

**IN THE SUPREME COURT OF THE STATE OF KANSAS**

CHAD TAYLOR,	)	
	)	
Petitioner,	)	
vs.	)	Original Action No. 14-112431-S
	)	
KRIS KOBACH, in his official capacity as	)	
Secretary of State for the State of Kansas	)	
	)	
Respondent.	)	
_____	)	

**AFFIDAVIT OF BRADLEY J. BRYANT**

I, Bradley J. Bryant, having been duly sworn, do hereby depose and state as follows to the best of my knowledge and belief:

I am the Deputy Assistant Secretary of State for Elections and Legislative Matters for the Office of the Kansas Secretary of State. My title is sometimes informally referred to as State Election Director. I have held this position since February, 1993, and I have been employed at the Kansas Secretary of State's Office since May, 1987. My job responsibilities include oversight and coordination of elections in Kansas, preparation of training programs for county election officers, monitoring and proposing legislation concerning elections, processing filings made in our office concerning elections and candidacies for public office, and aiding in the administration of the statewide voter registration system.

In my tenure as State Election Director, I have assisted hundreds of candidates in filing for public office and have assisted many in the filing of withdrawals, objections, and other documents associated with the electoral process. Because of this experience, I have considerable expertise regarding filing requirements and deadlines, and I am frequently called upon to answer questions regarding Kansas elections requirements and procedures. In fulfilling these duties, I have always tried to provide complete and impartial information to those I have aided with such filings.

I have known of Mr. Taylor since 1988, when my family moved to Silver Lake, Kansas. At the time, Mr. Taylor was a high school student in Silver Lake. I saw Mr. Taylor at school events or other local social events, although we were not acquaintances at that time. After Mr. Taylor graduated from high school, I didn't have any other contact with Mr. Taylor until roughly 2008 during his campaign for Shawnee County District Attorney. During the course of my official responsibilities at the Secretary of State's Office, I have had occasion to have contact with Mr. Taylor from time to time. Specifically, Mr. Taylor contacted me by phone prior to filing necessary paperwork during his 2012 re-election campaign for Shawnee County District Attorney and during his current campaign for United States Senator. I also had contact with him when he filed papers in the Secretary of State's Office, including when he filed for candidacy for United States Senator on February 28, 2014.

I would describe my relationship with Mr. Taylor as cordial and friendly. My step-son knew Mr. Taylor when they were in high school, and my contacts with Mr. Taylor in my official capacity were familiar in light of our Silver Lake connection. As an example, when Mr. Taylor filed to become a candidate for United States Senator on February 28, 2014, he kindly inquired about my wife (who also works at the Secretary of State's Office) and he greeted her in the hall. Needless to say, my contacts with Mr. Taylor were not merely interactions between unfamiliar government officials.

On Thursday, August 28, or Friday, August 29, I received a telephone call from Mr. Taylor, who had been certified on Wednesday, August 27, by the state board of canvassers as the winner of the Democratic primary for the office of United States Senator. Mr. Taylor inquired about the statutory deadline for a candidate to withdraw from a race after having received a nomination at the primary election. I cited K.S.A. 25-306b which sets the deadline at "seven days, including Saturdays, Sundays and holidays, after the meeting of the state board of canvassers for the final canvass of primary election..." I informed Mr. Taylor seven days after the state canvass would be Wednesday, September 3. Mr. Taylor asked if that meant any time on September 3 or if it meant the close of business hours. I replied that we would accept filings until 5:00 p.m., which is the close of business in the Secretary of State's Office. To the best of my recollection, nothing was said during this phone conversation, either by myself or by Mr. Taylor, regarding the contents of a written withdrawal required to comply with Kansas law.

