

MINUTES

OF THE STATE ELECTION BOARD AT ITS MEETING

April 21, 2020

The State Election Board met in a Special meeting at 8:30 a.m. in Room G-41 of the Jim Thorpe Building, 2101 N. Lincoln Blvd., Oklahoma City, OK 73105. Advance notice of the meeting was performed by filing a written notice with the Secretary of State on April 15, 2020, at 2:55 p.m. A copy of the agenda is attached.

Meeting was called to order by **Tom Montgomery**

ROLL CALL: THOMAS MONTGOMERY, CHAIRMAN- **Present**
DR. TIM MAULDIN, VICE-CHAIRMAN - **Present (at 8:43)**
HEATHER M. CLINE, MEMBER - **Present**
JERRY BUCHANAN, ALTERNATE MEMBER - **Present**
DEBI THOMPSON, ALTERNATE MEMBER - **Present**

As allowed by SB 661, 2020 O.S.L. 3, § 3, the Oklahoma State Election Board met virtually. Appearing by videoconference were Chairman Montgomery, Ms. Cline, Mr. Buchanan, and Ms. Thompson. Dr. Mauldin appeared by teleconference (he joined the meeting at 8:43 A.M.).

Also present were Vice Deputy Attorney General Niki Batt and Assistant Attorney General Thomas R. Schneider. Note: Alternate State Election Board members Jerry Buchanan and Debi Thompson, while physically present, did not participate in the following meeting and/or Hearing on Contests of Candidacy, unless specifically noted in the Minutes.

BUSINESS CONDUCTED AT THE MEETING:

1. Call to Order, Roll Call, confirmation of Quorum, and certification of Open Meeting Act compliance.
2. Review discussion, and possible action or vote concerning the approval of minutes for the Special meeting held on April 20, 2020. **ACTION TAKEN:** Mr. Montgomery moved to table possible action or vote concerning the approval of minutes for the Special meeting held on April 20, 2020 until a future meeting. Ms. Cline seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin-aye; Ms. Cline-aye. Motion passed, 3-0.
3. Remarks by Secretary of the State Election Board/Office of Attorney General regarding hearing procedure. Chairman Montgomery recognized State Election Board Secretary Paul Ziriaux for explanation of the proceedings and the need for contestees to pay a \$250 fee. Mr. Ziriaux announced that two Contests of Candidacy listed on the posted agenda, **Kerbs v. Odneal**, Cause No. 2020-09, and **Boggs v. Woody**, Cause No. 2020-10, have been withdrawn.
4. Docket Call began at 8:48 A.M. Following the Docket Call, Chairman Montgomery handed the gavel to Secretary Ziriaux to conduct the meeting.

Secretary Ziriaux asked for a brief 5-minute recess. **ACTION TAKEN:** Ms. Cline moved that the Board take a 5-minute recess until 9:34 A.M. Seconded by Dr. Mauldin. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin-aye; Ms. Cline-aye. Motion passed, 3-0. **ACTION TAKEN:** At 9:34 A.M. or shortly thereafter, Ms. Cline moved to reconvene the meeting. Seconded by Mr. Montgomery. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin-aye; Ms. Cline-aye. Motion passed, 3-0.

The Contests of Candidacy hearings identified in agenda items 5 through 12 were taken up by the State Election Board in the docket order they deemed appropriate and are so reflected in these Minutes.

5. **HEARING AND DECISION** - *In the Matter of the Contest of Candidacy of Shawn Wilson for the Office of State Representative, District 37, Luttrell v. Wilson, Cause No. 2020-02.* Petitioner Ken Luttrell appears personally and without counsel. Contestee Shawn Wilson appears not. The Petitioner provided the Sheriff's Return of Service to the Secretary of the State Election Board before or on the date of the hearing. The Contestee did not submit a cashier's or certified check in the amount of \$250.00, as required by 26 O.S. 2011, § 5-129. **ACTION TAKEN:** The Board found the Contestee to be in default pursuant to 26 O.S. § 5-130, which also constitutes an admission of all allegations set forth in the petition. Ms. Cline moved to sustain the petition and to strike the name of Shawn Wilson from the list of candidates for State Representative, District 37. Dr. Mauldin seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin-aye; Ms. Cline-aye. Motion passed, 3-0. (Copies of the Petition, Notice of Hearing, Return of Service, Exhibits, and Findings of Fact, Conclusions of Law, & Final Orders attached)

ACTION TAKEN: Ms. Cline moved to delegate to Chairman Montgomery the authority to sign Findings & Orders in Cause No. 2020-02. Dr. Mauldin seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin-aye; Ms. Cline-aye. Motion passed, 3-0.

