

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

IN THE MATTER OF THE CONTEST OF)
THE CANDIDACY OF **JASON LOWE** FOR)
THE OFFICE OF STATE) CAUSE NO. 2022-07
REPRESENTATIVE, DISTRICT 97.)
)

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 Monday, April 25, 2022, meeting pursuant to lawful notice under the Open Meeting Act, 25 O.S. 2021, § 301 *et seq.* All testimony was taken under oath. The hearing was transcribed, and a permanent record of such will be kept.

The following members of the State Election Board (“Board”) were present: Tom Montgomery, Chair; Dr. Tim Mauldin, Vice Chair; and Heather Cline, Member. Also present were Paul Ziriaux, Secretary; and counsel for the State Election Board, Niki Batt, Deputy Attorney General; and Thomas R. Schneider, Deputy General Counsel to the Attorney General. Also present, but not participating were Jerry Buchanan, Alternate Member; and Debi Thompson, Alternate Member.

Petitioner, Lisa Janloo, appeared in person and was represented by counsel Chad Moody. Contestee, Jason Lowe, appeared in person and represented by counsel Emily Virgin. Contestee Lowe filed an Answer along with a cashier's or certified check in the amount of \$250.00, as required under 26 O.S. 2021, § 5-129. The Petition was timely filed and Notice of Hearing issued on Monday, April 18, 2022. The Board received proof from the Petitioner that the Oklahoma County Sheriff served Contestee within 24 hours of setting the Petition for hearing, as required by 26 O.S. 2021, § 5-124. The Petitioner delivered the executed return of service to the Secretary of the State Election Board on the date of the hearing.

Prior to the start of hearing, the parties were advised that the Board requested new evidence in light of Cause 2020-08 in which Contestee Lowe’s residency was challenged at the same residential

address by Petitioner's relative. Petitioner Janloo also stipulated to the admission of Contestee Lowe's exhibits.

The Board makes the following findings of fact and conclusions of law:

1. Contestee Lowe filed with the State Election Board a Declaration of Candidacy for the Office of State Representative, District 97, during the 2022 Candidate Filing Period starting April 13, 2022, and ending on April 15, 2022.

2. Petitioner Janloo filed with the State Election Board a Declaration of Candidacy for the Office of State Representative, District 97, during the 2022 Candidate Filing Period starting April 13, 2022, and ending on April 15, 2022.

3. 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. 2021, §§ 5-124 & 5-125.

4. 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.

5. Petitioner Janloo alleges that Contestee Lowe was unqualified to run for the office of state representative in House District 97 because Lowe did not reside in the district and that he lied under oath.

6. Pursuant to 14 O.S. 2021, § 108, a candidate for State Representative for any House district in 2022 "must have been a registered voter and a resident residing in such district no later than December 31, 2021."

7. Contestee Lowe stated that his current address is 25½ NE 63rd St. and that said address has resided there since 2015 or 2016. **See Testimony of Jason Lowe (Hrg. Tr. 6:13,15 and 14:8).**

8. Contestee Lowe listed his voter registration and residential address as 25½ NE 63rd St., Oklahoma City, OK 73105 on his Declaration of Candidacy. **See *id.* (Hrg. Tr. 14:12-14).**

9. Contestee Lowe pays for City of Oklahoma City utilities at the 25½ NE 63rd St. address. **See Ex Nos. 1A & 1B.**

10. Contestee Lowe pays for services provided by Cox Communications at the 25½ NE 63rd St. address. **See Ex No. 2.**

11. Contestee receives newspapers at the 25½ NE 63rd St. address. **See Ex Nos. 3A & 3B.**

12. Contestee makes lease payments for the 25½ NE 63rd St. address to Dr. Clary. **See Ex Nos. 4A & 4B.**

13. Contestee contracted for the installation of a Ring security system in 2021 for the 25½ NE 63rd St. address. **See Ex No. 5.**

14. Contestee's landlord, Dr. Carl Clary, stated in a letter dated April 20, 2022, that Contestee Lowe lived in his rental property located at 25½ NE 63rd St., Oklahoma City, OK 73105, since 2016. **See Ex No. 6.**

15. Contestee contracted with Nathan Rosales to cut his lawn at 25½ NE 63rd St. address. **See Ex No. 7.**

16. The Oklahoma Supreme Court ruled on the question of residency as it was set forth in 14 O.S. § 108, in *Box v. State Election Bd. of Okla.*, 1974 OK 104, 526 P.2d 936. In determining the question of residency, the Court noted that it was one of fact, not law. *Id.* at ¶ 21, 526 P.2d at 940. Moreover, the Court also stated, '[t]he controlling fact to be considered is the fact of intent and to determine this fact . . . may take into consideration all the movements, transactions, and attending circumstances of the party or parties involved in the question.' *Id.* (emphasis added).

17. In *Suglove v. Oklahoma Tax Commission*, 1979 OK 168, ¶15, 605 P.2d 1315, 1317-18, the

Court said:

[T]o 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

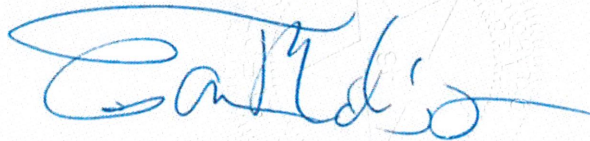
(citations omitted).

18. Accordingly, considering all the evidence submitted, the Board finds and concludes that Petitioner Janloo failed to meet her burden of proof by the greater weight of the evidence in showing that Contestee Lowe does not reside in House District 97. Therefore, the Petition is DENIED, and Contestee Lowe shall remain on the ballot as a candidate for the Office of State Representative, House District 97.

19. Petitioner Janloo shall bear the costs incurred pursuant to 26 O.S. 2021, § 5-131.

On the 25th day of April 2022, members of the State Election Board voted unanimously to **DENY** the petition and **RETAIN** the candidacy of Jason Lowe for the Office of State Representative, District 97.

OKLAHOMA STATE ELECTION BOARD



TOM MONTGOMERY, *Chairman*

June 22, 2022

Date

CERTIFICATE OF MAILING

I hereby certify that on the 22 day of June 2022, the above and foregoing Findings of Fact, Conclusions of Law, and Final Order in the above-captioned matter was mailed to:

Emily Virgin
VIRGIN LAW FIRM
404 S. Peters
Norman, OK 73069

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ATTORNEY FOR CONTESTEE LOWE

ATTORNEY FOR PETITIONER GILBERT



DAVID DUNN

Clerk to the State Election Board