BCCOFF-ALD

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

Objections of: JACQUELINE JOHNSON	)	
	)	
To the Nomination	)	
Papers of: REGINALD B. WILLIAMS, SR.	)	No.: 03-EB-ALD-014
	)	
Candidate for the office of	)	
Alderman of the Ninth 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, 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 JACQUELINE JOHNSON ("Objector") to the nomination papers ("Nomination Papers") of REGINALD B. WILLIAMS, SR., candidate for the office of Alderman of the Ninth Ward in the City of Chicago ("Candidate") to be elected at the Municipal General Election to be held on February 25, 2003 having convened on December 30, 2002, at 10:00 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 December 30, 2002 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner RODNEY W. STEWART 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, JACQUELINE JOHNSON, by counsel; and the Candidate, REGINALD B. WILLIAMS, SR., pro se.

7. The Hearing Examiner ordered that an examination of the registration records be conducted by its 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 this records examination.

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

10. The Objector or her duly authorized representative 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 and the Hearing Examiner's report of recommended findings and conclusions of law.

13. The results of the records examination indicate that:

    a. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 240;

    b. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 1,751;

    c. The number of signatures deemed invalid because of objections sustained total 376;

    d. The remaining number of signatures deemed valid total 1,375;

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 be placed upon the official ballot as a candidate for election to the office of Alderman of the Ninth Ward of the City of Chicago.

15. A review of the Candidate's nominating petitions revealed that sheets 13 through 56 and sheet 60 did not contain a valid notarization of the circulator's signature on the affidavit on such sheets either because the circulator's name differed from the name listed by the notary as the person appearing before the notary or because the circulator's signature was missing even though the document was notarized.

16. The hearing was continued to allow for the review of sheets 1 through 12 and sheets 57 through 79 (with the exception of sheet 60) of the Candidate's petition sheets. It was agreed that the notary public who notarized the sheets in question would appear at the next hearing on January 15, 2003.

17. At the January 15, 2003 hearing, the Candidate did not produce the notary public and insisted that he was unaware of his obligations to do so even though this was clearly conveyed at the prior hearing.

18. Regarding sheets 1 through 12, it was unclear whether the Candidate's name appeared within the notary jurat on the petition sheet or whether the Candidate's name had been scratched out. The Candidate testified that the notary public prepared and signed the petition sheets in the rain on three separate days thereby creating the appearance that the Candidate's name was scratched out even though the notary's signature was clearly delineated. The Hearing Examiner concluded that the Candidate's testimony on this issue was not credible. The Hearing Examiner also found that sheets 13 through 56 and sheet 60 did not contain valid notarizations either because the circulator's name differed from the name listed by the notary as the person appearing before the notary or because the circulator's signature was missing even though the document was notarized. The Hearing Examiner found that all of these sheets should be stricken. As a result, the Candidate's Nomination Papers do not contain a sufficient number of valid signatures.

19. The circulator's statement appearing at the bottom of each nominating petition sheet "shall be sworn to before some officer authorized to administer oaths in this State". (10 ILCS 5/10-4) The requirement that nominating petitions be notarized is not necessarily impracticable or unduly burdensome on the right to access to the ballot. *Bowe v. City of Chicago Electoral Board*, (First Dist. 1980) 81 Ill.App.146, 401 N.E.2d 1270, rev. on other grounds, 79 Ill.2d 469, 404 N.E.2d 180. The requirement in the Election Code that the person who circulated nominating petitions personally appear before a notary public to validate the petition has been held to be mandatory and not directory. Thus, a violation of that section invalidates the petition sheet. *Bowe v. Chicago Electoral Board*, 79 Ill.2d 469, 404 N.E.2d 180 (1980); *Williams v. Butler*, 35 Ill.App.3d 532, 341 N.E.2d 394 (Fourth District, 1976).

20. The Electoral Board finds that the Candidate's failure to have the circulator of sheets 1 through 56 and sheet 60 to properly appear before a notary public and sign the statement appearing at the bottom of each sheet before a notary public invalidates those sheets. As a result, the Candidate's Nomination Papers have fewer than the minimum number of

valid signatures required by law to be placed upon the official ballot as a candidate for election to the office of Alderman of the Ninth Ward of the City of Chicago.

21. The Electoral Board finds, therefore, that the Objector's Petition is sustained in part and that the Candidate's Nomination Papers are invalid.

IT IS THEREFORE ORDERED that the Objections of JACQUELINE JOHNSON to the Nomination Papers of REGINALD B. WILLIAMS, SR., candidate for election to the office of Alderman of the Ninth Ward of the City of Chicago are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of REGINALD B. WILLIAMS, SR., candidate for election to the office of Alderman of the Ninth Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the Municipal General Election to be held on February 25, 2003 .

Dated: Chicago, Illinois, this Thirty-First day of January, 2003.

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.