NBCOFF

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

Objections of: JAMES MCLAIN	)	
	)	
	)	
To the Nomination	)	No.: 23-EB-ALD-050
Papers of: PATRICIA L TILLMAN	)	
	)	
	)	
Candidate for the office of Alderperson 21st	)	
Ward, City of Chicago	)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of the Board of Election Commissioners for the City of Chicago, Commissioners Marisel A. Hernandez, William J. Kresse, and June A. Brown, organized by law in response to a Call issued by Marisel A. Hernandez, Chair of said Electoral Board, for the purpose of hearing and passing upon objections ("Objections") of JAMES MCLAIN ("Objector") to the nomination papers ("Nomination Papers") of PATRICIA L TILLMAN, candidate for the office of Alderperson of the 21st Ward ("Candidate") at the Municipal General and Alderperson Elections to be held on Tuesday, February 28, 2023, having convened on Friday, December 9, 2022, at 4:00 p.m., 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 were duly and timely filed.

2. The Electoral Board was legally constituted under the laws of the State of Illinois.

3. A Call to the hearing on said Objections was duly issued by the Chair 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 or service was waived.

4. A public hearing held on these Objections commenced on Friday, December 9, 2022 and was continued from time to time. The Electoral Board assigned this matter to Hearing Officer Barbara Goodman for further hearings and proceedings.

5. The Objector and the Candidate were directed by the Electoral Board's Call served upon them to appear before the Hearing Officer on the date and at the time designated in the Hearing Schedule. The following persons, among others, were present at such hearing: The Objector, JAMES MCLAIN, through his attorney, ANDREW FINKO; and the Candidate, PATRICIA L TILLMAN, and/or her Attorney MAX SOLOMON.

6. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. Based upon the evidence presented, the Hearing Officer found the Candidate's felony conviction made the Candidate ineligible for the office of Alderman in the City of Chicago. The Hearing Officer found, therefore, that the Candidate's Nomination Papers are invalid.

7. The Electoral Board, having considered the evidence and arguments tendered by the parties and the Hearing Officer's report of recommended findings and conclusions of law, hereby adopts and incorporates the Hearing Officer's recommended findings and conclusions of law.

8. For the reasons stated above, the Electoral Board finds that the Objections filed in this matter should be sustained and that the Candidate's Nomination Papers are invalid.

IT IS THEREFORE ORDERED that the Objections of JAMES MCLAIN to the Nomination Papers of PATRICIA L TILLMAN, candidate for the office of Alderperson of the 21st Ward, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of PATRICIA L TILLMAN, candidate for the office of Alderperson for the 21st Ward, SHALL NOT be printed on the official ballot for the Municipal General and Alderperson Elections to be held on Tuesday, February 28, 2023.

Dated: Chicago, Illinois, on Friday, January 13, 2023.

Marisel A. Hernandez, Chair

William J. Kresse, Commissioner

June A. Brown, 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 5 days after service of the decision of the Electoral Board.

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

JAMES McCLAIN	)	
	)	
Objectors	)	23 EB ALD 050
-v-	)	
	)	
PATRICIA TILLMAN	)	
	)	
Candidate	)	

HEARING OFFICER'S REPORT AND RECOMMENDED DECISION

This matter was first heard on December 12, 2022. The Objector appeared through counsel Andrew Finko and the Candidate appeared through counsel Max Solomon. The parties were given an opportunity to file preliminary motions. The Candidate timely filed a *Motion to Strike and Dismiss Objector's Petition* and the Objector timely *filed Response to Candidate's Motion to Strike and Dismiss.*

A hearing on the Motion to Strike and Dismiss was held on December 16, 2022. The basis of the Candidate's Motion was two-fold. First, the Candidate argued that Section 10-8 of the Election Code required that an Objector allege that he or she is a registered voter in the district (or Ward) and that here, the Objector failed to so allege making the Objector's Petition fatally defective. Second, Candidate argued that the address of the Objector was not in the 21st Ward, the Ward in which the Candidate was seeking election and, as a result, the Objector lacked standing.

