STATE OF ILLINOIS)
) SS. BCCON.WC
COUNTY OF COOK)

ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OBJECTIONS
TO THE NOMINATION PAPERS OF CANDIDATES FOR
THE OFFICES OF STATE SENATOR, REPRESENTATIVE IN
THE GENERAL ASSEMBLY AND WARD COMMITTEEMAN OF THE
CITY OF CHICAGO FOR THE MARCH 19, 1996
GENERAL PRIMARY ELECTION

Objections of: Robert K. Anderson	)	
	)	
To the Nomination	)	
Papers of: Arthur J. Fitzgerald	)	**No.: 96-EB-WC-048**
	)	
Candidate for the Office	)	
of Ward Committeeman for the 47th Ward	)	
of the City of Chicago, Republican Party	)	

DECISION

The duly constituted Electoral Board, consisting of MICHAEL J. HAMBLET, ARNETTE R. HUBBARD, and RICHARD A. COWEN, 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 Nomination Papers of Candidates for the Offices of State Senator, Representative in the General Assembly and Ward Committeeman of the City of Chicago, having convened on January 2, 1996, at 10:00 a.m., and having heard and determined the Objections to the Nomination Papers in the above entitled matter finds that:

1. The said Electoral Board has been legally constituted according to the laws of the State of Illinois.

2. Objections to the Nomination Papers of the Candidate herein were duly filed.

3. A Call to the hearing on said Objections was duly issued and served upon the members of the Electoral Board, the Objectors and the Candidate, by mail and by personal service, as

provided by statute.

4. A public hearing was held on these Objections commencing on January 5, 1996.

5. The following persons, among others, were present at such hearing: the members of the Electoral Board, the Objector(s) by counsel; and the Candidate by counsel.

6. The Board ordered an examination of the registration records 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.

7. During this records examination the Board directed all parties to appear and be present, either personally and/or by their authorized representatives, duly appointed and authorized by said parties.

8. The Candidate and/or his duly authorized representatives having been present during the examination of registration records at all times.

9. The Objector and/or his duly authorized representatives having been present during the examination of registration records at all times.

10. The examination of the registration records was completed and the Board hereby adopts and incorporates by reference the results of the records examination conducted by its clerks and agents. The written report of the result of the registration records examination is contained in the Board's file in this case and is available upon request of a party.

11. The Board has considered all evidence and arguments tendered by the parties.

12. The Board has considered the findings and recommendation of the Hearing Examiner in this case as reflected in the Hearing Examiner Report attached hereto and the Board adopts the findings and recommendations of the Hearing Examiner and incorporates them herein.

13. The Board finds that the number of valid signatures on the Candidate's nominating petition equals the minimum number of 69 signatures required by law to be placed upon the ballot as a candidate for election to the office of Ward Committeeman for the 47th Ward of the City of Chicago, Republican Party.

14. For the reasons stated above the Board finds that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED, that the Objections of Robert K. Anderson to the Nomination Papers of Arthur J. Fitzgerald, Candidate for election to the office of Ward Committeeman for the 47th Ward of the City of Chicago, Republican Party, are hereby sustained in part and overruled in part and that said Nomination Papers are hereby declared VALID and the name of Arthur J. Fitzgerald, Candidate for election to the office of Ward Committeeman for the 47th Ward of the City of Chicago, Republican Party, SHALL be printed on the ballot for the General Primary Election to be held on March 19, 1996.

Dated: Chicago, Illinois, this 5th day of February, 1996.

MICHAEL J. HAMBLET, Chairman

ARNETTE R. HUBBARD, Member

RICHARD A. COWEN, Member

HEARING EXAMINER REPORT

ROBERT K. ANDERSON,
Objector,

ARTHUR J. FITZGERALD,
Candidate

96-EB-WC-048

1. Initial Hearing: Date: 1/5/96; Time: 11:30 a.m.

2. Appearance Forms have been received and filed for:

Objector (yes or no) Attorney Dan Kelley

Candidate (yes or no) Attorney Clark Pellett

16. Minute Entries:

Date	Activity
1/5/96	Parties present. Binder Check ordered. Status 1/12/96 at 2:00 p.m.
1/12/96	Binder Check and Master File Check results in file.

