BCCON-RGA

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 MARCH 21, 2000 GENERAL PRIMARY ELECTION FOR STATE SENATOR, REPRESENTATIVE IN THE GENERAL ASSEMBLY AND WARD COMMITTEEMAN IN THE CITY OF CHICAGO

Objections of: DANIEL L. LUKOWSKI, JAMES C. SLARZYNSKI	)	
To the Nomination Papers of: RICHARD T. BRADLEY	)	No. 00-EB-RGA-07
Candidate for the office of Representative in the General Assembly, 20th Representative District, Democratic Party	)	

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 ("Objections") of DANIEL L. LUKOWSKI and JAMES C. SLARZYNSKI ("Objectors") to the nomination papers ("Nomination Papers") of RICHARD T. BRADLEY, candidate for nomination to the office of Representative in the General Assembly for the 20th Representative District, Democratic Party ("Candidate"), having convened on January 10, 2000, at 9:00 a.m., in Room 800, 69 West Washington Street, 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 Objectors and the Candidate, by registered or certified mail and by Sheriff's service, as provided by statute.

4. A public hearing held on these Objections commenced on January 10, 2000 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner ANTHONY IOSCO for further hearings and proceedings.

6. The Objectors and the Candidate were directed by the Electoral Board's Call served upon them to appear before the Hearing Examiner on the date and at the time designated in the Call. The following persons, among others, were present at such hearing: the Objectors, DANIEL L. LUKOWSKI and JAMES C. SLARZYNSKI, by counsel; and the Candidate, RICHARD T. BRADLEY, by counsel.

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

9. The Candidate or his duly authorized representative(s) was present during the examination of the registration records.

10. The Objectors or their duly authorized representative(s) were present during the examination of the registration records.

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 Electoral Board's file in this case and is available for inspection upon request of a party.

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

13. The Electoral Board finds that:

    a. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 300;

    b. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 4,054;

    c. The number of signatures deemed invalid because of objections sustained total 218;

d. The remaining number of signatures deemed valid total 3,836.

14. The Electoral 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 placed upon the official ballot as a candidate for nomination to the office of Representative in the General Assembly for the 20th Representative District, Democratic Party.

15. The Electoral Board finds, therefore, that the Objectors' Petition is sustained in part and overruled in part as more fully indicated in the results of the records examination.

16. Paragraph 4 of the Objectors' Petition alleges that the nominating petition sheets circulated by circulators who had two or more sheets challenged demonstrate a pattern of fraud and disregard of the Election Code to such a degree that every sheet circulated by said individuals is invalid. Specifically, paragraph 5 of the Objector's Petition alleges that the nominating petition sheets were circulated by various persons who for various reasons were ineligible to circulate said petition sheets because they either (a) were not registered at address shown, (b) did not live in the district, (c) circulated the sheets more than ninety days preceding the last day for filing the petition, or (d) did not circulate as alleged.

17. The records examination conducted by the Board's clerks did not disclose any evidence that circulators were not registered to vote at the address shown on their circulator's affidavit or that they did not live in the district. Not a single sheet or signature was invalidated on these grounds. Therefore, these objections are overruled.

18. The Objectors presented no evidence that the petition sheets in question were circulated more than ninety days preceding the last day for filing the petition. Therefore, these objections are overruled.

19. On January 20, 2000, the Hearing Examiner granted the Candidate's motion to strike paragraphs 4, 5 and 6(b) of the Objector's Petition. The Objectors did not have any evidence at that time to support the allegations in those paragraphs.

20. Objectors filed a motion to reconsider the Hearing Examiner's decision granting the motion to strike paragraphs 4, 5 and 6(b). At that time, the Objectors' presented the affidavits of 42 individuals who purportedly signed the Candidate's petition sheets and who purportedly claim that they did not sign the petition in the presence of circulators, Richard Bradley (the Candidate) and Cynthia Santos. Objectors submitted these affidavits in support of their allegations that the purported circulators of certain sheets did not in fact circulate said sheets and that there was a pattern of fraud. These 42 affidavits refer to signatures on 9 separate sheets of the petition: 57, 59, 73, 74, 76, 82, and 125.

21. The Hearing Examiner on January 27, 2000 denied the motion for reconsideration, holding that because these 9 sheets contained only 89 valid signatures after the records examination, the Candidate would still have 3,747 valid signatures (or 92.43% of the number originally filed) even if these sheets were invalidated. Therefore, the Hearing Examiner found that the contention that there was a pattern of fraud which permeated the Candidate's petitions does not appear to be credible when more than 90% of the original signature were found to be valid. The Electoral Board adopts the findings and recommended decision of the Hearing Examiner in this regard and strikes and overrules paragraphs 4, 5 and 6(b) of the Objectors' Petition.

22. Paragraph 6(a) of the Objectors' Petition alleges that the Statement of Candidacy is defective and invalid because the Candidate's signature is not sworn to and notarized. The Electoral Board finds that the original Statement of Candidacy that is in the Electoral Board's file contains the purported signature of the Candidate and is notarized by Cynthia Santos.

