BCCON-WC

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

Objections of: LOUIS TENUTA	)
	)
To the Nomination	)
Papers of: JEROME WATKINS	)
	) No. 04-EB-WC-54
Candidate for the office of Ward Committeeman for	)
the 29th 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 LOUIS TENUTA ("Objector") to the nomination papers ("Nomination Papers") of JEROME WATKINS, candidate for election to the office of Ward Committeeman for the 29th 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 LINDA CRANE 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, LOUIS TENUTA, pro se; and the Candidate, JEROME WATKINS, by his attorney. The Objector became represented by an attorney on January 27, 2004.

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

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 83;

    b. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 178;

    c. The number of signatures deemed invalid because of objections sustained total 100;

    d. The remaining number of signatures deemed valid total 78.

14. 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 29th Ward of the City of Chicago, Republican Party.

15. At an evidentiary hearing on January 22, 2004, the Candidate presented affidavits from six of the signers of the petition whose names were stricken during the records examination on the ground that the signature was not genuine. Upon examination, the Hearing Examiner concluded that as to five of the affidavits, the same person who signed the affidavit also signed the petition. As a result, five of the signatures previously invalidated during the records examination were deemed valid by the Hearing Examiner, leaving the Candidate with 83 valid signatures on his petition, the exact minimum required by law to be placed upon the official ballot as a candidate for election to the office of Ward Committeeman for the 29th Ward of the City of Chicago, Republican Party.

16. The Objector subsequently sought more time to challenge three of the five affidavits relied upon by the Hearing Examiner, claiming that the persons signing the affidavits did not do so before the person who signed as the notary public on such affidavits. However, for reasons explained in the Hearing Examiner's recommended decision, a copy of which is attached hereto and incorporated herein, the Objector's request for additional time to challenge these affidavits and his attempts to challenge the affidavits did not comply with the Hearing Examiner's previous order establishing the framework for the proceedings. Therefore, the Hearing Examiner denied the Objector's request for additional time. The Hearing Examiner issued her recommended decision.

17. The Objector filed a motion pursuant to Rule 20 of the Rules of Procedure to address the Electoral Board concerning the Hearing Examiner's report and recommendations. The Objector appeared and addressed the Electoral Board at a hearing on February 3, 2004. As a result of this hearing, the Electoral Board issued an order remanding the matter back to the Hearing Examiner for further proceedings limited to the following issues:

> A) Whether the signatures appearing on Sheet 8, Line 13 ("Asbury Studemeier") and Sheet 9, Line 7 ("Pastor Studemeier") of the Candidate's nomination petition were affixed by one and the same person, as suggested on page 4 of the Hearing Examiner's recommended decision? If so, whether such signature was counted twice in favor of the Candidate?
> B) Whether the six affidavits tendered by the Candidate at the evidentiary hearing on January 22, 2004, were properly notarized?
> C) If as a result of the Hearing Examiner's findings on these issues upon remand the Candidate has fewer than the required number of signatures, the Candidate should be allowed to proceed with his timely filed Rule 8 Motion and Rule 7 Request for Records.

The order directed that these proceedings should be conducted as expeditiously as possible and that no issues other than those in paragraphs A, B and C above should be addressed.

18. On remand, the Hearing Examiner conducted hearings on February 5, February 9 and February 11. As a result of addressing issues identified in sub-paragraphs A and B in paragraph 17 above, the Hearing Examiner concluded that the affidavits previously tendered by the Candidate were not properly notarized and they were stricken. The total number of valid signatures on the Candidate's petition returned to 78, the same number of valid signatures remaining after the records examination. Thus, the Candidate had five fewer signatures than the statutory minimum signature requirement of 83.

19. The Candidate was then allowed to proceed with his Rule 8 motion that had been timely filed. The Candidate presented 7 affidavits of persons whose signatures had been deemed invalid at the records examination on the ground that the signatures were not genuine. The Hearing Examiner, after hearing the testimony of three witnesses and after reviewing the affidavits, to which the Objector raised no additional objections, concluded that the Candidate had successfully restored 6 signatures to which objections had been sustained during the records examination. As a result, the Hearing Examiner found that Candidate had 84 valid signatures on his nominating petitions, which is one in excess of the statutory minimum signature requirement of 83. The Hearing Examiner has recommended that the name of the Candidate be printed on the ballot.

20. The Electoral Board adopts the Hearing Examiner's recommended findings and conclusions of law and her supplemental recommended decision on remand is attached hereto and is incorporated herein. The Electoral Board 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 and in the Hearing Examiner's supplemental recommended decision on remand following the evidentiary hearings conducted in this matter.

21. For the reasons stated above, the Electoral Board finds that the Nomination Papers of JEROME WATKINS are valid.

IT IS THEREFORE ORDERED that the Objections of LOUIS TENUTA to the Nomination Papers of JEROME WATKINS, candidate for election to the office of Ward Committeeman for the 29th Ward of the City of Chicago, Republican Party, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of JEROME WATKINS, candidate for election to the office of Ward Committeeman for the 29th Ward of the City of Chicago, Republican Party, SHALL 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.

