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BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO AS THE DULY CONSTITUTED ELECTORAL BOARD

Objections of: BESSIE LYLES	)
	)
To the Nomination	)
Papers of: WILLIAM A. BROWN	)
	) No. 02-EB-SS-01
Candidate for the office of	)
State Senator, 3rd Legislative 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, Theresa M. Petrone and Richard A. Cowen, 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 BESSIE LYLES ("Objector") to the nomination papers ("Nomination Papers") of WILLIAM A. BROWN, candidate for nomination to the office of State Senator for the 3rd Legislative District, Democratic Party ("Candidate"), having convened on January 8, 2002, 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 Objector 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 8, 2002 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner ROBERT S. ANDREW for further hearings and proceedings.

6. The Objector 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, BESSIE LYLES, by counsel; and the Candidate, WILLIAM A. BROWN *pro se*.

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 was present during the examination of the registration records.

10. The Objector or his 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 Candidate filed a motion to strike the Objectors petition. In his motion, the Candidate stated that on September 18, 2001, he went to the State Board of Elections, State of Illinois, at 100 West Randolph, Suite 14-100 and that a staff member there gave verification of the Candidate's registration and that his State Senate district was the 3rd Legislative District. The Candidate stated he was given a complete package of primary petition, information, etc., and from that date on, he traveled the 3rd Legislative District getting signatures of registered voters. The Candidate claims that at no time during Sept. 18 – Dec. 10, 2001 period was he notified that the 3rd Legislative District boundary lines had changed. In fact, Candidate states, he received a new voter's registration card stating that his State Senate district was the 3rd Legislative District, the same as before. The Candidate states that he continued to collect nominating signatures in what he believed was the 3rd Legislative District. Candidate claims that he read newspapers, etc., to keep informed of changing election laws. It was not until January 2, 2002, after objections were filed against his nomination papers, that the Candidate learned that the boundaries of the 3rd Legislative District had changed.

The Candidate's un-sworn argument/testimony on the motion to strike was substantially the same and corroborates the statements made in his motion to strike. Although neither the motion nor the argument made by the Candidate in

support of the motion constitutes evidence, these statements are accepted as true for purposes of the motion to strike.

13. The Candidate also filed with the Electoral Board prior to a hearing before the Hearing Examiner on January 23, 2002 a "motion to be placed on the primary ballot." In this motion, Candidate contends that the final changes for the 2001 redistricting by the Illinois State Legislature during the petition circulation period was not well-publicized or for that matter not publicized at all to the candidates. The Candidate further contended that he was not given a fair and reasonable opportunity by the State Board of Elections to notify him in due time of the 3rd Legislative District change. Candidate contends that he was told three times during the circulation period by staff members of the State Board of Elections that his residence was in the 3rd Legislative District. Otherwise, he states, he would not have proceeded with the petitions for the 3rd Legislative District.

14. As borne out by the examination of registration records as described below, most of the people who signed the Candidate's nominating petition resided outside the new 3rd Legislative District.

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

16. Article IV, Section 3 of the Illinois Constitution provides that "an approved redistricting plan filed with the Secretary of State shall be presumed valid, shall have the force and effect of law and shall be published promptly by the Secretary of State." A legislative redistricting plan governing the election of candidates for the office of State Senator for the 2002 elections was filed with the Illinois Secretary of State by the Illinois Legislative Redistricting Commission on September 25, 2001. Accordingly, the legislative redistricting plan filed with the Illinois Secretary of State on September 25, 2001 had the force and effect of law as of that date and established the new boundaries of legislative and representative districts for purpose of the 2002 elections.

17. Section 8-8 of the Illinois Election Code (10 ILCS 5/8-8) provides "all petitions for nomination for the office of State Senator shall be signed by 1% or 600, whichever is greater, of the qualified primary electors of the candidate's party in his legislative district, except that for the first primary following a redistricting of legislative districts, such petitions shall be signed by at least 600 qualified primary electors of the candidate's party *in his legislative district.*" (Underlining and italics added)

18. There is no Constitutional or statutory provision that permits a candidate for State Senator or Representative in the General Assembly in a primary following a redistricting to obtain petition signatures of electors residing outside the new legislative/representative district in which the candidate is running. Such a measure was requested by the Illinois Attorney General in the legislative

redistricting litigation before the Illinois Supreme Court in *Cole-Randazzo v. Ryan*, Ill.Sup.Ct. No. 92443, but that request was denied by the Supreme Court in its order of November 28, 2001.

19. Therefore, the Candidate here was required to have his petitions signed by qualified primary electors of the Democratic Party residing in the new 3rd Legislative District.

20. The Board finds that although Section 8-8 of the Code provides that no petition sheet shall be circulated more than 90 days preceding the last day provided in Section 8-9 of the Code for the filing of such petitions and candidates could begin circulating their petition sheets as early as September 18, 2001, candidates had until December 17, 2001 to circulate their petition sheets and obtain signatures of qualified primary electors residing in the new legislative/representative districts.

21. There is no Constitutional or statutory requirement that the Illinois State Board of Elections or the Chicago Board of Election Commissioners publish or distribute maps containing boundaries for legislative districts or publicize the fact that legislative district boundary lines have been changed. Rather, Article IV, Section 3 requires the Illinois Secretary of State to publish the redistricting plan. A candidate is presumed to make himself/herself knowledgeable as to the requirements for seeking elective office, including the boundaries of the legislative or representative district from which he or she seeks to be nominated and elected.

22. 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 886;

    c. The number of signatures deemed invalid because of objections sustained total 832;

    d. The remaining number of signatures deemed valid total 54.

23. 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 be placed upon the official ballot as a candidate for nomination to the office of State Senator for the 3rd Legislative District, Democratic Party.

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

25. For the reasons stated above, the Electoral Board finds that the Nomination Papers of WILLIAM A. BROWN are not valid.

IT IS THEREFORE ORDERED that the Objections of BESSIE LYLES to the Nomination Papers of WILLIAM A. BROWN, candidate for nomination to the office of State Senator for the 3rd Legislative District, Democratic Party, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of WILLIAM A. BROWN, candidate for nomination to the office of State Senator for the 3rd Legislative District, Democratic Party, SHALL NOT be printed on the official ballot for the General Primary Election to be held on March 19, 2002.

Dated: Chicago, Illinois, this 25th day of January, 2002.

Langdon D. Neal, Chairman

Theresa M. Petrone, Commissioner

Richard A. Cowen, 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.