

IN THE SUPERIOR COURT OF LONG COUNTY

STATE OF GEORGIA

BOBBY HARRISON SMITH,)	
)	
Petitioner,)	
)	
vs.)	CIVIL ACTION NO. SUV2020000089
)	
LONG COUNTY BOARD OF)	
ELECTIONS AND REGISTRATION,)	
and TERESA L. ODUM,)	
)	
Respondents.)	

**VERIFIED ANSWER OF TERESA L. ODUM
TO PETITION TO CONTEST ELECTION AND REQUEST FOR NEW ELECTION**

COMES NOW TERESA L. ODUM (“Odum”), in the above-captioned matter, making and filing this her Verified Answer (“Answer”) to the Petition to Contest Election and Request for New Election (“Petition”) brought by BOBBY HARRISON SMITH (“Smith”), as follows:

Preliminary Statement

The Answer set forth below is based upon the knowledge, which is currently available to Odum. If and when additional information pertinent to this Answer becomes available to Odum, Odum reserves the right to amend this Answer, pursuant to O.C.G.A. § 21-2-524(g).

First Defense

The Petition fails to state a claim upon which this Court may grant relief, in whole or in part.

Second Defense

No credible evidence of any irregularities or illegalities exist which warrant the relief sought by Smith. As such, the results of the June 9, 2020, election for the office of Probate Judge of Long County (“Election”) should stand.

Third Defense

Odum met all legal requirements, including any and all residency requirements, contemplated by Georgia law, before qualifying as a candidate in the subject Election.

Fourth Defense

Those portions of the Petition challenging Odum’s residency warrant dismissal of the Petition, pursuant to the doctrines of *res judicata* and *collateral estoppel*, in that the residency issue was resolved in Odum’s favor by both the Long County Board of Elections (“Board”) and the Long County Superior Court prior to the both the Election and to the filing of the present Petition.

Fifth Defense

The Petition should be denied based upon the fact that Smith was obligated under Georgia law to exercise all available means to resolve any challenges to any candidate’s qualifications prior to the time of the Election. Failure to do so creates unnecessary uncertainty in elections which can bias voters and consequently alter the result of an election. After losing an appeal in Long County Superior Court, Smith deliberately failed to further pursue his challenge to Odum’s residency until *after* she defeated him in the Election—an event which occurred nearly two months after his appellate loss in the Long County Superior Court. Smith’s failure to resolve this purported residency question until after his election loss is in contravention to the urgency with which Georgia law demands candidates resolve such issues. As such, the Petition should be denied.

Sixth Defense

To the extent as may be shown through the evidence and discovery in this case, Odum hereby asserts all affirmative defenses enumerated in O.C.G.A. § 9-11-8(c) or which Odum may otherwise be required to assert in this Answer by the laws of the State of Georgia.

Seventh Defense

Subject to and without waiving the aforementioned defenses, Odum answers the enumerated Paragraphs contained in the Petition as follows:

Response to Petition's Introduction

The Petition before the court alleges irregularities and errors on the part of the Board in its conduct of the Election. As mentioned above, said allegations are based solely on conjecture and speculation. Said allegations are completely without merit and, as such, the relief sought by Smith should be denied. To grant the relief requested in the Petition would not only invalidate the will of the voters of Long County, but would also jeopardize the sanctity of subsequent elections.

1.

Odum lacks sufficient information to admit or deny the allegations contained in Paragraph 1 of the Petition.

2.

Odum admits the allegations contained in Paragraph 2 of the Petition.

3.

Odum admits the allegations contained in Paragraph 3 of the Petition.

4.

Odum admits the allegations contained in Paragraph 4 of the Petition.

5.

Odum denies the allegations contained in Paragraph 5 of the Petition, specifically in that the Board certified the election results on June 19, 2020, and Smith requested a recount of the election results on June 16, 2020. Georgia law requires that a recount be requested within two (2) business days after the certification of election results. Smith did not do this, but rather, improperly requested a recount three (3) days prior to certification of said results. As such, the recount held by the Board on June 24 and 25, 2020, over Odum's objection, should not have occurred. Consequently, Smith's Petition before the court is untimely as it was made twelve (12) days after the election results were properly certified on June 19, 2020. Therefore, Smith did not file the Petition within five (5) days of "certification," which is required by Georgia law. See O.C.G.A. § 21-2-524(a).

6.

Odum admits the allegations contained in Paragraph 6 of the Petition.

