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

Objections of: RONNELL JOHNSON	)	
	)	
To the Nomination	)	
Papers of: DERRICK McCLAIN	)	
	)	No. 04-EB-WC-21
Candidate for the office of	)	
Ward Committeeman for the 17th Ward of the City	)	
of Chicago, Republican 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 RONNELL JOHNSON ("Objector") to the nomination papers ("Nomination Papers") of DERRICK McCLAIN, candidate for election to the office of Ward Committeeman for the 17th Ward of the City of Chicago, Republican Party ("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 ROBERT S. ANDREW for further hearings and proceedings. This matter was later re-assigned to Hearing Examiner TERENCE FLYNN due to Mr. Andrew's illness and inability to continue to hear this matter.

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, RONNELL JOHNSON, by his attorney; and the Candidate, DERRICK McCLAIN, pro se.

7. The Hearing Examiner ordered that an examination of the registration records be conducted by clerks and agents under the Board's direction and supervision, in accordance with the laws of Illinois and the rules of the Board.

8. The Hearing Examiner directed all parties to appear and be present, either personally and/or by their authorized representatives during the records examination.

9. Neither the Candidate nor a representative of the candidate was present during the examination of the registration records conducted on January 15, 2004. The directive for the records examination reflected that the Candidate was contacted at the telephone number listed on his appearance form and that messages were left with the Candidate's 16-year old son on January 14, 2004. The Candidate claimed that he did not receive these messages. However, the Candidate admitted that he was further notified by phone by the Board's staff on the morning of January 15, 2004, but he did not come to the Board's offices to attend any part of the records examination.

10. The Objector or his duly authorized representative(s) was present during the examination of the registration records.

11. 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 results 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.

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

13. The results of the records examination reflect that:

    a. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 71;

    b. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 120;

c. The number of signatures deemed invalid because of objections sustained total 61;

d. The remaining number of signatures deemed valid total 59.

14. Inasmuch as the Candidate and his representative failed to attend the records examination and because the Candidate failed to show good reason why the requirements of Rule 6 and Rule 8 providing that an appeal at the Rule 6 records examination is necessary to initiate and preserve the right to appeal the results of the records examination, the records examination results are final and are not reviewable.

15. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination is fewer than 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 Ward Committeeman for the 17th Ward of the City of Chicago, Republican Party.

16. The Hearing Examiner further denied the Candidate's motion to strike the objections alleging that the Objections was a "shotgun" petition where 66% of the Objections were sustained during the Rule 6 records examination.

17. The Electoral Board adopts the Hearing Examiner's recommended findings and conclusions of law and finds that the Objector's Petition is sustained in part and overruled in part as more fully indicated in the results of the records examination.

18. For the reasons stated above, the Electoral Board finds that the Nomination Papers of DERRICK McCLAIN are not valid.

IT IS THEREFORE ORDERED that the Objections of RONNELL JOHNSON to the Nomination Papers of DERRICK McCLAIN, candidate for election to the office of Ward Committeeman for the 17th Ward of the City of Chicago, Republican Party, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of DERRICK McCLAIN, candidate for election to the office of Ward Committeeman for the 17th Ward of the City of Chicago, Republican Party, SHALL NOT be printed on the official ballot for the General Primary Election to be held on March 16, 2004.

Dated: Chicago, Illinois, this 12th day of February, 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.