As to the first issue regarding the need to plead that the Objector is a registered voter in the Ward, the Objector correctly pointed out in his response that the Election Code does not require that an Objector *plead* that he or she is a registered voter. Rather, the Election Code

requires that the Objector *be* a registered voter in the district (or Ward). Therefore, the Motion to Strike and Dismiss on the basis of a defect in the pleading should be denied.

As to the second issue, evidence was submitted by the Candidate which included a map after the redistricting showing the Objector's address to be in the 21st Ward and a printout from the Board's remap website reflecting the Objector's address to be in the 21st Ward. Sufficient evidence was presented relative to the Objector's address to conclude that the Objector did, in fact, reside in the 21st Ward and the Motion to Strike and Dismiss on the basis that Objector lacked standing should be denied.

A request for a subpoena was also submitted by the Objector and a recommendation to grant the request was submitted to the Board. The parties also agreed that they would work on a written stipulation which could negate the need for the subpoena.

A status call was held on December 22, 2022 and it was determined at that time that the parties would submit their written stipulations on December 26, 2022, briefs in support of their positions would be submitted on December 26, 2022 and responsive briefs, if any, would be filed on December 28, 2022. It was agreed by the parties that no further hearing was necessary.

The sole issue presented in the Objector's Petition was whether the Candidate's prior felony conviction rendered the Candidate's Statement of Candidacy false and perjurious as the Candidate was not, in fact, ineligible for the office of Alderman. The parties submitted the following stipulations in relation thereto:

> *(1) Candidate, Patricia Tillman, stipulates that on April 6, 2018, she was found guilty by a jury of aggravated battery against a government employee 720 ILCS 5/12-3.05(D)(6), and aggravated battery in a public place, 720 ILCS 5/123.05(C), each a felony under Illinois law, in the case People v. Patricia Tillman filed in the Circuit Court of Cook County, No. 17CR0708401, and Candidate Tillman was thereafter sentenced to 30 months incarceration.*
>
> *(2) Candidate, Patricia Tillman, stipulates that she appealed the circuit court's jury verdict and the appellate court in People v. Patricia Tillman, 2022 IL App (1st) 181358-U, held as follows:*
> *¶ 32 Due to the violation of the one-act, one-crime rule, the sentence for the*

less serious offense must be vacated. See Smith, 2019 IL 123901, ¶ 37. A court determines the more serious offense by comparing the punishments for the offenses. People v. Artis, 232 Ill. 2d 156, 170 (2009). When the reviewing court cannot determine the more serious offense, "the cause will be remanded to the trial court for that determination." Id. at 177.

¶ 33 Here, we cannot determine which conviction is more serious because aggravated battery on a public way and aggravated battery to a public official are both Class 3 felonies (720 ILCS 5/12-3.05(h) (West 2016)) with sentencing ranges of two to five years' imprisonment (730 ILCS 5/5-4.5-40(a) (West 2016)). Accordingly, we remand to the trial court so that it may determine which conviction should be vacated. See Artis, 232 Ill.2d at 177.

¶ 34 For the foregoing reasons, we remand for the trial court to vacate defendant's conviction on the less-serious count of aggravated battery and otherwise affirm.
¶ 35 Affirmed in part; cause remanded.

(3) After remand, the circuit court affirmed the felony conviction for aggravated battery against a government employee 720 ILCS 5/12-3.05(D)(6) against Candidate Tillman, and vacated the felony conviction for aggravated battery in a public place, 720 ILCS 5/123.05(C).

(4) Candidate, Patricia Tillman, has not applied for or obtained a pardon from the Governor of the State of Illinois.

(5) Candidate, Patricia Tillman, has not applied for or received a restoration of rights from the Governor of the State of Illinois.

