STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

BEFORE THE ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO NOMINATING PETITIONS FOR THE OFFICES OF: ALDERMAN AND WARD COMMITTEEMAN

IN RE: Objection of)
)
DARLENA WILLIAMS)
To the Nominating Petition of)
)
JAMES PRUITT) NO. 86-EB-ALD- 21
Candidate for the Office of Alderman,)
37th ward, in the City of)
Chicago, Cook County, Illinois)

D E C I S I O N

The duly constituted Electoral Board, consisting of MICHAEL E. LAVELLE, JAMES R. NOLAN and CORNEAL A. DAVIS, organized by law in response to a Call issued by MICHAEL E. LAVELLE, Chairman of said Electoral Board, for the purpose of hearing and passing upon Objections to Nominating Petitions for the Offices of Alderman and Ward Committeeman, having convened on January 27, 1986 at 9:30 a.m. in Room 1707, Richard J. Daley Center, Chicago, Cook County, Illinois; and having heard and determined the objections to the petition in the above entitled matter find that:

1. The said Electoral Board has been legally constituted according to the laws of the State of Illinois;
2. Objections to the nominating petition of the candidate herein were duly filed;
3. A Call to the hearing on said objections was duly issued and was served upon the members of the Electoral Board, the objector and the candidate by mail and by personal service as provided by statute;
4. A public hearing was held on these objections commencing January 27, 1986;
5. The following persons, among others, were present at such hearings: the members of the Electoral Board, the objector, ~~pro se (or)~~ by counsel; and the candidate, pro se ~~(or) by counsel~~;
6. The Board heard and considered all evidence and arguments tendered by those appearing at the hearing;
7. The Board ordered an examination of the precinct binders to be conducted by its clerks and agents under the Board's direction and supervision, in accordance with the laws of Illinois and the rules of the Board;
8. During examination of the precinct binders, the Board directed all parties to appear and to be present, either personally and/or by their authorized representatives, duly appointed and authorized by said parties;
9. The candidate and/or his duly authorized representatives were present during the examination of the binders at all times;

10. The objector and/or his duly authorized representatives were present during the examination of the binders at all times;

11. Examination of the precinct binders was completed;

12. The Board having heard oral arguments and consider all evidence hereby finds:

a. The statutory minimum number of signatures required for placement on the ballot is 342

b. The number of signatures filed by the candidate total 625

c. The number of signatures because of objections sustained deemed invalid total 243

d. The remaining number of signatures deemed valid total 382

The written report of the Board's findings sustaining signature objections are contained in the Board's file in this cause, and is available upon request of any party.

The Board further finds that the number of valid signatures on the nominating petitions exceeds ~~(xxx falls below~~ the minimum number of signatures required by law to be placed upon the ballot as candidate for election to the Office of Alderman, 37th ward.

The Board further finds: that section 10-4 does not prohibit the candidate from circulating his own petitions for alderman and ward committeeman. The repor of the hearing examiner is attached hereto and incorporated as a decision of the Board

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the objections of DARLENA WILLIAMS to the nominating petition of JAMES PRUITT as candidate for election to the Office of Alderman, 37th ward, are hereby ~~sustained (or)~~ overruled in conformity with the findings in Paragraph 12 hereof and the said petition is hereby declared valid ~~(or not valid)~~ and the name of JAMES PRUITT, as candidate for election to the Office of Alderman, 37th ward, shall ~~(not) be~~ printed on the ballot for the Special Election to be held on March 18, 1986.

Dated: Chicago, Illinois, this 3 day of February, 1986.

Michael E. Lorelle
Chairman

James R. Dolan

Conrad Adams
Member

WHL-O-76

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OBJECTIONS TO NOMINATION PAPERS OF CANDIDATES FOR THE OFFICE OF ALDERMAN TO BE ELECTED MARCH 18, 1986

OBJECTIONS OF DARLENA WILLIAMS TO THE NOMINATION PAPERS OF JAMES PRUITT FOR THE OFFICE OF ALDERMAN FROM THE 37TH WARD OF THE CITY OF CHICAGO FROM TO BE VOTED FOR AT THE ELECTION TO BE HELD MARCH 18, 1986.	)	No. 86-EB-ALD-21

REPORT AND RECOMMENDATION
OF THE HEARING OFFICER

TO: THE CHICAGO BOARD OF
ELECTION COMMISSIONERS

This is the report and recommendation of the undersigned Hearing Officer with respect to proceeding 86-EB-ALD-21, the objections filed by Darlena Williams to the nominating papers of James Pruitt for the election as Alderman of the 37th Ward of the City of Chicago.

