FILED
SEP 09 2014
HEATHER L. SMITH
CLERK OF APPELLATE COURTS

IN THE SUPREME COURT OF KANSAS

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

PETITION FOR WRIT OF MANDAMUS AND EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER

Petitioner, Chad Taylor, hereby respectfully seeks a writ of mandamus prohibiting Respondent, Secretary of State Kris Kobach from including Petitioner's name on the ballot for United States Senate in the November 4, 2014 general election. Petitioner seeks this order on the grounds that Respondent's refusal to recognize and effectuate Petitioner's timely, lawful and unequivocal withdrawal from the race pursuant to K.S.A. § 25-306b(b), has constituted and will constitute the unlawful performance of public duties and the unlawful exercise of public office such that a writ of mandamus is legally justified. Respondent has publically announced that the names of the candidates for the November 4th election must be finalized by September 18, 2014. Accordingly, this matter is of great urgency and Petitioner respectfully requests that the Court act on the request for a writ of mandamus at its earliest possible convenience. Moreover, to protect the rights of Petitioner and the public while a final decision of this Court is pending, Petitioner respectfully requests that the Court issue a temporary restraining order barring Respondent from printing any ballots that identify Petitioner as a candidate for United States Senate in the November 2014 election unless and until the Court orders otherwise.

14-112431-S

In support of his petition and motion, Petitioner alleges and states as follows:

I. JURISDICTION AND PARTIES

1. This is an original action in mandamus, pursuant to K.S.A. § 60-801 *et seq.* This Court has original jurisdiction by virtue of Article 3, § 3 of the Kansas Constitution, K.S.A. § 60-801 *et seq.*, and Rule 9.01 of the Rules of the Supreme Court of Kansas.

2. In accordance with Rule 9.0l(a) of the Rules of the Supreme Court, Petitioner is filing a Memorandum of Points and Authorities, together with documentary evidence supporting the facts alleged.

3. Given the necessity of a ruling in advance of September 18th, and the near-certainty that it will ultimately fall to this Court to decide the issue even if the action were first filed with a lower court, Petitioner believes that an original action in this Court is both necessary and appropriate to ensure that this issue, which is of great public importance, is conclusively resolved prior to September 18th and that justice is not denied. For these reasons, adequate relief is not available in the district court. *See* Supreme Court Rule 9.01(b).

4. Petitioner resides at 6842 NW Hunter Road in the City of Topeka, in the County of Shawnee, in the State of Kansas. *See* Affidavit of Petitioner ("Taylor Aff.") ¶ 1. Until September 3, 2014, Petitioner was a candidate for United States Senate. *Id.* ¶ 2.

5. Respondent Kris Kobach is the Secretary of State for the State of Kansas. He may be served at Kansas Secretary of State's Office, Memorial Hall, 1st Floor, 120 SW 10th Avenue, Topeka, KS 66612-1594.

6. Respondent holds public office and is delegated certain duties and responsibilities under Kansas law. By operation of law, Respondent is required to exercise his public office and perform all duties and functions assigned to him by law in a manner consistent with the terms,

rights, and privileges guaranteed by the constitution and laws of Kansas.

7. Mandamus is appropriate because Petitioner's interest in compelling Respondent to perform his public duty and to not include Petitioner on the ballot for the United States Senate race arises out of injuries to the constitutional and statutory rights of Petitioner that will occur if this Court does not take action. Petitioner has standing under Kansas law to assert these rights.

II. STATEMENT OF FACTS

8. As noted above, until Wednesday, September 3, 2014, Petitioner was a candidate for United States Senate. Taylor Aff. ¶ 2.

9. On or about August 27, 2014, Petitioner called Brad Bryant, the Director of Elections and Legislative Matters at the Kansas Secretary of State's Office and the person designated on the Secretary of State's website to contact regarding elections and legislative matters, to inquire about the procedure and protocol for withdrawing from the Senate race. Taylor Aff. ¶¶ 3-4. Bryant told Petitioner that the deadline for withdrawal was September 3, at 5:00 p.m, *id.* ¶ 3, which is seven days after the State Board of Canvassers met to certify the results from the 2014 primary election. Petitioner asked Bryant what the withdrawal had to say, and Petitioner, working with his campaign manager Brandon Naylor, followed Bryant's instructions to draft a letter of withdrawal. *Id.* ¶ 4; Affidavit of Brandon Naylor ("Naylor Aff.") ¶ 4.

