

witnesses, and the arguments of counsel, the Court finds and orders as follows:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Toby Troutman is an independent candidate for the office of Lonoke County Judge in the 2026 General Election. Petitioner sought to remove Troutman from the election ballot for (i) a disqualifying criminal conviction and (ii) nonresidence in Lonoke County.

ALLEGATIONS OF A DISQUALIFYING CRIMINAL CONVICTION

2. Troutman tendered a plea of nolo contendere to a misdemeanor violation of Ark. Code Ann. § 5-36-103(a)(1) on March 13, 2012 in Lonoke Circuit Court 43CR-12-29. The tender of the plea was done under provisions of Ark. Code Ann. §16-93-301 et seq., also known as the First Offenders Act or Act 346 of 1975.

3. The Sentencing Order notes that the court acted "without making a finding of guilt or entering a judgment of guilt and with the consent of the Defendant defers further proceedings and places the Defendant on probation."

4. Troutman complied with all terms of the probation. No proceeding to revoke the probation or to revoke Act 346 status was ever initiated.

5. Article 5, § 9(a) of the Arkansas Constitution sets forth the qualifications for holding office and the disqualifications therefrom. Disqualification under that provision requires a conviction of certain offenses. The General Assembly may not,

by statute, add qualifications for office beyond those specified in the Constitution.

6. Troutman has not been convicted of theft of property within the meaning of that term. The Sentencing Order specifically notes "without making a finding of guilt or entering a judgment of guilt" and "defers further proceedings." Further, Ark. Code Ann, § 16-93-303 provides that a disposition under Act 346 is not a conviction except for certain circumstances not applicable here regarding calculation of criminal history and witness impeachment.

7. Ark. Code Ann. §§ 21-8-301 and 21-8-305 impose disqualifications from office beyond those set forth in Article 5, § 9(a) of the Arkansas Constitution, specifically by including pleas of guilty or nolo contendere in addition to convictions. To that extent, and as applied to Troutman, those statutes are unconstitutional and cannot be enforced to remove him from the ballot.

ALLEGATIONS OF NONRESIDENCE IN LONOKE COUNTY

8. Troutman resides in an apartment located within the building at 18134 Arkansas Highway 5, Austin, Lonoke County, Arkansas. This property is held by the Troutman Joint Revocable Trust, of which Troutman is a settlor and trustee.

9. Troutman has lived at the Austin property, has never abandoned it as his residence, and intends to continue living there as his fixed and permanent home. His voter registration, driver's license, and tax records reflect that address, and he has

received mail and service of process there.

10. Troutman's sale of a business located in the building did not constitute a sale of the building or a change of his residence. His ownership of property in White County does not establish a domicile there, and no homestead has been claimed on that property.

11. Troutman is a resident of and domiciled in Lonoke County within the meaning of Ark. Code Ann. §§ 14-14-1306(c) and 14-14-1314(a)(1)(B), and is eligible on that basis to seek and hold the office of Lonoke County Judge.

CONCLUSIONS

12. Petitioner has failed to carry his burden of proving that Troutman has a disqualifying criminal conviction. The statutes purporting to disqualify him are unconstitutional as applied, in violation of Article 5, § 9(a) of the Arkansas Constitution.

13. Petitioner has failed to carry his burden of proving that Troutman is not domiciled in Lonoke County.

14. Petitioner has not shown a clear and certain right to the relief sought, and neither a writ of mandamus nor a declaratory judgment as sought by Petitioner will issue

IT IS THEREFORE ORDERED that the Petition for Writ of Mandamus and

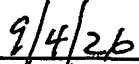
Declaratory Judgment is DENIED and DISMISSED with prejudice.

IT IS FURTHER ORDERED AND DECLARED that Ark. Code Ann. §§ 21-8-301 and 21-8-305 are unconstitutional as applied to Toby Troutman, and that Toby Troutman is a qualified candidate whose name shall remain on the ballot for the office of Lonoke County Judge in the 2026 General Election.

IT IS SO ORDERED.



CIRCUIT JUDGE



DATE

PREPARED BY:

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