BCCON-ALD

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

Objections of: MARTHA J. BRUMMIT	)	
	)	
To the Nomination	)	**No.: 07-EB-ALD-063**
Papers of: SYLVESTER "JUNEBUG"	)	
HENDRICKS	)	
	)	
Candidate for the office of	)	
Alderman of the Fifth 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 MARTHA J. BRUMMIT ("Objector") to the nomination papers ("Nomination Papers") of SYLVESTER "JUNEBUG" HENDRICKS, candidate for the office of Alderman of the Fifth 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 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 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, MARTHA J. BRUMMIT, by counsel, Roderick Sawyer; and the Candidate, SYLVESTER "JUNEBUG" HENDRICKS, *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 and/or her 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 177.

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 712.

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 112.

D. The remaining number of signatures deemed valid as a result of the records examination total 600.

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 Fifth Ward of the City of Chicago.

15. 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.

16. 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.

17. 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 MARTHA J. BRUMMIT to the Nomination Papers of SYLVESTER "JUNEBUG" HENDRICKS, candidate for election to the office of Alderman of the Fifth Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of SYLVESTER "JUNEBUG" HENDRICKS, candidate for election to the office of Alderman of the Fifth 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 HEARING AND PASSING UPON OBJECTIONS
TO NOMINATION PAPERS OF CANDIDATES
FOR THE FEBRUARY 27, 2007 MUNICPAL GENERAL ELECTIONS

Martha J. Brummit Objector(s)	)	
vs.	)	
	)	Case No. 07-EB-ALD-063
Sylvester "JuneBug" Hendricks Candidate	)	

Hearing Examiner: Ernesto D. Borges, Jr.

2007 JAN 26 P 8:34

Hearing Examiner's Report and Recommended Decision

History

This matter was first heard on January 2, 2007, at which time the Candidate, Sylvester "JuneBug" Hendricks appeared as did Roderick Sawyer, attorney for the objector Martha J. Brummit. At such time, it was noted that there was no address on the candidate's nomination papers in that Candidate listed "homeless" as his residence. During the proceedings, the Objector withdrew objections contained in paragraph 21 of the Objector's Petition in that further review of the Board's records was evidence that the candidate had filed a Statement of Candidacy. After a number of objections by the Candidate, the matter of the motion filed by Candidate to Strike and Dismiss, the Objector was given until 5:00pm on January 3, 2007, to respond. Candidate was given until January 4th at 5:00pm to reply. Objector briefly stated that he had objections regarding records exam issues and uniformity of the nomination papers. Mr. Sawyer, attorney for the Objectors, also stated that he would be filing a Motion for Summary Judgment in conjunction with his response to Candidate's Motion to Strike and Dismiss. Candidate also stated that he would be filing a motion for sanctions, which would be due by 5:00 pm on January 4, 2007. Objector will have until 5:00 pm on January 5, 2007 to respond to Motion for Sanctions. Hearing examiner directed that a records exam be conducted. This matter was continued to January 16, 2007, at 10:00 AM for hearing on motions, responses, replies, and records exam results.

On January 16, 2007, case called at 10:30 AM, at which time candidate appeared but attorney for Objector nor Objector appeared. After Hearing Officer asked that Objector attorney be contacted, Hearing officer had conversation with Attorney Roderick Sawyer, who stated that he thought meeting was set for 2:00 PM rather than 10:00 AM. Overruling Candidate's objection to continuing hearing to 2:00 PM. At 2:00 PM, the Candidate and Objector's attorney appeared. At which time, the results of the record exam were read into the record, which indicated that the Candidate had 600 valid signatures, with the required number being 177. Objector withdrew every further motion relating to signatures on the Petition. Affording the parties further opportunity to prepare

argument of motions, that there were numerous, this matter was continued to January 22, 2007 at 11:00 AM.

