



ORIGINAL

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

**FILED
SUPREME COURT
STATE OF OKLAHOMA**

JAN - 5 2016

**MICHAEL S. RICHIE
CLERK**

JASON JACKSON,)
)
 Petitioner,)
)
 v.)
)
 TULSA COUNTY ELECTION)
 BOARD; ELAINE DODD,)
 CHAIRMAN OF TULSA COUNTY)
 ELECTION BOARD; GEORGE)
 WILAND, VICE-CHAIRMAN OF)
 TULSA COUNTY ELECTION)
 BOARD; PATRICIA BRYANT,)
 SECRETARY OF TULSA COUNTY)
 ELECTION BOARD; and JOHN R.)
 FITZPATRICK, III,)
)
 Defendants.)

No. **#114591**

**EMERGENCY APPLICATION TO ASSUME ORIGINAL
JURISDICTION AND PETITION FOR WRIT OF MANDAMUS**

Respectfully Submitted by:

ORIGINAL
 Received by _____
 Marshall _____
 Reynolds _____
 Cert mailed _____
 Updated _____

[Handwritten signature]

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ATTORNEYS FOR PETITIONER

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

JASON R. JACKSON,)
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 Petitioner,)
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 v.)
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 TULSA COUNTY ELECTION)
 BOARD; ELAINE DODD,)
 CHAIRMAN OF TULSA COUNTY)
 ELECTION BOARD; GEORGE)
 WILAND, VICE-CHAIRMAN OF)
 TULSA COUNTY ELECTION)
 BOARD; and PATRICIA BRYANT,)
 SECRETARY OF TULSA COUNTY)
 ELECTION BOARD,)
)
 Respondents,)
)
 JOHN R. FITZPATRICK, III,)
)
 Real Party in Interest.)

No. _____

EMERGENCY APPLICATION TO ASSUME ORIGINAL JURISDICTION AND PETITION FOR WRIT OF MANDAMUS

COMES NOW, the Petitioner, Jason R. Jackson, in emergency application to this Court to assume original jurisdiction and petitions the Court to grant a Writ of Mandamus directed to the Tulsa County Election Board, its Chairman, Vice-Chairman, and Secretary, directing them to vacate its decision of December 17, 2015, Tulsa County Election Board Cause No. 20150001 permitting candidate for Tulsa County Sheriff John R. Fitzpatrick, III to remain a candidate for the Tulsa County Sheriff Special Primary Election to be had on March 1, 2016. In support hereof, Petitioner alleges and states as follows:

FACTUAL AND PROCEDURAL HISTORY

1. Petitioner Jason R. Jackson filed his Declaration of Candidacy for Tulsa County Sheriff with the Tulsa County Election Board as a Republican Party Candidate on December 7, 2015.

2. Real Party in Interest John R. Fitzpatrick, III filed his Declaration of Candidacy for Tulsa County Sheriff with the Tulsa County Election Board as a Republican Party Candidate on December 7, 2015.

3. On December 10, 2015, Petitioner filed his Petition for Contest of Candidacy with the Tulsa County Election Board alleging that Real Party in Interest John R. Fitzpatrick as a reserve officer is unqualified, pursuant to Okla. Stat. tit. 19, § 510, to run as a candidate for sheriff of Tulsa County. Okla. Stat. tit. 19, § 510 provides in pertinent part that a person seeking election for sheriff in Tulsa County shall be a “current certified peace officer in good standing.”

4. On December 16, 2015, Real Party in Interest filed his Answer to Petition for Contest of Candidacy, alleging therein that Title 21 (Crimes and Punishments Code) provides the definitional context for what constitutes a “certified peace officer in good standing” and permits reserve officer/Real Party in Interest John R. Fitzpatrick, III to qualify as a candidate for Tulsa County Sheriff.

5. On December 17, 2015 the matter was heard before the Tulsa County Election Board.

6. On December 31, 2015 Petitioner received written notice of the Tulsa County Election Board’s written decision. The Findings and Order are as follows:

a. That 19 O.S. § 510 provides in pertinent part “. . . Provided, however, in counties with populations of five hundred thousand (500,000) or more, the person

seeking election [for County Sheriff] shall also be a current certified peace officer in good standing . . .”

b. That Mr. Fitzpatrick is deemed to be a “current certified peace officer” pursuant to 19 O.S. § 510 and 70 O.S. § 3311.

c. That Mr. Fitzpatrick is deemed to be a qualified candidate for the Office of Tulsa County Sheriff pursuant to 19 O.S. § 510.

d. That the allegations contained in Mr. Jackson’s petition be overruled and that Mr. Fitzpatrick’s name be retained on the ballot as a candidate for Tulsa County Sheriff.

e. That costs be assessed to Mr. Jackson.

