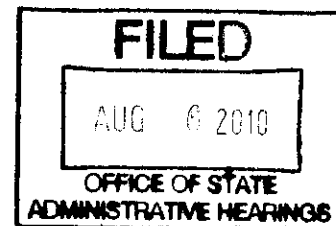


**OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

JUSTIN W. CHANEY,	:	
Petitioner,	:	
	:	DOCKET NO.:
v.	:	OSAH-SEC-CE-1101550-44-Malihi
	:	
ADRIENNE HUNTER-STROTHERS,	:	
Respondent.	:	
_____	:	



Appearances:
Justin W. Chaney, *Pro se*, for Petitioner.
Mark G. Trigg, Brooke R. Hardy, for Respondent.

ORDER OF DISMISSAL

I. INTRODUCTION

Justin W. Chaney ("Petitioner") filed this action pursuant to O.C.G.A. § 21-2-5(b) against Adrienne Hunter-Strothers ("Respondent") challenging her qualifications to run as a candidate for the Georgia Court of Appeals in the November 2010 election ("election"). Respondent moved to dismiss the action, arguing that Petitioner's challenge was untimely because the deadline for challenging a candidate's qualifications was 12:00 Noon on July 16, 2010. In response, Petitioner argued that his deadline to file the complaint was at the close of regular business hours on July 16, 2010, and, therefore, his complaint filed at 1:40 p.m. was timely. For the reasons indicated below, Respondent's Motion to Dismiss is **GRANTED**.

II. FINDINGS OF FACT

Prior to the statutory deadline of 12:00 Noon on July 2, 2010, Respondent filed her Notice of Candidacy and Affidavit with the Secretary of State indicating that she is seeking to

run for Judge of the Court of Appeals in the November 2010 election. (Pet'r's Ex. A.) At 1:40 p.m. on July 16, 2010, Petitioner filed a challenge to Respondent's qualifications, asserting that she does not meet the minimum statutory requirements for candidacy. (Resp't's Ex. A.)

III. CONCLUSIONS OF LAW

The Georgia Election Code governs the procedures for and qualifications of individuals seeking to run for public office. O.C.G.A. §§ 21-2-1 et seq. "Within two weeks after the deadline for qualifying, any elector who is eligible to vote for a candidate may challenge the qualifications of the candidate by filing a written complaint with the Secretary of State" O.C.G.A. § 21-2-5(b). The deadline for filing a notice of candidacy for an election is "no later than 12:00 Noon on the Friday following the fourth Monday in June." O.C.G.A. § 21-2-132(d)(1). When an eligible elector challenges the qualifications of a candidate, the candidate is notified that a hearing has been requested before an administrative law judge. O.C.G.A. § 21-2-5(b).

In Georgia, the rules of statutory construction direct courts to look for the General Assembly's intent in creating the statute and to give the ordinary significance to all words. O.C.G.A. § 1-3-1(a), (b). The Georgia Election Code provides:

Except as otherwise provided by time period computations specifically applying to other laws, when a period of time measured in days, weeks, months, years, or other measurements of time except hours is prescribed for the exercise of any privilege or the discharge of any duty, the first day shall not be counted but the last day shall be counted.

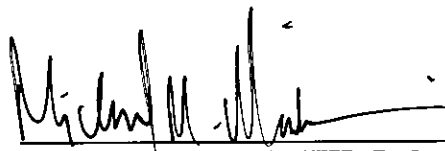
O.C.G.A. § 1-3-1(d)(3) (emphasis added).

In the present case, because the Georgia Election Code mandates that a challenge to a candidate's qualifications be filed "[w]ithin two weeks after the deadline for qualifying," the Court concludes that the relevant portions of the Georgia Election Code are excepted from the general computation of time under O.C.G.A. § 1-3-1(d)(3).¹ It is also true that "[g]enerally, the word 'day,' when not qualified, means a calendar or civil day consisting of 24 hours from midnight to midnight." J.B.H. v. State, 139 Ga. App. 199, 202 (1976) (citations and quotations omitted). Here, however, the legislature specifically set the deadline to qualify at 12:00 Noon. The Court concludes that the relevant two-week period consists of fourteen 24-hour days from 12:00 Noon to 12:00 Noon.² The deadline for qualifying was at 12:00 Noon on July 2, 2010. Thus, to timely file his challenge "[w]ithin two weeks after the deadline for qualifying," Petitioner must have filed his complaint by 12:00 Noon on July 16, 2010. He did not. Accordingly, his challenge was not timely.

IV. ORDER

Respondent's Motion to Dismiss is hereby **GRANTED** and Petitioner's complaint is **DISMISSED**.

August 6, 2010.



MICHAEL M. MALIHI, Judge

¹ See C&H Development, LLC v. Franklin County, 294 Ga. App. 792, 795 (2008) (relying on O.C.G.A. § 1-3-1 to compute time because the court found no legislative intent in the relevant statute to compute time otherwise).

² The Court also notes that filings with the Secretary of State Elections Division are simultaneously date-and-time stamped, reflecting the significance of knowing at what time of day a filing was received.