After conducting a hearing in this proceeding on January 29, 1986 at which counsel for the Objector and the Candidate on his own behalf were heard, and after further review of the transcript of this proceeding, for the reasons set forth below, it is the recommendation of the Hearing Officer that the objections be overruled and that the name of James Pruitt be ordered to appear on the March 18, 1986 ballot for the office of alderman of the 37th ward.

After a binder check it was determined that the Candidate had 382 valid signatures or in excess of the required 342.

The Hearing Officer recommends to the Board that all objections be overruled and the name of James Pruitt appear on the ballot.[1/]

Before the Board (and the Hearing Officer as its designee) are the following facts:

1. Candidate Pruitt filed petitions for the office of Democratic Ward Committeeman for the 37th Ward.[2/]

2. Candidate Pruitt himself also filed petitions for the office of Alderman for the 37th Ward (these petitions are the subject of the instant challenge).

3. Candidate Pruitt circulated most of the petitions for each office. Substantially all sheets of his aldermanic petitions were circulated by Mr. Pruitt. Hence his candidacy fails if sheets he passed are invalidated, as would be the result if the objections are sustained.

4. The Objector claims that Ill. Rev. Stat. Ch. 46 §10-4 as interpreted by federal courts (see Citizens for John W. Moore Party v. Board of Election Commissioners, 82 C 5901 (Judge Hart) and Citizens for John w. Moore Party v. Board of Election Commissioners, No. 85-1012, 7th Cir. Ct. of Appeals (per curiam opinion addressing Illinois Supreme Court certification issued January 13, 1986) require that Candidate's petitions for alder-

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1/ The Candidate filed a motion to strike. That motion does not address the substantive issues ruled upon here and is denied.

2/ A challenge was filed: DuBose v. Pruitt, 86-EB-WC-61. The Candidate has now formally withdrawn from the committeeman race. (R-15).

manic office be invalidated because Mr. Pruitt also circulated and filed petitions for the office of ward committeeman to be voted on at the same election.

Objector's arguments are not well-founded. Section 10-4 and the Moore cases do not prohibit the Candidate from circulating his own petition for both candidacies for alderman and ward committeeman to be voted for on March 18.

Section 10-4 states in relevant part:

> Provided, further, that no person shall circulate or certify petitions for candidates of more than one political party, or for an independent candidate or candidates in addition to one political party, to be voted upon at the next primary or general election, or for such candidates and parties with respect to the same political subdivision at the next consolidated election.

Here two separate and distinct elections are being conducted pursuant to federal court order. (See Ketchum v. Byrne, (Nos. 82 C 4085, 82 C 4431 and 82 C 4820 (consolidated) Judge Norgle). Nothing in Section 10-4 or Moore prohibits Mr. Pruitt from passing his own petitions for alderman and a party office.

Objector is asking that the Section 10-4 prohibition be applied to non-partisan, aldermanic races in Chicago. I do not believe that it should be. These unique races prohibiting party designation and incorporating a supplementary runoff election of no candidate receives a majority in the first balloting are specifically provided for under Ill. Rev. Stat. Ch. 24 §21-24 through §21-35. They do not involve independent candidates or new political parties at issue in Section 10-4. (But see Ill.

Rev. Stat. Ch. 24 §21-28.) Hence, Section 10-4 is not relevant here.

Read on its face I do not believe Section 10-4 applies. Nothing in the Moore cases convinced me otherwise. Counsel for the Objector (R-26) argued that portion of Judge Hart's ruling in Moore (slip opinion, pp. 18-19) stressing the need to prevent voter confusion. I do not find this logic applicable here. Judge Norgle ordered separate aldermanic and ward committeeman races in redistricted wards to be conducted March 18, 1986. They are separate races. No confusion to voters arises from Mr. Pruitt passing his own petition for both contests.

Any confusion like that addressed in Judge Hart's ruling is not presented here. The upcoming elections involve an entirely different scheme than that involved in Moore, where the District Court held that Mr. Moore, if a participant in the subsequent Democratic party primary election, could not participate in the general election through the vehicle of a new political party using the same circulators.

Section 10-4 does not prohibit Candidate Pruitt from circulating his own petitions for ward committeeman and for alderman at the same time when the offices to be voted upon are at the same election. These are campaigns for a unique and distinct party office (not a political office for purposes of the Ethics Act and the Campaign Finance Disclosure Act) and a campaign for a unique non partisan municipal office.

Ill. Rev. Stat. Ch. 46 §10-4 and the Moore cases to not bar Mr. Pruitt's petition.

The objections should be overruled.

Accordingly, based upon the foregoing report it is the recommendation of the Hearing Officer that the objections be overruled and that the name James Pruitt appear as a Candidate for the office of Alderman for the 37th Ward from the City of Chicago.

DATED: January 31, 1986

Respectfully submitted,

William H. Luking
Hearing Officer