BCCON-ALD

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

Objections of: VINONA SUMMERS and KENNETH L. HARRIS	)	
To the Nomination Papers of: THELMA F. ANDREWS	)	**No.: 07-EB-ALD-007**
Candidate for the office of Alderman of the Sixth Ward, City of Chicago	)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of Board of Election Commissioners of the City of Chicago Commissioners Langdon D. Neal 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 VINONA SUMMERS and KENNETH L. HARRIS, ("Objector(s)") to the nomination papers ("Nomination Papers") of THELMA F. ANDREWS, candidate for the office of Alderman of the Sixth Ward of the City of Chicago ("Candidate") to be elected at the Municipal General Election to be held on February 27, 2007, having convened on January 2, 2007, at 10:00 a.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(s) and the Candidate, by registered or certified mail and by Sheriff's service, as provided by statute.

4. A public hearing was held on these Objections commencing on January 2, 2007 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner Ernesto Borges, Jr. for further hearings and proceedings.

6. The Objector(s) and the Candidate were directed by the Electoral Board to appear before the Hearing Examiner on the date and at the time designated in the Call. The following persons, among others, were present at such hearing; the Objector(s), VINONA SUMMERS and KENNETH L. HARRIS, by counsel, Chester Slaughter and Leonard Murray; and the Candidate, THELMA F. ANDREWS, by counsel, Elias Mossos and Mike Kasper.

7. The Hearing Examiner ordered that an examination of the registration records be conducted by its 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 this records examination.

9. The Candidate or his duly authorized representative was present during the examination of the registration records at all times.

10. The Objector(s) and/or their duly authorized representatives were present during the examination of the registration records at all times.

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 result of the registration records examination is contained in the Board's file in this case and a copy was made available to the parties.

12. The Electoral Board has reviewed the applicable law and has considered all evidence and arguments tendered by the parties and the Hearing Examiner's report of recommended findings and conclusions of law.

13. 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 254.

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 727.

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 341.

D. The remaining number of signatures deemed valid as a result of the records examination total 386.

14. 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 ballot as a candidate for election to the office of Alderman of the Sixth Ward of the City of Chicago.

15. The Objectors also presented testimony from a certified forensic document examiner in support of their allegation that there was a pattern of fraud in the circulation and signing of the Candidate's nominating petitions that should invalidate the Candidate's Nomination Papers.

16. The Hearing Examiner has tendered to the Electoral Board his report and recommended decision. The Hearing Examiner recommends that the Objections to the Candidate's Nomination Papers be overruled and that the Nomination Papers be found valid.

17. The Electoral Board, having reviewed the record of proceedings in this matter and having considered the report and recommendations of the Hearing Examiner, as well as all argument and evidence submitted by the parties, hereby adopts the Hearing Examiner's recommended findings and conclusions of law. A copy of the Hearing Examiner's Report and Recommended Decision is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

18. For the reasons stated above, the Electoral Board overrules the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are valid.

19. For the reasons stated above, the Electoral Board finds that the Nomination Papers of THELMA F. ANDREWS are valid.

IT IS THEREFORE ORDERED that the Objections of VINONA SUMMERS and KENNETH L. HARRIS, to the Nomination Papers of THELMA F. ANDREWS, candidate for election to the office of Alderman of the Sixth Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of THELMA F. ANDREWS, candidate for election to the office of Alderman of the Sixth Ward of the City of Chicago, SHALL be printed on the official ballot for the Municipal General Election to be held on February 27, 2007.

Dated: Chicago, Illinois, this 28th day of January, 2007.

Langdon D. Neal, Chairman

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.

BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO
AS THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OBJECTIONS
TO NOMINATION PAPERS OF CANDIDATES
FOR THE FEBRUARY 27, 2007 MUNICIPAL GENERAL ELECTION

Vinona Summers and Kenneth Harris,	)	
Petitioners-Objectors,	)	Case No. 07-EB-ALD-007
vs.	)	
Thelma Andrews,	)	
Respondent-Candidate.	)	

Hearing Examiner: Ernesto D. Borges, Jr.

