

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

Objections of: WILLIE B. COCHRAN)
)
)
To the Nomination) No.: 15-EB-ALD-149
Papers of: JEROME A. DAVIS)
) Rel. ALD-146 AND ALD-147
Candidate for the office of)
Alderman of the 20th 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, Richard A. Cowen, and Marisel A. Hernandez, 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 WILLIE B. COCHRAN ("Objector") to the nomination papers ("Nomination Papers") of JEROME A. DAVIS, candidate for the office of Alderman of the 20th Ward in the City of Chicago ("Candidate") to be elected at the Municipal General Election to be held on February 24, 2015, having convened on December 8, 2014 at 9:00 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 held on these Objections commenced on December 8, 2014 and was continued from time to time.
5. The Electoral Board assigned this matter to Hearing Officer Mary Celeste Meehan for further hearings and proceedings.
6. 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. The following persons, among others, were present at such hearing: the Objector, WILLIE B. COCHRAN, by his attorneys, Michael Kasper and John Thomas Donovan; and the Candidate, JEROME A. DAVIS, pro se.
7. The Hearing Officer ordered that an examination of the voter registration records be conducted by 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 Officer directed all parties to appear and be present, either personally and/or by their authorized representatives, during this records examination.
9. The Candidate and/or his duly authorized representative was present during the examination of the registration records.
10. The Objector and/or his duly authorized representative was present during the examination of the registration records.
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 Electoral Board's file in this case and a copy has been provided or made available to the parties.

12. The results of the records examination indicate that:

A. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 473;

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 908;

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 629;

D. The remaining number of signatures deemed valid as a result of the records examination total 279.

13. The Electoral Board finds that the number of valid signatures appearing on the Candidate's nominating petition following completion of the records examination was less than the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for election to the office of Alderman of the 20th Ward of the City of Chicago.

14. The Candidate filed Rule 8 motion objecting to the Board's clerk's findings during the records examination. However, the Candidate's Rule 8 motion listed only 162 signature objections for which he wished to present evidence, while the records examination results showed that the Candidate was 194 signatures short of the minimum signature requirement. Therefore, any Rule 8 evidentiary hearing would be moot.

15. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. Based upon the evidence presented, the Hearing Officer found that the

Candidate's Nomination Papers contained, at best and assuming that Candidate prevailed on all of 162 of his Rule 8 signatures, only 441 valid signatures, which is less than the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for election to the office of Alderman of the 20th Ward of the City of Chicago, and that the Candidate's Nomination Papers should be found invalid.

16. 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 the Hearing Officer's recommended findings and conclusions of law. A copy of the Hearing Officer's report is attached hereto and is incorporated herein and made a part of the Electoral Board's decision in this case.

17. In the City of Chicago, nominating petitions for candidates for Alderman must be signed by the number of legal voters of the ward as will aggregate not less than 4% of the total number of votes cast for Alderman in such ward at the last preceding general election. 65 ILCS 20/21-28(a), as amended by P.A. 98-115, eff. July 29, 2013. For the election following the redistricting of wards petitions for nominations of candidates shall be signed by the number of legal voters of the ward as will aggregate not less than 4% of the total number of votes cast for mayor at the last preceding municipal election divided by the number of wards. *Id.* At the last preceding municipal election (February 22, 2011), 590,391 votes were cast for Mayor. Four percent (4%) of 590,391 is 23,615.64, which, divided by the number of wards (50), yields a minimum signature requirement of 472.3128, or 473.

18. Therefore, in the case of a candidate for the office of Alderman in any Ward of the City of Chicago, the candidate's nominating petitions shall contain not less than 473 signatures of legal voters of the Ward.

19. The statute establishing the signature requirement for the office of Alderman -- 65 ILCS 20/21-28(a) -- is presumed constitutional. *People v. Devenny*, 199 Ill.2d 398, 769 N.E.2d 942 (2002). The legislature did not intend that an electoral board entertain constitutional challenges. *Tobin v. Illinois State Board of Elections*, 105 F. Supp.2d 882, 886 (N.D. Ill. 2000), *aff'd*, 268 F.3d 517 (7th Cir. 2001); *Troutman v. Keys*, 156 Ill.App.3d 247, 509 N.E.2d 453 (1987). "An administrative agency must accept as constitutional the statute over which it has jurisdiction." *Board of Education of Rich Township High School v. Brown*, 311 Ill.App.3d 478, 724 N.E.2d 956, 966 (2000). "An administrative agency lacks the authority to invalidate a statute on constitutional grounds or even to question its validity." *Texaco-Cities Service Pipeline Company v. McGaw*, 182 Ill.2d 262, 695 N.E.2d 281 (1998). Administrative agencies such as the electoral board have no authority to declare statutes unconstitutional or even to question their validity. *Goodman v. Ward*, 241 Ill.2d 398, 411, 948 N.E.2d 580, 588 (2011).