10. Petitioner and Naylor took the unsigned letter of withdrawal (the "Taylor Letter") to the Secretary of State's Office and found Bryant in the hallway outside his office. Taylor Aff. ¶ 5; Naylor Aff. ¶ 6. Petitioner handed the Taylor Letter to Bryant and asked him if the letter contained all of the information necessary to remove Petitioner's name from the ballot. Bryant

said "yes," confirming that the Taylor Letter was sufficient to withdraw Petitioner's name from the ballot. Taylor Aff. ¶ 6; *see also* Naylor Aff. ¶ 7.

11. Petitioner asked if he could sign and attest right there with Bryant. Bryant said he was not a notary but that there was one available. Petitioner and Naylor then followed Bryant to an office where Bryant introduced Petitioner and Naylor to a notary. After Petitioner presented the notary with photo identification and signed her notary book, Petitioner signed the Taylor Letter and the notary notarized it. Taylor Aff. ¶ 7; Naylor Aff. ¶ 8. The Taylor Letter, which is dated September 3, 2014, states, "I, Chadwick J. Taylor, Democratic nominee for the United States Senate race, do hereby withdraw my nomination for election effective immediately and request my name be withdrawn from the ballot, pursuant to KSA 25-306b(b)." Taylor Aff., Exh. A. This language was meant to incorporate the terms of the cited statutory provision. Taylor Aff. ¶ 15. Indeed, it was Petitioner's clear intention to declare that he is incapable of fulfilling the duties of the office of United States Senator if elected; he will not serve if he is elected. *Id.* ¶ 16.

12. Petitioner asked Bryant if that completed the withdrawal process, and Bryant confirmed that it did. Taylor Aff. ¶ 8. After Bryant made copies of the Taylor Letter, Petitioner again held up the letter and showed it to Bryant and asked him if it removed Petitioner's name from the ballot. Bryant said, "Yes." Taylor Aff. ¶¶ 9-10; Naylor Aff. ¶ 10.

13. Petitioner and Naylor left the Secretary of State's Office believing that there was no question that Petitioner's withdrawal had been effective. Taylor Aff. ¶ 11; Naylor Aff. ¶ 11. If Bryant or anyone else from the Secretary of State's Office had told Petitioner that other information was required to withdraw, Petitioner would have included that information in the Taylor Letter. Taylor Aff. ¶ 14.

14. On the same day, Jason Perkey, Executive Director of the Kansas Democratic

Party, confirmed with Bryan Caskey, an employee at the Kansas Secretary of State's Office, Election and Legislative Matters Division, that Petitioner's withdrawal was effective. Affidavit of Jason Perkey ¶ 5.

15. The next day, September 4—after the deadline for withdrawal had passed—Petitioner and Naylor learned for the first time that the Secretary of State's Office had reversed its position and was refusing to recognize or effectuate Petitioner's withdrawal. Taylor Aff. ¶ 12; Naylor Aff. ¶ 12. Later that day, Respondent faxed a letter (the "Kobach Letter") to counsel for Petitioner. Taylor Aff. ¶ 13. The Kobach Letter stated that Petitioner's name would appear on the ballot for United States Senate in the November 2014 general election. Taylor Aff., Exh. B. Respondent wrote that "after conferring with the office of the Kansas Attorney General, I have concluded that the written request filed by Mr. Taylor does not meet the requirements of K.S.A. 25-306b(b) because Mr. Taylor did not 'declare[] that [he is] incapable of fulfilling the duties of office if elected.'" *Id.*

16. Petitioner does not want to be a candidate for United States Senate in the 2014 election. He does not want the ballot for that election to associate him with that race or with the Democratic Party for purposes of that race, because that association is likely to cause confusion among Kansas voters, who have a right to cast their votes free from misleading ballot information that would lead any reasonable person to believe that Petitioner was still in the race. Taylor Aff. ¶ 18.

17. Respondent has publically announced that the names of the candidates for the November 4th election must be finalized by September 18, 2014. Accordingly, time is of the essence.

III. GROUNDS FOR RELIEF

18. Petitioner's withdrawal complied with the relevant statute, K.S.A. § 25-306b(b). That law provides in relevant part that "[a]ny person who has been nominated . . . for any national . . . office who declares that they are incapable of fulfilling the duties of office if elected may cause such person's name to be withdrawn from nomination by a request in writing, signed by the person and acknowledged before an officer qualified to take acknowledgments of deeds." K.S.A. § 25-306b(b). In the case of national offices, this request "shall be filed with the secretary of state" and, subject to an exception not relevant here, "shall be filed within seven days . . . after the meeting of the state board of canvassers for the final canvass of primary election." *Id.* The statute further provides that "[n]o name withdrawn as provided in this section shall be printed on the ballots for such office for the general election." *Id.* Thus, the plain language of the statute does not require a candidate to submit to the Secretary of State a reason for withdrawal or anything other than a notarized request in writing that the candidate's name be withdrawn.

19. Moreover, even if the Court were to read the statute to require that the writing include that the candidate is incapable of fulfilling the duties of office if elected, Petitioner plainly met that requirement, when he submitted a timely, notarized letter to the Secretary of State's Office that stated, "I . . . do hereby withdraw my nomination for election effective immediately and request my name be withdrawn from the ballot, *pursuant to* KSA 25-306b(b)." Taylor Aff., Exh. A (emphasis added). The meaning of the phrase "pursuant to KSA 25-306b(b)" could not be clearer: Petitioner was withdrawing his nomination for the reason set forth in (and thus was incorporating by reference the language of) K.S.A. § 25-306b(b)—namely, that he is incapable of fulfilling the duties of office if elected. *See* Taylor Aff. ¶¶ 15-16. Thus, the Taylor Letter effectively withdrew Petitioner's name from the ballot for the United States Senate election, and

his name accordingly may not "be printed on the ballots for such office for the general election." K.S.A. § 25-306b(b).

20. Under state law, moreover, "[a] substantial compliance with the law regulating the conduct of elections is sufficient." *Lambeth v. Levens*, 237 Kan. 614, 617 (1985).[1] "[M]ere irregularities should not be permitted to frustrate the will of the voters, nor should the carelessness of election officials." *Id.* Given that there can be no question that the Taylor Letter at the very least substantially complied with the statutory requirements for withdrawal, *Lambeth* confirms that Respondent is required to omit or remove Petitioner's name from the ballot for United States Senate in the upcoming election.

21. The constitutional avoidance doctrine also requires the finding that Petitioner effectively withdrew his candidacy through the Taylor Letter. To the extent that K.S.A. § 25-306b(b) prevents an individual from refusing to be a candidate for office or refusing to associate himself with the election for which he is on the ballot and the party that he represents in that election, it burdens that individual's rights under Section 11 of the Kansas Bill of Rights and must be justified by a substantial interest. And given that ballots containing Petitioner's name as a candidate for United States Senate had not yet been printed at the time of Petitioner's withdrawal, it is not at all clear what interest the Secretary of State has in rejecting Petitioner's withdrawal. Thus, to avoid the serious constitutional issue that Respondent's interpretation of K.S.A. § 25-306b(b) would present, this Court should interpret the statute such that Respondent was required to remove Petitioner's name from the ballot upon receipt of his withdrawal letter.

22. Respondent's refusal to remove Petitioner's name from the ballot also violates

[1] While *Lambeth* was addressing the situation "when the election has been held and the will of the electors has been manifested thereby," 237 Kan. at 617, this Court has subsequently written that "[i]n *Lambeth* and more recently in *Cure*, we discussed and explained the rules that apply to *all* election cases." *Thomason v. Stout*, 267 Kan. 234, 238 (1999) (emphasis added).

Section 2 of the Kansas Bill of Rights, pursuant to which the regulation of elections and control of ballot content and ballot access must be conducted in a reasonable, nondiscriminatory, politically neutral fashion. Upon information and belief, Respondent, a supporter of Republican Pat Roberts' candidacy for reelection to the United States Senate and member of Roberts' honorary campaign committee, has refused to honor Petitioner's timely filed letter of withdrawal in the hopes of protecting Mr. Roberts' political prospects in the upcoming election. This has caused harm to both Petitioner and Kansas's electorate and, in the absence of the requested relief, will cause further irreparable harm to Petitioner and Kansas's electorate.

23. Furthermore, if the Court were to find that Kansas law does in fact authorize the Secretary of State to accept or reject statements of withdrawal based on their content, application of the statute under the circumstances here, where Petitioner relied upon the direction and assurances of the Secretary of State's agent that he had effectively withdrawn, would violate Section 18 of the Kansas Bill of Rights, which provides a remedy by due course of law to all persons for injuries suffered in person, reputation or property.

24. As a consequence of the Respondent's conduct, the Petitioner has been harmed.

IV. RELIEF SOUGHT

25. WHEREFORE, for the reasons stated herein and in the Memorandum filed herewith, Petitioner seeks the following relief:

a. An order directing Respondent to recognize and effectuate Petitioner's withdrawal from the race for United States Senate, and prohibiting Respondent from including Petitioner's name on the ballot for the November 2014 general election;

b. A temporary restraining order barring Respondent from printing, submitting to be

printed, or authorizing the printing of any ballots that identify Petitioner as a candidate for United States Senate in the November 2014 election unless and until the Court orders otherwise; and

c. Such further relief as this Court deems just and proper attributable to Respondent's failure to perform his specific duties of law.

Respectfully submitted,

Pedro L. Irigonegaray (#08079)
Elizabeth R. Herbert (#09420)
Irigonegaray & Associates
1535 S.W. 29th Street
Topeka, KS 66611
(785) 267-6115

ATTORNEYS FOR CHAD TAYLOR

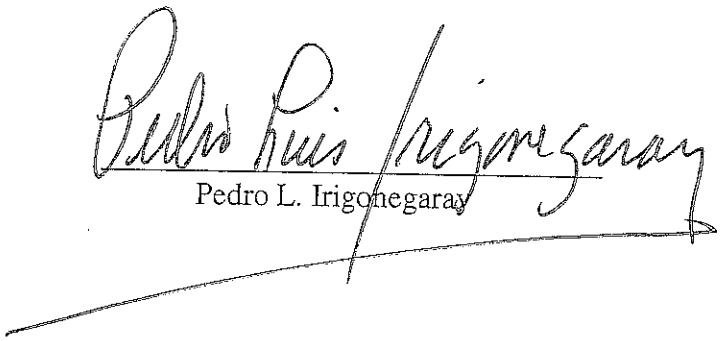
CERTIFICATE OF SERVICE

The undersigned person hereby certifies that a true and correct copy of the above and foregoing document was served by courier service on September 9, 2014, to:

Kris W. Kobach
Kansas Secretary of State
Memorial Hall, 1st Floor
120 SW 10th Avenue
Topeka, KS 66612-1594

and

Derek L. Schmidt
Kansas Attorney General
Memorial Hall, 2nd Floor
120 SW 10th Avenue
Topeka, KS 66612



Pedro L. Irigonegaray

IN THE SUPREME COURT OF KANSAS

CHAD TAYLOR, Plaintiff, v. KRIS KOBACH, in his official capacity as Secretary of State for the State of Kansas, Defendant.	)	Case No. _____

AFFIDAVIT OF PLAINTIFF IN SUPPORT OF HIS MANDAMUS ACTION AND EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER TO PROHIBIT THE SECRETARY OF STATE FROM INCLUDING PLAINTIFF'S NAME ON THE BALLOT FOR THE NOVEMBER 4, 2014 ELECTION FOR U.S. SENATOR

I, Chadwick J. Taylor, being first duly sworn on oath, do hereby depose and say:

1. I am the plaintiff in this case and reside at 6842 NW Hunter Road in the City of Topeka, in the County of Shawnee, in the State of Kansas.

2. Until Wednesday, September 3, 2014, I was a candidate for U.S. Senate.

3. On or about August 27, 2014, I called Brad Bryant, the Director of Elections and Legislative Matters for the Kansas Secretary of State and the person designated on the Secretary of State's website to contact regarding Elections and Legislative Matters, to inquire about the latest date by which a candidate would have to withdraw to no longer be on the ballot for the upcoming November 4 election. Mr. Bryant told me that the final date for withdrawal was September 3, at 5:00 p.m.

4. On September 3, I again called Mr. Bryant to inquire about the procedure and protocol for withdrawing from the Senate race. He told me that the Secretary of State's Office did not have a pre-printed form for withdrawal and that there was no formality to the process. He said

that his office has previously accepted withdrawals written on notebook paper. I asked him what the withdrawal had to say, and I followed his instructions in working with my campaign manager, Brandon Naylor, to draft a letter of withdrawal.

5. At approximately 4:00 p.m., Mr. Naylor and I then took the unsigned letter to the Secretary of State's Office, where we found Mr. Bryant in the hallway outside of his office.

6. I handed Mr. Bryant the letter and told him that, per our earlier conversation, this was my letter to withdraw from the race for U.S. Senate. I asked him if it contained all of the information necessary to remove my name from the ballot. Mr. Bryant said "yes," confirming to me that the letter was sufficient to withdraw my name from the ballot.

7. I asked whether I could sign and attest right there with him and he told me he was not a notary, but he said there was a notary available. Mr. Naylor and I then followed Mr. Bryant to the south side of the office where Mr. Bryant introduced us to the notary, who agreed to notarize the letter. After I presented her with photo identification and signed her notary book, I signed the letter and she notarized it. A copy of that letter, as signed, notarized, and submitted to the Secretary of State's Office that day is attached hereto as Exhibit A.

8. I asked Mr. Bryant if that completed the withdrawal process and he confirmed that it did.

9. I told him that I needed three copies of the final letter and he told me he would waive the ordinary copying fees for me. Mr. Bryant then took the letter, and led Mr. Naylor and I to the north side of the office where he made copies.

10. When Mr. Bryant handed me the copies, once again I showed him my letter of withdrawal and asked him if at this time my name had been withdrawn from the ballot. He said, "Yes."

11. Mr. Naylor and I left the Secretary of State's Office believing that there was no question that my withdrawal had been effective. At no point did Mr. Bryant or anyone else at the Secretary of State's Office give any indication that the letter would be subject to further review, or that there was any possibility that the Secretary of State would ultimately refuse to take my name off of the ballot.

12. The first time I heard that the Secretary of State's Office had reversed its position and was now refusing to remove my name from the ballot was the following day, when I received a call from my campaign manager, who told me that there were rumors that the Secretary of State's Office had changed its position and was not going to allow me to withdraw from the election or remove my name from the ballot. At this point, the deadline for withdrawal had passed, so I was not able to submit a modified version of my withdrawal letter.

13. Later that day, Secretary of State Kris Kobach faxed my attorney a letter confirming that he would not be removing my name from the ballot for the November 4th election. A copy of that letter is attached hereto as Exhibit B.

14. As stated above, I followed Mr. Bryant's explicit instructions in preparing the letter for withdrawal. If Mr. Bryant or anyone else from the Secretary of State's Office had told me that other information was required to withdraw, I would have included that information in my letter of withdrawal.

15. Furthermore, the language that I used in the letter -- which stated that I withdrew from the election "effective immediately and request my name be withdrawn from the ballot, *pursuant to* KSA 25-306b(b)" (emphasis added) -- was meant to incorporate all of the terms of that statutory provision. As a lawyer, I know that the use of such language in fact incorporates all of the terms in the cited statutory provision.

16. Based on my reading of KSA 25-306b (b) and the assurances provided to me by Mr. Bryant, I was at that time and I continue to be convinced that my letter effectively withdrew my candidacy and legally requires removal of my name from the ballot. It was my clear intention to declare that I am incapable of fulfilling the duties of the office of U.S. States Senator if elected. Moreover, if elected, I will not serve.

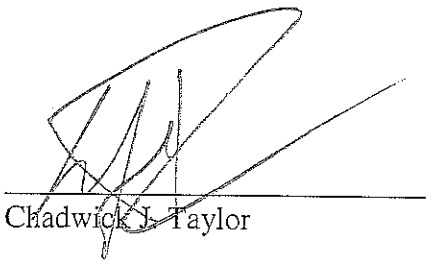
17. I expressed to Mr. Bryant my unequivocal intention to withdraw, in my letter of September 3, 2014, citing the appropriate statutory authority in my letter and in my interactions with Mr. Bryant and in conversations we had while I was at the Secretary of State's Office. During our conversations, Mr. Bryant repeatedly stated his assurances that my letter had effectively withdrawn my name from the election ballot and I relied upon his representations.

18. It is my understanding, based on an article by John Hanna of the Associated Press, attached hereto as Exhibit C, that on Wednesday, September 3, subsequent to my delivery of my withdrawal letter to the Secretary of State's office, my name was removed from that office's online list of candidates. Without my authority, at some time on Thursday, September 4, my name was restored to the list.

19. By keeping my name on the ballot despite my explicit and timely withdrawal, the Secretary of State is conscripting me to run for office, in violation of my First Amendment rights. I do not want to be a candidate for U.S. Senate in the 2014 election and do not want the ballot for that election to associate me with the Senate race. I do not want to have my name associated with the Democratic Party for purposes of the 2014 U.S. Senate race, because I believe that such an association is likely to cause confusion among Kansas voters, who have a right to cast their votes free from misleading ballot information that would lead any reasonable person to believe that I was still in the race. I do not want voters to be confused by the presence

of my name on the ballot for an office that I am no longer seeking and am incapable of serving in.

Further affiant saith naught.



Chadwick J. Taylor

STATE OF Kansas)
) ss:
COUNTY OF Shawnee)

BE IT REMEMBERED, that on this 8 day of September, 2014, before the undersigned, a notary public in and for said county and state, personally appeared Chadwick J. Taylor, personally known to me to be the same person described in and who executed the foregoing Affidavit.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last above written.

My appointment expires: 8-29-15

Susan M Schuster-Woodard
Notary Public

Susan M. Schuster-Woodard
Notary Public - State of Kansas
My Appt. Expires 8-29-15

Chad
Taylor
★U.S. SENATE★

Kansas Secretary of State Kris W. Kobach
Kansas Secretary of State
Memorial Hall, 1st Floor
120 SW 10th Avenue
Topeka, KS 66612-1594

September 3, 2014

Dear Secretary of State Kobach,

I, Chadwick J. Taylor, Democratic nominee for the United States Senate race, do hereby withdraw my nomination for election effective immediately and request my name be withdrawn from the ballot, pursuant to KSA 25-306b(b).

Sincerely,

Chadwick J. Taylor

State of: Kansas
County of: Shawnee

Signed before me on: 9-3-2014
By: Chadwick J. Taylor

NOTARY PUBLIC - State of Kansas
AMY JEFFREY
My Appt. Expires 6-12-2017

PLAINTIFF'S EXHIBIT A
PENGAD-Bayonne, N. J.

PO BOX 2696 ★ TOPEKA, KANSAS 66601-2696 ★ 785-783-8030
WWW.TAYLORFORUSSENATE.COM ★ INFO@TAYLORFORUSSENATE.COM

KRIS W. KOBACH
Secretary of State

Memorial Hall, 1st Floor
120 S.W. 10th Avenue
Topeka, KS 66612-1594
(785) 296-4575
www.sos.ks.gov

STATE OF KANSAS

September 4, 2014

Gary D. White, Jr.
PALMER, LEATHERMAN, WHITE & GIRARD, L. L. P.
2348 SW Topeka Blvd.
Topeka, KS 66611
Facsimile: 785-233-3703

re: Nomination of Chadwick J. Taylor for United States Senator

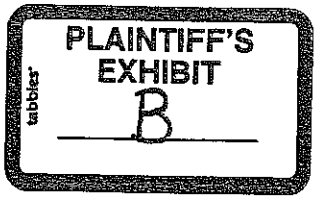
Dear Mr. White:

You have indicated that you represent Chadwick J. Taylor regarding the written request that Mr. Taylor filed with the Secretary of State's Office on September 3, 2014, requesting that his nomination for United States Senator be withdrawn and that he not appear on the ballot for the November 4, 2014, general election. The purpose of this letter is to inform you that, after conferring with the office of the Kansas Attorney General, I have concluded that the written request filed by Mr. Taylor does not meet the requirements of K.S.A. 25-306b(b) because Mr. Taylor did not "declare[] that [he is] incapable of fulfilling the duties of office if elected." Therefore, Mr. Taylor's name will appear on the ballot for the office of United States Senator for the November 4, 2014, general election.

Sincerely,

Kris W. Kobach
Kansas Secretary of State

cc: Pat Roberts Campaign
Greg Orman Campaign
Randall Batson Campaign



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Tip: To quickly find your search term on this page, press Ctrl+F or ⌘-F (Mac) and use the find bar.

Text-only version

Thursday, Sept. 4, 2014

Kansas Republicans question legality of Chad Taylor's withdrawal of Democratic nomination

By John Hanna
The Associated Press

SEPTEMBER 2013 FILE PHOTO/THE CAPITAL-JOURNAL

The Kansas Republican Party is calling Shawnee County District Attorney Chad Taylor's withdrawal from the U.S. Senate race a "corrupt bargain."

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The Kansas Republican Party on Thursday questioned the legality of the Democratic U.S. Senate nominee's withdrawal from the race against conservative incumbent Pat Roberts, throwing a previously safe Republican seat into doubt and complicating national GOP efforts to win a majority in the chamber.

Democrat Chad Taylor, a northeast Kansas prosecutor, had been vying for support from some of the same moderate Republican and unaffiliated voters as independent candidate Greg Orman, a Kansas City-area businessman whose fundraising has been more successful than Taylor's.

Republicans immediately labeled the Democrat's decision a "corrupt bargain" designed to give one viable candidate a better shot at unseating Roberts, who looked vulnerable in the November general election after emerging from a difficult GOP primary in August.

Taylor's withdrawal has national implications because the GOP were counting on the 78-year-old Roberts winning a fourth term in a predominantly Republican state to help the party's quest for a net gain of six seats to win a Senate majority in Washington.

Republicans have a nearly 20-percentage point advantage over Democrats among Kansas registered voters and have won every U.S. Senate race in the state since 1932.

Taylor sent a letter to the Kansas secretary of state Wednesday saying he was withdrawing. He issued a separate statement saying he had "terminated" his campaign, without an explanation.

But state GOP Chairman Kelly Arnold issued a statement Thursday questioning whether Taylor complied with a state law allowing nominees to withdraw. The law says candidates may withdraw if they declare "they are incapable of fulfilling the duties of office if elected."

Orman's campaign declined comment. Spokesmen for Taylor and Roberts did not immediately return telephone messages Thursday.

Kansas Democratic Party Chair Joan Wagnon released a statement Thursday morning about Taylor's withdrawal, saying, "We thank Chad Taylor for his service as a candidate and his continued service as the elected District Attorney of Shawnee County. It is clear that Kansans are ready for new leadership. We will be monitoring this race closely."

The secretary of state's office briefly removed Taylor's name Wednesday from its online list of candidates but restored it as of Thursday. Secretary of State Kris Kobach, a conservative Republican, said he would be consulting with attorneys in his office and the attorney general's office.

Asked whether he viewed Taylor's withdrawal as legal, Kobach, a former law professor, told The Associated Press: "Let me defer the question because I want to have a full discussion with attorneys."

Kobach also said Wednesday night that his initial reading of state election laws is that the Democratic Party is legally obligated to pick a new nominee.

Taylor has been the district attorney since 2009 in Shawnee County, the home of the state capital of Topeka. Orman, from Olathe, is the co-founder of a business capital and management services firm.

A Libertarian, Randall Batson, of Wichita, is also on the Nov. 4 general election ballot.

Online:

Chad Taylor campaign: http://taylorforussenate.com/

Greg Orman campaign: http://www.ormanforsenate.com/

Pat Roberts campaign: http://www.robertsforsenate.com

Follow John Hanna on Twitter at https://twitter.com/apjdhanna

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IN THE SUPREME COURT OF KANSAS

CHAD TAYLOR, Plaintiff, v. KRIS KOBACH, in his official capacity as Secretary of State for the State of Kansas, Defendant.	)	Case No. _____

AFFIDAVIT OF BRANDON NAYLOR IN SUPPORT OF PETITION FOR MANDAMUS AND EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER TO PROHIBIT THE SECRETARY OF STATE FROM INCLUDING PLAINTIFF'S NAME ON THE BALLOT FOR THE NOVEMBER 4, 2014 ELECTION FOR U.S. SENATOR

I, Brandon Naylor, being first duly sworn on oath, do hereby depose and say:

1. I reside at 1235 SW MacVicar Avenue, in the City of Topeka, in the County of Shawnee, in the State of Kansas.

2. I served as the campaign manager for Chad Taylor who, until Wednesday, September 3, 2014, was a candidate for U.S. Senate.

3. On September 3, I was with Mr. Taylor when he called Brad Bryant, the Director of Elections and Legislative Matters at the Kansas Secretary of State, to ask about the procedure and protocol for withdrawing from the Senate race.

4. Mr. Taylor and I followed the instructions that he had received from Mr. Bryant to draft a letter of withdrawal.

5. Mr. Taylor and I printed out a copy of the letter on Chad Taylor for U.S. Senate letterhead and left it unsigned.

6. At approximately 4:00 p.m. we took the unsigned letter to the Secretary of State's Office, where we found Mr. Bryant in the hallway outside the Office of Elections and Legislative Matters.

7. Mr. Taylor and I showed the letter to Mr. Bryant, who read it and then verbally confirmed that it included everything that was necessary to remove Mr. Taylor from the ballot for the Senate race.

8. Mr. Taylor and I followed Mr. Bryant to the desk of a notary who notarized the letter after Mr. Taylor presented her with photo identification and signed her notary book.

9. Mr. Bryant made Mr. Taylor three copies of the letter, telling him that he would waive the typical copy fee. Mr. Taylor joked that Mr. Bryant already had his $1700 filing fee, and Mr. Bryant told him that in the past candidates who had withdrawn had actually asked for that back.

10. Before we left, Mr. Taylor asked Mr. Bryant again if he had done everything he needed to do to have his name removed from the ballot, and Mr. Bryant confirmed that there was nothing further that Mr. Taylor had to do. Mr. Taylor's intent to have his name removed from the ballot and to follow the protocol necessary for doing so could not have been clearer.

