

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

IN THE MATTER OF THE CONTEST OF )  
 THE CANDIDACY OF **DARRICK** )  
**MATTHEWS** FOR THE OFFICE OF STATE ) CAUSE NO. 2020-14  
 SENATOR, DISTRICT 22 )

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

The above-styled cause was heard by the State Election Board for the State of Oklahoma on Wednesday, December 16, 2020, meeting pursuant to lawful notice and posting of an agenda consistent with the Open Meeting Act, 25 O.S. 2011, § 301 *et seq.* The following members of the State Election Board (“Board” or “SEB”) were present: Mr. Tom Montgomery, Chair, and Ms. Heather M. Cline, Member, which constitutes a quorum of the State Election Board. Also present were Assistant Secretary for the Oklahoma State Election Board, Pam Slater, and counsel for the State Election Board, Assistant Attorney General Thomas R. Schneider. Also present, but not participating was Jerry Buchanan, Alternate Member. Board Vice Chair Dr. Tim Mauldin was unable to attend the meeting, and Alternate Member Ms. Debi Thompson was unable to fill in for Dr. Mauldin. Petitioner, Robert D. Johnson appeared in person and with counsel, Robert McCampbell. Contestee Darrick Matthews appeared in person and with counsel, Anthony J. Ferate.

Petitioner Johnson’s Petition for Contest of Candidacy was filed and Notice of Hearing was issued on Friday, December 11, 2020. The Board received proof from the Petitioner that the Oklahoma County Sheriff’s Office successfully served Contestee Matthews within 24 hours of setting the Petition for hearing, as required by 26 O.S. 2011, § 5-124. Contestee Matthews submitted a cashier’s or certified check in the amount of \$250.00, as required by 26 O.S. 2011, § 5-129, as well as submitted an Answer.

During the hearing, the following exhibits were offered into the record and testimony was heard, after first being duly sworn, from the following persons:

<b>Petitioner’s Exhibits</b>	
Petitioner’s Exhibit 1 (Certified Copy of Voter Registration Record for Darrick R. Matthews, showing registration at 21321 Highlander Ridge Dr., Edmond, OK 73012, changed on 8/31/2018)	<b>ADMITTED</b>
Petitioner’s Exhibit 2 (Certified Copy of Voter Registration Record for Darrick R. Matthews, showing registration for 1400 Autumn Creek Dr., Edmond, OK 73003, changed on 11/4/2020)	<b>ADMITTED</b>
Petitioner’s Exhibit 3 (Certified Copy of Voter Registration Record for Darrick R. Matthews, showing registration at 21321 Highlander Ridge Dr., Edmond, OK 73012, changed on 11/14/2020)	<b>ADMITTED</b>
Petitioner’s Exhibit 4 (Certified Copy of Voter Registration History and Credit for Darrick R. Matthews)	<b>ADMITTED</b>
Petitioner’s Exhibit 8 ( <i>The McCarville Report</i> article published 11/10/2020)	<b>ADMITTED</b>
Petitioner’s Exhibit 9 ( <i>The McCarville Report</i> article published 11/16/2020)	<b>ADMITTED</b>

<b>Petitioner's Exhibits</b>	
Petitioner's Exhibit 13 (Screenshots from OK Voter Portal profile of voter Robert G. McCampbell)	<b>ADMITTED</b>

<b>Contestee's Exhibits</b>	
Contestee's Exhibit A (Declaration of Candidacy for Darrick Matthews)	<b>ADMITTED</b>
Contestee's Exhibit B (Oklahoma County Assessor Report for 21321 Highlander Ridge Dr., Edmond, OK 73012 accessed from online Public Access System)	<b>ADMITTED</b>
Contestee's Exhibit C (Copy of Oklahoma Driver's License Darrick R. Matthews)	<b>ADMITTED</b>
Contestee's Exhibit D (Certified Copy of Voter Registration History and Credit for Darrick R. Matthews)	<b>ADMITTED</b>
Contestee's Exhibit E (Copy of Heritage Hall 2020-21 Student, Faculty, and Administration Directory)	<b>ADMITTED</b>
Contestee's Exhibit F (Copy of OG&E bills for account holder Darrick Matthews for service address 21321 Highlander Ridge Dr., Oklahoma City, OK 73003)	<b>ADMITTED</b>

*Witnesses for Contestee*

Contestee Darrick Matthews, *for himself*

The Board finds and concludes as follows:

1. The SEB 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. 2011, §§ 5-124 & 5-125<sup>1</sup>.
2. 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. Greater weight of the evidence is defined as:

[C]onsidering all of the evidence in the case, [the Board must be persuaded] that the proposition on which such a party has the burden of proof is more probably true than not true. This is does not mean the greater number of witnesses testifying to a fact, but means what seems to [be] more convincing and probably true. OUJI CIV. INSTR. NO. 3.1.