7. The special primary election in this matter is slated for March 1, 2016.

8. The special general election in this matter is slated for April 5, 2016.

9. Emergency consideration is warranted given the strict deadlines for the special primary and special general elections.

JURISDICTION

10. All counties throughout the State of Oklahoma are to appoint a county election board to be composed of three members. Okla. Stat. tit. 26, § 2-110.

11. Article V of Title 26 of the Oklahoma Statutes provides the procedures through which a candidate for county office may challenge the candidacy of another candidate running for the same office.

12. The Tulsa County Election Board is vested with the authority, pursuant to Okla. Stat. tit. 26, § 5-126, to determine contests of candidacy for the position of Tulsa County Sheriff. Its decisions on such matters are final.

13. Article V of Title 26 and all statutes in question provide no avenue of appeal.

14. This Court has general and superintending control over all boards created by law, including the Tulsa County Election Board, pursuant to Article 7, § 4 of the Oklahoma Constitution and the inherent powers of this Court.

15. This Court may properly issue writs of mandamus where, as here, a county election board has determined a candidate qualifies for the office for which he seeks election in clear violation of the law. Okla. Stat. tit. 12, § 1451.

16. Based upon the foregoing, original jurisdiction should be assumed.

FACTS IN SUPPORT OF THE REQUESTED WRIT

17. Okla. Stat. tit. 70, § 3311 establishes the Council on Law Enforcement Education and Training ("CLEET") which "shall be . . . a governmental law enforcement agency of the State of Oklahoma, body politic and corporate, with powers of government and with the authority to exercise the rights, privileges and functions necessary to ensure the professional training and continuing education of law enforcement officers in the State of Oklahoma." *Id.* (emphasis added).

18. Among the powers vested to CLEET are the authorization to "promulgate rules with respect to such matters as certification, revocation, suspension, withdrawal, and reinstatement of certification." Okla. Stat. tit. 70, § 3311(B)(2).

19. Under CLEET, a "police or peace officer is defined as a full-time duly appointed or elected officer who is paid for working more than twenty-five (25) hours per week and whose duties are to preserve the public peace, protect life and property, prevent crime, serve warrants, transport prisoners, and enforce laws and ordinances of this state, or any political subdivision thereof . . ." *Id.* at § 3311(B)(5).

20. Reserve officers are part-time officers who may serve no more than 140 hours per calendar month. 11 O.S. § 34-101(B).

21. Candidate John R. Fitzpatrick, III is a reserve officer.

22. Okla. Stat. tit. 19, § 510 mandates the qualifications for holding the office of county sheriff. Pertinent to the circumstances here, § 510 provides that “in counties with populations of five hundred thousand (500,000) or more, the person seeking election shall also be a **current certified peace officer in good standing.**” *Id.* (emphasis added).


23. Tulsa County has a population in excess of 500,000 persons.

CONCLUSION AND REQUEST FOR RELIEF

As a reserve officer, candidate John R. Fitzpatrick, III does not meet the qualifications to seek election for Tulsa County Sheriff. The Tulsa County Election Board has erroneously determined that he does meet such qualifications under both 19 O.S. § 510 and 70 O.S. § 3311, that he should remain a candidate for Tulsa County Sheriff, and that his name should appear on the ballot of the special primary election held in only three months' time on March 1, 2016. The findings and conclusions of the Tulsa County Election Board are contrary to law. As the body with the general, superintending control over the Tulsa County Election Board, this Court should issue a writ of mandamus striking John R. Fitzpatrick, III's candidacy and ordering that his name not appear on the ballot for the special primary election.

WHEREFORE, premises considered, Petitioner respectfully requests the Court enter a Writ of Mandamus directed to Elaine Dodd, George Wiland, and Patricia Bryant as officers of the Tulsa County Election Board, and to the Tulsa County Election Board itself, directing them to strike John R. Fitzpatrick, III's candidacy and remove his name from the ballot.

Respectfully Submitted by:



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ATTORNEYS FOR PETITIONER

CERTIFICATE OF MAILING

I hereby certify that on the 6th day of January, 2016, a true and correct copy of the foregoing was mailed to the following by depositing same in the U.S. Mail, postage prepaid:

Tulsa County Election Board
c/o Patricia Bryant, Secretary
555 North Denver Ave.
Tulsa, OK 74103

Elaine Dodd
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ATTORNEYS FOR REAL PARTY IN
INTEREST JOHN R. FITZPATRICK, III

Jana D. Zickefoose