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

Objections of: WALLACE DAVIS III	)
	)
To the Nomination	)
Papers of: JOHNNIE DAVIS	)
	) No. 02-EB-SS-07
Candidate for the office of	)
State Senator for the 5th 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 WALLACE DAVIS III ("Objector") to the nomination papers ("Nomination Papers") of JOHNNIE DAVIS, candidate for nomination to the office of State Senator for the 5th Legislative District, Democratic Party ("Candidate"), having convened on January 8, 2002, at 9:00 a.m., 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 TERENCE E. FLYNN 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, WALLACE DAVIS III, by counsel; and the Candidate, JOHNNIE DAVIS, *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(s) was present during the examination of the registration records.

10. The Objector or his 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. Following the registration records examination, Objector filed a Rule 8 motion objecting to errors made by the Board's clerks during the course of the records examination. However, concluding that the Candidate had a sufficient number of valid signatures on the petition after the records examination and notwithstanding the objections raised by the Rule 8 motion, the Objector produced no further evidence or argument and instead stated that he would stand on the record.

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

14. 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 600;

    b. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 3,095;

    c. The number of signatures deemed invalid because of objections sustained total 1,646;

d. The remaining number of signatures deemed valid total 1,449.

15. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following the 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 State Senator for the 5th Legislative District, Democratic Party.

16. The Electoral Board finds, therefore, that paragraph(s) 5-9 of the Objectors(s)' Petition are sustained in part and overruled in part as more fully indicated in the results of the records examination.

17. Because the Objector failed to present any evidence in support of the remaining objections raised by his petition, all other remaining objections are overruled.

18. For the reasons stated above, the Electoral Board adopts the recommended findings and decision of the Hearing Examiner and finds that the Nomination Papers of JOHNNIE DAVIS are valid.

IT IS THEREFORE ORDERED that the Objections of WALLACE DAVIS III to the Nomination papers of JOHNNIE DAVIS, candidate for nomination to the office of State Senator for the 5th Legislative District, Democratic Party, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of JOHNNIE DAVIS, candidate for nomination to the office of State Senator for the 5th Legislative District, Democratic Party, SHALL 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.

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OBJECTIONS TO
NOMINATION PAPERS OF CANDIDATES

WALLACE DAVIS III,	)	
	)	
Petitioner-Objector,	)	
	)	
v.	)	No. 02-EB-SS-07
	)	(5th Legislative District
JOHNNIE DAVIS,	)	minimum signature
	)	requirement: 600)
Respondent-Candidate.	)	

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BOARD OF ELECTION

REPORT AND RECOMMENDATION OF
HEARING EXAMINER TERENCE E. FLYNN

Recommendation

It is the recommendation of the Hearing Examiner that the name Johnnie Davis shall appear on the ballot for the March 19, 2002 election in the Democratic primary for State Senator for the 5th Legislative District, the candidate having valid signatures in excess of the minimum signature requirement.

Facts and Procedure

This matter was initially called for hearing on January 8, 2002, both objector (himself and by his attorneys) and candidate (pro se) appearing. A Records Examination was ordered. A further hearing was held on January 14, 2002; however, the Records Examination results were not available at that time. A third hearing was convened on January 18, 2002. At that time, the Records Examination results were available. The results were: 3095 petition signatures submitted; 833 objections overruled; 1646 objections sustained; and 1449 valid signatures. The minimum signature requirement is 600.

A timely Rule 8 Motion was filed by Objector on January 16, 2002, which was reviewed at the hearing of January 18, 2002. The Rule 8 Motion complained of two categories of supposed errors by the Board clerks: a) counting blank lines as valid signatures; and b) counting line-outs as valid signatures. The remedy requested was remand to another Records Examination. No sheet or line numbers specifying supposed blanks or line-outs were contained in the Rule 8 Motion. After an on-record preliminary review and comparison of the petition sheets and the Records Examination work papers by the Hearing Examiner, which disclosed no indicia of the problems of which objector complained, it was ordered that the objector file a supplementary brief, supporting his

claim regarding the improper inclusion in the Records Examination results of both blank lines and line-outs. That supplemental pleading was to be filed by 10:00 a.m. on January 22, 2002, without prejudice to a determination as to whether the original Rule 8 Motion was sufficiently specific, and a further hearing to convene at 1:00 p.m. on January 22, 2002.

The Hearing on January 22, 2002

At the hearing, the objector's attorney disclosed: a) that objector had not filed a supplementary brief as ordered; and b) that going through the sheets, objector had determined that sufficient signatures over the 600 minimum existed even after objector's view of the Rule 8 result. The objector chose to stand on the Record as presented and offered no further evidence. The objector was specifically asked whether the objector desired to proceed on any other part of the verified petition, or had anything else to proffer. The objector was also asked whether he wished to file an objector's Withdrawal of Objection form. The objector stated that objector would stand on the Record and had nothing further. Therefore, the Rule 8 Motion was denied and the Records Examination results, listed above, were accepted as final.

No other objections going forward, the remaining paragraphs of objector's petition are found moot, or in the alternative, are found in favor of the candidate, no evidence or request for further evidentiary presentation being requested by objector. The candidate has 1449 valid signatures with a minimum signature requirement of 600.

Therefore, it is the recommendation of the Hearing Examiner that the name Johnnie Davis shall appear on the ballot in the March, 2002 election in the Democratic primary for State Senator for the Fifth (5th) Legislative District.

Terence E. Flynn
Hearing Examiner

Date: 01/23/02