BCCON-ALD

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

Objections of: ELMO DIX	)	
	)	
To the Nomination	)	
Papers of: SECDONIA TERRY	)	No.: 03-EB-ALD-071
	)	
Candidate for the office of	)	
Alderman of the Thirty-seventh 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 ELMO DIX ("Objector") to the nomination papers ("Nomination Papers") of SECDONIA TERRY, candidate for the office of Alderman of the Thirty-seventh 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 was held on these Objections commencing on December 30, 2002 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner ROBERT S. ANDREW 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, ELMO DIX, by counsel; and the Candidate, SECDONIA TERRY, by counsel.

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 her duly authorized representative was present during the examination of the registration records at all times.

10. The Objector or his duly authorized representatives was present during the examination of the registration records at all times.

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 Board's file in this case and is available 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 507;

    c. The number of signatures deemed invalid because of objections sustained total 224;

    d. The remaining number of signatures deemed valid total 283;

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 ballot as a candidate for election to the office of Alderman of the Thirty-seventh Ward of the City of Chicago.

15. The Electoral Board finds, therefore, that the Objector's Petition is sustained in part and overruled in part as more fully indicated in the results of the records examination.

16. Paragraph 10 of the Objections alleges that the signature of petition sheet circulator Andrea Williams was not genuine and that the petition sheet circulated by her, sheet number 17, should be invalidated. The Candidate submitted an affidavit signed by Ms. Williams stating that she did circulate and sign the sheet in question. The Hearing Examiner compared the signature on the affidavit to the signature on the petition sheet and concluded that the signatures were the same. No other evidence. The Hearing Examiner ruled that Objector's paragraph 10 as to Ms. Williams' signature should be denied and that the sheet not be invalidated.

17. Paragraph 11 of the Objector's petition alleged that the address of the circulator who circulated sheet 7 was missing and that the sheet should be invalidated. The Hearing Examiner determined that the same circulator had provided the residence address information on at least 6 other petition sheets before and after sheet 7. The Hearing Examiner ruled that in keeping with *Sakonyi v. Lindsay*, 261 Ill.App.3d 821, 634 N.E.2d 444 (5th Dist. 1994), the requirement that the circulator state his or her residence address was substantially complied with, that there was no loss of integrity as to the electoral process, that all parties as well as the Board had ready access to the circulator, and that the address requirement as serving an administrative purpose was met. The Hearing Examiner concluded that the missing address on one sheet while appearing on at least six other sheets was not sufficient to invalidate the petition sheet. Therefore, the Hearing Examiner overruled paragraph 11 of the Objections.

18. Paragraph 20 of the Objections alleges that the Candidate's Nomination Papers should be invalidated due to the Candidate having stated in her Statement of Candidacy that she was seeking the nomination of the "Democratic Party." Indeed, an examination of the Candidate's Statement of Candidacy reveals that the Statement form appears to be one that would be used in a party primary election. The Candidate filled in the word "Democratic" in the box at the heading of the form marked "Party." She further stated that she is a qualified primary voter of the Democratic Party. Where the form provides a blank for the "name of party" primary ballot, this was left blank by the Candidate.

19. The Objector argues that the Electoral Board should invalidate the Statement of Candidacy because of the reference to the Democratic Party, citing this Board's decision in *Toney v. Maxwell,* 91-EB-ALD-122. In *Maxwell,* the candidate's nominating petition sheets contained references to the Democratic Party in the introductory paragraph and in the circulator's affidavit. This Board, citing what was then Section 21-28 of Chapter 24 of the Illinois Revised Statutes and Section 10-3 of the Election Code, held that candidates for the office of Alderman had to conform their petitions to the requirements of independent candidates and that candidates of political parties were prohibited from filing as an independent candidate. As a consequence of the candidate's references to the Democratic Party in the nominating petition sheets, the petition sheets were deemed invalid.

This case is distinguishable from the facts in *Maxwell.* Here, whatever references there are to the Democratic Party are contained in the Statement of Candidacy that was filed with the Chicago Board of Election Commissioners, not in the petition sheets that were presented to the voters of the ward for signature by them. Thus, there was no misleading or incorrect information concerning party affiliation presented to the voters when signing the Candidate's petition sheets. There is no evidence here that the voters were confused about the Candidate's stated or unstated political affiliations. Under these facts, there is not enough to invalidate the Candidate's Statement of Candidacy simply because it contained extraneous information concerning the Candidate's political party affiliation where none was required. The information concerning political affiliation can simply be disregarded by the Board when printing ballots. Therefore, paragraph 20 of the Objections are overruled.

20. The Electoral Board adopts the Hearing Examiner's recommended findings and conclusions of law.

21. For the reasons stated above, the Electoral Board finds that the Nomination Papers of SECDONIA TERRY are valid.

IT IS THEREFORE ORDERED that the Objections of ELMO DIX to the Nomination Papers of SECDONIA TERRY, candidate for election to the office of Alderman of the Thirty-seventh Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of SECDONIA TERRY, candidate for election to the office of Alderman of the Thirty-seventh Ward of the City of Chicago, SHALL 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.