BCCOFF-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: DELORIS CRAWFORD	)	
	)	
To the Nomination	)	
Papers of: SYLVESTER E. BAKER, JR.	)	
	)	No. 00-EB-RGA-09
Candidate for the office of	)	
Representative in the General Assembly, 21st	)	
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 DELORIS CRAWFORD ("Objector(s)") to the nomination papers ("Nomination Papers") of SYLVESTER E. BAKER, JR. , candidate for nomination to the office of Representative in the General Assembly for the 21st 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(s) 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 KELLYE KEYES for further hearings and proceedings.

6. The Objector(s) 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 Objector(s), DELORIS CRAWFORD, by counsel; and the Candidate, SYLVESTER E. BAKER, JR, 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 Objector(s) or her duly authorized representative(s) was 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 309;

    b. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 1,218;

    c. The number of signatures deemed invalid because of objections sustained total 841;

d. The remaining number of signatures deemed valid total 377;

14. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination is below 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 21st Representative District, Democratic Party.

15. The Electoral Board finds, therefore, that paragraph(s) 5-17 of the Objectors(s)' Petition are sustained in part and overruled in part as more fully indicated in the results of the records examination.

16. The Electoral Board hereby incorporates herein and adopts the findings of the attached report of Hearing Examiner KELLYE KEYES.

17. For the reasons stated above, the Electoral Board finds that the Nomination Papers of SYLVESTER E. BAKER, JR. are not valid.

IT IS THEREFORE ORDERED that the Objections of DELORIS CRAWFORD to the Nomination Papers of SYLVESTER E. BAKER, JR., candidate for nomination to the office of Representative in the General Assembly for the 21st Representative District, Democratic Party, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of SYLVESTER E. BAKER, JR., candidate for nomination to the office of Representative in the General Assembly for the 21st Representative District, Democratic Party, SHALL NOT be printed on the official ballot for the General Primary Election to be held on March 21, 2000.

Dated: Chicago, Illinois, this 4th 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.

RECOMMENDED FINDINGS OF FACT AND DECISION
FOR *CRAWFORD V. BAKER*, 00-EB-RGA-09

Recommended findings of fact and law:

The objector's petition contained allegations concerning the genuineness of many of the signatures on the nominating petition including but not limited to the electors not being registered voters, containing incomplete addresses, not signing in their own capacity and singing more than once. She also alleged that some of the circulators did not personally circulate the petition, did not appear in front of notary, and that their affidavits were incomplete and that the nomination papers demonstrated a pattern of fraud due to sheets 11,12,14,15,16,17,18,22,24,25, 26, 27,64 and 65.

A record examination was completed on January 21, 2000. The candidate started with 1218 signatures. There were 818 objections sustained and 184 overruled. Furthermore 23 signatures were invalidated due to circulator. The candidate had 377 valid signatures following the records examination. The candidate needed a total of 309. A review of the record examination indicated that a complete check had not been completed of the allegations concerning the validity of the circulators Randy Wilson and Isaac West.