Binder Check:

Signatures	80
Objection Overruled	35
Objection Sustained	16
Valid Signatures	64
Minimum Required	69

Master File Check gives candidate one more total of 65 Valid. Attorney Pellett will file Rule 8 by 5:00 p.m. today and will bring in 12 people to refute signatures call of board. 14 Subpoenas approved.

Matter set for hearing on 1/18/96 at 2:00 p.m.

1/18/96 Candidate presents six witnesses who testify to six signatures on Petition. He introduces 22 Exhibits all in evidence. The sixth witness was also the Candidate who also testified to a 7th signature affixed.

Elizabeth Gswind, Charles Elkins, Raymond Carl, Elena Kurth, Helen Reingruber, Zoraida Spagnolo and Art Fitzgerald regarding James Nurnberg.

Each witness testified to affixing their signatures at specific sheet and line.

GSWIND	S1-L7	Candidate Ex 1	Voter Registration Card
		" Ex 2	Illinois Driver's License
		" Ex 3	Sample Signature
ELKINS	S3-L1	Candidate Ex 4	Voter Registration Card
		" Ex 5	Illinois Driver's License
		" Ex 6	Certified Reg. Gswind
		" Ex 7	Certified Reg. Elkins
		" Ex 8	Sample Signatures Elkins
CARL	S1-L12	Candidate Ex 9	Illinois Driver's License
		" Ex 10	Sample Signature Carl
		" Ex 11	Certified Reg. Carl
KURTH	S3-L18	Candidate Ex 12	Illinois Driver's License
		" Ex 13	Certified Reg. Kurth
		" Ex 14	Sample of Signature Kurth
REINGRUBER	S1-L16		
		Candidate Ex 15	Illinois Driver's License
		" Ex 16	Certified Reg. Reingruber
		" Ex 17	Sample Signature Reingruber
SPAGNOLO	S3-24	Candidate Ex 18	Illinois Driver's License
		" Ex 19	Certified Reg. Spagnolo
		" Ex 20	Sample Signature Spagnolo

Fitzgerald testifies to seeing signature of James Nurnberg affixed by his wife, Jacalyn and introduces evidence of his incapacity

because of fire, and being confined to a wheel chair. Also, wife has court order appointing her as legal guardian because of incapacity.

Candidate also testifies that he sees all people sign in his presence. Candidate rests. Matter continued over for Objector to present evidence 1/22/96 at 1:00 p.m.

1/22/96 **Parties present.**

Evidence heard on behalf of Objector. Kenneth Reingruber testifies; Andy Pappas testifies. Objector marks three exhibits in evidence. Objector files brief. Case set over to 1/23/96 at 2:00 p.m. to hear arguments.

Also, one Alan Anderson served by Subpoena but failed to appear. Objector will try to obtain him for tomorrow. Stipulation to Jim Hays' handwriting expertise and testimony.

1/23/96 **Parties present.**

(Case starts 45 minutes late because we waited for Candidate.) Objector rests. Cannot get Alan Anderson to appear. No rebuttal by Candidate. Arguments for Candidate and Objector heard.

17. Recommended findings of fact and decision:

My ruling proceeded to address each individual signature that Candidate sought to rehabilitate and that Objector sought to have sustained or challenged.

Candidate sought to rehabilitate Lisa Gswind, Charles Elkins, Raymond Carl, Elena Kurth, Helen Reingruber, Zoraida Spagnolo and James Nurnberg. Objector sought to attack each as well as Kenneth Reingruber, husband of Helen.