7.

Odum lacks sufficient knowledge to admit or deny that an affidavit was executed by Smith, but denies any allegations of irregularities or illegalities contained in the affidavit allegedly executed by Smith in connection with the Petition.

8.

Odum admits the allegations contained in Paragraph 8 of the Petition.

9.

Odum admits the allegations contained in Paragraph 9 of the Petition.

10.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 10 of the Petition.

11.

Odum admits that the Election took place during the global pandemic caused by COVID-19, as did other elections throughout the State of Georgia, United States of America, and the rest of the world.

12.

Odum admits the allegations contained in Paragraph 12 of the Petition.

13.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 13 of the Petition.

14.

At this time, Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 14 of the Petition.

15.

Odum admits the allegations contained in Paragraph 15 of the Petition to the extent that it is Odum's understanding that the unofficial and uncertified preliminary Election results showed Odum with a nineteen (19) vote advantage on June 9, 2020.

16.

Odum admits the allegations contained in Paragraph 16 of the Petition to the extent that it is Odum's understanding that the unofficial and uncertified preliminary Election results showed Odum with a twenty-two (22) vote advantage on June 10, 2020.

17.

Odum admits the allegations contained in Paragraph 17 of the Petition to the extent that a recount was held because the Board accepted, in error, an untimely request for a recount by Smith.

Odum further states that a recount, held pursuant to O.C.G.A. § 21-2-495 cannot occur because the vote difference is within one (1) percent of the total votes cast. Rather, a recount under that statute, is allowed to occur when the vote difference is within one-half (1/2) of one (1) percent of the total votes cast.

18.

Odum admits that a recount occurred on June 24 and 25, 2020, and that said recount was conducted over her stated objections, after said objections were made before both the Board and representatives for Smith.

19.

Odum admits that a recount commenced at approximately 10:00 a.m. on June 24, 2020.

20.

Odum denies the allegations contained in Paragraph 20 of the Petition.

21.

Odum admits that a recount commenced on June 24, 2020, but denies that the election machines were not working as alleged in Paragraph 21 of the Petition.

22.

Odum denies the allegations contained in Paragraph 22 of the Petition. Odum further states that the Board began its recount by counting three (3) samples of twenty-five (25) in-person Election Day ballots—from three (3) different Long County precincts—and one (1) sample of twenty-five absentee ballots, in accordance with Georgia law.

23.

Odum admits that the initial day of the recount—June 24, 2020—concluded at approximately 9:00 p.m. and further states that all candidates and their representatives were directed to return the following day for the second day of the recount.

24.

Odum admits that, when the Board left the Elections office on June 24, 2020, that the unofficial and uncertified results showed that Odum maintained a two (2) vote lead over Smith. Odum further states that the Board believed there were outstanding ballots which had not been properly removed from ICP ballot scanners when the Board left the Elections office on June 24, 2020.

25.

At this time, Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 25 of the Petition.

26.

Odum denies the allegations contained in Paragraph 26 of the Petition.

27.

Odum admits that the Board instructed observers of the recount to return for a second day of recounting, but denies all other allegations in Paragraph 27 of the Petition.

28.

Odum admits that the Board located sixteen (16) ballots in ICP machines, where both Odum's and Smith's representatives believed they would be located, on the second day of the recount.

29.

Odum admits the allegations contained in Paragraph 29 of the Petition to the extent that, based on the recount, a total of 2,741 votes were cast in the Election, with 1,366 votes cast for Smith and 1,375 votes cast for Odum. Odum further acknowledges that, according to the certified recount results, 2,814 votes were cast overall in Long County in the consolidated primary election.

30.

Odum refers the court to Response Paragraph 28 in response to Paragraph 30 of the Petition.

31.

Odum admits the allegations contained in Paragraph 31 of the Petition.

32.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 32 of the Petition.

33.

Odum admits the allegations contained in Paragraph 33 of the Petition.

34.

Odum admits the allegations contained in Paragraph 34 of the Petition.

35.

Odum admits the allegations contained in Paragraph 35 of the Petition.

36.

Odum denies the allegations contained in Paragraph 36 of the Petition.

37.

Odum admits the allegations contained in Paragraph 37 of the Petition.

38.

Odum denies the allegations contained in Paragraph 38 of the Petition, to the extent that voters temporarily residing outside of a county may vote in that county if said voter retains permanent residency or domiciliary in that county.

39.

