BCCON-ALD

**BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO
AS THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OBJECTIONS
TO NOMINATION PAPERS OF CANDIDATES
FOR THE FEBRUARY 23, 1999 MUNICIPAL GENERAL ELECTION
FOR MAYOR, CLERK, TREASURER AND ALDERMAN
IN THE CITY OF CHICAGO**

Objections of: SUSANA A. MENDOZA	)	
	)	
To the Nomination	)	
Papers of: DION MILLER PEREZ	)	No.: 99-EB-ALD-066
	)	
Candidate for the office of	)	
Alderman of the 12th Ward	)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of Board of Election Commissioners of the City of Chicago Commissioners Langdon D. Neal, Richard A. Cowen, and Theresa M. Petrone, organized by law in response to a Call issued by Langdon D. Neal, Chairman of said Electoral Board, for the purpose of hearing and passing upon objections ("Objection") of SUSANA A. MENDOZA to nomination papers ("Nomination Papers") of DION MILLER PEREZ, candidate for the office of Alderman of the 12th for the City of Chicago ("Candidate"), having convened on December 28, 1998, at 9:00 a.m., in the City Council Chambers, City Hall, Chicago, Illinois; and having heard and determined the Objections to the Nomination Papers in the above-entitled matter finds that:

1. Objections to the Nomination Papers of the Candidate herein were duly and timely filed.

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

3. A Call to the hearing on said Objections was duly issued by the Chairman of the Electoral Board and served upon the members of the Electoral Board, the Objector and the Candidate, by registered or certified mail and by Sheriff's service, as provided by statute.

4. A public hearing was held on these Objections commencing on December 28, 1998 and was continued from time to time.

5. The following persons, among others, were present at such hearing: the members of the Electoral Board, the Objector, SUSANA A. MENDOZA, by counsel; and the Candidate DION MILLER PEREZ, by counsel.

6. The Electoral Board assigned this matter to Hearing Examiner TERENCE FLYNN for further hearings and proceedings.

7. The Electoral Board ordered that an examination of the registration records 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. The Electoral Board directed all parties to appear and be present, either personally and/or by their authorized representatives during this records examination.

9. The Candidate or his duly authorized representatives were present during the examination of the registration records at all times.

10. The Objector or her duly authorized representatives were present during the examination of the registration records at all times.

11. The examination of the registration records was completed and the Electoral 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.

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

13. The Board finds that:

    a. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 240;

    b. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 541;

    c. The number of signatures deemed invalid because of objections sustained total 149;

    d. The remaining number of signatures deemed valid total 392;

14. The Board finds that the number of valid signatures appearing on the Candidate's nominating petition exceeds the minimum number of valid signatures required by law to be placed upon the ballot as a candidate for election to the office of Alderman of the 12th Ward of the City of Chicago.

15. The Board finds, therefore, that paragraphs 2-13 of the Objector's Petition are sustained in part and overruled in part as more fully indicated in the results of the records examination.

16. The Objector alleged that sheets 29-33, 35-36, and 40 of the Candidate's nominating petitions were invalid as those sheets were circulated by a voter not registered in the 12th Ward of the City of Chicago.

17. Section 10-4 of the Election Code (10 ILCS 5/10-4) states in part that at the bottom of each sheet of such petition shall be added a statement, signed by a registered voter of the political division, who has been a registered voter at all times he or she circulated the petition, for which the candidate or candidates shall be nominated; stating the street address or rural rout number of the voter.

18. Section 7-10 of the Election Code (10 ILCS 5/7-10) includes similar language regarding the circulator's affidavit as included in Section 10-4 of the Election Code.

19. The Electoral Board finds that Saul Garcia circulated sheets 29-33, 35-36 and 40 of the Candidate's nominating petitions. The circulator, Saul Garcia, states in the circulator's affidavit on sheets 29-33, 35-36 and 40, that he is a registered voter of the 12th Ward residing at 2931 W. 24th Street. The Objector alleges that the correct address is 2931 W. 24th Boulevard.

