NBCON-ALD

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

Objections of: CINDI SANDERS	)	
	)	
To the Nomination	)	
Papers of: JOE ANN BRADLEY	)	No.: 03-EB-ALD-156
	)	
Candidate for the office of	)	
Alderman of the Twenty-fourth 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 CINDI SANDERS ("Objector") to the nomination papers ("Nomination Papers") of JOE ANN BRADLEY, candidate for the office of Alderman of the Twenty-fourth 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 TERENCE E. FLYNN 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, CINDI SANDERS, pro se; and the Candidate, JOE ANN BRADLEY, pro se.

7. The sole issue presented by the Objector's Petition is that the notary public's signature on the Candidate's nominating petition sheets is invalid because the notary signed the notarial jurat using only his first and middle name initials rather than his full signature. The Objector claims that this is a violation of the Illinois Notary Act which states that "A notary public shall not use any name or initials in signing certificates other than that by which the notary was commissioned." 5 ILCS 312/6-104.

8. At a hearing on January 9, 2003, the notary testified that the signature and seal appearing on the Candidate's nominating petition sheets was his and that he witnessed the oaths.

9. The Hearing Examiner concluded that there was no fraud involved. The Hearing Examiner further concluded that while the notary may have violated the statutes regulating his conduct as a notary, this does not invalidate the Candidate's petition sheets. There is ample support for this proposition. For example, the fact that the notary public's commission may have expired or may otherwise be defective does not invalidate the petition sheets notarized by such notary. *Shipley v. Stevenson County Electoral Board*, 130 Ill.App.3d 900, 474 N.E.2d 905 (Second Dist. 1985); *People v. Severinhaus*, 313 Ill. 456, 145 N.E. 220 (1924); *Gilbert v. Lavelle*, 80 CO 75 (Cir.Ct.,Cook County, February 11, 1980); *Drake v. Stewart* (CBEC, No. 90-EB-REP-11, January 19, 1990:)(failure of notary public to file his commission with the Cook County Clerk's Office does not invalidate pages of candidate's nominating petition). Even where notary whose commission has expired places false and inconsistent dates of expiration for his commission on petition sheets, the candidate and circulator have the right to rely on the notary's purported representation that his commission and office are valid and petition sheets purportedly notarized by such person are not invalidated by the notary's misfeasance. *Young v. Cook County Officers Electoral Board*, 90 CO 20, Circuit Court of Cook County, January 24, 1990. Inserting the name of the notary rather than the name of the circulator in the jurat does not render the petition invalid. *Cintuc Inc. v. Kozubowski*, 596 N.E.2d 101 (1st Dist., 1992) The jurat is not an affidavit but is evidence of the fact that the affidavit was properly sworn to by the affiant. Thus, where the affiant is otherwise identified courts tend to overlook clerical errors such as naming the wrong person in the jurat or omitting affiant's name from the jurat entirely. Accord, *Riani v. Education Officers Electoral Board for School Dist. No. 87*, 93 CO 456, Cir.Ct.Cook Co., October 5, 1993 (Hon. J. Curtis Heaston). Even the failure of the notary to sign at all, though the seal was affixed, had not been deemed the type of error to cause invalidation. *Delgado v. Ladien,* 99-EB-ALD-126 (CBEC, January 12, 1999)

10. Since the only objection is to the notary's technical non-compliance with the Illinois Notary Act, and not the act of oath-taking itself, and since the notary testified that he took the oath of the circulators, the Candidate's petition sheets should not be invalidated. Therefore, the Hearing Examiner recommends that the Candidate's motion to strike and dismiss the Objector's Petition should be granted and the Objections dismissed.

11. The Electoral Board, having reviewed the applicable law and having considered all evidence and arguments of 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 and finds that the Candidate's motion to strike and dismiss the Objector's Petition is granted and the Objections are, therefore, dismissed.

IT IS THEREFORE ORDERED that the Objections of CINDI SANDERS to the Nomination Papers of JOE ANN BRADLEY, candidate for election to the office of Alderman of the Twenty-fourth Ward of the City of Chicago are hereby DISMISSED and said Nomination Papers are hereby declared VALID and the name of JOE ANN BRADLEY, candidate for election to the office of Alderman of the Twenty-fourth 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 Twenty-Fourth 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.