BEFORE THE CHICAGO BOARD OF ELECTION COMMISSIONERS SITTING AS THE DULY CONSTITUTED MUNCIPAL OFFICERS ELECTORAL BOARD FOR THE CITY OF CHICAGO

LOUIS TENUTA	)	
	)	
Petitioner-Objector	)	
	)	**04-EB-WC-54**
and	)	
	)	
	)	
JEROME WATKINS	)	
	)	
Respondent-Candidate	)	

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BOARD OF ELECTION

HEARING EXAMINER'S SUPPLEMENTAL RECOMMENDED DECISION ON REMAND

The Respondent-Candidate, JEROME WATKINS, filed Nomination Papers in support of his nomination for election to the position of Republican Ward Committeeman for the 29th Ward, City of Chicago, County of Cook, State of Illinois to be voted upon at the primary election on March 16, 2004 (election).

The Petitioner-Objector, LOUIS TENUTA, filed an Objector's Petition objecting to the sufficiency of the Candidate's nomination petition sheets (petitions) for various reasons stated in Paragraphs 3 through 10 of the Petition. Paragraph 10 of the Objector's Petition alleges that Candidate's petitions contain fewer than the required minimum number of valid signatures. Valid signatures for the Candidate are those that are properly collected from qualified and duly registered legal voters in the 29th Ward, City of Chicago and signed by said voters

in their own proper person with proper addresses. The Objector's Petition contained additional objections to the Respondent's candidacy.

On January 6, 2004, the parties appeared for their initial trial, and all of the parties testified that they had received proper notice of the proceedings and that they had received, read and understood the newly adopted amendments to the Electoral Board's Rules of Procedure. A Records Examination Directive was issued for a Records Examination to be conducted to determine whether the Respondent-Candidate's petitions contained the minimum number of legal valid signatures.

The parties filed various pleadings and attended several status and evidentiary hearings, the details of which are described in the Hearing Examiners Recommended Decision dated February 2, 2004. In summary: on January 6, 2004, at 4:31 p.m., the Respondent-Candidate filed a Motion to Strike and Dismiss Paragraph 9 of the Objector's objections; on January 7, 2004 at 1:41 p.m., the Petitioner-Objector filed a Response to Motion to Strike and Dismiss; on January 15, 2004 a Records Examination was completed, the results of which were:

Number of Signatures on Petition	178
Number of Objections Overruled	50
Number of Objections Sustained	100
Number of Signatures Invalid Because of Circulator	0
Number of Valid Signatures	78
Minimum Signature Requirement	83

Number of Valid Signatures in Excess of or
(Below) the Minimum Signature Requirement (5)

On January 16, 2004 the candidate, through his attorneys, filed a timely Rule 8 Motion and Rule 7 Request for Records. The Petitioner-Objector filed no additional pleadings, statements, nor requests for records in this matter. On January 22, 2004 the parties argued their respective positions for and against the Candidate's Motion to Strike.

Also, on January 22, 2004, the candidate, through counsel, presented affidavits from six of the signers of the petitions whose names were stricken during the Records Examination. Each affidavit contained at least five specimens of the voter's cursive and printed writing of his/her name. Each affidavit appeared to have been properly notarized and sworn and signed by the affiant. Each affidavit was signed by a signer whose signature was stricken on the basis that (s)he had not signed the petition in his/her own proper person. The Hearing Examiner's close comparative visual examination led to the restoration of five of the six signatures, including that of one Asbury Studemeier who had signed the petition as "Pastor Studemeier", leaving off his first name. The Petitioner argued that the use of the religious title was within the rule that variations on names, including nicknames and other prefixes and or titles do not, without more, render the signature invalid. The Hearing Examiner agreed. The objector raised no objection. As a result of the restoration of the five signatures, the candidate met the minimum number of required valid signatures exactly.

On January 27th 2004, the Petitioner appeared with legal counsel. The Hearing Examiner reminded the objector and his attorney of the special circumstances under which the date had been scheduled; and especially the fact that the purpose of the new date had not been simply to give the attorney an opportunity to file his appearance, but rather to go forward with the case.

After some additional discussion, the request for another date was denied for the following reasons: 1. the objector had never filed a Rule 7 request for records from the master file as required by the Board's Rules of Procedures; 2. the objector had never filed a Rule 8 statement as required by the Board's Rules of Procedures; 3. the objector's right to fairness, equity, and justice are not greater than those of the candidate (who had behaved in a manner that demonstrated that he was taking the matter seriously, had incurred great expense of time and money in every effort to comply with all of the Board's directives in a timely and professional fashion, and who had never objected to the previous extensions of latitude to the objector); 4. the objector was never once come prepared to go forward on any of the five previous dates that we convened this matter ; 5. the objector failed to comply with the special conditions under which the matter was continued to allow him an opportunity to hire an attorney and to come into compliance; and 6. the objection upon which the objector's attorney stated he intended to challenge the candidate had not been included as in the Objector's Petition (1/27/04 Transcript pp10-14) and was, therefore, wholly moot.