23. In support of this allegation, the Objectors' claimed that Chester R. Hornowski and James G. Banks had obtained from the State Board of Elections a photocopy of the Candidate's Nomination Papers, including his Statement of Candidacy, and that the photocopy of the Candidate's Statement of Candidacy did not contain a notarization of the Candidate's signature. On this issue, the following evidence was adduced:

A. Patricia Freeman, Director of Election Information for the State Board of Elections, where the Candidate's original Nomination Papers were filed on December 13, 1999, testified that there were problems with the copy machine used by the State Board in copying candidate nomination papers. There were several instances when copies of documents were erroneously copied on letter size rather than legal size paper. These errors were due either to the fact that the legal size paper tray was out of paper and/or the machine automatically switched to letter size, or because the operator did not correctly designate the correct paper size for the copy. This testimony was corroborated by testimony from another employee of the State Board of Elections, Bruce Brown.

B. Ms. Freeman also testified that upon receiving a telephone inquiry, she personally inspected the original Statement of Candidacy filed by the Candidate and that it was notarized. This testimony was corroborated by the testimony of Jane Gasperin, another employee of the State Board of Elections, who testified that upon a request from one of the Candidate's attorneys received on or before December 21, 1999, she checked the original Statement of Candidacy and found that it was, in fact, notarized. Ms. Gasperin also examined the original Statement of Candidacy that was found in the Electoral Board's file and she testified that the document was

in the same condition that it was in on the day she inspected it pursuant to the request from the Candidate's attorney.

C. Ms. Freeman testified that after the Candidate's petitions were filed with the State Board of Elections, only State Board of Elections' employees had access to the petition until December 21, 1999.

D. Bob Uhe, an attorney, testified that on December 21, 1999, he went to the State Board of Elections' office to examine the Candidate's original Nomination Paper and, in the presence of State Board of Elections' employees, he did examine the Nomination Paper, including the Statement of Candidacy. During his testimony, Mr. Uhe testified that the document in the Electoral Board's files (the signed and notarized original of the Statement of Candidacy) was in exactly the same condition as the one he viewed on December 21, 1999.

E. Chester R. Hornowski and James G. Banks testified that they went to the State Board of Elections and requested a copy of the Candidate's Nomination Papers. Both testified that the copy of the Candidate's Statement of Candidacy that they received was not notarized. Both testified that neither of them ever saw the Candidate's original Statement of Candidacy.

F. The Candidate testified that he signed his Statement of Candidacy in the presence of his wife, Cynthia Santos, who notarized it. This was done on December 11, 1999, prior to his filing his Nomination Papers with the State Board of Elections.

G. Cynthia Santos, the wife of the Candidate, testified that the Candidate signed the Statement of Candidacy in her presence in their home on December 11, 1999 and that she then notarized the document.

24. The Hearing Examiner concluded that the evidence did not support the Objectors' contention that the Candidate's Statement of Candidacy was not notarized at the time it was filed with the State Board of Elections. Nothing in the evidence supports a charge that the Statement of Candidacy was tampered with or altered in any way. The Hearing Examiner concluded that the weight of the evidence seems to suggest that some pages may have inadvertently been copied on letter size paper rather than legal size paper, perhaps explaining why the bottom portion of the legal size original Statement of Candidacy containing the notary's signature and seal may not have appeared on the copy given to Mr. Hornowski and Mr. Banks.

25. The Electoral Board adopts the recommended findings and recommendations of the Hearing Examiner as to the allegations in paragraph 6(a) of the Objectors' Petition and overrules such objections. The Electoral Board finds that the Candidate's Statement of Candidacy was properly notarized.

26. Finally, the Objectors allege in paragraph 6(c) of their objections that the Candidate's signature on the Statement of Candidacy is inconsistent with other samples of the same individual's signature and is a forgery and invalid.

27. The Hearing Examiner heard testimony from the Candidate that he signed his Statement of Candidacy in the presence of his wife, Cynthia Santos, who notarized it. The Candidate testified, after examining the Statement of Candidacy in the Electoral Board's file, that is was his signature on the Statement of Candidacy. Under cross-examination, the Candidate again stated that he did, in fact, sign his Statement of Candidacy and it was not a forgery. Ms. Santos also testified that the Candidate signed the Statement of Candidacy in her presence.

28. The Hearing Examiner examined and compared the Candidate's signature as it appeared on this Statement of Candidacy and an exemplar of a signature which the Objectors' contended was the Candidate's on his 1997 Statement of Candidacy. While not a handwriting analyst, the Hearing Examiner concluded that the two signatures appeared to be extremely similar in a common sense analysis.

29. The Electoral Board adopts the Hearing Examiner's recommended findings and conclusions as to the objections in paragraph 6(c) of the Objectors' Petition and the Electoral Board overrules said objections and finds that the signature on the Statement of Candidacy is that of the Candidate.

30. For the reasons stated above, the Electoral Board finds that the Nomination Papers of RICHARD T. BRADLEY are valid.

IT IS THEREFORE ORDERED that the Objections of DANIEL L. LUKOWSKI and JAMES C. SLARZYNSKI to the Nomination papers of RICHARD T. BRADLEY, candidate for nomination to the office of Representative in the General Assembly for the 20th Representative District, Democratic Party, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of RICHARD T. BRADLEY, candidate for nomination to the office of Representative in the General Assembly for the 20th Representative District, Democratic Party, SHALL be printed on the official ballot for the General Primary Election to be held on March 21, 2000.

Dated: Chicago, Illinois, this 8th day of February, 2000.

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.