

IN THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

SEAN ARNOLD,
Petitioner,
v.
TIFFANI JOHNSON,
Respondent.

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: Docket No.: 2435151
: 2435151- OSAH-SECSTATE-CE-44-Walker
:
: Agency Reference No.: 2435151
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INITIAL DECISION

I. INTRODUCTION

The Petitioner, Sean Arnold, challenges the Respondent Tiffani Johnson’s qualifications to be a nonpartisan candidate in the general primary election to be held on May 21, 2024, for Judge of Superior Court, Atlanta Judicial Circuit. A Notice of Hearing was sent to the parties scheduling the administrative hearing for April 2, 2024, at 1:00 p.m. at the Office of State Administrative Hearings. On April 2, 2024, at 1 p.m., the Petitioner and the Petitioner’s attorney, Jeremy Berry, appeared for the hearing. The Respondent, however, failed to appear.¹ For the reasons indicated below, the undersigned Administrative Law Judge finds that the Respondent is **not qualified** to be a candidate for Judge of Superior Court, Atlanta Judicial Circuit.

¹ A Notice of Hearing was sent to the candidate’s home address and a courtesy copy sent to her email address; neither Notice of Hearing was returned. When the Respondent did not appear at the call of the calendar, a second email was sent to her email address, but no response was received. (See Court File and Candidate Report attached to the OSAH Form 1.)

II. FINDINGS OF FACT

1.

The Petitioner, Sean Arnold, is a registered voter and eligible elector in the general primary election to be held on May 21, 2024, for Judge of Superior Court, Atlanta Judicial Circuit. (Testimony of Sean Arnold.)

2.

On or about March 7, 2024, the Respondent submitted a sworn Notice of Candidacy and Affidavit (“Notice of Candidacy”) to be a candidate in the general primary election to be held on May 21, 2024, for Judge of Superior Court, Atlanta Judicial Circuit. The Atlanta Judicial Circuit is located in Fulton County, Georgia.² (Ex. P-1.)

3.

In her Notice of Candidacy, Ms. Johnson listed her residence as “105 Rogers Street, NE, #3116, Atlanta, DeKalb, GA 30317,” and stated that she had been a legal resident of Fulton county for “0 consecutive years [.]” The Respondent affirmed that she was “an elector of the county of my residence eligible to vote in the election in which I am a candidate[.]” (Ex. P-1.)

4.

The Petitioner filed her Notice of Candidacy on March 7, 2024. On March 12, 2024, the Respondent voted in the Presidential Preference Primary/Special Election in Dekalb County, Georgia. (Ex. P-2.)

² See SUPERIOR COURT OF FULTON COUNTY, <https://www.fultoncourt.org/> (last visited April 3, 2024).

III. CONCLUSIONS OF LAW

Citizens have the right to hold public office “unless disqualified by the Constitution and laws of this state[.]” O.C.G.A. § 1-2-6 (a)(5); see O.C.G.A. § 21-2-5(a). Pursuant to O.C.G.A. § 21-2-5(b), “[w]ithin 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. . . .” The Petitioner has challenged the Respondent’s qualifications to be a nonpartisan candidate in the general primary election to be held on May 21, 2024, for Judge of Superior Court, Atlanta Judicial Circuit.

The Georgia Constitution establishes the qualifications for superior court judges. See GA. CONST. art. VI, § VII, para. II.³ As authorized by GA. CONST. art. VI, § VII, para. II (e), the General Assembly has instituted additional qualifications for candidates for the superior court. See, e.g., O.C.G.A. §§ 15-6-4(a), 21-2-132(f).

Under Haynes v. Wells, 273 Ga. 106, 108-109 (2000), the burden of proof is on the Respondent to affirmatively establish eligibility for office:

[T]he statutes place the affirmative obligation on Haynes [the challenged candidate] to establish his qualification for office. Wells [the challenger] is not required to disprove anything regarding Haynes’s eligibility to run for office, as the entire burden is placed upon Haynes to affirmatively establish his eligibility for office.

The Respondent’s failure to appear at the hearing rendered her incapable of meeting her burden of proof. Id.

³ Attachment No. 2 to the OSAH Form 1 indicated that the Petitioner’s challenge was based on GA. CONST. art. VI, § VII, para. II(d); however, the Petitioner asserted that he was challenging the Respondent’s qualifications on both constitutional and statutory grounds.

IV. DECISION

Based upon the above Findings of Fact and Conclusions of Law, the undersigned finds that the Respondent **is not qualified** to be a candidate for Judge of Superior Court, Atlanta Judicial Circuit.

SO ORDERED THIS 4th day of April, 2024.

Ronit Walker

RONIT WALKER, ALJ



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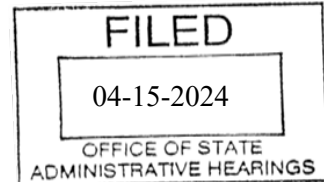
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ORDER OF DISMISSAL

An Initial Decision in this matter was entered on April 5, 2024. On April 9, 2024, the Office of the Secretary of State issued a Final Decision. Following the issuance of the Final Decision, the Respondent moved for reconsideration of the Initial Decision. The undersigned no longer has jurisdiction in this case and the matter is **DISMISSED**.

SO ORDERED, this 15th day of April, 2024.



Ronit Walker
Administrative Law Judge