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

Objections of: KYLE F. SMITH	)	
	)	
To the Nomination	)	
Papers of: ODDIS "O.J" JOHNSON	)	No.: 03-EB-ALD-056
	)	
Candidate for the office of	)	
Alderman of the Twenty-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 KYLE F. SMITH ("Objector") to the nomination papers ("Nomination Papers") of ODDIS "O.J" JOHNSON, candidate for the office of Alderman of the Twenty-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 FRANK A. TEDESSO 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 Trial Call. The following

persons, among others, were present at such hearing: the Objector, KYLE F. SMITH, by counsel; and the Candidate, ODDIS "O.J" JOHNSON, 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 300;

    c. The number of signatures deemed invalid because of objections sustained total 79;

    d. The remaining number of signatures deemed valid total 221;

14. On January 26, 2003, a master file examination was conducted at the request of the Candidate, the result of which was that the Candidate lost an additional signature, leaving him with 220 valid signatures.

15. The Candidate then filed a Rule 8 motion. The Candidate requested and was given 23 subpoenas. At a January 30 hearing, the Hearing Examiner sent a clerk to the Board's warehouse to retrieve the signature cards of the 24 names for which the Candidate

objected to the findings in the master file examination. However, it turned out that none of the 24 cards related to any names objected to by the Candidate in his Rule 8 motion.

16. The Candidate argued that the master file examination was not performed properly because the Board's handwriting expert did not review the physical signatures on the master card but instead relied on the digital copy of the signature card contained in the Board's computerized system. The Candidate also argued that the Rule 8 hearing should include certain affidavits filed by the Candidate on January 14 that pertained to signatures not included in the Rule 8 motion.

17. The Objector argued, and the Hearing Examiner agreed, that the Rule 8 hearing be limited to evidence pertaining to the 24 names listed in the Candidate's Rule 8 motion. The Hearing Examiner ruled that even if all 9 of the affidavits that the Candidate presented in support of his Rule 8 motion were allowed, the Candidate was still 11 signatures short of the statutory minimum of 240 signatures. In regard to the 13 additional affidavits filed by the Candidate on January 14, 2003 which the Candidate sought to introduce regarding signatures not placed in issue by the Candidate's Rule 8 motion, the Hearing Examiner reviewed each affidavit and noted that three or possibly four of the affidavits related to signature issues and the other nine or so were irrelevant due to the objections being sustained for registration issues or that the objection was not ruled upon. Further, even if the Candidate were to receive the 4 additional signatures, he would still not have enough valid signatures for placement on the ballot.

18. The Hearing Examiner recommends, therefore, that the Candidate's Nomination Papers be found invalid for failing to contain enough valid signatures.

19. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination, the master file examination and an evidentiary hearing 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 Twenty-ninth Ward of the City of Chicago.

20. The Electoral Board finds, therefore, that paragraphs 2-8 of the Objector's Petition are sustained in part and overruled in part as more fully indicated in the results of the records examination.

21. For the reasons stated above, the Electoral Board finds that the Nomination Papers of ODDIS "O.J" JOHNSON are not valid.

IT IS THEREFORE ORDERED that the Objections of KYLE F. SMITH to the Nomination Papers of ODDIS "O.J" JOHNSON, candidate for election to the office of Alderman of the Twenty-ninth Ward of the City of Chicago are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of ODDIS "O.J" JOHNSON, candidate for election to the office of Alderman of the Twenty-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 Tenth 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.