As to Lisa Gswind:

I find her signature **valid and overrule the Board's objection**. She testified that she did sign the Petition and S1-L7 was her signature. She identified her Voter's Card, Driver's License and gave handwriting samples.

The Board sustained an objection because her real name is Elizabeth Gswind and she is so registered. The Objection here was of "not signed in own proper person" and "not registered at address shown".

She testified she was the name Lisa all the time. The issue is one of geniuneness. The Election Code in Sec. 7-10 and 10-4 talks of signatures of registered voters and their address shown at time of signing of the Petition. Based on the evidence I find her to be the same person, registered at the address and the fact that she signed as "Lisa Gswind" and not "Elizabeth Gswind" immaterial.

As to Raymond Carl:

I ruled his signature **invalid** and sustained the Board's call rejecting the signature.

Mr. Carl testified he signed S1-L12 of the petition; however, the "signature" is clearly printed. He identified his Voter's Registration Card and his Driver's License.

Although he clearly stated he printed his name at times and "wrote" it at times, "signatures" which are printed and do not match the "signature" or cursive writing on the binder cards are in violation of Sec. 7-10 of the Code and as such **invalid**. Kahn vs. Municipal Officers Electoral Board, 92 CO58, Circuit Court of Cook County (J. Heaston).

This has been the consistent ruling of the Chicago Board of Elections since Saltourious vs. Kahn, a 1992 Board case that I was affirmed on in the cited case above by Judge Heaston.

As to Elena Kurth:

I ruled her signature to be **valid** and overruled the Board's Objection. She testified that she did sign the

Petition on S3-L18. The issue here was that the Board employee did not look carefully enough at her signature to determine the name. A few letters appeared somewhat different at first glance; but the registration on file was when she was 18 years old and now some years later her writing has changed. Clearly upon review of her Voter's Card, writing samples and Driver's license, as well as observing her testify, she was one and the same person who was registered at the address shown and did sign correctly.

As to Zoraida Spagnolo:

I ruled that her signature was **valid** and overruled the Board's Objection. Mrs. Spagnolo testified that she indeed signed the Petition at S3-L14 and she signed it as "Mrs. Spagnolo" with the correct address next to the line. The objection was sustained because of lack of completeness. Mr. Pappas indicated that if she were to use even her first initial ("Z") then he would have counted the name.

She indicated that she does not use her first name because she does not like it. Sometimes she uses the initial "Z". Further there are no other "Mrs. Spagnolos" registered at the address (3915 N. Seeley).

The issue here is again geniuneness. The Candidate also testified that he observed her sign. Did she sign in her own proper person? My answer is yes. Is her name as signed sufficient to identify her as the voter? Again the answer is yes.

I do not feel that the lack of a first name in this particular case is fatal.

As to Kenneth and Helen Reingruber:

I ruled that both signatures are **invalid** and sustained the Board's objection. Helen testified that she signed the petition at S1-L16 and again the original objection was that (because the signature was unclear) she did not sign in her own proper person. In the course of her testimony on direct, she identified her Driver's License, Voter's Registration Card and gave samples of her signature. On cross, however, she indicated that she did not sign any other candidate's petition sheets.

The Objector developed evidence and introduced it in his case in chief; namely, he called her husband, Kenneth, who testified that he also signed the petition sheet of Candidate at S1-L15.

In addition, the Objector introduced in evidence (Obj. #1), a copy of Page 278 of the nominating petitions for Rod Blagojevich, a Democratic Candidate for State Representative which was circulated by Kenneth Reingruber and, in fact, signed by him and his wife. The Circulators both indicated he appeared before a notary on this sheet on December 4, 1995.

