DEFAULT

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

Objections of: THOMAS L MCMAHON	)	
	)	
	)	
To the Nomination	)	No.: 23-EB-PDC-008
Papers of: KENNETH WILLIAMS	)	
	)	
Candidate for the office of Council Member	)	
for the 5th Police District	)	

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 THOMAS L MCMAHON ("Objector") to the nomination papers ("Nomination Papers") of KENNETH WILLIAMS, candidate for the office of Council Member for the 5th Police District ("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 to appear before the Hearing Officer on the date and at the time designated in the Hearing Schedule. On such date and time, the Hearing Officer called the case by calling aloud the case number, the name of the Objector and the name of the Candidate. The following persons, among others, answered and were present at such hearing: The Objector, THOMAS L MCMAHON through his attorneys, BURTON S ODELSON, JAYMAN AVERY and ROSS D. SECLER.

6. The Candidate, KENNETH WILLIAMS, did not answer to the call nor did he appear at the hearing. The case was called again at least two more times at least 15 minutes apart on Monday, December 12, 2022 and at no time did the Candidate or any person purporting to represent the Candidate appear.

7. The Electoral Board finds that the Cook County Sheriff attempted to serve the Candidate with a copy of the Objector's Petition and with a copy of the Call to the Monday, December 12, 2022 on December 9, 2022 at 4:25 p.m.. The return of the Sheriff's office indicated that the reason that the Candidate was not served was "No Contact." The Candidate was also sent a copy of the Call to the Monday, December 12, 2022 meeting by certified mail, but a signed receipt acknowledging receipt of the certified mail item has never been returned by the Postal Service.

8. The initial hearing was continued to December 16, 2022 to allow for additional service upon the Candidate of a copy of the Objections and notice of hearing. The Cook County Sheriff again attempted to serve the Candidate with a notice of continued hearing for the December 16, 2022 hearing on December 15, 2022. The Sheriff's return of service indicated that the reason the Candidate was not served on these occasions was "No Contact". A copy of the notice of continued hearing was also sent to the Candidate by certified mail, return receipt requested, but no receipt was returned to the Board by the Postal Service.

9. The Hearing Officer heard the testimony of Mario Garcia, Board Employee establishing that the Candidate had actual knowledge of the pending objections against him.

10. The Electoral Board finds that the Candidate, KENNETH WILLIAMS did not appear at any of the duly called meetings and hearings conducted in this matter after numerous attempts to serve the Candidate with a copy of the Call and the Objector's Petition by the means of service specified in the statute.

11. A candidate cannot evade the effects of a duly filed objection to his or her nomination papers by simply being unavailable for service of papers nor should the objections be rendered moot by virtue of the fact that a candidate cannot be found by the statutory methods of service. If this were permitted, candidates would simply go into "hiding" until the objection process had run its course, thereby frustrating the statutory scheme for testing whether the candidate is eligible to be on the ballot.

12. The Electoral Board further finds that the Objector's petition, on its face, contains sufficient allegations, if accepted as true, to invalidate the Candidate's Nomination Papers.

13. Therefore, the Electoral Board finds that the Candidate, KENNETH WILLIAMS is in default, that the Objections are sustained, and that the Candidate's Nomination Papers are invalid.

IT IS THEREFORE ORDERED that the Objections of THOMAS L MCMAHON to the Nomination Papers of KENNETH WILLIAMS, candidate for the office of Council Member for the 5th Police District, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of KENNETH WILLIAMS, candidate the office of Council Member for the 5th Police District, 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 6, 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.