In the early afternoon on Wednesday, September 3, Mr. Taylor called and, after asking me to keep the conversation confidential for the next hour, said he needed to know how a candidate can file a withdrawal pursuant to K.S.A. 25-306b(b). Mr. Taylor explicitly referenced this statute at the beginning of this phone conversation. Mr. Taylor then asked if we have a form for this purpose. I replied that we do not have such a form and that in the past candidates who have withdrawn have filed letters addressed to the Secretary of State. Mr. Taylor asked what such letters usually say. I told Mr. Taylor that withdrawing nominees usually file letters specifying their intent and the effective date of their withdrawals. I pointed out that the statement must be signed and "acknowledged before an officer qualified to take acknowledgments of deeds." I further explained that candidates have often used notaries public to provide such acknowledgments. Mr. Taylor indicated that he would come to the Secretary of State's Office later that afternoon to file his withdrawal.

During this conversation, Mr. Taylor never explicitly asked me for a complete list of what his withdrawal letter had to say to be effective to remove his name from the ballot for the November 4 general election. Mr. Taylor left me with the impression that he knew of the requirements under K.S.A. 25-306b(b) because he cited the statute, he focused his questions on what such withdrawal letters usually say, and I know Mr. Taylor to be an attorney currently serving as the District Attorney for Shawnee County, Kansas. I therefore assumed that he knew what the statute he cited says. I offered to Mr. Taylor what these types of letters have generally included, but I did not at any time undertake to provide Mr. Taylor with a complete list or rendition of what was required and Mr. Taylor never asked for such a list or rendition. The specific topic of what type of declaration Mr. Taylor was required to make under K.S.A. 25-306b(b) regarding his incapability to serve was not raised in any way by either myself or Mr. Taylor during this conversation.

Mr. Taylor arrived at the Secretary of State's office that afternoon—Wednesday, September 3, 2014— at a few minutes before 4:00 p.m. accompanied by a campaign staffer named Brandon Naylor. Mr. Taylor handed me an unsigned letter on campaign stationery which I quickly read. The letter indicated Mr. Taylor's intention to withdraw as a candidate for the office of United States Senate. Mr. Taylor asked if he could sign the letter in front of me. I said that he would need to sign the letter before a notary public and we began walking across the hall to the Secretary of State's Administration Division to have Amy Jeffrey, who is a notary public, notarize his signature on the letter. While we were in the hall, I asked if he was here today to carry out what the rumors said was going to happen. He replied, "what rumors?" I said we've been contacted by at least one national media outlet asking if a major party candidate for United States Senate withdrew would the party have an opportunity to name a replacement. He responded that he'd tell me about it some day over a cold beer. I said that sounds good but I doubted it would be today or any time soon.

Ms. Jeffrey reviewed two forms of photo identification provided by Mr. Taylor, asked him to sign the letter, and notarized his signature. I am aware of the allegations made by Mr. Taylor and Mr. Naylor that Mr. Taylor asked me, prior to having the letter notarized, if the letter "contained all of the necessary information." While I recall Mr. Taylor asking me a question of that nature later in our encounter, as described below, I do not recall him specifically asking me this question at this time and, in any event, I did not affirm to Mr. Taylor, at this or any other point during this encounter or otherwise, that his letter contained all of the necessary information to effectuate his withdrawal from the election.

After the letter was signed and notarized, I asked Mr. Taylor if he wanted a photocopy of the letter and he replied, "Yes, two or three." Mr. Taylor, Mr. Naylor and I walked back across the hall to the Elections Division. I made three copies of the letter and handed them to Mr. Taylor. At this point Mr. Taylor asked if his name would be removed from the candidate list and I gestured by shrugging my shoulders as to indicate "we'll see." At this point I was in my office in front of my desk and Mr. Taylor and Mr. Naylor were standing in the doorway between my office and the copy room. Bryan Caskey, Assistant State Election Director, was sitting at his desk and I gestured to Mr. Caskey with my hand to remove Mr. Taylor from the unofficial candidate list, which I understand he did shortly thereafter. At this point, which was approximately 4:10 p.m., Mr. Taylor and Mr. Naylor left the office.