2007 JAN 27 A 7:02

Hearing Examiner's Report and Recommended Decision

I. History of Case.

This matter came before the hearing examiner on January 2, 2007. The case was called at or about 10:30 a.m. The Objectors appeared through their attorneys Chester Slaughter and Leonard Murray. The candidate was present and appeared through her attorney, Elias Mossos. The hearing examiner inquired into the merits of the Objectors' Petition.

The candidate asked for leave to file a Motion to Strike and Dismiss paragraphs 10 and 12.

Hearing Examiner set a briefing schedule as follows:

1. Candidate's Motion to Strike and Dismiss by 5 p.m. on January 3, 2007
2. Objectors' Response by 5 p.m. on January 4, 2007
3. Hearing on Motion and Response set for 1:00 p.m. on January 5, 2007

This continued matter was heard on January 5, 2007 at 10:30 a.m. at which time Objector's Attorneys, Chester Slaughter and Leonard Murray appeared as did Candidate's attorney Mike Kasper. Candidate had filed a Motion to Strike and Dismiss and Objectors had

filed a Response to said motion.

Candidate's Motion to Strike paragraph 12 dealing with the late filing of Candidate's Statement of Economic Interest was granted. Objectors' objection to paragraph 12 was overruled. At such time this matter was continued for a residency hearing and a records exam. Parties indicated that they would be seeking issuance of subpoenas. Parties also indicated that they would fax said subpoena requests with required names and address of those to be subpoenaed. This matter was continued to January 17, 2007 at 10:30 a.m. for records exam and hearing on residency.

This continued matter was heard on January 17, 2007 at 10:30 a.m. at which time Objectors' Attorney Chester Slaughter appeared as did the Candidate and her attorney, Mike Kasper.

The first order of business was the reading of the results of the records exam conducted January 12, 2007 at 3:30 p.m. which indicated as follows:

1. 727 signatures submitted by Candidate
2. 141 signatures overruled
3. 341 objections to signatures sustained
4. 386 valid signatures
5. 254 valid signatures required

Per the results of the signature check, Candidate had sufficient signatures for placement on the ballot. Candidate had previously filed a Rule 8 Motion. Objectors were given until January 17, 2007 at 5:00 p.m. to file a Rule 8 Motion. This matter was then continued to January 20, 2007 at 2:00 p.m. for hearing on Rule 8 Motions and residency.

On January 19, 2007, Objectors' Attorney Leonard Murray requested of James Scanlon, General Counsel of the Election Board, to have their witness examine the original petition sheets

prior to the start of the Hearing set for January 20, 2007. Said request was granted.

This continued matter was called at approximately 3:10 p.m. on January 20, 2007 wherein the parties present were Mike Kasper on behalf of the Candidate, Leonard Murray and Chester Slaughter on behalf of the Objectors. The Candidate was also present.

As to the residency matter, Mr. Murray indicated that the Objectors were withdrawing their residency objection. The Objectors indicated that they had subpoenaed certain witnesses to be present at the Hearing but none was present. Objectors asked that the Board subpoenas be enforced but Candidate's Attorney objected and moved to quash subpoenas in that Objectors had not listed the persons on their subpoena request upon whom they wish the Board to enforce said subpoenas. After some discussion regarding relevance and appropriateness of use of and enforcement of subpoenas, Mr. Slaughter withdrew his request to enforce the subpoenas making Mr. Kasper's motion to quash subpoenas moot.

Objectors' Rule 8 Motion began with calling the Candidate, Thelma Andrews, as a witness. At which time the Candidate testified that she knew the names of everyone who circulated her petitions. She also testified that during the circulating of her petitions she was not at all times physically holding the clipboard and petition sheet but she was present during the signing of her petition by nominators for sheets where she signed as circulator.

The Objectors called Diane Marsh, a certified forensic document examiner, as a witness. Attorney for Candidate, Mike Kasper, stipulated as to Ms. Marsh's qualifications as an expert.

After taking into consideration the fact that the Candidate has 132 valid signatures in excess of the required amount, the burden of overcoming the records exam results is upon the Objectors to invalidate 133 signatures.

