

2020 OK 26
IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

THE LEAGUE OF WOMEN VOTERS OF)
OKLAHOMA, ANGELA ZEA PATRICK,)
and PEGGY JEANNE WINTON,)

Petitioners,)

v.)

PAUL ZIRIAX, SECRETARY OF THE)
OKLAHOMA STATE ELECTION BOARD,)
in his official capacity,)

Respondent.)

FILED
SUPREME COURT
STATE OF OKLAHOMA

MAY - 4 2020

JOHN D. HADDEN
CLERK

No. 118,765

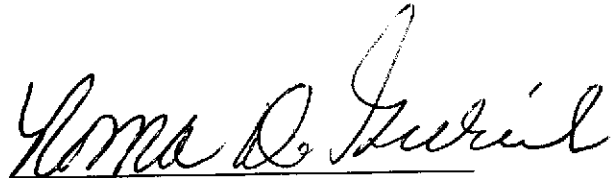
FOR OFFICIAL PUBLICATION

ORDER

Original jurisdiction is assumed in this matter to review Petitioner's Application to Assume Original Jurisdiction and Issue Extraordinary Relief. In 2002, the Oklahoma Legislature enacted an alternative method for the making of a declaration, verification, certificate, or affidavit. 2002 Okla.Sess.Laws Ch. 468, § 2. A statement signed, dated, and declared made under the penalty of perjury as set forth in 12 O.S.2011, § 426 carries the force and effect of an affidavit "under any law of Oklahoma or under any rule, order, or requirement made pursuant to the law of Oklahoma" except for a deposition, an oath of office, or an oath required to be taken before a specified official other than a notary public. *Video Gaming Techs., Inc. v. Rogers Cty. Bd. of Tax Roll Corr.*, 2019 OK 83, ¶ 4 n. 1; *In re Reinstatement of Pacenza*, 2009 OK 9, ¶ 25 n. 39, 204 P.3d 58. The affidavit required within the

absentee voting statutes (26 O.S.Supp.2019, § 14-101, *et seq.*) does not fall within this list of exceptions. Therefore, Respondent is directed to recognize affidavits made under the provisions of § 426 in the context of absentee voting. *Chandler U.S.A., Inc. v. Tyree*, 2004 OK 16, ¶ 24, 87 P.3d 598; 26 O.S.2011, § 2-107. Respondent is further ordered to send absentee ballot voters such forms, instructions, and materials as will facilitate the use of § 426. *Id.*; 26 O.S.2011, § 14-127, & § 14-128. Respondent is barred from issuing ballot forms, instructions, and materials suggesting notarization and/or a notarized affidavit form is the only means through which the requisite affidavit for absentee voting may be accomplished. *Cannon v. Lane*, 1993 OK 40, ¶ 12, 867 P.2d 1235; 26 O.S.2011, § 14-127, & § 14-128.

DONE BY THE ORDER OF THE SUPREME COURT IN CONFERENCE
THIS 4th DAY OF MAY, 2020.


CHIEF JUSTICE

Gurich, C.J., Darby, V.C.J., Kauger, Edmondson, Colbert, Combs, JJ., concur;
Winchester, Kane (**by separate writing**) and Rowe (**by separate writing**), dissent.

Kane, J., with whom Winchester, J., joins, dissenting

"I conclude that our existing statutes do not provide the relief proposed by the Petitioners, so the issues stand presented to the wrong branch of government. I dissent."