As described above, the only point at which I recall Mr. Taylor asking, in any way, whether his letter was "sufficient" to remove his name from the ballot for the November 4 general election was when, after I provided him the copies, he asked if his name would be removed from the ballot and I in response gestured that the answer was uncertain. I do not recall Mr. Taylor making a similar inquiry, either in person or on the phone, at any other time. Further, I at no point affirmed or stated to Mr. Taylor that his letter contained all of the necessary information to comply with the controlling statute. Moreover, I am convinced based on my relationship and familiarity with Mr. Taylor that, at all times on September 3, 2014, Mr. Taylor was fully aware of the language and requirements of the statute, and that he at no time understood me to be affirming to him that a letter without the declaration described in K.S.A. 25-306b(b) would be sufficient to prevent his name from appearing on the ballot for the November 4 general election.

I was then and am now of the opinion that Mr. Taylor was facing extreme political pressure from

fellow Democrats at the national level to withdraw from the race for United States Senator, but that Mr. Taylor did not want to sign a written declaration that he was “incapable of fulfilling the duties of office if elected.” Mr. Taylor’s demeanor during my encounter with him on September 3 was quiet and subdued, while in my previous interactions with him he has generally been friendly and more forthcoming. It appeared to me that Mr. Taylor was hoping to file his letter without attracting much attention, and that he hoped his letter would be accepted by the Secretary of State without the declaration required by the statute. At no time did Mr. Taylor ask to speak with Secretary Kobach or with anyone else in the Secretary of State’s Office.

At my direction, Bryan Caskey removed Mr. Taylor’s name from the unofficial candidate list shortly after Mr. Taylor departed from our office. Several hours later, after communicating with Secretary Kobach, and after Secretary Kobach had been informed of the contents of Mr. Taylor’s letter, I was instructed by Secretary Kobach to restore Mr. Taylor’s name to the candidate list until at least the next morning when the situation and applicable laws could be reviewed more thoroughly by legal staff. I instructed Mr. Caskey to return to the office and add Mr. Taylor’s name back to the unofficial candidate list.

Removing Mr. Taylor from the unofficial candidate list and then, subsequent to further legal analysis, restoring him to the unofficial candidate list is consistent with longstanding practice in the office. The unofficial candidate list is essentially our office’s internet interface to notify the public of filings immediately upon receipt, and this is commonly understood by people who frequently interact with our office regarding elections matters. For example, when a person files to become a candidate that person is almost immediately added to the unofficial candidate list even though after the filing is officially reviewed it may be determined that the candidate should be removed from the unofficial list due to invalidity of filing documents, objections or lawsuits. Likewise, names that are removed may be restored after administrative or legal review. The candidate list maintained on the website is unofficial before the primary election until we certify it for the primary election. Then it is again unofficial, and clearly labeled so, after the primary election until we certify it before the general election. We certify it to the county election officers and provide materials to assist them in preparing ballots for the upcoming election. The unofficial candidate list is the only method our office has to alert the public when a document is filed. This is important public information for persons considering filing objections or persons who need to know who their potential opponents are in deciding whether to file as candidates.

Since 1997, Mr. Caskey and I have had multiple conversations about the implications of the 1997 amendment to K.S.A. 25-306b(b), which added the requirement for withdrawing a nomination that the person “declares that they are incapable of fulfilling the duties of office if elected.” The most recent such conversation occurred during the afternoon of September 3, after Mr. Taylor had called me to say that he intended to come to the office later that afternoon to file his withdrawal letter. I asked Mr. Caskey to come into my office and explained that we should expect Mr. Taylor to visit the office later that afternoon to file a letter of withdrawal. I told Mr. Caskey that I believed that Mr. Taylor would not want to sign, either as a candidate or as an attorney, a notarized statement declaring incapability of fulfilling the duties of the office because that was not the reason he wished to withdraw.

