NBCOFF-RGA

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

Objections of: DONOVAN BRAUD	)	
	)	
To the Nomination	)	
Papers of: MARC LOVELESS	)	
	)	No. 04-EB-RES-01
Candidate for the office of Representative in the	)	consolidated with
General Assembly, 14th Representative District,	)	04-EB-RES-02
State of Illinois, Green Party	)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of Chicago Board of Election 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 DONOVAN BRAUD ("Objector") to the nomination papers ("Nomination Papers") of MARC LOVELESS, candidate for nomination of the Green Party to the office of Representative in the General Assembly for the 14th Representative District, State of Illinois ("Candidate"), having convened on June 1, 2004, at 2:00 p.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 June 1, 2004 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner JOSEPH A. MORRIS for further hearings and proceedings.

6. The Objector and the Candidate were directed by the Electoral Board to appear before the Hearing Examiner for a hearing immediately following the conclusion of the Electoral Board meeting. The following persons, among others, were present at such Electoral Board meeting and hearing before the Hearing Examiner: the Objector, DONOVAN BRAUD, by and through his attorney, Daniel Johnson-Weinberger; and the Candidate, MARC LOVELESS, appearing pro se.

7. The Candidate filed a motion to strike and dismiss the Objector's Petition, which was denied in part and granted in part by the Hearing Examiner. Paragraphs 4 and 5 of the Objector's Petition were ordered stricken as being merely describing the material to be sought through various means of pre-trial discovery. Paragraph 6 of the Objector's Petition attacking the resolution to fill a vacancy in nomination as legally insufficient was also ordered stricken for failing to state a claim.

8. The case proceeded forward to determine whether the Candidate resided in the 14th Representative District of Illinois continuously since November 3, 2002 and whether the Candidate satisfied the requirement of Article IV, Section 2(c) of the Illinois Constitution that a member of the General Assembly be a resident of the district which he is to represent for the two years preceding his election.

9. Because this case presented the identical issues presented against the same Candidate in 04-EB-RES-02 (Tamara Smith, Objector v. Marc Loveless, Candidate), and because the objectors in both cases are represented by the same attorney, and the parties generally being in agreement that the two cases be consolidated, these two cases were consolidated for hearing and decision pursuant to Rule 13 of the Rules of Procedure.

10. The Hearing Examiner conducted extensive pre-trial and trial proceedings in these cases and, after hearing the testimony of the witnesses and considering the evidence presented as well as written and oral arguments made, issued a thorough report making recommended findings and conclusions of law. Specifically, the Hearing Examiner recommends that the Electoral Board find that:

    A. The Candidate has not resided within the 14th Representative District of the State of Illinois for the two years preceding the election to be conducted on November 2, 2004;
    B. The Candidate does not satisfy the residency requirement imposed by Section 2(c) of Article IV of the Illinois Constitution as a qualification for election as a member of the General Assembly;
    C. The Objector's Petitions are well founded, and the relief sought therein should be granted; and
    D. The Candidate's Nomination Papers are insufficient in law and fact.

11. The Electoral Board, having reviewed the report and recommendations of the Hearing Examiner and the record of proceedings in this matter and having considered the evidence and argument presented, hereby adopts the Hearing Examiner's recommended findings and conclusions of Law and attaches and incorporates herein the report of the Hearing Examiner as its final decision in the matter. Accordingly, the Electoral Board finds the Objections filed in this cause are sustained and further finds that the Candidate's Nomination Papers are insufficient in law and in fact and are, therefore, invalid.

12. A similar finding and order is being entered in the case of *Smith v. Loveless*, 04-EB-RES-02.

IT IS THEREFORE ORDERED that the Objections of DONOVAN BRAUD to the Nomination papers of MARC LOVELESS, candidate for nomination of the Green Party to the office of Representative in the General Assembly for the 14th Representative District, State of Illinois, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of MARC LOVELESS, candidate for nomination of the Green Party to the office of Representative in the General Assembly for the 14th Representative District, State of Illinois, SHALL NOT be printed on the official ballot for the General Election to be held on November 2, 2004.

Dated: Chicago, Illinois, this 10th day of August, 2004.

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.