20. The Electoral Board finds that the Candidate's nominating petitions fail to contain the minimum number of valid signatures of legal voters of the Ward required by law and are, therefore, invalid.

21. The Electoral Board further finds that there were two other objections to the Candidate's Nomination Papers in related cases ALD-146 and ALD-147 that were either withdrawn or dismissed.

22. For the reasons stated above, the Electoral Board finds that the Candidate has an insufficient number of valid signatures on his nominating petitions and that the Nomination Papers of JEROME A. DAVIS are, therefore, invalid.

IT IS THEREFORE ORDERED that the Objections of WILLIE B. COCHRAN to the Nomination Papers of JEROME A. DAVIS, candidate for election to the office of Alderman of

the 20th Ward of the City of Chicago are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of JEROME A. DAVIS, candidate for election to the office of Alderman of the 20th Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the Municipal General Election to be held on February 24, 2015.

Dated: Chicago, Illinois, on January 5, 2015.

Langdon D. Neal, Chairman



Richard A. Cowen, Commissioner



Marisel Hernandez, 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.

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

WILLIE B. COCHRAN)	
Objector)	15-EB-ALD-149
)	
-v-)	
)	
JEROME A. DAVIS)	Mary C. Meehan
Candidate)	Hearing Examiner

RECOMMENDED FINDING AND DECISION

The above named cause came to be heard December 9th, 2014 before the Chicago Board of Election Commissioner's ("CBOE") on verified objection Willie B. Cochran ("Objector") to the nomination papers of Jerome A. Davis. ("Candidate"), for the Office of Alderman for the 20th Ward in the City of Chicago, State of Illinois to be voted on in the Municipal General Election to be held on February 24, 2015 in the City of Chicago. Mary C. Meehan, Hearing Officer finds and recommends as follows:

1. The above matter came to be heard on December 9th 2014 for initial hearing. Board Exhibits were entered into evidence by the Hearing Officer which included: Board Group Exhibit A consisting of the Nominating Papers, Board Group Exhibit B consisting of the Objector's Petition and any attachments, Board Group Exhibit C consisting of the Call and Service of the Call and Board Group D consisting of the parties Appearances. A records exam directive was issued.
2. The matter was set for status hearings on December 19th 2014 at 10:00 a.m. and then again on December 23rd 2014 at 11a.m. The records exam was conducted. The final petition summary report was completed December 16th 2014 at approximately 2:57 pm. At the December 19th hearing it became evident that the Candidate was not properly notified of the final records exam results. He was then notified by email properly on December 19th at approximately 10:30 am. All parties were then timely notified of the final results. The records examination is hereby adopted and incorporated by reference as the results of the records examination.

3. The Hearing Officer read the results of the records exam into the record:
 - A. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 473;
 - B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total of 908.
 - C. The number of signatures deemed invalid because of objection sustained total 629;
 - D. The remaining number of signatures deemed valid total 279, 194 BELOW the minimum required signatures.

4. The Candidate filed a timely Rule 8 Motion. The Objector did not respond. At the status hearing on December 23rd 2014 at 11:00 am, the Objector appeared through his attorney Michael Kasper. The Candidate appeared pro se. The Hearing Officer denied the Candidate's Rule 8 Motion for Evidentiary Hearing on the following grounds:
 - a. The Candidate's Rule 8 Motion presented an outline of 162 signature objections he wished to present at an evidentiary hearing.
 - b. The records exam results showed the Candidate had 194 signatures fewer than the minimum required signatures.
 - c. If every one of the objections outlined in the Candidate's Rule 8 motion was sustained by the hearing officer, the Candidate would still have 32 signatures fewer than the minimum required.
 - d. Therefore, proceeding would be moot and the Candidate's Rule 8 Motion is denied.

5. The Hearing Officer finds that the number of valid signatures appearing on Candidate JEROME A. DAVIS nominating papers following completion of the records examination is at least 32 signatures BELOW the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for nomination for the office of Alderman for the 20th Ward, State of Illinois.

For reasons stated above, the Hearings Officer recommends that the Chicago Board of Elections Commissioners find the Nominating Papers of Candidate Jerome A. Davis for Alderman for the

20th Ward, City of Chicago, State of Illinois to be voted on in the Municipal General Election to be held on February 24, 2015 to be found INVALID.

ENTERED THIS 24th day of December, 2014.

A handwritten signature in black ink, appearing to read "Mary C. Meehan". The signature is written in a cursive style with a large initial "M".

Mary C. Meehan
Hearing Officer