This case was called on January 22, 2007 at 11:00 AM, at which time the Candidate, Sylvester "JuneBug" Hendricks appeared as did Roderick Sawyer, attorney for Objector Martha J. Brummit. The first order of business was the Candidate's Motion to Strike and Dismiss. In support of his motion, the Candidate offered exhibits into evidence. Objector's attorney argued Paragraph 23, which states that "The candidate failed to use uniform petition sheets, beginning with page 14, as required by the Illinois Election Code. Therefore, each petitioner sheet after page 14 is invalid in its entirety." This objection was overruled. It is a well established law that when referring to the uniformity of nomination papers, substantial compliance is the standard which the courts have used. In that the candidate may have used "old or outdated" sheets in a few instances. If one were to invalidate these particular sheets, the candidate would have more then the requisite number of signatures for ballot placement. Although the Objector argues that all petition sheets should be invalidated in its entirety, the proper remedy is to ignore the aberrant sheet(s) by invalidating it. See *Hendon v. Davis*, 02-EB-SS-10, CBEC, January 31, 2002. Candidate substantially complied with the requirements of 10-4 of the Illinois Election Code.

As to the more complex and unclear matter regarding the objection contained in paragraph 22, which states, "Although the candidate claims to be homeless, he has consistently registered as a voter at 7128 South Dobson, Chicago, IL." The Candidate filed a Motion to Strike and Dismiss, introducing Exhibit A as evidence indicating a voter registration card, signed and dated October 1, 1998, with the address of 7220 South Dobson. Said card also indicates a prior address of 7218 South Dobson.

Candidate's Exhibit B introduced and admitted into evidence was a copy of the Veteran's Universal Access Identification indicating an address of 7218 S Dobson.

Candidate's Exhibit C was a driver's license issued by the Illinois Secretary of State dated 8/13/05 with an address of 7218 S. Dobson, which also reflected a Post Office Box of 289292, Chicago, IL 60628.

Petition paragraph number 22 states, "Although the candidate claims to be homeless, he has consistently been registered as a voter at 7128 S Dobson." We then have four (4) different addresses for the candidate – homeless, 7128 S Dobson, 7220 S Dobson and 7218 South Dobson. Although not offered or admitted into evidence, a copy of Candidate's certificate of registration signed by Lance Gough, Executive Director of the CBOE, indicating the address of 7128 S Dobson, Chicago, IL. It was not contested that each of these addresses is within the 5th Ward. It was agreed by the parties that parts of zip code of 60619 as used for the Post Office Box are within the 5th Ward. Inter alia, it was further argued that the requirements for residency for a candidate are at least that of a voter.

This matter was taken under advisement.

I. Objections Presented.

A. All objections and motions were withdraw, with the exception of a Candidate's Motion to Strike and Dismiss and the Objector's Motion for Summary Judgment for paragraph 22 and 23.

II. Findings of Fact and Issues of Law.

A. That the Candidate did file a Statement of Candidacy with the Electoral Board.

B. That Candidate had 600 valid signatures contained in his nominating papers.

C. That Candidate had over 500 valid signatures even if invalidating aberrant sheets.

D. That Candidate was a valid registered voter at the address of 7220 S Dobson, Chicago, IL.

E. That Candidate presented indicia to substantiate an address of 7220 S Dobson for purposes of voter registration.

F. That no evidence was introduced to indicate Candidate was not homeless.

G. That no evidence was introduced to indicate that Candidate did not reside within the boundaries of the 5th Ward, for a minimum of 1 year.

H. That Objector's sole objections at time of hearing were paragraphs 22 and 23.

I. That although Objector's Petition incorrectly states the address to which the Candidate can vote – Case law has held that typographical errors, transposed numbers are not necessarily fatal to an Objector's Petition. Therefore Objector's paragraph 22 is not stricken or dismissed. See Wollan v. Jacoby, 274 Ill.App3d 388, 653 N.E.2d 1303 (First Dist. 1995).

J. Objector's paragraph 22 which merely states that the Objector is "Although the candidate claims to be homeless, he has consistently been registered as a voter at 7128 South Dobson, Chicago, IL." is not a violation of the Illinois Election Code. Candidate's Motion for Summary Judgment is denied and said objection is therefore overruled for lack of sufficiency in law and in fact.

III. Recommendations.

Taking into consideration the above mentioned factual finding and matter of law, it is the recommendation of the hearing examiner that the Board adopts the findings, decisions, and recommendations herein overrule the objections thereby validating the Nominating papers of Candidate Sylvester "JuneBug" Hendricks for the office of Alderman of the 5th Ward of the City of Chicago, State of Illinois. Be it further recommended that the name of Candidate Sylvester "JuneBug" Hendricks be placed on the ballot for the upcoming Municipal General Election set for February 27, 2007.

Ernesto D. Borges, Jr.
Hearing Examiner

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