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

Objections of: ALICIA DURR and KENNETH CARPENTER	)	
To the Nomination Papers of: VIRGIL E. JONES	)	No.: 03-EB-ALD-097
Candidate for the office of Alderman of the Fifteenth 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 ALICIA DURR and KENNETH CARPENTER ("Objectors") to the nomination papers ("Nomination Papers") of VIRGIL E. JONES, candidate for the office of Alderman of the Fifteenth 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 Objectors 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 KELLYE A. KEYES for further hearings and proceedings.

6. The Objectors 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 Objectors, ALICIA DURR and KENNETH CARPENTER, by counsel; and the Candidate, VIRGIL E. JONES, pro se.

7. After conducting several hearings in this matter, the Hearing Examiner became unavailable to continue these proceedings and the Electoral Board assigned this case to itself to conduct further proceedings and to make a decision.

8. In addition to the Objections as to individual signatures on the Candidate's Nomination Papers, the Objectors' Petition also alleges that (a) the Candidate fails to qualify as a candidate for Alderman in that he has been convicted in a court located in the United States of an infamous crime, bribery, perjury or other felony, citing 65 ILCS 5/3.1-10-5; (b) the Candidate does not meet the 2-year residency requirement in that he has not resided in the ward he seeks to represent at least 2 years before the election date because he was in the legal custody of the Federal Bureau of Prisons until April 2002.

9. The Electoral Board 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.

10. The Electoral Board directed all parties to appear and be present, either personally and/or by their authorized representatives during this records examination.

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

12. The Objectors were or their duly authorized representative was present during the examination of the registration records.

13. 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.

14. The Electoral Board has considered all evidence and arguments tendered by the parties.

15. 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 427;

c. The number of signatures deemed invalid because of objections sustained total 228;

d. The remaining number of signatures deemed valid total 199.

16. The Candidate requested a master file examination and such an examination was completed on February 8, 2003. The results of the master file examination indicate that the number of objections overruled should be changed from 61 to 67 and the number of objections sustained should be changed from 228 to 222, leaving that Candidate with a total of 205 valid signatures.

17. The Candidate then filed a motion requesting that (a) the master file examination findings as to printed signatures not being valid be overruled, attaching his own affidavit asserting that his own signature on the petition was genuine and written in his own hand; (b) the objections should be denied in that they did not fully state the nature of the objections nor specify sufficient grounds why signatures should be invalid; and (c) that the objections should be moot because of an alleged conflict of interest on the part of one of the attorneys for the Objector.

18. The Electoral Board conducted a hearing in this matter on February 12, 2003 at which the Candidate appeared pro se and the Objectors were present through counsel.

19. The Electoral Board finds that there is no conflict of interest as between the Candidate and one of the Objector's attorneys that would cause the Electoral Board to disqualify the Objectors or their attorney from these proceedings.

20. The Electoral Board finds that the Candidate was found guilty in the United State District Court for the Northern District of Illinois of a felony in 1999, that he was sentenced to be imprisoned, that upon release from imprisonment he was to be on supervised release for a term of 2 years, and that he is still under a term of supervised release.

21. The Candidate argues that 65 ILCS 5/3.1-10-5(b) is unconstitutional as it applies to municipal elective office, citing *Medrano v. Chicago Electoral Board*, 02 CH 1978 (Cook Cty. Cir. Ct. 2002); *Cory v. Watts*, 99 CH 10306 (Cook Cty. Cir. Ct. 1999). The Candidate further argues that although he currently is on supervised release, he has completed his sentence and he is restored to eligibility to hold municipal office.

22. The Electoral Board finds that nothing in the *Medrano* case cited by the Candidate or in other cases dealing with the felony conviction disqualification suggest that a person is eligible for elective municipal office if he has not completed his or her sentence for the offenses committed. For example, in the *Medrano* case the court held that "65 ILCS 5/3.1-10-5(b) is unconstitutional to the extent that it does not restore eligibility to hold a

legislatively created office to a person convicted of a felony or other infamous crime *upon completion of the sentence*." (Italics added). Statutes restoring the right to hold constitutional office, for example, provide that such right is restored only if pardoned or upon completion of one's sentence. See Ill. Const. Art. XIII, §1; 730 ILCS 5/5-5-5(b); 10 ILCS 5/29-15. Therefore, the Candidate here does not stand in the same place as the candidates in these other cases.

23. The Candidate argues that he has completed his sentence and that his right to hold elective municipal office is restored. However, 18 U.S.C. §3583 clearly provides that a court, when imposing a sentence of imprisonment for a felony offense, may include "as part of the sentence" a requirement that the defendant be placed on a term of supervised release after imprisonment. Here, it is clear that the Candidate was placed on a term of supervised release following his imprisonment and that such supervision was and is a "part of the sentence."

24. The Electoral Board finds that the Candidate has not completed his sentence for the offense committed and that he is not qualified to hold the elective office of Alderman of the Fifteenth Ward of the City of Chicago. Therefore, his Statement of Candidacy is invalid and the Candidate's Nomination Papers are invalid.

25. The Electoral Board finds that the Candidate was a resident of the Fifteenth Ward prior to his incarceration and that he returned to reside in the Fifteenth Ward after his release from incarceration. The Candidate argues that he never intended to abandon his domicile in the Fifteenth Ward even though he was incarcerated and that it was always his intention to return to the Fifteenth Ward. The Electoral Board finds that the Candidate's forcible incarceration against his will did not result in an abandonment of the Candidate's residency in the Fifteenth Ward. As a result, the Candidate satisfies the requirement that a candidate for Alderman be a resident in the City of Chicago for at least one year prior to the date of the election and also would have satisfied a two-year residency requirement in the Fifteenth Ward even if such requirement could be constitutionally applied. Therefore, the Electoral Board finds that the Objections as to the Candidate's residency are overruled.

26. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination and the master file 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 Fifteenth Ward of the City of Chicago. Even if the Candidate's own signature on the petition is restored and 18 signatures which were objected to on grounds that the signatures were printed without any other explanation why such printed signatures violate the Election Code were restored the candidate still falls short of the required 240 signatures.

27. For the reasons stated above, the Electoral Board finds that the Nomination Papers of VIRGIL E. JONES are not valid.

IT IS THEREFORE ORDERED that the Objections of ALICIA DURR and KENNETH CARPENTER to the Nomination Papers of VIRGIL E. JONES, candidate for election to the office of Alderman of the Fifteenth Ward of the City of Chicago are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of VIRGIL E. JONES, candidate for election to the office of Alderman of the Fifteenth 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 Twelfth 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.