On February 2, 2004, in the absence of any proof by the objector to the contrary, the candidate attempt to restore five signatures was allowed to stand,

and the Hearing Examiner recommended to the Electoral Board that the Candidate's name, JEROME WATKINS, be printed on the ballot as a nominee for the office of 29th Ward Republican Committeeman during the upcoming election.

On February 3, 2004, on a motion by the Objector, the Electoral Board issued and ORDER for this matter to be remanded to the Hearing Examiner for further proceedings limited to the following issues:

1) Whether the signatures appearing on Sheet 8, Line 13 ("Asbury Studemeier") (aka Stoudemire) and Sheet 9, Line 7 ("Pastor Studemeier") (Stoudemire) of the Candidate's nomination petition were affixed by one and the same person...? If so, whether such signature was counted twice in favor of the Candidate?

2) Whether the six affidavits tendered by the Candidate at the evidentiary hearing on January 22, 2004, were properly notarized?

3) If as a result of the Hearing Examiner's findings on these issues upon remand the Candidate has fewer than the required number of signatures, the Candidate shall be allowed to proceed with his timely filed Rule 8 Motion and Rule 7 Request for Records.

4) These proceedings shall be conducted as expeditiously as possible and no issues other than those in paragraphs 1-3 shall be addressed.

On Thursday, February 5, 2004 the parties reconvened and the ORDER from the Electoral Board was read into the record for purposes of clarifying the limited scope of the proceedings on remand. A lengthy discussion and argumentation ensued in connection with paragraph 1 of the ORDER. The main thrust of the discussion concerned whether the Sheet 9, Line 7 of the Candidate's

petition was signed by Asbury Stoudemire, Sr. or Asbury Stoudemire, Jr. and ended with an agreement that a decision would be made regarding whether to subpoena one or both of them to appear before the Hearing Examiner. This decision was postponed until after the completion of the discussion of issue 2.

The Objector called the notary public, Larry Minter, as an adverse witness and he was sworn as a witness by the court reporter. Mr. Minter testified that he had not been present when Candidate's Exhibits 1 through 6 had been signed by the affiants whose signatures and names appeared thereon. The Candidate stipulated to that fact. The five signatures that had been restored to the Candidate on January 22, 2004 were stricken and the total number of valid signatures returned to 78, the number of valid signatures at the end of the Records Examination. The parties stipulated that the inadmissibility of the Candidate's affidavits obviated the need to prove whether Asbury Stoudemire, Sr. or Jr. had signed either Sheet 9, Line 7 or the Candidate's Affidavit. These events concluded the parties argumentation of the first and second issues contained in the Board's February 3, 2004 ORDER.

The Candidate next proceeded with the option contained in Paragraph 3 of the ORDER to proceed with his timely filed Rule 8 Motion and Rule 7 Request for Records. This took the form of the submission of Candidate's Exhibits Numbered 7 through 13 which were affidavits sworn and signed by 7 voters whose signatures had been stricken during the Records Examination. Testimony was taken from the notary, Mr. Larry Minter, that he had been present during the

signing by each of the signers and that he was introduced to each signer by the Candidate, who knew each signer personally.

The hearing reconvened on Monday, February 9, 2004 at 10:30 a.m. and the Objector called two witnesses of four who had been subpoenaed to appear at that time. The first witness, Ms. Sandra Presberry (CX11), testified that she had signed the Candidate's petition sheets as it appeared on Sheet 8, Line 15. The second witness, Ms. Shelley Stoudemire, testified that she had signed the Candidate's petition sheets as it appeared on Sheet 5, Line 1. Both witnesses were either observed receiving or testified that they had received a $25.00 witness fee for testifying under subpoena. On further examination by the Hearing Examiner, it appears that Ms. Stoudemire is probably not a registered voter in the 29th Ward. No record could be located in the Board's records of her registration at the address on the affidavit (CX8), 5828 W. Superior St., Chicago.

The Hearing Examiner recommended that the Board seek an Order from the Circuit Court of Cook County to compel two other witnesses, Jeanette Lang (CX7), and Charlette McKenzie (CX10) to appear. On February 11, 2004, the evidentiary hearing reconvened and Jeanette Lang was present and sworn and testified that she had received a $25.00 witness fee. She testified that she had signed the Candidate's petition as shown on Sheet 1, Line 7. The Objector raised no additional objections to the Candidate's affidavits and stipulated to their effectiveness for rehabilitating the signatures of the voters' signatures thereon.

Consequently, the Candidate, through affidavits marked Candidate's Exhibits Numbered 7 and 9 through 13 has restored 6 signatures the objections to

which had been sustained during the Records Examination. The Candidate thereby increases his total number of valid signatures to 84 (78 plus 6) -- which is one in excess of the minimum number of 83 required signatures.

It is, therefore, the recommendation of the Hearing Examiner that the Candidate's name, JEROME WATKINS, be printed on the ballot as a nominee for the office of 29th Ward Republican Committeeman during the upcoming election.

Dated: February 11, 2004

LINDA R. CRANE, Hearing Examiner