Simultaneously with the submission of the foregoing stipulations, Objector filed a Motion for Summary Judgment and the Candidate did not submit a brief or other pleading. On December 26, Candidate's counsel indicated he would file a responsive brief by the December 28, 2022 deadline previously agreed upon. On December 28, 2022, Candidate's counsel indicated via email that he did not intend to file a response and would, instead "stand on the record". The statute controlling the issue of eligibility here is 65 ILCS 5/31.1-10-5(b). Said statute provides, in pertinent part, as follows:

A person is not eligible to take the oath of office for a municipal office if that person is, at the time required for taking the oath of office, in arrears in the payment of a tax or other indebtedness due to the municipality or has been convicted in any court located in the United States of any infamous crime, bribery, perjury, or other felony, unless such person is again restored to his or her rights of citizenship that may have been forfeited under Illinois law as a result of a conviction, which includes eligibility to hold elected municipal office, by the terms of a pardon for the offense, has received a restoration of rights by the Governor, or otherwise according to law. Any time after a judgment of conviction is rendered, a person convicted of an infamous crime, bribery, perjury, or other felony may petition the Governor for a restoration of rights.

In his Motion for Summary Judgment, Objector further argued that there is a well defined policy of prohibiting a convicted felon from holding municipal office, even if the sentence is completed and/or expunged precludes the Candidate from seeking the office of Alderman. In support of his argument, Objector cited various cases which so held. *Alvarez v. Williams*, 2014 IL App (1st) 133443; *Williams v. Cook County Officers Electoral Board*, 2015IL App (1st) 150568 and *People of the State of Illinois v. Roger A. Agpawa, 2018 IL App (1st) 171976.*

As additional support, the Objector pointed out that 1-23-020 of the Municipal Code of the City of Chicago prohibits anyone convicted of a felony from doing business with the City of Chicago. Section 1-23-020 provides in pertinent part as follows:

1-23-020 Ineligibility to do business with the city.

(a) Ineligibility due to a conviction. No natural person or business entity shall be eligible to do business with the City if such natural person, business entity or any controlling person of such business entity has ever been convicted or in custody, under parole or under any other non-custodial supervision resulting from a conviction in a court of any jurisdiction for the commission of a felony of any kind, or of a criminal offense of whatever degree, involving:
(1) bribery or attempted bribery, or its equivalent under any local, state or federal law, of any public officer or employee of the City of Chicago or of any sister agency; or
(2) theft, fraud, forgery, perjury, dishonesty or deceit, or attempted theft, fraud, forgery, perjury, dishonesty or deceit, or its equivalent under any local, state or federal law, against the City of Chicago or of any sister agency; or

(3) conspiring to engage in any of the acts set forth in items (1) or (2) of this subsection (a); or
(4) any hate crime; or
(5) treason, sedition, or related offenses.

Objector contended that because salaries and expenditures are paid to the Alderman and the Alderman is in the unique role of solely determining expenditures in his/her Ward, the foregoing Section further supports a finding that the Candidate here, having been convicted of a felony, is ineligible to serve as Alderman.

This case is straight forward. It is undisputed that the Candidate was convicted of a felony. There is no evidence in the record to establish that the Candidate was "restored to his or rights of citizenship that may have been forfeited under Illinois law as a result of a conviction..." To the contrary, the only stipulation of the parties in the record indicates that "Candidate, Patricia Tillman, has not applied for or obtained a pardon from the Governor of the State of Illinois" (Stipulation at paragraph 4) and that Candidate Patricia Tillman, has not applied for or received a restoration of rights from the Governor of the State of Illinois (Stipulation at paragraph 5). Accordingly, it must be concluded that pursuant to 65 ILCS 5/3.1-10-5(b), Candidate's felony conviction renders the Candidate ineligible to hold the office she is seeking and that her Statement of Candidacy to the contrary is false. As a result, the Candidate's nominating papers are invalid.

CONCLUSION

In light of the foregoing, it is my recommendation that the Objector's Motion for Summary Judgment be granted, that the objections of James McClain to the nominating papers of Patricia Tillman be **sustained,** that the nominating papers of Patricia Tillman for the office of Alderman of the 21st Ward of the City of Chicago, Illinois be deemed **invalid** and that the name Patricia Tillman for said office **not be** printed on the ballot at the Municipal General and Alderpersons Elections to be held on February 28, 2023.

Respectfully submitted,



Barbara Goodman, Hearing Officer
1/10/22