20. The Objector introduced into evidence a street map and street guide of the City of Chicago that states for three blocks, including the residence of the circulator, Saul Garcia, is listed as 2931 W. 24th Boulevard. The Candidate introduced into evidence a copy of the Chicago Board of Election Commissioners poll sheet for the 1st Precinct of the 12th Ward listing Saul Garcia as registered at 2931 W. 24th Street.

21. The Electoral Board finds that while there is a discrepancy in identification of the street name that includes the residence of the circulator, Saul Garcia, he is a duly registered voter in the 1st Precinct of the 12th Ward. The Electoral Board finds that an incorrect address on a circulator's affidavit naming the roadway "Street" when, in fact, it is identified on official street maps as a "Boulevard" is in substantial compliance with the circulator oath provisions of Section 7-10 of the Election Code. See, e.g., *Crutcher v. Blythe,* 92-EB-WC-70, CBEC, January 24, 1992.

22. The Objector alleges that the Candidate was not registered to vote under the name Dion Miller Perez until November 30, 1998 and therefore not qualified to circulate nominating petitions bearing the name Dion Miller Perez until after November 30, 1998.

23. Section 10-4 of the Election Code (10 ILCS 5/10-4) provides in part that no signatures shall be gathered on petition sheets more than 90 days preceding the last day for the filing of the petition.

24. The Electoral Board finds that the last day for filing petitions for the office of Alderman for the February 23, 1999 Municipal General Election was December 14, 1998 and that 90 days preceding this date, the first date to circulate nominating petitions was September 15, 1998.

25. The Electoral Board finds that the Candidate, DION MILLER PEREZ, was a duly registered voter under the name DION MILLER prior to November 30, 1998. The Electoral Board finds that the Candidate legally changed his name in August, 1998 from DION MILLER to DION MILLER PEREZ. The Electoral Board finds that the Candidate re-registered under the name DION MILLER PEREZ on November 30, 1998.

26. The Electoral Board finds the case of *Marszalek v. Kelenson,* 212 Ill.App.3d 836, 571 N.E.2d 877, (First Dist. 1991) controlling in this case. In *Marszalek,* the Candidate was registered to vote under her married name but was running for office using her maiden name. The candidate in *Marszalek* re-registered to vote using her maiden, the name on her nominating petitions, on the last day petitions were circulated but before she filed her nominating petitions with the election authority. The court found that the candidate was a registered voter within the meaning of the requirements for a valid petition for nomination, even though, before she circulated nominating petitions, the candidate had not changed her voter registration to reflect the use of her maiden name.

27. The Electoral Board finds that, as in *Marszalek*, the Candidate had registered anew to vote under the name DION MILLER PEREZ prior to signing the petition sheets on December 13, 1998 as the circulator of those sheets and prior to filing his Nomination Papers with the Board of Election Commissioners also on December 13, 1998.

28. Therefore, the Electoral Board finds that the Candidate was eligible to circulate nominating petitions and the Electoral Board finds that those petition sheets are valid.

29. For the reasons stated above, the Board finds that the Nomination Papers of DION MILLER PEREZ are valid.

IT IS THEREFORE ORDERED, that the Objections of SUSANA A. MENDOZA to the Nomination Papers of DION MILLER PEREZ, candidate for election to the office of Alderman of the 12th Ward of the City of Chicago are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of DION MILLER PEREZ, candidate for election to the office of Alderman of the 12th Ward of the City of Chicago, SHALL be printed on the official ballot for the Municipal General Election for Mayor, City Clerk, City Treasurer and Alderman to be held on February 23, 1999.

Dated: Chicago, Illinois, this Twenty-Second day of January, 1999.

Langdon D. Neal, Chairman

Richard A. Cowen, Commissioner

Theresa M. Petrone, Commissioner

NOTICE: Pursuant to Section 10-10.1 of the Election Code (10 ILCS 5/10-10.1) a party aggrieved of this decision and seeking judicial review of this decision must file a petition for judicial review with the Clerk of the Circuit Court of Cook County within 10 days after the decision of the Electoral Board.