

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

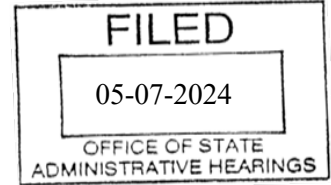
CARVEL LEWIS,
Petitioner,

v.

OTHELLIOUS CATO,
Respondent.

**Docket No.: 2435192
2435192-OSAH-SECSTATE-CE-47-
Barnes**

Agency Reference No.: 2435192



INITIAL DECISION

I. Introduction

The Petitioner, Carvel Lewis, challenges the Respondent Othellious Cato's qualifications to be a candidate in the general primary election to be held on May 21, 2024, for Georgia State House District 154. An Order was sent to the parties scheduling the administrative hearing for May 7, 2024, at 9:30 AM at the Office of State Administrative Hearing in Atlanta, Georgia.¹ On May 7, 2024, at 9:30 AM, the Petitioner and the Petitioner's counsel, Bryan Tyson, Esq., appeared for the hearing. The Respondent, however, failed to appear. For the reasons indicated below, the undersigned Administrative Law Judge finds that the Respondent **is not qualified** to be a candidate for Georgia State House District 154.

II. Findings of Fact

1. The Petitioner, Carvel Lewis, is a registered voter and eligible elector in the general primary election to be held on May 21, 2024, for Georgia State House District 154. *Testimony of Carvel Lewis.*

¹ The hearing was originally scheduled for April 9, 2024 at 9:30 AM. However, counsel for the Petitioner promptly notified the court of pending conflicts and moved for a continuance. The Respondent did not file any objections, and the court issued to the parties a Continuance Order setting the matter for May 7, 2024. Both the original Notice of Hearing and the Continuance Order were sent via mail and email to the parties. The court received no physical or electronic returned mail for either order.

2. The Respondent’s previous home address was 504 Johnson Road, Albany, Georgia 31705. The Respondent resided at the Johnson Road address during the term of his lease from February 17, 2023 until February 29, 2024, and continued to reside there until mid-March 2024. On April 2, 2024, he updated his home address to 2205 Evergreen Drive, Albany Georgia, 31721. The Johnson Road address is not located in Georgia State House District 154. *Testimony of Carvel Lewis; Exhibit P-1 (certified public records)*.

III. Conclusions of Law

1. 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 candidate in the general primary election to be held on May 21, 2024, for Georgia State House District 154.

2. The Georgia Constitution establishes the qualifications for the Georgia State House of Representatives as follows:

(b) At the time of their election, the members of the House of Representatives shall be citizens of the United States, shall be at least 21 years of age, shall have been citizens of this state for at least two years, and shall have been legal residents of the territory embraced within the district from which elected for at least one year.

GA. CONST. Art. III, Sec. 2, Para. 3(b).

3. Additionally, O.C.G.A. § 28-2-1(b) provides: “A member of the House of Representatives shall be a resident of the district which such member represents and at the time of

such member's election shall have been a resident of the territory embraced within such district for at least one year preceding such time." Evidence presented by the Petitioner shows that the Respondent will not have resided within Georgia State House District 154 for at least one year at the time of the May 21, 2024 general primary election or the November 5, 2024 general election.

4. 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.

By failing to appear at the hearing, the Respondent rendered himself incapable of meeting his burden of proof in this matter. *See id.*

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 Georgia State House District 154.

SO ORDERED, this 7th day of May, 2024.



Shakara M. Barnes
Administrative Law Judge

