

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

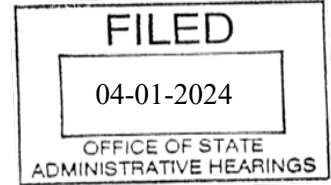
MIKE CONGEMI,
Petitioner,

v.

JAMES RYNER,
Respondent.

**Docket No.: 2434245
2434245-OSAH-SECSTATE-CE-33-
Schroer¹**

Agency Reference No.: 2434245



INITIAL DECISION

The hearing in this matter was scheduled for March 28, 2024, at 9:00 a.m., at the Office of State Administrative Hearings. The Notice of Hearing was issued on March 18, 2024, and mailed to Respondent at 2080 Robertford Way, Powder Springs, Georgia 30127. A courtesy copy also was sent to Respondent's email address, ryner1960@yahoo.com. (See Court File and Documents attached to the OSAH Form 1.) On March 28, 2024, at 9:00 a.m., Petitioner and Petitioner's attorney, Bryan Tyson, appeared for the hearing. Respondent, however, failed to appear.

Petitioner challenged Respondent's candidacy for Georgia State House of Representatives District 36. Specifically, Petitioner asserted that Respondent is not a legal resident of District 36. At the hearing, Petitioner testified that he is a registered voter in House District 36, and the Court concluded that he met the statutory requirements to file this challenge, pursuant to O.C.G.A. § 21-2-5(b).

The burden of proof is entirely upon Respondent to establish affirmatively his eligibility for office:

[T]he statutes place the affirmative obligation on [the challenged candidate] to establish his qualifications for office. [The challenger] is not required to disprove anything regarding [the candidate's] eligibility to run for office, as the entire burden

¹ As indicated in the Notice of Hearing, this matter originally was assigned to Judge Kennedy. It was reassigned to Judge Schroer.

is placed upon [the candidate] to affirmatively establish his eligibility for office.

Haynes v. Wells, 273 Ga. 106, 108-09 (2000). Respondent's failure to appear at the hearing rendered him incapable of meeting his burden of proof. In addition, Petitioner proffered evidence that was sufficient to prove by a preponderance of the evidence that Respondent was not a resident of District 36.

Accordingly, because Respondent failed to affirmatively establish his eligibility for office, his name should be **REMOVED** from the ballot.

SO ORDERED, this 28th day of March, 2024.



Kimberly W. Schroer
Administrative Law Judge