6. **HEARING AND DECISION** - *In the Matter of the Contest of Candidacy of Gregory Dunson for the Office of State Representative, District 51, Boles v. Dunson, Cause No. 2020-01.* Petitioner Brad Boles appeared by counsel Geoffrey Long who appeared by videoconference. Contestee Gregory Dunson appeared and with counsel Bryan Pitman, who appeared by videoconference. The Petitioner provided Return of Sheriff Service to the Secretary of the State Election Board before or on the date of the hearing. Contestee did submit a cashier's or certified check in the amount of \$250.00, as required by 26 O.S. 2011, § 5-129, as well as an Answer and Brief in Support. During the hearing, exhibits were offered into the record and testimony was heard. **ACTION TAKEN:** Petitioner Boles sustained his burden of proof by the greater weight of the evidence in showing that Contestee Dunson does not meet the six-month registration requirement set forth in 14 O.S. 2011, § 108. Mr. Montgomery moved to sustain the petition and to strike the name of Gregory Dunson from the list of candidates for State Representative, District 51. Dr. Mauldin seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin-aye; Ms. Cline-aye. Motion passed, 3-0. (Copies of the Petition, Notice of Hearing, Return of Service, Exhibits, and Findings of Fact, Conclusions of Law, & Final Orders attached)

ACTION TAKEN: Ms. Cline moved to delegate to Chairman Montgomery the authority to sign Findings & Orders in Cause No. 2020-01. Dr. Mauldin seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin-aye; Ms. Cline-aye. Motion passed, 3-0.

7. **HEARING AND DECISION** - *In the Matter of the Contest of Candidacy of Kevin McDugle for the Office of State Representative, Dist. 12, Dine v. McDugle, Cause No. 2020-03.* Petitioner Justin Dine appeared personally by telephone and without counsel. Contestee Kevin McDugle appeared in person without counsel. The Petitioner provided the Return of Sheriff Service to the Secretary of the State Election Board on or before the date of the hearing.

Contestee submitted a cashier's or certified check in the amount of \$250.00, as required by 26 O.S. 2011, § 5-129. During the hearing, exhibits were offered into the record and testimony was heard. **ACTION TAKEN:** Petitioner Dine failed to sustain his burden of proof by the greater weight of the evidence in showing that Contestee McDugle does not meet the six-month residency requirement as set forth in 14 O.S. 2011, § 108. Neither the evidence presented nor the witnesses who testified for the Petitioner's case were able to show that it was more likely true than not true that Contestee McDugle intended to live outside House District 12. Mr. Montgomery moved to deny the petition and to retain Contestee Kevin McDugle on the ballot as a candidate for State Representative, District 12. Ms. Cline seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin-aye; Ms. Cline-aye. Motion passed, 3-0. (Copies of the Petition, Notice of Hearing, Return of Service, Exhibits, and Findings of Fact, Conclusions of Law, & Final Orders attached)

ACTION TAKEN: Ms. Cline moved to delegate to Chairman Montgomery the authority to sign Findings & Orders in Cause No. 2020-03. Dr. Mauldin seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin-aye; Ms. Cline-aye. Motion passed, 3-0.

ACTION TAKEN: Ms. Cline moved that the Board recess for 30 minutes, until 1:18 P.M. Seconded by Dr. Mauldin. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin-aye; Ms. Cline-aye. Motion passed, 3-0. **ACTION TAKEN:** At 1:18 P.M. or shortly thereafter, Dr. Mauldin moved to reconvene the meeting. Seconded by Ms. Cline. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin-aye; Ms. Cline-aye. Motion passed, 3-0.