The objector filed a rule 8 motion to present evidence on the validity of some of the elector's signatures and requested to present evidence to establish a pattern and practice of fraud. She presented 20 affidavits from individuals who indicated that they did not sign the candidate's nominating petition even though their names appeared and their signatures had been verified during the records examination. The board conducted another record examination to check the authenticity of the signature of Randy Wilson and Isaac M. West. The signature of Randy Wilson was found to be valid. The signature of Isaac West was not on the computer. The following sheets were allegedly circulated by "Isaac M. West" according to the hand written portion of the circulator's affidavit and the apparent signature: 11, 12. 14, 15, and 26. The following sheet appears to have been circulated by Isaac M. West according to the hand written portion of the circulator's affidavit but appears to have been signed by Isaac N. West: 24. The following sheet appears to have been circulated by Isaac M. West according to the hand written portion of the circulator's affidavit but appears to have been signed by Isaac West: 25. The following sheet appears to have been circulated by Isaac West according to the hand written portion of the circulator's affidavit but appears to have been signed by Isaac N. West: 27 The following sheets appear to have been circulated by Isaac West according to the hand written portion of the circulator's affidavit but appear to have been signed by Isaac West: 64 and 65. The number of variations of the signature alone are enough to give the common observer pause. The other patent problem with many of these affidavits is that the affiant attested to be a different person than the name he appeared to sign on the affidavit. For instance he attested to being Isaac M. West and would then sign Isaac N. West. (The failure of a candidate to use a middle initial or add "Jr."or use a middle initial in a statement of candidacy and not on the nominating petition has not been found to insufficient to invalidate a statement of candidacy or the petition. (Scianna v. Fredrickson, CBEC, 94-EB-REP-7, January 24, 1994.) Therefore there will be no further discussion of invalidating any sheets on the sole ground of printing Isaac West and signing Isaac N. or M. West. The discussion will thus forward be limited to the significance of the N. or the M. and the identity and signature of circulator West.

An evidentiary Hearing was conducted to address these issues. The objector presented both testimony and affidavits. The objector presented counter affidavits and cross-examined the witnesses.

Sheet 16

The testimony was from Gertrude Jones, who was alleged to have signed on Sheet 16. Ms. Jones testified that she did not sign the petition. She also testified that her sons and granddaughters live in Mississippi. The signatures of Kevin Jones, Eddie Jones, Tisha Jones were also allegedly contained on sheet 16. She also asserted that she did not know and has never met the circulator Sylvester Butler. There was some cross-examination that attempted to establish that it is possible that all of these individuals were in Chicago and had failed to inform Ms. Jones. However, that argument was insufficient to overcome her testimony on direct.

There was also testimony of Mary Flowers. She attended the records examination. She spoke with Mr. Butler about his petitions. Ms. Flowers, asserted that the candidate told her " he knew not all of the signatures were right but he thinks he had enough to get by." Counsel for the candidate did illicit testimony indicating the potential bias of Ms. Flowers since she is the incumbent. Therefore, her testimony was given some but not monumental weight. It is interesting to note that the candidate never presented evidence that he did not make that admission to Ms. Flowers.

Objector presented further evidence of fraud on sheet 16. This was included in Objector's Group Exhibit 1 (OG1). It included 10 affidavits, the appendix recapitulation and 2 copies of sheet 16. Candidate presented evidence in the form of Candidate's Group Exhibit 1 (CG1). OG1 contained attestations that the individuals never signed sheet 16. The further allege that the signature next to their address on the petition is not theirs. CGI, consisted of an affidavit of Donald Heard and Sylvester Butler. Mr. Butler stated "the petition after being completed by yours truly were all notarized in the presence of a Notary Public." This assertion is too vague to rebut the specific statements found in OG1. Mr. Butler could have meant that he completed the petition by signing all the names himself. Similarly, the attestations made by the notary that " he notarized in the presence of the circulator (s) petitions being circulated by the following individuals for Sylvester E. Baker Jr. to have his name placed on the Ballot for nomination for the office..." This affidavit does not state that he checked their ID or even that say he notarized the Butler sheets in front of Butler. The way the affidavit is worded he could have notarized the Butler sheet in front of Baker. The language was too vague. I found the information contained within Candidate's Group Exhibit 1 insufficient to rebut the attestations in Objector's Group Exhibit 1.

A lay person's observation of sheet 16 reveals that a number of people from the alleged same family have the exact same signature. For instance all of the Chamberlain signatures on lines 15-19 look exactly the same. Similarly both of the Woodards' signatures look exactly the same. The record examination bore out that if there were 3 signatures from a household, only one would be valid. This indicated to me that the circulator allowed one person to sign the names for all other members of a family. I therefore concluded that sheet 16 was infected with fraud.

