BCCON-ALD

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

Objections of: FELIX CARDONA, JR., and LILLIBETH LOPEZ	)	
To the Nomination Papers of: REINALDO "RAY" HERNANDEZ	)	**No.: 07-EB-ALD-054**
Candidate for the office of Alderman of the Thirty-first 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 FELIX CARDONA, JR., and LILLIBETH LOPEZ ("Objector(s)") to the nomination papers ("Nomination Papers") of REINALDO "RAY" HERNANDEZ, candidate for the office of Alderman of the Thirty-first 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 Thaddeus Wilson 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), FELIX CARDONA, JR., and LILLIBETH LOPEZ, by counsel, Thomas A. Jaconetty; and the Candidate, REINALDO "RAY" HERNANDEZ, pro se.

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 100.

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 323.

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 144.

D. The remaining number of signatures deemed valid as a result of the records examination total 179.

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 Thirty-first Ward of the City of Chicago.

15. The Objectors presented evidence that 27 voters signed petitions for another candidate for the Alderman of the Thirty-first Ward before they signed the Candidate's petition for the same office. The Hearing Examiner sustained 20 of those objections. The Hearing Examiner also overruled one objection from the records examination in favor of Objectors,

leaving the Candidate with 158 valid signatures, 58 more than the minimum signature requirement.

16. The Objectors challenge the Candidate's eligibility to be a candidate alleging that he is registered as a "federal only" voter.

17. The Electoral Board finds that at the time that the Candidate registered to vote shortly after the enactment and implementation of the National Voter Registration Act of 1993, registrations submitted on mail-in voter registration applications were classified as "federal office only" because then existing Illinois law did not permit mailed voter registration applications. However, in *Orr v. Edgar*, 283 Ill.App.3d 1088 (First Dist. 1996), our courts declared that Illinois has a unitary voter registration system and that voters who registered using a mail voter registration application could not be restricted to voting for federal offices only.

18. The Electoral Board finds that the Candidate is a qualified elector and is eligible to vote in all federal, state, county and local elections appropriate for his residence address notwithstanding the fact that there is an indication that his registration application was classified originally as "federal office only."

19. The Electoral Board finds that the Candidate's eligibility to be a candidate for the office of Alderman in the 31st Ward is not impaired by virtue of the fact that there is an indication that his registration application was classified originally as "federal office only," so long as he is a qualified elector.

20. The Electoral Board overrules the objection that the Candidate is not a qualified elector and ineligible to be a candidate for the office of Alderman of the 31st Ward due to the "federal office only" marking on his voter registration record.

21. The Objector also alleges that the Candidate's petition sheets show a pattern of fraud. However, the Hearing Examiner found no evidence of fraud whatsoever.

22. 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.

23. 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.

24. 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.

IT IS THEREFORE ORDERED that the Objections of FELIX CARDONA, JR., and LILLIBETH LOPEZ to the Nomination Papers of REINALDO "RAY" HERNANDEZ, candidate for election to the office of Alderman of the Thirty-first Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of REINALDO "RAY" HERNANDEZ, candidate for election to the office of Alderman of the Thirty-first 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.