3. Johnson alleged in his Petition to Contest Candidacy that since Contestee Matthews has not been a continuously registered in Sendate District 22 for the six (6) months immediately preceding the filing period, he does not qualify to be a candidate under 14 O.S. 2011, § 80.8. Instead, Petitioner argued that Contestee was a registered voter in Senate District 41 for at

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<sup>1</sup> Contestee Matthews objected to the fact that he received proper service, stating that notice was taped to the door of Contestee Matthews' residence. Notwithstanding, Contestee appeared and answered, demonstrating that he had actual notice of the proceeding. Further, under 26 O.S. 2011, § 5-125, candidates who are unable to be served are presumed to receive constructive service through service on the Secretary of the State Election Board. In this case, the return of service was delivered to the Secretary prior to or at the hearing.

least ten (10) days during the six-month period starting November 4 through November 14, 2020.

4. Pursuant to 14 O.S. 2011, § 80.8, a candidate for State Senator “must have been a registered voter in the district and a resident residing within such district for the six-month period immediately preceding the first day of the filing period.”
5. The filing period began on Wednesday, December 7, 2020. Consequently, Matthews was required to have been a continuous registered voter and resident of Senate District 22 on or before June 6, 2020.
6. Matthews’ voter registration changed from Senate District 22 to District 41 on November 4, 2020. *See Johnson Exs. 1 & 2.*
7. Matthews’ voter registration changed from Senate District 41 back to District 22 on November 14, 2020. *See Johnson Exs. 2 & 3.*
8. Matthews’ voter activity shows address of residence changes on November 4, 2020 and November 14, 2020. *See Johnson Ex. 4.*
9. Contestee Matthews admits to accessing the Oklahoma Voter Portal (“Portal”) using his cell phone and claims to have done so to show his grandmother how to use it. Regardless of his intention, his voter registration was changed to a residence outside of District 22. *See Testimony of Darrick Matthews.*
10. In spite of his testimony and changes to his registration, Matthews continued to reside at 21321 Highlander Ridge Dr., Edmond, OK 73012. *See Matthews Exs. B-F.*
11. Okla. Stat. tit. 14, § 80.8 (2011) imposes two (2) requirements, or qualifications, on candidates—(1) registration in the senate district, and (2) residency in the senate district—“for the six-month period immediately preceding the first day of the filing period.” Matthews’ residency for the statutorily prescribed six-month period is undisputed. However, the same cannot be said for his registration<sup>2</sup>. Matthews’ voter registration records show a break in November 2020 during which Matthews’ registration changed from Senate District 22 to District 41 and back to District 22. Because of this break in registration, Matthews fails to meet the first requirement of § 80.8. This failure causes him to be ineligible as a matter of law.
12. Petitioner Johnson has met his burden of proof by the greater weight of the evidence in showing that it is more likely true than it is not that Contestee Matthews does not meet the six-month registration requirement set forth in 14 O.S. 2011, § 80.8.

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<sup>2</sup> Whether or not a candidate intends to be registered in the required Senate District, or if the candidate intends not to register in another district is *not* the question here. The question is plainly: Was the candidate registered to vote in the district for the six-month period immediately preceding the first day of the filing period? If the candidate is continuously registered for that six-month period, the candidate meets the registration requirement under 14 O.S. 2011, § 80.8. If not, then they are not qualified to run as a candidate.

13. Johnson's Petition is therefore **SUSTAINED**, pursuant to 26 O.S. 2011, § 5-130, and Matthews' name is **STRICKEN** and shall not appear on the ballot as a candidate for the office of State Senator, District 22.

14. Costs are assessed against Contestee Darrick Matthews pursuant to 26 O.S. 2011, § 5-131.

On the 16th day of December, 2020, a number of members of the State Election, constituting a quorum, voted to **SUSTAIN** Petitioner Robert D. Johnson's Petition for Contest of Candidacy and **STRIKE** the candidacy of Contestee Darrick Matthews on the ballot for the Office of State Senator, District 22.

OKLAHOMA STATE ELECTION BOARD



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**TOM MONTGOMERY**, *Chairman*

12/23/2020

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Date