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: MARY A. COTTRELL	)	
	)	
To the Nomination	)	
Papers of: BERNETTA PEARSON	)	No.: 99-EB-ALD-157
	)	
Candidate for the office of	)	
Alderman of the 15th 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 MARY A. COTTRELL to the nomination papers ("Nomination Papers") of BERNETTA PEARSON, candidate for the office of Alderman of the 15th 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 Objector, MARY A. COTTRELL, pro se; and the Candidate BERNETTA PEARSON, by counsel.

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

7. The Hearing Examiner found that there were at least 217 signatures on the Candidate's nominating petition that were not objected and are presumably valid. The Hearing Examiner ordered that a limited records examination be conducted by the Board's clerks and agents under the Board's direction and supervision, in accordance with the laws of Illinois and the rules of the Board, in order to determine whether there were at least another 75 valid signatures on the Candidate's petition.

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 her duly authorized representative was present during the examination of the registration records at all times.

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

11. The examination of the registration records was terminated after finding that there were an additional 77 valid signatures on the Candidate's nominating petition. 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. There are at least 294 valid signatures on the Candidate's nominating petition.

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 15th Ward of the City of Chicago.

15. The Board finds, therefore, that paragraphs E through I, and M 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's Petition also alleges that the Candidate's "voting" address is 6405 S. Wolcott, which is not her "permanent residential address, which is 7310 S. Oakley, therefore making her Statement of Candidacy invalid because the heading thereof does not properly set forth the Ward in which the Candidate seeks election.

17. The Candidate testified that she moved from 7310 S. Oakley to 6405 S. Wolcott about September 15, 1998. She registered to vote at 6405 S. Wolcott as of September 15, 1998. The Candidate further testified that she purchased the building at 6405 S. Wolcott with her husband years ago, but that they are now divorced and he now lives in Mississippi. The Candidate testified that since moving into 6405 S. Wolcott, she has purchased a new furnace and put in new duct work. She contended that she did not change her address for her driver's license because she is too busy with moving and campaigning. The Candidate stated her intention to continue to live at 6405 S. Wolcott and to make it her permanent residence.

18. The Objector submitted evidence attempting to show that the Candidate resided at 7310 S. Oakley, including copies of letters from the Mayor and the local Alderman addressed to the Candidate at 7310 S. Oakley. However, these documents were dated prior to September 15, 1998. Most of the evidence submitted, however, supports the Candidate's testimony that she moved in September 1998 to 6405 S. Wolcott. The only witness to testify on behalf of the Objector was the Objector herself, who testified that she went to the house at 6405 S. Wolcott and she did not see the Candidate's name on the door. No other testimony was elicited.

19. The Electoral Board finds that the Objector has failed to prove that the Candidate did not reside at 6405 S. Wolcott when she signed her statement of candidacy attesting that she resided at that address. Therefore, the Objector's objection on this ground is overruled.

20. Paragraph N of the Objector's Petition alleges that the address of the circulator is absent in the circulator's affidavit on sheet 43 of the petition.

21. The Electoral Board finds that the address of the circulator of sheet 43 is set out on line 25 of the same sheet where the circulator signed the sheet as a petitioner. The Electoral Board finds that where the address of the circulator is set out elsewhere in the petition, there is substantial compliance with Section 10-4 requiring that the circulator state his or her address. *Sakonyi v. Lindsey*, 261 Ill.App.3d 821, 634 N.E.2d 444 (Fifth Dist. 1994). Accordingly, paragraph N of the Objector's Petition is overruled.

22. Paragraph O of the Objector's Petition alleges that there was an improper date on petition sheet 47, rendering the sheet invalid.

23. The Electoral Board finds that the date of notarization of sheet 47 was set forth in reverse order. However, even assuming that there was no date at all in the jurat, this would not be sufficient justification for invalidating the petition sheet. See, e.g., *Young v. Cook County Officers Electoral Board*, 90 Co 20, Cir. Ct. Cook Co., Jan. 24, 1990. Accordingly, the Electoral Board overrules paragraph O of the Objector's Petition.

24. Paragraph P of the Objector's Petition alleges that the jurat to the circulator's affidavit on sheets 12, 31, 35 and 47 of the petition do not contain the name of the affiant/circulator, thus rendering those sheets invalid.

25. The Electoral Board finds that the affiant/circulator's name and signature were properly affixed in the body of the affidavit, but the circulator's name is missing in the jurat following the words "SUBSCRIBED AND SWORN TO BEFORE ME BY _____." The Electoral Board further finds that were 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. See, e.g., *Riani v. Education Officers Electoral Board for School Dist. No. 87*, 93 Co 456, Cir. Ct. Cook Co., Oct. 5, 1993. Therefore, the Electoral Board overrules paragraph P of the Objector's Petition.

26. For the reasons stated above, the Board finds that the Nomination Papers of BERNETTA PEARSON are valid.

IT IS THEREFORE ORDERED that the Objections of MARY A. COTTRELL to the Nomination Papers of BERNETTA PEARSON, candidate for election to the office of Alderman of the 15th Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of BERNETTA PEARSON, candidate for election to the office of Alderman of the 15th 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 Second day of February, 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.