NBCOFF-ALD

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

Objections of: JASON C. ERVIN	)	
	)	
To the Nomination	)	
Papers of: DONALD GREER	)	No.: 03-EB-ALD-052
	)	
Candidate for the office of	)	[related 03-EB-ALD-087]
Alderman of the Twenty-eighth 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 JASON C. ERVIN ("Objector") to the nomination papers ("Nomination Papers") of DONALD GREER, candidate for the office of Alderman of the Twenty-eighth Ward of 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 RICHARD E. ZULKEY 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

Trial Call. The following persons, among others, were present at such hearing; the Objector, JASON C. ERVIN, by counsel; and the Candidate, DONALD GREER, pro se.

7. The Objections allege that the Candidate's Nomination Papers contain a Statement of Candidacy which is false as the candidate is not a qualified elector who has resided in the Twenty-eighth Ward for at least two years before the date of the election.

8. The Candidate claims on his Statement of Candidacy to reside at 3509 W. Adams Street, Chicago, Illinois. He claims to have moved into that address on April 1, 2002 and claims to live there now. Prior to April 1, 2002, the Candidate claims to have resided at 4826 W. Quincy Street, Chicago, Illinois, since October 2000.

9. The Electoral Board finds that 65 ILCS 20/21-14(a) requires that no member may be elected to the Chicago City Council unless that person has resided in the ward at least 2 years before the date of the election. The statute does make an exception for an election following a redistricting, such as the case for this February 25, 2003 election, providing that a candidate for Alderman may be elected from any ward containing a part of the ward in which he or she resided for the 2 years prior to the election.

10. The Electoral Board also finds that even if 65 ILCS 20/21-14(a) is not applicable, 65 ILCS 5/3.1-10-5(c) requires that a candidate for Alderman reside in the City of Chicago for at least 1 year prior to the election.

11. The Hearing Examiner conducted a hearing at which the parties submitted documentary evidence regarding the Candidate's residency and witnesses, including the Candidate himself, testified. The Hearing Examiner, having considered the evidence and having heard the testimony and observed the demeanor of the witness, submitted to the Electoral Board very detailed reports concluding that the Candidate's testimony that he resided at 4826 W. Quincy between October 2000 and April 1, 2002 is inconsistent and not very credible and he was unable to present any evidence connecting him to the Quincy Street address.

12. The Hearing Examiner, based on the evidence and testimony presented, found that:

    A. The Candidate signed a lease for an apartment at 1000 S. Austin, Oak Park, Illinois, for a term from September 1, 2000 to August 31, 2001.
    B. Although he claimed to have moved and subleased the apartment to his brother, his name remained on the utilitities.
    C. On March 27, 2002 he completed a rental application for 3509 W. Adams Street, Chicago, Illinois, wherein he lists his current address information as 1000 S. Austin, Oak Park, Illinois.
    D. He moved into the apartment at 3509 W. Adams Street, Chicago, Illinois effective April 1, 2002 and lives there at the present.

E. The Candidate produced no evidence but for his assertion connecting him to 4826 W. Quincy Street, Chicago, Illinois where he claimed to reside prior to moving to Adams Street.

F. The Candidate had established a residence in Oak Park, Illinois and evidence of abandonment did not occur until April 1, 2002 when he moved to the Adams Street address.

G. The Candidate did not, therefore, satisfy either a 2-year residency requirement in the Twenty-eighth Ward or a 1-year residency requirement in the City of Chicago.

13. The Electoral Board adopts the Hearing Examiner's recommended findings regarding the Candidate's durational residence. The Electoral Board finds, therefore, that the Candidate does not satisfy the residency requirements for Alderman of the City of Chicago, that he is not qualified to hold the office of Alderman of the City of Chicago and that his Statement of Candidacy claiming the he is so qualified is false.

14. The Electoral Board further finds that there are other objections filed against the Candidate's Nomination Papers in case number 03-EB-ALD-087 but those objections have been stricken and dismissed.

IT IS THEREFORE ORDERED that the Objections of JASON C. ERVIN to the Nomination Papers of DONALD GREER, candidate for election to the office of Alderman of the Twenty-eighth Ward of the City of Chicago are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of DONALD GREER, candidate for election to the office of Alderman of the Twenty-eighth 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 Fifth day of February, 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.