BCCON-RGA

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

Objections of: DERRICK PRINCE	)	
	)	
To the Nomination	)	
Papers of: EMERSON DOUYON	)	
	)	No. 06-EB-RGA-10
Candidate for the office of Representative in the	)	
General Assembly, 33rd 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 DERRICK PRINCE ("Objector") to the nomination papers ("Nomination Papers") of EMERSON DOUYON, candidate for nomination of the Democratic Party to the office of Representative in the General Assembly for the 33rd Representative District, State of Illinois ("Candidate"), having convened on January 3, 2006, at 10:00 a.m., in the Conference Room, Eighth Floor, 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 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 3, 2006 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner RODNEY W. STEWART 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, DERRICK PRINCE, appearing *pro se*; and the Candidate, EMERSON DOUYON, appearing *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. 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 Hearing Examiner filed his report with the Electoral Board on January 21, 2006 recommending that the Electoral Board find that the Candidate's Nomination Papers exceeds the minimum signature requirement of 500 in that he has 650 valid signatures necessary to be a candidate for the office of State Representative for the 33rd Representative District in the State of Illinois.

13. The Electoral Board has considered all evidence and arguments tendered by the parties, as well as the Hearing Examiner's report and recommended findings and decision.

14. The Electoral Board finds that:

    a. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 500;

    b. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 1148;

c. The number of signatures deemed invalid because of objections sustained total 498;

d. The remaining number of signatures deemed valid total 650;

15. The Electoral Board further adopts and incorporates the Hearing Examiner's recommended findings and conclusions of law as though fully set forth herein, such Hearing Examiner's report being attached hereto.

16. For the foregoing reasons, the Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination exceeds the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for nomination of the Democratic Party to the office of Representative in the General Assembly for the 33rd Representative District, State of Illinois.

17. The Electoral Board finds that the Nomination Papers of EMERSON DOUYON are valid.

IT IS THEREFORE ORDERED that the Objections of DERRICK PRINCE to the Nomination papers of EMERSON DOUYON, candidate for nomination of the Democratic Party, to the office of Representative in the General Assembly for the 33rd Representative District, State of Illinois, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of EMERSON DOUYON, candidate for nomination of the Democratic Party, to the office of Representative in the General Assembly for the 33rd Representative District, State of Illinois SHALL be printed on the official ballot for the General Primary Election to be held on March 21, 2006.

Dated: Chicago, Illinois, this 26th day of January, 2006.

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 DULY CONTSTITUTED ELECTORIA BOARD FOR THE HEARING AND PASSING UPON OF OBJCETIONS TO NOMINATION PAPERS OF CANDIDATE FOR ELECTION TO THE OFFICE OF STATE REPRESENTATIVE OF THE 33RD REPRENTATIVE DISTRICT IN THE STATE OF ILLINOIS

DERRICK PRINCE,
Petitioner-Objector,

vs. No. 06-EB-RGA-10

EMERSON DOIUYON,
Respondent-Candidate.

2006 JAN 21 A 8:03

Hearing Officer: Rodney W. Stewart

The Objector filed a Verified Objector's Petition on December 27, 2005. The Respondent filed an unverified "Response" on January 9, 2006. Said "Response", consisted of a cover letter addressed to the Hearing Examiner dated January 12, 2006, a copy of the Record Examination Results (2 pages) prepared and submitted by the Chicago Board of Elections, a copy of the Respondent's voter's registration record (2 pages), a copy of the Respondent's Illinois driver's license, a copy of the Respondent's People's Energy bill dated December 29, 2005.

The Objector's Verified Petition alleges the following:

Count I alleges that the Respondent's nomination petitions failed to contain the minimum 500 valid signatures required to be placed upon the ballot

Count II alleges that the Respondent's nomination petitions failed to contain the 48th page and therefore fails to be consecutively numbered.

Count III alleges that the Respondent has not resided within the 33rd Representative District for two years preceding the election.

With respect to Count I, a Records Examination was conducted and the results revealed that of the 1148 signatures obtained by the Respondent, 498 were sustained by the Board of Elections. The results reveal that the Respondent needed 500 valid signatures and had obtained 650 valid signatures. The Objector argues that of the 650 signatures, 202 signatures should be declared invalid because these signatures were fraudulently obtained by one of the Respondent's circulators. The Objector further argues that the Board sustained 70% of the signatures obtained by a particular circulator and seeks to have the

remaining 30% of the signatures obtained by this circulator to be declared invalid. While no evidence of what percentage of the signatures obtained by the particular circulator were sustained by the Board was presented to support this claim by the Objector and no evidence was presented setting forth the reasons why the purported 70% of the signatures were sustained, even if true, it was determined after an off the record conference and a tallying of those names challenged by the Objector and overruled by the Board, totaling 88 names, revealed that even if taken as true, the Respondent would have a remaining 562 valid signatures. This would be more that enough to exceed the minimum requirement of valid signatures necessary to remain a candidate.

The Objector next argues that if the purported 70% of the signatures are deemed to be invalid by the Board, the remaining purported 30% must be declared to be invalid based upon his belief and his allegation of fraud. The Objector has not put forth any substantive evidence to support the argument that 70% of the signatures obtained by a particular Circulator have been sustained. Nor has he offered any proof to support his fraud allegation. Therefore, this argument is based purely on speculation.

A pattern of fraud must be proved by clear and convincing evidence. *Durr v. Love*, 03-EB-ALD-101, CBEC, February 5, 2003, affirmed *Durr v. Chicago Board of Election Commissioners*, 03 CO EL 028 (Cir. Ct. Cook Cty., February 20, 2003) (Judge Nathaniel Howse, Jr., presiding). In the case of *In re Petition for Removal of Frank Bower*, 41 Ill.2d 277, 242 N.E.2d 252 (1968), was held that there must be some evidence that the circulator "corruptly or intentionally filed false affidavits or had "guilty knowledge" regarding the affidavits. Fraud or guilty knowledge is not imputed to the circulator but must be affirmatively established. In other words, in order to strike signatures based on a pattern of fraud, some evidence beyond the results of the records examination is necessary.

The Objector alleges that the signatures in the Respondent's nominating petitions are invalid because they are printed and not handwritten. Objections alleging that signatures are invalid solely on the ground that the signer's signature was "printed and not written" do not state a sufficient basis upon which to invalidate petition signatures. There is no statutory prohibition against printing one's name on a nominating petition. *Simms-Johnson v. Coordes*, 04-EB-WC-05, January 20, 2004.

The Objector alleges in Count II of his Verified Petition that the Respondent's nomination petitions are not numbered consecutively as required by Section 10-4 of the Election Code because page 48 of the Respondent's nominating petitions is missing. Aside from page 48, all of the Respondent's pages were numbered and in consecutive order. It is the opinion of this Hearing Officer that the Respondent's failure to include page 48 does not render the nominating petitions invalid and that the Respondent has