Sheet 17

The same type of evidence was presented for sheets 17, 18, and 21. OG2 contained 5 affidavits, an appendix recapitulation, a death certificate and copies of sheet 17. CG2 contained affidavits of the notary and the circulator. In addition to the same type of evidence being presented for sheet 17, a certified Death Certificate was presented for the elector on line 13 William Sledge. Alarmingly the record examination confirmed the signature for Mr. Sledge, who has been dead for 5 years. I found sufficient evidence to have been presented to establish fraud for sheet 17.

Sheet 18

OG3 contained 3 affidavits, the appendix recapitulation and copies of sheet 18. Two of the three affidavits were from individuals, whose names did not appear on the sheet. The third affidavit was not specific enough to establish intent. There was insufficient evidence to establish fraud for sheet 18.

Sheet 21

CG4 consisted of OG2 contained 2 affidavits, an appendix recapitulation, and copies of sheet 21. There was also evidence and argument presented on various signatures on the following sheets: 36, 42, 49 ,52, 54, 59 and 68. And there was a tallying error on sheets 72 and 46 which reduced the number of signatures by 2.

Sub-Total on January 29, 2000

The candidate had 19 less signatures as a result of the invalidation of signatures on sheets 16, 36, 42, 49, 52, 54, 59 and 68. The candidate had a total number of valid signatures of 356 on January 29, 2000.

Isaac West

A second record examination was conducted to determine if there was an Isaac West, Isaac M. West, or Isaac N. West registered to vote at the address on the circulator's affidavit. The results showed that there was no Isaac M. West, Isaac M. West Jr., Isaac West or Isaac West Jr. Although there was an Isaac N. West registered to vote at the address shown there was no signature on the system and no master file card. The handwriting expert was therefore unable to rule on the authenticity of his signature. There was an evidentiary hearing following this determination. Isaac West and Sylvester Baker were called to testify. Mr. West has never gone by the name of Isaac M. West. Similarly, he has never signed his name as Isaac M. West. There following exhibits were admitted: Isaac West #1 which was the candidate's nominating petition, Isaac West #2, which was Mr. West's voter's registration card, and Isaac West #3, which was his state ID, and Isaac West #4, which was his driver's license, Isaac West #5, which was his birth certificate.

The voter's registration card is in the name of Isaac N. West Jr. It is signed on the back Isaac N. West Jr. The ID card is in the name of Isaac N. West. The driver's license is in the name of Isaac N. West. The signatures on the two pieces of state ID are difficult to see, but it appears

that he signed with an N as opposed to an M. Furthermore, the N does not look like an M. Isaac West #6 is an affidavit signed by Mr. West. Mr. West asserted that he circulated and signed all of the affidavits for the sheets that have any form of Isaac West on them. This would include Sheets 1,12,14,15,24,25,26,27 and 64. Mr. West asserted that he does not always sign his name the same way. Sometimes he uses the Jr. and sometimes he does not. He is really Isaac N. West X IV. That is because 13 men before him were named Isaac West. On cross he admitted that they all had different middle names but that is how they identify themselves in his family.

Mr. West asserted that the reason that his signature looked different on the petition and his Identification was because of the size of the space to sign. He alleged that if the space is smaller then it is easier for him to sign in a manner so that the N looks like an N as opposed to an M. When showed Isaac West #6 he asserted that the only reason you can see the N is because Baker called him and told him that there was a problem with the way he signed his name. Baker asked that Isaac make it clear that he was Isaac N. West in the affidavit. So Mr. West made a special point of making the N legible on the affidavit. (It should be noted that the affidavit was accepted as evidence, however, the information contained therein is not valid because he did not sign the affidavit in front of the notary.)

Mr. West would bring his petitions to the home office of Mr. Baker to turn them in. He was told that someone would be there to notarize them. Mr. West has met Donald Heard, the notary before. He cannot identify him. He was unable to say if Mr. Heard was always in the room when he turned in his petitions. Mr. West believes that Heard was in the house. Mr. West never saw Heard stamp the sheets of the nominating petition that he was turning in. Similarly, Mr. West did not see Mr. Heard notarize the sheets.

Furthermore, Mr. West signed some of the sheets before the attestation clause was filled in. The only attestation clauses he filled in were on pages 64 and 65. Therefore, the other pages are invalid due to his failure to attest to the information contained in the clause. It is clear that the blanks were filled in after he signed the affidavits for all sheets except 64 and 65. Additionally, the information written in the attestation clause is incorrect. Even if Isaac N. West did sign the affidavits should still be considered invalid. By signing the affidavit Isaac N. West attested to being Isaac M. West.

Sylvester Baker also testified. He was in the office when West brought by the petitions. Baker believes that West saw Heard. Heard and West were in the same room together. This however, is irrelevant because no evidence was presented to establish that Heard said West signed; or that Heard checked West's identification to verify signature.

I recommend that all of the sheets for Isaac West as circulator be invalid. See chart for reasons.

Fraud:

Mr. Baker has run for office twice before. He testified that he personally gave his circulators instructions about the type of signatures needed. He would review all petition sheets before turning them in to the board. If he noticed that the sheets looked suspect then he would tell

the circulators what the problem was and then he would tell each one of the problem. He told them that he did not want any round tabling.

Mr. West told Baker about having one person in a family signing for the whole family. Baker told him that he could not do that. Therefore, the later sheets that West turned in do not have problems with one person in a family signing for all members of the family. When Baker saw signatures that he thought would be a problem, he was disturbed. He did not know that he could correct the error by drawing a line through the bad signatures. Furthermore, he did not know and still does not know what an errata sheet is.

When Baker looked at sheet 16, circulated by Sylvester Butler, he "did not get a good feeling". Butler asserted that he did circulate the sheets. Baker therefore submitted the sheets. My review of sheet 16 it is clear that there are many forgeries. Baker said that he would consider fraud to obtain or submit fraudulent signatures. From his own definition the submission of Sheet 16 constituted fraud on his part.

Furthermore, Baker is a notary. He knew or should have known that a) the circulators should have signed after the attestation clause was filled out and b) that the notary needed to check the signatures. It is insufficient to merely have the notary in the house at that same time as the circulators. Baker knew that the notary should have observed the signatures and verified them. Yet he allowed the notary to notarize pages that did not appear in front of him. Furthermore, the presentation of Isaac West 6 shows that Baker did not have any compunction about using documents allegedly notarized when the notary was not present when the document was signed.

The candidate started with 1216 signatures. More than half were found to be forgeries. Baker had a good idea that most of the signatures on sheet 16 were forgeries and he still submitted it. He also should have known that the West pages were invalid. I found there to be evidence of fraud on sheets from circulators Butler and Anderson. This was for sheets 16, 17 and 21. Regardless of whether the circulators intended to fraudulently obtain the signatures or if they did not understand the rule, Baker should have noticed the patent forgeries and if nothing else refused to submit the sheets or attempted to notify the board of the problems before we had to undertake 2 records exams and hear two days of evidence. Baker's submission of sheets 11, 12, 14, 15, 24, 25, 26, 27, 64 and 65 when he knew or should have known of the invalid notary further evidences fraud. I find his behavior to have indicated a knowing or reckless disregard for the validity of the nominating petition submitted. In light of the same I recommend that Sylvester Baker's name be stricken from the ballot.

Sheet number	Status	Signature	Notary did not	Attestation clause	Attested to being	Wrong
		Issac M. West	observe Signature	not filled out	Issac M. West	Address of Cir.
				before circulator	when he is not	
				signed		
11	Invalid	X	X	X	X	
12	Invalid	X	X	X	X	
14	Invalid	X	X	X	X	
15	Invalid	X	X	X	X	
24	Invalid		X	X	X	
25	Invalid		X	X	X	
26	Invalid		X			
27	Invalid		X			
64	Invalid		X			X
65	Invalid		X			