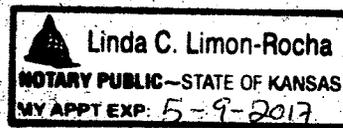
I am not aware of any withdrawal letters filed under K.S.A. 25-306b(b) since 1997, with the exception of Mr. Taylor’s, which have failed to contain a statement or declaration to the effect

that the candidate is incapable of serving in office. Thus, Mr. Taylor's letter is the first withdrawal letter that I am aware of that raised this particular issue under the statute. Indeed, the current version of the Kansas Election Standards, revised March, 2014, contains guidance for the filing and acceptance of candidate withdrawals, and states that the withdrawing candidates "must submit a notarized written statement declaring him/herself to be 'incapable of fulfilling the duties of office' if elected." The page from the Kansas Election Standards containing this guidance is attached as Exhibit A. The Kansas Election Standards are published by the Secretary of State's Office and made available to the public and are designed to provide guidance to candidates and county election officials. The Kansas Election Standards are available on the internet at: [www.sos.ks.gov/elections/elections\\_reform\\_standards.html](http://www.sos.ks.gov/elections/elections_reform_standards.html). And this is why I did not affirm to Mr. Taylor that his letter was sufficient to comply with the statute.

*Bradley J. Bryant*

Bradley J. Bryant, Deputy Assistant Secretary of State  
KANSAS SECRETARY OF STATE'S OFFICE

STATE OF KANSAS            )  
  ) SS:  
COUNTY OF SHAWNEE    )



SUBSCRIBED, ACKNOWLEDGED, AND SWORN TO before me, the undersigned Notary Public, by Bradley J. Bryant in his capacity as Deputy Assistant Secretary of State, Kansas Secretary of State's Office, on this the 11 day of September, 2014.

*Linda C. Limon-Rocha*  
Notary Public

My Appointment Expires:

*May 9, 2017*

\* The Governmental Ethics Commission receives a statutory \$35 campaign finance report fee from candidates for state and county offices except retention judges. The Secretary of State receives a statutory \$20 administrative fee from candidates for all state and national offices except president.

Note: In redistricting years (2012, 2022, 2032, etc.) the filing deadline may be set on a date other than June 1, depending on when redistricting is completed. See KSA 25-205(h). The redistricting process may also reduce the petition requirements for candidates who file by petition. See KSA 25-205(g).

### **Determining the Validity of Nominations**

For many offices it is the responsibility of the county election officer to determine the validity of the filings. Determining the validity may include checking the Declaration of Intention for completeness, determining the sufficiency of a petition, determining whether a check written for a filing fee clears the bank, or determining whether a candidate possesses the necessary qualifications for office.

The county election officer has three days from the date of a candidate filing for county office, township office, precinct committee position, local school board, or city office to determine its validity. [KSA 25-208a(b)]

For national and state offices, the filings are made with the Secretary of State's office, and a period of ten business days is allowed for determination of their validity. [KSA 25-208a(a)]

If a filing is determined to be invalid, the candidate may file an objection pursuant to KSA 25-308. If a filing is determined to be valid, another person may file an objection if they believe the filing to be invalid. (See Section d below.)

### **Candidate Withdrawals**

A candidate who has filed for any office may withdraw before the candidate filing deadline by submitting a notarized written statement of withdrawal. [KSA 25-306a] After the filing deadline and after the primary, a candidate for national, state, county or township office who does not wish to be a candidate must submit a notarized written statement declaring him/herself to be "incapable of fulfilling the duties of office" if elected. [KSA 25-306b(b)] Candidate withdrawals create vacancies in candidacies, which in the case of party candidacies are filled by party district convention. [KSA 25-3904, 25-3904a] There is no provision in law for replacing independent candidates if they withdraw.

Likewise, there is no provision in law for replacing candidates in nonpartisan races.

### **Candidate Deaths**

Whether a vacancy in a candidacy can be filled, and the procedure for doing so, depend on the timing of the vacancy. If a vacancy in a party candidacy occurs after the candidate filing deadline but before the primary, leaving the party with no candidate in the primary election, the party chooses a successor candidate. [KSA 25-2906]

After the primary, if a candidate who has been nominated for a national, state, county or township office dies, the candidate's party chair is directed by law to file a notarized written statement with the Secretary of State or county election officer causing the

