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

Objections of: ANDREW V. HOLMES JR.	)	
	)	
To the Nomination	)	
Papers of: CARLTHEL (CARL) BURNETT	)	No.: 03-EB-ALD-037
	)	
Candidate for the office of	)	
Alderman of the Seventeenth 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 ANDREW V. HOLMES JR. ("Objector") to the nomination papers ("Nomination Papers") of CARLTHEL (CARL) BURNETT, candidate for the office of Alderman of the Seventeenth 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 JOSEPH A. MORRIS for further hearings and proceedings.

6. The Objector and the Candidate were directed by the Electoral Board 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, ANDREW V. HOLMES JR., counsel; and the Candidate, CARLTHEL (CARL) BURNETT, 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 his 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 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 240;

    b. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 380;

    c. The number of signatures deemed invalid because of objections sustained total 196;

    d. The remaining number of signatures deemed valid total 184;

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

15. The Candidate filed a written instrument titled "Motion to Request Master File Rule 7." The body of the document stated as follows:

> "Respondent is appealing Record Examination Results.
>
> Respondent is request on ALL one hundred and ninety-six objections sustained name address, and the reason for each individual objection, whether its' [sic] the signature, registration, or address give the reason for the objection. ALL one hundred and ninety-six sheet and line numbers. We are appealing objection sustained which is one hundred + ninety-six."

No list containing the printed name and address of each name to be examined in the Master File and the sheet and line number of the name on the Candidate's petition was attached to the Candidate's motion or was otherwise filed with the Board.

16. Rule 7 of the Electoral Board's Rules of Procedure require that when requesting a master file examination, "a party shall file with the Board a list containing the printed name and address of each name to be examined in the master file, as well as the sheet and line number of the name on the petition."

17. The Hearing Examiner found that the Candidate did not comply with the provisions of Rule 7. The Hearing Examiner further explained the reasoning behind the rule's requirement, explaining that the rule's command that a party "shall file ... a list" is not unduly burdensome and is necessary in order to make it administratively possible for master file records to be located and brought to the Board offices and hearing rooms for appropriate and seasonable proceedings. It would be exceedingly burdensome for the Board's staff to be called upon to sort through every petition and every report of record examination results to identify all master file records which might be subject to examination under Rule 7. Such work would frustrate the efforts of the Electoral Board to complete these proceedings in time to certify candidacies, print ballots and conduct elections. Scores of other parties have managed to file proper Rule 7 motions with lists attached. The rule is mandatory in requiring a list, and rightly so. Accordingly, the Hearing Examiner recommended that the Candidate's purported Rule 7 motion be stricken. Therefore, the report of the record examination results stands and the Candidate's Nomination Papers set forth only 184 valid signatures.

18. The Electoral Board, having reviewed the applicable law and having considered all evidence and arguments submitted by the parties as well as the Hearing Examiner's report of recommended findings and conclusions of law, hereby adopts the Hearing Examiner's recommended findings and conclusions of law. Therefore, the Electoral Board finds that the Objector's Petition is sustained in part and overruled in part as more fully indicated in the results of the records examination.

19. For the reasons stated above, the Electoral Board finds that the Nomination Papers of CARLTHEL (CARL) BURNETT are not valid.

IT IS THEREFORE ORDERED that the Objections of ANDREW V. HOLMES JR. to the Nomination Papers of CARLTHEL (CARL) BURNETT, candidate for election to the office of Alderman of the Seventeenth Ward of the City of Chicago are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of CARLTHEL (CARL) BURNETT, candidate for election to the office of Alderman of the Seventeenth 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 Twenty-Eighth 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.