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: IVORY D. MITCHELL, LAWRENCE J. SCHEFF and L.S. ZUCKERMAN	)	
	)	No.: 99-EB-ALD-117
To the Nomination Papers of: KWAME RAOUL	)	
Candidate for the office of Alderman of the 4th Ward, City of Chicago	)	

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 IVORY D. MITCHELL, LAWRENCE J. SCHEFF and L.S. ZUCKERMAN to the nomination papers ("Nomination Papers") of KWAME RAOUL, candidate for the office of Alderman of the 4th Ward 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(s) 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 Objectors IVORY D. MITCHELL, LAWRENCE J. SCHEFF and L.S. ZUCKERMAN, by counsel; and the Candidate KWAME RAOUL, pro se.

6. The Electoral Board assigned this matter to Hearing Examiner BARBARA GOODMAN 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 and/or his duly authorized representatives were present during the examination of the registration records at all times.

10. The Objectors and/or their 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 213;

    b. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 945;

    c. The number of signatures deemed invalid because of objections sustained total 543;

    d. The remaining number of signatures deemed valid total 402;

14. The Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination 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 4th Ward of the City of Chicago.

15. The Board finds, therefore, that paragraphs G-P of the Objectors' Petition are sustained in part and overruled in part as more fully indicated in the results of the records examination.

16. Paragraphs N and R of the Objector's petition alleges in part that the Statement of Candidacy and the nominating petition sheets are not properly notarized as required by law because the notarial jurat sets forth the name of a person who signed the document which is different than that of the actual affiant.

15. Section 10-5 of the Election Code (10 ILCS 5/10-5) states in part that statements of candidacy shall be subscribed and sworn to by such candidate before some officer authorized to take acknowledgments of deeds in this State. Section 10-4 of the Election Code (10 ILCS 5/10-4) contains a similar requirement as to nominating petition sheets, requiring that the circulator's statement at the bottom of each sheet be sworn to before some officer authorized to administer oaths in the State.

16. The Board finds that the Candidate's name was missing from the jurat in his statement of candidacy. The space following the printed words in the jurat, "SUBSCRIBED AND SWORN (OR AFFIRMED) TO BEFORE ME BY _____" was left blank. The Board finds that the Candidate did sign her statement of candidacy in the space provided for her signature and that the statement of candidacy was signed by a notary public in the space provided for her signature. The Board also finds that the circulator of each sheet signed the sheet in the space provided for the circulator's signature, and each sheet was signed by a notary public. In each case, however, the notary inserted her name in the space following the words "Subscribed and Sworn (or Affirmed) to before me by _____" instead of the name of the candidate or the circulator, as the case may be.

17. The jurat is not an affidavit but is evidence of the fact that the affidavit was properly sworn to by the affiant. Thus, where the affiant is otherwise identified, courts tend to overlook clerical errors such as naming the wrong person in the jurat or omitting the affiant's name from the jurat entirely. *Cintuc v. Kozubowski,* 596 n.E.2d 101 (First Dist. 1992); accord *Riani v. Education Officers Electoral Board for School Dist. No. 87,* 93 CO 456, Cir.Ct.Cook Co., October 5, 1993 (Hon. J. Curtis Heaston). This Electoral Board has previously held that the failure to insert the circulator's name on nominating petition sheets in the space following the words "Subscribed and Sworn To" in the jurat portion of the petition sheet does not invalidate those petition sheets. *Woods v. Grandberry*, 92 EB-WC-011, January 21, 1992; *Day v. Cooks*, 92-EB-WC-52, CBEC, January 24, 1992; *Jackson v. Dillard*, 95-EB-ALD-188, CBEC, January 30, 1995. The Objector produced no evidence that would show that the Candidate did not appear before the notary when she signed her statement of candidacy of that the circulator of the petition sheets did not appear before a notary when he or she signed the circulator's affidavit at the bottom of each petition sheet. Therefore, the Electoral Board overrules paragraphs N and R of the Objector's Petition.

18. For the reasons stated above, the Board finds that the Nomination Papers of KWAME RAOUL are valid.

IT IS THEREFORE ORDERED that the Objections of IVORY D. MITCHELL, LAWRENCE J. SCHEFF and L.S. ZUCKERMAN to the Nomination Papers of KWAME RAOUL, candidate for election to the office of Alderman of the 4th Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of KWAME RAOUL, candidate for election to the office of Alderman of the 4th 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-Eighth 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.