NBCON-ALD

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

Objections of: DANIEL A. THOMPSON	)	
	)	
To the Nomination	)	
Papers of: LEONARD DEVILLE	)	No.: 03-EB-ALD-160
	)	
Candidate for the office of	)	
Alderman of the Twenty-first 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 DANIEL A. THOMPSON ("Objector") to the nomination papers ("Nomination Papers") of LEONARD DEVILLE, candidate for the office of Alderman of the Twenty-first 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 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, DANIEL A. THOMPSON, by counsel, the Candidate, LEONARD DEVILLE, by counsel.

7. The Objections allege that the Candidate's nomination papers are fraudulent in that the nominating petition sheets contain 358 petition sheets that bear a circulator's affidavit which were all purportedly sworn to before a notary public whose commission expired November 2, 2002 and that all of the sheets notarized by the notary public must be stricken in their entirety. The Objector further alleged that, upon information and belief, all of the Candidate's nominating petition sheets were notarized after November 2, 2002.

8. Fact that 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 a 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.

9. The Electoral Board finds, therefore, that even if the notary public's commission expired on November 2, 2002, this fact does not invalidate the Candidate's nominating petition sheets. Moreover, the Electoral Board finds that 320 of the Candidate's nominating petition sheets were notarized prior to November 2, 2002 and thus prior to the expiration of the notary's commission and that even if all of the sheets notarized after November 2, 2002 are excluded, the Candidate still had more than a sufficient number of signatures on his petition to qualify for the ballot.

10. The Electoral Board finds, therefore, that the Objections are overruled and that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of DANIEL A. THOMPSON to the Nomination Papers of LEONARD DEVILLE, candidate for election to the office of Alderman of the Twenty-first Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of LEONARD DEVILLE, candidate for election to the office of Alderman of the Twenty-first 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.