Odum admits the allegations contained in Paragraph 39 of the Petition.

40.

Odum denies the allegations contained in Paragraph 40 of the Petition.

41.

Odum admits that eligible voters in a county are allowed to vote in the county in which they are eligible to vote.

42.

Odum denies the allegations contained in Paragraph 42 of the Petition.

43.

Odum denies the allegations contained in Paragraph 43 of the Petition.

44.

Odum denies the allegations contained in Paragraph 44 of the Petition.

45.

Odum denies the allegations contained in Paragraph 45 of the Petition. Odum further states that Tristen Pitts resides at 133 James Barrett Road, NE, Ludowici Long County, Georgia.

46.

Odum admits the allegations contained in Paragraph 46 of the Petition.

47.

Odum denies the allegations contained in Paragraph 47 of the Petition.

48.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 48 of the Petition.

49.

Odum denies the allegations contained in Paragraph 49 of the Petition.

50.

Odum denies the allegations contained in Paragraph 50 of the Petition. Odum further states that Candi Pitts did not vote in the Election.

51.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 51 of the Petition.

52.

Odum denies the allegations contained in Paragraph 52 of the Petition. Odum further states that Jacob Pitts did not vote in the Election.

53.

Odum denies the allegations contained in Paragraph 53 of the Petition. Odum further states that Jacob Pitts did not vote in the Election.

54.

Odum denies the allegations contained in Paragraph 54 of the Petition. Odum further states that Sandra Whigham resides at 133 James Barrett Road, NE, Ludowici, Long County, Georgia.

55.

Odum admits the allegations contained in Paragraph 55 of the Petition.

56.

Odum denies the allegations contained in Paragraph 56 of the Petition.

57.

Based on her current knowledge, Odum denies the allegations contained in Paragraph 57 of the Petition.

58.

Odum denies the allegations contained in Paragraph 58 of the Petition. Odum further states that Lori Marie Jenks resides at 188 Pine View Road, SE, Ludowici, Long County, Georgia, and that her vote was not illegal.

59.

Odum denies the allegations contained in Paragraph 59 of the Petition. Odum further states that Bernita C. Berry resides at 452 Curtis Berry Extension, E., Glennville, Long County, Georgia, an address located in Long County, Georgia. Odum further states Bernita C. Berry's vote was legally cast in the Election.

60.

Odum denies the allegations contained in Paragraph 60 of the Petition and further states that Dwayne Reiere did not vote in the Election.

61.

Odum denies the allegations contained in Paragraph 61 of the Petition. Odum further states that Heather Frankie Cloninger resides at 675 S. Macon Street, Ludowici, Long County, Georgia, and that she was eligible to vote in the Election.

62.

Odum denies the allegations contained in Paragraph 62 of the Petition. Odum further states that Oliver V. Lunsford resides at 1569 Barrett Cemetery Road, NE, Ludowici, Long County, Georgia, and that he was eligible to vote in the Election.

63.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 63 of the Petition, except to the extent that Odum agrees that Smith's conduct—including both his frivolous challenges to her candidacy and to the results of the Election—is "unusual."

64.

Odum admits the allegations contained in Paragraph 64 of the Petition.

65.

Odum denies the allegations contained in Paragraph 65 of the Petition.

66.

Odum admits the allegations contained in Paragraph 66 of the Petition.

67.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 67 of the Petition.

68.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 68 of the Petition.

69.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 69 of the Petition.

70.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 70 of the Petition.

71.

Odum denies the allegations contained in Paragraph 71 of the Petition.

72.

Odum denies the allegations contained in Paragraph 72 of the Petition.

73.

Odum denies the allegations contained in Paragraph 73 of the Petition.

74.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 74 of the Petition.

75.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 75 of the Petition.

76.

Odum denies the allegations contained in Paragraph 76 of the Petition and further states that Jerri Reynolds voted in the Election via absentee ballot.

77.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 77 of the Petition. Odum further states that Jerri Reynolds voted in the Election via absentee ballot.

78.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 78 of the Petition. Odum further states that Jerri Reynolds voted in the Election via absentee ballot.

79.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 79 of the Petition. Odum further states that Jerri Reynolds voted in the Election via absentee ballot and that said ballot was accepted by the Board.

80.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 80 of the Petition.

81.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 81 of the Petition.

82.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 82 of the Petition. Odum further states that Jimmie Reynolds voted in the Election via absentee ballot.

