STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

BEFORE THE ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO NOMINATING PETITIONS FOR MUNICIPAL AND ALDERMANIC OFFICES, FEBRUARY 24, 1987 ELECTION

IN RE: Objection of)
KENNETH CAMPBELL)
To the Nominating Petition of)
)
WILLIAM WALLS III) NO. 87 -EB-ALD -174
Candidate for the Office of)
City Clerk in the City of)
Chicago, Illinois)

AMENDED DECISION

The duly constituted Electoral Board, consisting of MICHAEL E. LAVELLE, JAMES R. NOLAN and NIKKI M. ZOLLAR 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 reconvened pursuant to remand in case NO.87 CO 52hereby finds that the Electoral Board's decision of January 28,1987 should stand as the decision of this Electoral Board.

Dated at Chicago, Illinois, this 19th day of February, 1987.

Michael E. Lavelle
CHAIRMAN

James R. Nolan
MEMBER

Nikki M. Zollar
MEMBER

BCC-ALD

STATE OF ILLINOIS)
) ss.
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BEFORE THE ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO NOMINATING PETITIONS FOR MUNICIPAL AND ALDERMANIC OFFICES, FEBRUARY 24, 1987 ELECTION

IN RE: Objection of)
KENNETH CAMPBELL)
To the Nominating Petition of)
WILLIAM WALLS III)
Candidate for the Office of)
CITY CLERK, in the City of)
Chicago, Cook County, Illinois)

NO. 87-EB-MUN-174

D E C I S I O N

The duly constituted Electoral Board, consisting of MICHAEL E. LAVELLE, JAMES R. NOLAN and NIKKI M. ZOLLAR, 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 some citywide offices, having convened on December 29, 1986 at 10:30a.m. in Room 1703, 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 December 29, 1986.
5. The following persons, among others, were present at such hearings: the members of the Electoral Board, the objector, [illegible] by counsel; and the candidate, pro se [illegible]; and later 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 5,014

b. The number of signatures filed by the candidate total 8,456

c. The number of signatures because of objections sustained deemed invalid total 3,432

d. The remaining number of signatures deemed valid total 5,024

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 the minimum number of signatures required by law to be placed upon the ballot as candidate for nomination to the Office of City Clerk, City of Chicago.

The Board further finds: The Board adopts and attaches hereto, as a part of its decision, the Report of the Hearing Officer.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the objections of Kenneth Campbell to the nominating petition of William Walls III as candidate for election to the Office of City Clerk, City of Chicago, are hereby overruled in conformity with the findings in Paragraph 12 hereof and the said petition is hereby declared valid and the name of William Walls III, as candidate for nomination to the Office of City Clerk, City of Chicago, shall be printed on the Democratic Primary ballot for the Municipal Election to be held on February 24, 1987.

Dated: Chicago, Illinois, this 28th day of January, 1987.

Michael E. Lowe
Chairman

James R. Dalen

Nicholas M. Zollar
Member

CHRONOLOGY, FINDINGS AND RECOMMENDATIONS OF HEARING OFFICER

RE: CAMPBELL V. WALLS, III. NO. 87 EB-MUN-174

I. CHRONOLOGY:

December 29, 1986:

Case Assigned to Hearing Officer Waddy; the only objection raised other than the binder check was directed to the notary and the change in the law. Hearing Officer Waddy denied the objection to the notary and ordered a binder check.

January 2, 1987:

Status report on progress of binder check continued to January 5, 1987 on motion of Hearing Officer; neither party appeared.

January 5, 1987:

Status report on progress of binder check continued to January 12, 1987; again neither party appeared.

January 12, 1987:

Binder check results returned, objector was represented by counsel and the candidate pro se; the results were 5,051 valid signatures. Mr. Luking requested additional time to check the binder department's arithmetic only and suggested additional issues to be raised by the objector as a result of the binder department allegedly not counting certain sheets. Hearing Officer Waddy directed a pre-trial conference with the candidate who was still appearing pro se. Case set for hearing on objections to binder check by both objector and candidate to January 13, 1987.

January 13, 1987:

James Fennerty appears for the objector and requests that testimony be taken from Mr. Luking (not present), regarding delivery by him of certain Appendix-Recapitulation sheets and which were allegedly "lost" during the binder check. Mr. Fennerty offered copies of the three (3) appendix sheets not included but Hearing Officer Waddy denied the offer as constituting an untimely offer to amend the objector's petition and refused to take testimony from Mr. Luking regarding delivery of the three (3) sheets. Hearing Officer Waddy also overruled the objector's contention that certain unnumbered sheets of the candidate's petitions should not have been counted, on the grounds that the controlling statute was directory and not mandatory. Hearing Officer Waddy ordered an additional binder check for those sheets that were not checked out for which a recapitulation was filed.

Mr. Fennerty then identified thirty-six overruled ("O") objections preserved by the objector during the binder check, for review by the Hearing Officer.

Objector's counsel then requested that the Hearing Officer authorize the issuance of 200 subpoenas for the purpose of verifying signatures. He refused due to the time in proceedings when the request was made and suggested affidavits could be presented in lieu of live testimony. Hearing Officer Waddy then ruled on several objections to signatures (which objections were subsequently reconsidered by Hearing Officer Kelleghan). Case continued to January 14, 1987.

January 14, 1987:

Only the candidate appeared pro se. Hearing Officer Waddy recused himself for "unethical conduct" by the objector's counsel , who failed to appear for the hearing. A copy of that recusal note is attached to this report.