11. When we left the Secretary of State's office that day, Mr. Taylor and I believed that Mr. Taylor's withdrawal had been effective, that he was no longer considered a candidate for U.S. Senate, and that his name would not appear on the ballot for the November 4 election. At no point did Mr. Bryant or anyone else at the Secretary of State's office give any indication that the letter would be subject to further review, or that there was any possibility that the Secretary of State would ultimately refuse to take Mr. Taylor's name off the ballot.

12. The first time I heard that the Secretary of State's Office had reversed its position and was refusing to remove Mr. Taylor's name from the ballot was the following day—after the

deadline for withdrawal had passed. Prior to that deadline, I had received no information indicating in any way that Mr. Taylor's withdrawal might not be effective.

Further affiant saith naught.

Brandon Naylor

STATE OF Kansas)
) ss:
COUNTY OF Shawnee)

BE IT REMEMBERED, that on this 8 day of September, 2014, before the undersigned, a notary public in and for said county and state, personally appeared Brandon Naylor, personally known to me to be the same person described in and who executed the foregoing Affidavit.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last above written.

My appointment expires: 8-29-2015

Susan M. Schuster-Woodard
Notary Public

Susan M. Schuster-Woodard
Notary Public - State of Kansas
My Appt. Expires 8-29-2015

IN THE SUPREME COURT OF KANSAS

CHAD TAYLOR, Plaintiff, v. KRIS KOBACH, in his official capacity as Secretary of State for the State of Kansas, Defendant.	)	Case No. _____

AFFIDAVIT OF CHARLES JASON PERKEY IN SUPPORT OF PETITION FOR MANDAMUS AND EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER TO PROHIBIT THE SECRETARY OF STATE FROM INCLUDING PLAINTIFF'S NAME ON THE BALLOT FOR THE NOVEMBER 4, 2014 ELECTION FOR U.S. SENATOR

I, Charles Jason Perkey, being first duly sworn on oath, do hereby depose and say:

1. I reside at 901 New Hampshire Street #503, in the City of Lawrence, in the County of Douglas, in the State of Kansas.

2. I am the Executive Director of the Kansas Democratic Party.

3. In the afternoon of September 3, 2014, Chad Taylor, who was until that day the Democratic nominee challenging incumbent U.S. Senator Pat Roberts to represent Kansas in the Senate in the present election cycle, called me to tell me that he was on his way to the Secretary of State's Office where he would submit a letter of withdrawal removing himself from the race.

4. At 4:38 p.m., I saw a tweet by the reporter John Celock, announcing that Chad Taylor had withdrawn from the race, and linking to a photograph of what appeared to be Mr. Taylor's notarized letter of withdrawal. (Ex. A).

5. I then called Bryan Caskey, an employee of the Kansas Secretary of State's Office, Elections and Legislative Matters Division, to confirm that Chad Taylor had submitted his letter

and his withdrawal was effective. I told Mr. Caskey that I saw the letter online and asked whether it could have been sent to a reporter. He said yes. I asked Mr. Caskey if the language in the letter was sufficient to effectuate Mr. Taylor's withdrawal from the race and the ballot and Mr. Caskey said that it did. He said that they have received longer letters in the past, but that the additional information in those letters was superfluous.

6. I also asked Mr. Caskey if the Kansas Democratic Party needs to hold a convention for the purposes of replacing Mr. Taylor. Mr. Caskey told me he would have to get back to me about that.

7. At no point in our conversation did Mr. Caskey give any indication that the letter would be subject to further review, or that there was any possibility that the Secretary of State would ultimately refuse to take Mr. Taylor's name off the ballot.

8. The first time I heard that the Secretary of State's Office had reversed its position and was refusing to remove Mr. Taylor's name from the ballot was the following day—after the deadline for withdrawal had passed. Prior to that deadline, I had received no information indicating in any way that Mr. Taylor's withdrawal might not be effective.

Further affiant saith naught.

Charles Jason Perkey

STATE OF Kansas)
) ss:
COUNTY OF Shawnee)

BE IT REMEMBERED, that on this 8 day of September, 2014, before the undersigned, a notary public in and for said county and state, personally appeared Charles Jason Perkey, personally known to me to be the same person described in and who executed the foregoing Affidavit.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last above written.

My appointment expires: 8-29-15

Susan M. Schuster-Woodard
Notary Public

Susan M. Schuster-Woodard
Notary Public - State of Kansas
My Appt. Expires 8-29-15