83.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 83 of the Petition. Odum further states that Jimmie Reynolds voted in the Election via absentee ballot.

84.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 84 of the Petition. Odum further states that Jimmie Reynolds voted in the Election via absentee ballot.

85.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 85 of the Petition. Odum further states that Jimmie Reynolds voted in the Election via absentee ballot and that said ballot was accepted by the Board.

86.

Odum responds to Paragraph 86 of the Petition by stating that Makayla Bray was not registered to vote in Long County at the time of the Election.

87.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 87 of the Petition. Odum further states that Makayla Bray was not registered to vote in Long County at the time of the Election.

88.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 88 of the Petition. Odum further states that Makayla Bray was not registered to vote in Long County at the time of the Election.

89.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 89 of the Petition. Odum further states that Makayla Bray was not registered to vote in Long County at the time of the Election.

90.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 90 of the Petition. Odum further states that Makayla Bray was not registered to vote in Long County at the time of the Election.

91.

Odum denies the allegations contained in Paragraph 91 of the Petition and further states that Josiah Jeffers voted in-person in the Election and that his vote was accepted by the Board.

92.

Odum denies the allegations contained in Paragraph 92 of the Petition.

93.

Odum denies the allegations contained in Paragraph 93 of the Petition.

94.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 94 of the Petition.

95.

Based on her current knowledge, Odum denies the allegations contained in Paragraph 95 of the Petition.

96.

Odum lacks sufficient knowledge to admit or deny the allegations contained in Paragraph 96 of the Petition.

97.

In response to the allegations contained in Paragraph 97 of the Petition, Odum admits that, subject to conditions and requirements contained in O.C.G.A. § 21-2-520 et seq., candidates may contest the result of primary election in the State of Georgia.

98.

In response to the allegations contained in Paragraph 98 of the Petition, Odum admits that O.C.G.A. § 21-2-522 establishes grounds by which an election may be contested.

99.

In response to the allegations contained in Paragraph 99 of the Petition, Odum acknowledges the requirements set forth by O.C.G.A. § 21-2-527.

100.

Odum denies the allegations contained in Paragraph 100 of the Petition.

101.

Based on her current knowledge, Odum denies the allegations contained in Paragraph 101 of the Petition.

102.

Based on her current knowledge, Odum denies the allegations contained in Paragraph 102 of the Petition.

103.

Based on her current knowledge, Odum denies the allegations contained in Paragraph 103 of the Petition.

104.

Based on her current knowledge, Odum denies the allegations contained in Paragraph 104 of the Petition.

105.

Odum denies the allegations contained in Paragraph 105 of the Petition.

106.

Odum admits the allegations contained in Paragraph 106 of the Petition.

107.

Odum admits the allegations contained in Paragraph 107 of the Petition and further states that the mathematics contained in Paragraph 107 of the Petition are irrelevant to the above-captioned matter.

108.

Odum denies the allegations contained in Paragraph 108 of the Petition.

109.

Odum denies the allegations contained in Paragraph 109 of the Petition and by further response incorporates her responses and defenses to the prior allegations contained in the Petition.

110.

Based on her current knowledge, Odum denies the allegations contained in Paragraph 110 of the Petition.

111.

Odum admits the allegations contained in Paragraph 111 of the Petition, but only to the extent that she acknowledges that no person could validly vote in the Election unless they were a domiciliary—a term of art defined by both case law and Georgia statutes—of Long County.

112.

Based on her current knowledge, Odum denies the allegations contained in Paragraph 112 of the Petition.

113.

Odum denies the allegations contained in Paragraph 113 of the Petition.

114.

Odum admits the allegations contained in Paragraph 114 of the Petition.

115.

Odum admits the allegations contained in Paragraph 115 of the Petition and further states that the mathematics contained in Paragraph 115 of the Petition are irrelevant to the above-captioned matter.

116.

Odum denies the allegations contained in Paragraph 116 of the Petition.

117.

Odum denies the allegations contained in Paragraph 117 of the Petition and by further response incorporates her responses and defenses to the prior allegations contained in the Petition.

118.

Based on her current knowledge, Odum denies the allegations contained in Paragraph 118 of the Petition.

119.

Based on her current knowledge, Odum denies the allegations contained in Paragraph 119 of the Petition.

120.

Odum admits the allegations contained in Paragraph 120 of the Petition.

121.

Odum admits the allegations contained in Paragraph 121 of the Petition and further states that the mathematics contained in Paragraph 121 of the Petition are irrelevant to the above-captioned matter.

122.

Odum denies the allegations contained in Paragraph 122 of the Petition.

123.

Odum denies the allegations contained in Paragraph 123 of the Petition and by further response incorporates her responses and defenses to the prior allegations contained in the Petition.

124.

Odum admits the allegations contained in Paragraph 124 of the Petition.

125.

Odum admits the allegations contained in Paragraph 125 of the Petition.

126.

Odum admits the allegations contained in Paragraph 126 of the Petition, but only to the extent that Odum acknowledges that she temporarily moved to Wayne County, Georgia, in 2017 and that she moved back to Long County, Georgia, her permanent residence, in 2017.

127.

Odum denies the allegations contained in Paragraph 127 of the Petition, specifically those stating that she voluntarily transferred her voter registration on August 25, 2017. While Odum acknowledges that said registration was transferred to Wayne County, Georgia, she further states that said transfer was made by the Georgia Department of Driver Services on said date, not by Odum.

128.

Odum denies Smith's allegations in Paragraph 128 of Smith's Petition.

129.

Odum denies the allegations contained in Paragraph 129 of the Petition. Odum further states that the registration change referenced in Paragraph 129 of the Petition was never sent to her. Odum further states that the aforementioned registration change was made on August 31, 2017, not August 31, 2018 (emphasis added), as alleged in Paragraph 129 of the Petition.

130.

Odum denies the allegations contained in Paragraph 130 of the Petition. Odum further states that she signed and only affirmed that she was qualified to vote in the election held in Wayne County, Georgia, on November 6, 2018, on the voter certificate in question and that she listed her current residence as an address located in Long County, Georgia, on said certificate.

131.

Odum admits the allegations contained in Paragraph 131 of the Petition.

132.

Odum denies the allegations contained in Paragraph 132 of the Petition.

133.

Odum denies the allegations contained in Paragraph 133 of the Petition.

Reservation of Right Under O.C.G.A. § 21-2-526(a)

Odum reserves the right to submit all or a portion of the issues implicated by the Petition for determination by a jury, to the extent permitted under O.C.G.A. § 21-2-526(a).

General Denial

Odum hereby opposes and contests all prayers for relief advanced by Smith, and denies all allegations of the Petition not herein expressly and specifically admitted, denied, or neither admitted nor denied for lack of knowledge or information sufficient to form a belief as to the truth of the allegations.

Odum further states that she met all of the legal requirements, including the residency requirements, contemplated by Georgia law, before qualifying as a candidate in the subject Election.

WHEREFORE, Odum prays that the Petition be dismissed, with all costs assessed against Smith, as authorized by law, and that Odum have such other and further relief as is just and proper, to include, without limitation, the entry of an order allowing for the appropriate review by the parties of certain otherwise confidential election records.

Respectfully submitted, this the 20th day of July, 2020.

JONES, OSTEEEN & JONES

/s/ Luke R. Moses
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IN THE SUPERIOR COURT OF LONG COUNTY

STATE OF GEORGIA


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 Petitioner,)
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 vs.) CIVIL ACTION NO. SUV2020000089GC
)
 LONG COUNTY BOARD OF)
 ELECTIONS AND REGISTRATION,)
 and TERESA L. ODUM,)
)
 Respondents.)

VERIFICATION

Personally appeared before me, an officer duly authorized to administer oaths, TERESA L. ODUM, who after first being duly sworn, states that she is named as a defendant in the above-styled case; that she is authorized to act in this matter; that she has read the foregoing Verified Answer of Teresa L. Odum to Petition to Contest Election and Request for New Election; and that the facts contained therein are true and correct.


TERESA L. ODUM

Sworn to and subscribed
before me as of the 20th day
of July, 2020.


Notary Public
My commission expires: 11/29/2020
(NOTARY SEAL)



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 LONG COUNTY BOARD OF)
 ELECTIONS AND REGISTRATION,)
 and TERESA L. ODUM,)
)
 Respondents.)

CERTIFICATE OF SERVICE

This is to certify that I have served a true and correct copy of this foregoing foregoing Verified Answer of Teresa L. Odum to Petition to Contest Election and Request for New Election and accompanying Verification upon parties by statutory electronic mail and/or by causing the same to be placed in the United States Postal Service mail with adequate postage affixed thereto:

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Respectfully submitted, this 20th day of July, 2020.

JONES, OSTEEEN & JONES

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