January 15, 1987:

Special Notice prepared and delivered personally to Mr. W. H. Luking, counsel for the objector, to appear for hearing on January 16 before Hearing Officer Kelleghan to whom the case had been reassigned.

January 16, 1987:

Messrs. Fennerty and Luking appear for the objector and Messrs. Samuels and Berkson for the candidate. Hearing proceeds before Hearing Officer Kelleghan.

II. BINDER CHECK PROCEEDINGS:

There were three (3) separate and distinct binder check results produced during the course of this hearing. The first, on January 12, 1987, put the candidate on the ballot. The second, on January, 19, 1987, following an arithmatic recomputation, made as a result of admitted error in the first, resulted in removing the candidate from the ballot. The third computation on January 19, 1987, followed a Master File check pursuant to Rules 7 and 8 adopted by the Commission on December 29, 1986. Mr. Robert Sawicki testified during the hearing and explained to the apparent satisfaction of the parties and their counsel how and why the errors occurred. The parties and their counsel accepted the third and final result, i.e., 5,034, which 5,034 placed the candidate on the ballot with a surplus of twenty (20) signatures.

As a result of the three (3) varying binder check computations, Rule 5 was relaxed by this Hearing Officer to allow the parties to file appropriate motions and responses which were to include all matters remaining to be heard. A Motion for Review was filed by the objector and a Motion to Dismiss the Objector's Petition was filed by the candidate. Additionally, a response to the Objector's Motion for Review was filed by the candidate.

III. MOTION FOR REVIEW AND FOR HANDWRITING EXPERT:

The Motion to Dismiss the Objector's Petition was denied. Paragraphs 1, 2, 3, part of paragraph 4, paragraphs 5, 6 and 7 of the Objector's Motion for Review were all denied. The second part of paragraph 4, incorporating "Exhibit A" which contained a list of signatures which the objector proposed to challenge, and paragraph 8, incorporating several other objections resulting from the proceeding before Hearing Officer Waddy, went to hearing on January 23, 1987.

Part of paragraph 4 of the Objector's Motion for Review stated, in part, "That the objector disagrees with many of the decisions made by the Board's handwriting expert,". The objector made his motion to bring in his own handwriting expert to review the calls on seventy-eight (78) signatures. This motion was denied because: (a) untimely request - expert could have been watcher; (b) a review of the Binder Check work sheets showed that the objector had only objected to the handwriting calls on 35 occasions, not 78; and (c) Expert could have been called as a witness without leave of the Hearing Officer and the Hearing Officer viewed this very late request as an attempt to delay the resolution of these hearings.

IV. REQUEST FOR SUBPOENAS:

The remainder of paragraph 4 of the Objector's Motion for Review requested issuance of subpoenae "to the alleged signers of these signatures to fully determine their validity." The motion was denied because of earlier ruling by Hearing Officer Waddy and because of the failure of the objector to make his first request before Hearing Officer Waddy before January 13, 1987 or to renew the motion before me before the afternoon of the date set for final hearing on January 23, 1987. I viewed this part of the motion as an attempt to delay the proceedings and denied it out of hand. I reminded the objector at the same time that Hearing Officer Waddy pointed out that affidavits would be acceptable under the Rules of Procedure.

V. AFFIDAVITS:

The objector then submitted twenty-five (25) affidavits for consideration by the Hearing Officer. Of the 25 affidavits, only seven (7) were accepted by the Hearing Officer, and subsequently the decision on one was reversed, so that the candidate's total number of valid signatures was reduced by six (6) to 5,028 as a result.

VI. BALANCE OF PROCEEDINGS AND RECOMMENDATIONS:

Next, an initial review of the binder check work sheets relating to each of the challenged signatures in objector's "Exhibit A" revealed that a substantial number had not been preserved for review by proper objection during the binder check (as referred to above).

Rules 6 and 8 that "a watcher may object to the findings of a clerk, which objection shall also be noted by the clerk," preserve review by the Board "only if an objection had been made by the candidate or objector at the time the clerk or agent of the Board recorded his/her finding." The method of notation utilized by the Binder Department was to circle in red the line number on a particular sheet where the objected-to signature appeared.

Thirty-five (35) signatures were properly preserved for review by the Board on objector's "Exhibit A." Of these, a total of ten (10) were stricken as being invalid, following comparision with either the binder cards or master card file.

With respect to six (6) of the thirty-five (35) signatures, neither the binder card nor master card was available for comparison at the time of review. The Hearing Officer ruled these signatures valid based upon the original ruling of the Binder Department as reflected on the work sheets, and found that the six (6) signatures, if substracted from the candidate's total would not bring the candidate's valid signature total below the statutory minimum 5014 signatures.

"Exhibit B" of the Objector's Motion for Review was then considered. Of the eight (8) items presented, one was withdrawn by the objector, one was passed or deferred for decision and never ruled upon, and the six (6) remaining denied.

The candidate's motion to add eight (8) signatures to his count, based on a challenge to the binder check of sheet #354, was denied following testimony of Mr. Sawicki.

The final result of the Motion for Review was a reduction of ten (10) in the number of valid signatures appearing on the thrid binder check dated January 19, 1987 from 5,034 to 5,024.

The candidate therefore, has ten (10) more signatures than the required minimum of 5,014, and it is recommended that the candidate's name be placed on the ballot for the Primary Election to be held February 24, 1987.

Dated: January 26, 1987

Thomas C. Kelleghan
Hearing Officer