Ms. Marsh testified that seven signatures on page 45 were written by the same writer. Further that another writer had written five of the signatures on page 45 and that two were

distorted and contrived. Ms. Marsh testified that lines 5, 7 and 10 had similar characteristics of writing found of sheet 45. Ms. Marsh determined that on sheet 41 lines 8 and 12 were written by the same person. She also determined that on sheet 41 line 6 was the same individual who wrote page 45 lines 4, 14, 11, 1, 5, 9, and 8. Ms. Marsh testified on the irregularity of sheet 42 lines 5, 7, and 10. In that the Candidate submitted 51 nominating sheets that of which only three pages of signature irregularities were indicated.

Candidate's Attorney Mike Kasper cross-examined Ms. Marsh regarding Ms. Marsh's testimony as to the genuineness of the signatures. Ms. Marsh's findings and testimony were remained persuasive to this examiner.

Objectors also asked that investigator David Jackson be called as a witness. Candidate's attorney, Mike Kasper, objected and that Mr. Jackson was not on the witness list and that Mr. Kasper had not been previously notified of Mr. Jackson's possible testimony. Mr. Jackson was not permitted to testify but a proffer of evidence as to Mr. Jackson's testimony was read into the record. Both sides rested and hearing officer took this under advisement.

II. Objections Presented.

A. The Objector presented objections regarding the validity of the signatures on the nomination papers;

B. Pattern of fraud;

C. Residency of Candidate (withdrawn).

III. Findings of Fact.

A. Candidate had 386 valid signatures after records exam

B. Minimum signature requirement was 254

C. It was established by credible testimony of expert witness that three pages (sheets 41, 42 and 45) of nominating sheets contained multiple signatures signed by no more than

four people (totaling 19 signatures).

D. Candidate was present but did not physically hold petition sheets nor witness actual signing of all petition sheets by nominators.

E. Although the Objectors established through expert testimony with some degree of certainty that 19 signatures on three nominating sheets were signed by no more than three to four individuals.

IV. Findings of Law and Legal Analysis.

The sole issue remaining would be whether or not the three sheets totaling 19 signatures would constitute sufficient evidence to establish a pattern of fraud. In that the Candidate's nomination papers consisted of 51 sheets and wherein only three sheets were established to contain fraudulent signatures, it is insufficient in law to invalidate the Candidate's nomination papers. See *Fortas v. Dixon*, 122 Ill.App. 3d 697, 462, N.E. 2d 615 (1st Dist. 1984).

V. Recommendations.

Taking into consideration the above mentioned factual finding and matter of law, it is the recommendation of the hearing examiner that the Board adopt the findings, decisions and recommendations herein and overrule the objections of Objectors' Petition, thereby validating the nominating petitions of Candidate Thelma Andrews for the office of Alderman of the 7th Ward of the City of Chicago, State of Illinois. Be it further recommended that the name of Candidate Thelma Andrews be placed on the ballot for the upcoming Municipal General Election set for February 27, 2007.

Ernesto D. Borges, Jr.
Hearing Examiner

Ernesto D. Borges, Jr.
Hearing Examiner
105 W. Madison, 23rd Floor
Chicago IL 60602
Telephone (312) 853-0200
efax (312) 853-3130

Dated: January 26, 2007

ORDER

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

SUMMERS

v.

CHICAGO MUNICIPAL OFFICERS ELEC Bd., et al.

No. 07 CO EL 016

ORDER

THIS CAUSE COMING TO BE HEARD on PETITIONERS' PETITION for JUDICIAL REVIEW, all PARTIES being REPRESENTED by COUNSEL, IT IS HEREBY ORDERED:

(1) THE PETITION for JUDICIAL REVIEW is DENIED.

(2) THE ELECTORAL BOARD DECISION is AFFIRMED, FOR THE REASONS STATED IN OPEN COURT.

(3) THIS IS A FINAL, APPEALABLE ORDER

ENTERED
JUDGE SUSAN FOX GILLIS-1793
FEB 23 2007
DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL
DEPUTY CLERK

ENTER: _____
Judge

Judge's No.

Atty. No.: 33837
Name: MICHAEL T. KASPER
Atty. for: RESPONDENT ANDREWS
Address: 222 N. LaSalle #300
City/State/Zip: CHICAGO IL 60601
Telephone: 312. 704. 3252

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS