not appear on the ballot as a candidate for the office of State Representative, District 72.
11. Costs are assessed against Ms. Cole, pursuant to 26 O.S. 2011, § 5-131.

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

OKLAHOMA STATE ELECTION BOARD



STEVE CURRY, Chairman

