NBCON-RGA

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

Objections of: MARGARET L. MORRIS	)
	)
To the Nomination	)
Papers of: ARTHUR L. TURNER	)
	) No. 04-EB-RGA-05
Candidate for the office of Representative of the 9th	)
Representative District, State of Illinois Democratic	)
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 MARGARET L. MORRIS to the nomination papers ("Nomination Papers") of ARTHUR L. TURNER, candidate for the nomination of the Democratic Party to the office of Representative in the General Assembly for the 9th Representative District, State of Illinois ("Candidate"), having convened on January 5, 2004, at 2:00 p.m., in the City Council Chambers, 121 North LaSalle Street, 2nd Floor, 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 January 5, 2004 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner John R. Ashenden 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 on the date and at the time designated on the Electoral Board's docket. The following persons, among others, were present at such hearing: the Objector, MARGARET L. MORRIS, by her attorney Russell Stewart; and the Candidate, ARTHUR L. TURNER, by his attorney, Michael Kasper.

7. The Candidate filed a motion to strike and dismiss the Objector's petition. After considering the briefs that were filed in this matter and the parties' oral argument, the Hearing Examiner has recommended that the Candidate's motion to strike and dismiss the Objector's petition be granted and that the Objector's petition be stricken and dismissed in its entirety for the following reasons:

A. On the first 50 petition sheets filed by the Candidate, there are at least 307 unchallenged and presumptively valid signatures. The minimum number of required signatures is 303. Therefore, even assuming if all of the objections on the Objector's petition were sustained, the Candidate's Nomination Papers would still contain more than the statutory minimum of 300 valid signatures.

B. The Objector's objections contend that the Candidate's petition sheets are not duly notarized by a registered notary public because her notary stamp indicates that her commission expires February 22, 2008. Objector contends that notary commissions are renewed every four years, meaning that a commission expiring on February 22, 2008 had not yet commenced. There is no contention that the notary was not a registered notary public at the time she notarized the petition sheets in question; rather, at worst it appears that the notary public may have used a notary stamp before it should have been used. But the fact that a 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 (2nd Dist. 1985). The Candidate and the circulator have the right to rely on the notary's purported representation that her 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.

8. The Electoral Board hereby adopts the recommended decision of the Hearing Examiner, grants the Candidate's motion to strike and dismiss the Objector's petition and the same is stricken and dismissed.

9. The Electoral Board finds that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED, that the Objections of MARGARET L. MORRIS to the Nomination papers of ARTHUR L. TURNER, candidate for nomination of the Democratic Party to the office of Representative in the General Assembly for the

9th Representative District, State of Illinois are hereby DISMISSED and said Nomination Papers are hereby declared VALID and the name of ARTHUR L. TURNER, candidate for nomination of the Democratic Party to the office of Representative in the General Assembly for the 9th Representative District, State of Illinois, SHALL be printed on the official ballot for the General Primary Election to be held on March 16, 2004.

Dated: Chicago, Illinois, this 20th day of January, 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.