STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

NBC

ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO NOMINATING PETITIONS FOR THE OFFICES OF STATE SENATOR AND REPRESENTATIVE IN THE GENERAL ASSEMBLY OF THE STATE OF ILLINOIS FOR THE MARCH 17, 1992 PRIMARY ELECTIONS.

IN RE: Objection of: Charles Hicks
To the
Nominating Petition of: Paul M. Gutierrez

NO: 92-EB-REP-4

Candidate for the Office of Representative in the General Assembly of the 23rd Representative District, Harold Washington Party.

DECISION

The duly constituted Electoral Board, consisting of MICHAEL J. HAMBLET, ARNETTE R. HUBBARD and CHRISTOPHER ROBLING, organized by law in response to a Call issued by MICHAEL J. HAMBLET, Chairman of said Electoral Board, for the purpose of hearing and passing upon Objections to Nominating Petitions for the Office of State Senator and Representative in the General Assembly for the State of Illinois, having convened on February 7th, 1992 at 12:00 p.m. in the City Council Chambers, City Hall, Chicago, 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 on February 7, 1992;

5. The following persons, among others, were present at such hearings: the members of the Electoral Board, the Objector by Counsel, and the Candidate by Counsel;

6. The Board finds that: section 10-2 of the Election Code (Ill.Rev.Stat.1981, Ch. 46, Par. 10-2) provides in pertinent part:

> "A political party which, at the last election in any congressional district, legislative district, county, township, municipality or other political subdivision or district in the State, polled more than 5% of the entire vote cast within such territorial area or political subdivision, as the case may be, has voted as a unit for the unit for the election of officers to serve the respective territorial area of such district or political subdivision, is hereby declared to be an 'established political party' within the meaning of this Article as to such district or political subdivision."

The Harold Washington Party became an established political party in Cook County at the November, 1990 election. See Norman v. Reed, 1992 WL 2903 (1992).

The Harold Washington Party did not field any legislative candidates, nor a candidate for Governor in 1990.

The Respondent filed nomination papers for the 23rd Representative District seeking nomination as a Harold Washington Party candidate in the March 17, 1992 Primary Election.

Section 1-3(14) of the Election Code defines "district" to include legislative districts. A legislative or representative district is not a district or political subdivision of a county or city. Hence, the Harold Washington Party did not become an established political party in the 23rd representative district. Accordingly, there can be no political party primary for this office.

Such nomination can only be made pursuant to the Illinois Election Code for a non-established political party, or a "new" political party as the Code defines the term, to run a candidate for such state office as involved here, it must follow the provisions of Sections 10-2, 10-4, 10-5, & 10-6 relating to "new" political parties, and circulate and file a petition with signatures of at least 1500 qualified voters for the general election in November 1992.

Both parties concede that the office of Representative in the General Assembly is a "state office."

The Candidate's position is that the districts in which he is running is entirely within the geographical limits of the political subdivision wherein the Harold Washington Party is already established (i.e., Cook County). He maintains that since the "district" boundaries are within the geographic boundaries of the political subdivision of Cook County in

which the Harold Washington Party is established, then the Harold Washington Party is automatically established within the "district."

The Objector contends that the provisions of Section 10-2 of the Election Code apply in this case and that the Harold Washington Party is not a "statewide" party for the reason that it did not run a candidate for Governor in any prior election.

The Harold Washington Party is not an established political party in any Legislative District within Cook County for the reason that it did not slate any candidates, nor did it receive the required 5% of the votes cast in Legislative Districts in any prior election in any such district in Cook County.

IT IS THEREFORE ORDERED that the objections of Charles Hicks to the nominating petition of Paul M. Gutierrez, candidate for nomination to the office of Representative in the General Assembly of the 23rd Representative District, Harold Washington Party, are hereby sustained and said petition is hereby declared invalid and the name of Paul M. Gutierrez, candidate for nomination to the office of Representative in the General Assembly of the 23rd Representative District, Harold Washington Party, shall not be printed on the ballot for the Primary Elections to be held on March 17th, 1992.

Dated: Chicago, Illinois, this 10th day of February, 1992.

Michael J. Hamblet
MICHAEL J. HAMBLET, CHAIRMAN

Arnette R. Hubbard
ARNETTE R. HUBBARD, COMMISSIONER

Christopher Fitzhenry Robling
CHRISTOPHER ROBLING, COMMISSIONER