8. **HEARING AND DECISION** - *In the Matter of the Contest of Candidacy of Stevan Elvis Cunningham for the Office of State Senator, District 45, Rosino v. Cunningham, Cause No. 2020-04.* Petitioner Paul Rosino appears by counsel, Lance Cargill appears via videoconference. Contestee Stevan Cunningham appears in person and without counsel. The Petitioner provided the Sheriff's Return of Service to the Secretary of the State Election Board before or on the date of the hearing. Contestee did submit a cashier's or certified check in the amount of \$250.00, as required by 26 O.S. 2011, § 5-129, as well as an Answer and Brief in Support. During the hearing, exhibits were offered into the record and testimony was heard. **ACTION TAKEN:** Petitioner Rosino sustained his burden of proof by the greater weight of the evidence in showing that it was more likely true than not that Contestee Cunningham does not meet the six-month registration requirement set forth in 14 O.S. 2011, § 80.8. Ms. Cline moved to sustain the petition in Cause No. 2020-04 and to strike the Contestee Stevan Elvis Cunningham's name from the ballot as a candidate for State Senator, District 45. Dr. Mauldin seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin-aye; Ms. Cline-aye. Motion passed, 3-0. (Copies of the Petition, Notice of Hearing, Return of Service, Exhibits, and Findings of Fact, Conclusions of Law, & Final Orders attached)

ACTION TAKEN: Ms. Cline moved to delegate to Chairman Montgomery the authority to sign Findings & Orders in Cause No. 2020-04. Dr. Mauldin seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin-aye; Ms. Cline-aye. Motion passed, 3-0.

9. **HEARING AND DECISION** - *In the Matter of the Contest of Candidacy of Jamie McGuire for the Office of State Representative, District 69, Dills v. McGuire, Cause No. 2020-05.* Petitioner Sheila Dills appears by counsel, Geoffrey Long via videocon-

ference. Contestee Jamie McGuire appears in person and with counsel, Daniel Wilson. The Petitioner provided Sheriff's Return of Service to the Secretary of the State Election Board before or on the date of the hearing. Contestee did submit a cashier's or certified check in the amount of \$250.00, as required by 26 O.S. 2011, § 5-129. During the hearing, exhibits were offered into the record and testimony was heard. **ACTION TAKEN:** Petitioner Sheila Dills sustained her burden of proof by the greater weight of the evidence in showing that it is more likely true than it is not that Contestee McGuire does not meet the six-month registration requirement set forth in 14 O.S. 2011, § 108. Mr. Montgomery moved to sustain the petition in Cause No. 2020-05 and to strike the Contestee Jamie McGuire's name from the ballot as a candidate for State Representative, District 69. Dr. Mauldin seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin-aye; Ms. Cline-aye. Motion passed, 3-0. (Copies of the Petition, Notice of Hearing, Return of Service, Exhibits, and Findings of Fact, Conclusions of Law, & Final Orders attached)

ACTION TAKEN: Ms. Cline moved to delegate to Chairman Montgomery the authority to sign Findings & Orders in Cause No. 2020-05. Dr. Mauldin seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin-aye; Ms. Cline-aye. Motion passed, 3-0.

10. **HEARING AND DECISION** - *In the Matter of the Contest of Candidacy of Ismail A. Shan for the Office of State Representative, District 72, Nichols v. Shan, Cause No. 2020-07.* Petitioner Monroe Nichols appeared by counsel, Emily Virgin, via video-conference. Contestee Ismail A. Shan appeared in person and without counsel. The Petitioner provided Sheriff's Return of Service to the Secretary of the State Election Board before or on the date of the hearing. Contestee did submit a cashier's or certified check in the amount of \$250.00, as required by 26 O.S. 2011, § 5-129. During the hearing, exhibits were offered into the record and testimony was heard. **ACTION TAKEN:** Petitioner Monroe Nichols sustained 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 Shan does not meet the six-month residential requirement set forth in 14 O.S. 2011, § 108. Dr. Mauldin moved to sustain the petition in Cause No. 2020-07 and to strike the Contestee Ismail A. Shan's name from the ballot as a candidate for State Representative, District 72. Mr. Montgomery seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin-aye; Ms. Cline-aye. Motion passed, 3-0. (Copies of the Petition, Notice of Hearing, Return of Service, Exhibits, and Findings of Fact, Conclusions of Law, & Final Orders attached)

ACTION TAKEN: Ms. Cline moved to delegate to Chairman Montgomery the authority to sign Findings & Orders in Cause No. 2020-05. Dr. Mauldin seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin-aye; Ms. Cline-aye. Motion passed, 3-0.

11. **HEARING AND DECISION** - *In the Matter of the Contest of Candidacy of Jason Lowe for the Office of State Representative, District 97, Janloo v. Lowe, Cause No. 2020-08.* Petitioner Ben M. Janloo appeared in person and was represented by counsel, M. Mark Myles. Contestee Jason Lowe appeared via videoconference and served as his own counsel. The Petitioner provided Sheriff's Return of Service to the Secretary of the State Election Board before or on the date of the hearing. Contestee Lowe did submit 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, exhibits were offered into the record and testimony was heard. **ACTION TAKEN:** Ms. Cline moved

that a 7-minute recess be taken. Mr. Montgomery seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin-aye; Ms. Cline-aye. Motion passed, 3-0.