Objector then introduced in evidence (Obj #2) a copy of page 45 of the nominating petition for Edmund L. Kelly, a democratic Candidate for Ward Committeeman in the 47th Ward. Again it was circulated by Kenneth Reingruber and signed by both him and his wife, Helen. The notary here was a date in October, 1995. Candidate Fitzgerald is a Republican. This clearly raised the issues of Watkins vs. Burke, 461 NE 2d 625 (1984) The Candidate had testified that he obtained the Reingrubers' signatures on December 17, 1995, thereby establishing that they had signed the earlier Petitions noted above first in violation of Watkins vs. Burke. Clearly where a voter signs the nominating petitions of more than one Candidate of different parties, the first one should be valid and the second invalid under the Burke holding. Although Kenneth's signature was originally objected to but overruled, because of evidence developed in the hearing, under the holding of Fortas vs. Dixon, 462 NE 2d 615, it was proper for me to consider this matter and the result was that Helen's signature was sustained as invalid and Kenneth's was stricken even though it had originally been counted and included in the Candidate's total at the Master File Check.

As to Charles Elkins:

I ruled that his signature was **valid** and overruled the Board's objection. Elkins testified that he signed the Petition at S3-L1. He identified his Voter's Registration Card, Driver's License and gave handwriting samples. The objection was sustained because the signature was unclear. I ruled that his signature was indeed clear and was his. In addition, although Elkins testified that he did recall

signing another Petition for someone, he recalled only that he signed it at a bowling alley - did not know for whom, did not know the date, nor what candidacy, but thought it was for the Park District.

The Objector sought to introduce, by way of an offer of proof, evidence that he had signed an earlier Petition for another candidate; however, his testimony remains in the record uncontradicted and unrebutted. The Objector failed to show any evidence that Mr. Elkins either signed another Petition or signed one on an earlier date for another candidate.

As to James Nurnberg:

I ruled that the signature was **valid** and that the Board's objection should be overruled. This signature presented what I believed to be "a case of first impression".

The evidence disclosed that James Nurnberg is suffering from a disability. He is confined to a wheelchair and communicates by his eye movements and nodding his head. He resides with his wife Jacalyn. Apparently five years age he suffered smoke inhalation in a fire at his home and has been so disabled since. Clearly both sides agree that Jacalyn signed her name as well as James' name to the petition since James cannot sign.

The Candidate obtained the signatures at the Nurnberg home and saw Jacalyn sign and stated that he saw her ask James if he would sign; he nodded his assent and his wife signed his name. The Candidate introduced a Circuit Court Order of Guardianship dated July 8, 1993, signed by Judge Dowdle appointing Jacalyn as the guardian of the person and estate of James. The objection is clearly that the name is not signed by the proper person. The Election Code is silent as to a guardian signing a petition for the ward. Sec. 5/17-14 talks about assistance for voters and obviously some provision is made to assist the disabled so they would not be disenfranchised. I noted that additionally, there is no mandatory requirement that a voter be declared as disabled under Sec. 5/19-12/1. (The Objector argued that the registration card of the voter was not stamped "disabled".)

In ruling that Mrs. Nurnberg had authority to sign James' name I looked to several things: The Court Order itself states that the Order is entered because "the person is unable to handle his affairs and estate". The person who signed was his wife and legal guardian. The Probate Act gives the guardian certain duties and obligations. It also gives the guardian the right to sign leases and deeds on the ward's behalf, represent them in legal proceedings and generally look out for their welfare and care. I felt that this issue is analogous to a power of attorney situation. Clearly, if the Probate Act gives the guardian the right to transfer title and lease premises on the ward's behalf - AND - clearly if it allows the guardian to initiate and represent the ward in legal proceedings, it would be seen reasonable that the guardian has the inherent authority to sign the ward's name to a nominating Petition - particularly where the guardianship is between spouses who are in all other respects "legal" and "qualified" registered voters.

Therefore, since the Master File Check gave the Candidate 65 signatures out of 69 and I ruled that five additional signatures are valid and one invalid (Kenneth Reingruber), it gives the Candidate 69 signatures with 69 being the minimum necessary; Candidate is recommended to appear on ballot.