ACTION TAKEN: At 4:38 P.M. or shortly thereafter, Mr. Montgomery moved to reconvene. Dr. Mauldin seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin-aye; Ms. Cline-aye. Motion passed, 3-0.

ACTION TAKEN: Petitioner Ben M. Janloo has not sustained 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 Lowe does not meet the six-month residential requirement set forth in 14 O.S. 2011, § 108. Ms. Cline moved to deny the petition in Cause No. 2020-08 and to retain the Contestee Jason Lowe's name on the ballot as a candidate for State Representative, District 97. Dr. Mauldin seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin-aye; Ms. Cline-aye. Motion passed, 3-0. (Copies of the Petition, Notice of Hearing, Return of Service, Exhibits, and Findings of Fact, Conclusions of Law, & Final Orders attached)

ACTION TAKEN: Ms. Cline moved to delegate to Chairman Montgomery the authority to sign Findings & Orders in Cause No. 2020-08. Dr. Mauldin seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin-aye; Ms. Cline-aye. Motion passed, 3-0.

12. **HEARING AND DECISION** - *In the Matter of the Contest of Candidacy of Kenneth Robert Tapp for the Office of State Representative, District 61, Patzkowsky v. Tapp, Cause No. 2020-11.* Petitioner Kenton Patzkowsky appeared by counsel, Anthony J. Ferate. The Contestee, Kenneth Robert Tapp, appeared in person and with counsel, Jonathan Krems. The Petitioner provided Sheriff's Return of Service to the Secretary of the State Election Board before or on the date of the hearing. Contestee Tapp did submit 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, exhibits were offered into the record and testimony was heard.

ACTION TAKEN: Ms. Cline requested to enter into Executive Session. Upon the advice of the Attorney General's counsel, Ms. Cline moved to enter into Executive Session, pursuant to 25 O.S. 2011, §307(B)(8). Dr. Mauldin seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin -aye; Ms. Cline-aye. Motion passed, 3-0.

ACTION TAKEN: At 9:01 P.M., Dr. Mauldin moved to re-enter into Open Session. Chairman Montgomery seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin -aye; Ms. Cline-aye. Motion passed, 3-0.

ACTION TAKEN: Petitioner Kenton Patzkowsky has not sustained 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 Tapp does not meet the six-month residential requirement set forth in 14 O.S. 2011, § 108. Mr. Montgomery moved to deny the petition in Cause No. 2020-11 and to retain Contestee Kenny Bob Tapp's name on the ballot for State Representative, District 61. (Copies of the Petition, Notice of Hearing, Return of Service, Exhibits, and Findings of Fact, Conclusions of Law, & Final Orders attached)

ACTION TAKEN: Ms. Cline moved to delegate to Chairman Montgomery the authority to sign Findings & Orders in Cause No. 2020-11.

Dr. Mauldin seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin-aye; Ms. Cline-aye. Motion passed, 3-0.

13. **MOTION TO ADJOURN. ACTION TAKEN:** At 9:05 P.M., Chairman Montgomery moved to adjourn until the next meeting. Dr. Mauldin seconded the motion. **ROLL CALL VOTE:** Mr. Montgomery-aye; Dr. Mauldin -aye; Ms. Cline-aye. Motion passed, 3-0.

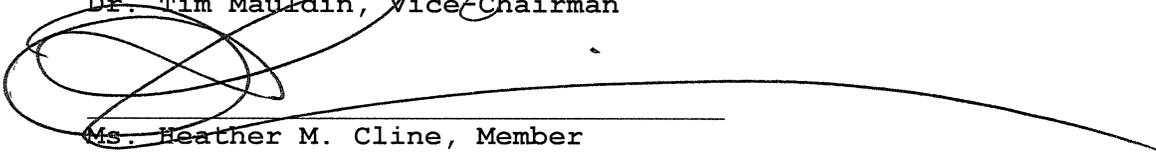
STATE ELECTION BOARD



Mr. Thomas Montgomery, Chairman



Dr. Tim Mauldin, Vice-Chairman



Ms. Heather M. Cline, Member

Mr. Gerald Buchanan, Republican Alternate

Ms. Debi Thompson, Democrat Alternate