

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

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Objections of: Quincy Augustus )  
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To the Nomination ) No.: 16-EB-WC-31  
Papers of: William "Mr. D" Delay )  
 ) Rel.: 16-EB-WC-30  
Candidate for the office of Republican Party )  
Ward Committeeman of the 18th Ward, City of )  
Chicago )

**FINDINGS AND DECISION**

The duly constituted Electoral Board, consisting of Board of Election Commissioners for the City of Chicago Commissioners Marisel A. Hernandez, William J. Kresse and Jonathan T. Swain, organized by law in response to a Call issued by Marisel A. Hernandez, Chairman of said Electoral Board, for the purpose of hearing and passing upon objections ("Objections") of Quincy Augustus ("Objector") to the nomination papers ("Nominating Papers") of William "Mr. D" Delay, candidate for the office of Republican Party Ward Committeeman for the 18th Ward of the City of Chicago ("Candidate") at the General Primary Election to be held on March 15, 2016, having convened on December 14, 2015, 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 was held on these Objections commencing on December 14, 2015 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Eileen Letts 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 Call. The following persons, among others, were present at such hearing; the Objector, Quincy Augustus, by his attorney, Sharee S. Langenstein; and the Candidate, William "Mr. D" Delay, 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 were 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 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 132.
  - B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 204.
  - C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 67.
  - D. The remaining number of signatures deemed valid as a result of the records examination total 137.

13. 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 Republican Party Ward Committeeman for the 18th Ward of the City of Chicago.

14. The Hearing Officer conducted a hearing to allow the Objector an opportunity to present evidence in support of his Rule 8 motion objecting to the Board's clerk's findings during the records examination.

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 136 valid signatures, which exceeds the minimum number of valid signatures required by law to be placed upon the ballot as a candidate for the

office of Republican Party Ward Committeeman for the 18th Ward of the City of Chicago, and recommends that the Candidate's Nomination Papers be found valid.

16. The Objector then presented evidence and argument in support of paragraphs 4 and 5 of the Objector's Petition contending that the Candidate is not qualified for elective office pursuant to Illinois law nor is he qualified to hold the office of ward committeeman pursuant to Republican Party rules due to his conviction on multiple felony offenses. The Hearing Officer, having considered the evidence and argument, concluded that the office of ward committeeman is not an "office of honor, trust or profit" within the meaning of Section 29-15 of the Election Code (10 ILCS 5/29-15) such as would bar the Candidate from being a candidate for the office of ward committeeman.

17. 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 report and recommendations is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

18. The Electoral Board further finds that the duty of the Board upon receipt and hearing of objections to a candidate's nomination papers is to consider whether the nomination papers are "in proper form," whether they were "filed within the time and under the conditions required by law," whether they are "genuine," and whether they are "valid." 10 ILCS 5/10-10. And while an electoral board may, in the course of hearing and deciding objections to a candidate's nomination papers, determine whether the candidate satisfies eligibility requirements for an office prescribed by the Constitution or by statute (see, e.g., *Goodman v. Ward*, 241 Ill.2d 398, 948 N.E.2d 580 (2011)), no statute or case has given electoral boards authority to remove a


candidate from the ballot for a failure to meet eligibility requirements imposed by political party rules.


19. For the reasons stated above, the Electoral Board finds that the Candidate has a sufficient number of valid signatures on his nominating petitions, that the Objections should be overruled and that the Nomination Papers of William "Mr. D" Delay are, therefore, valid.

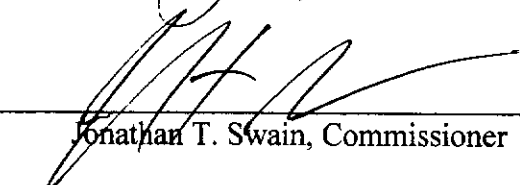
20. The Electoral Board further finds that objections to the Candidate's Nomination Papers in related case 16-EB-WC-30 were overruled and there are no other pending objections to the Candidate's Nomination Papers.

IT IS THEREFORE ORDERED that the Objections of Quincy Augustus to the Nomination Papers of William "Mr. D" Delay, candidate for the office of Republican Party Ward Committeeman for the 18th Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of William "Mr. D" Delay, candidate for the office of Republican Party Ward Committeeman for the 18th Ward of the City of Chicago, SHALL be printed on the official ballot for the General Primary Election to be held on March 15, 2016.

Dated: Chicago, Illinois, on January 19, 2016.

  
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Marisel A. Hernandez, Chairman

  
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William J. Kresse, Commissioner

  
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Jonathan T. Swain, 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  
FOR THE CITY OF CHICAGO**

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Quincy Augustus	)	
Petitioner-Objector	)	Case No. 16-EB-WC-31
vs.	)	
William "Mr. D" Delay	)	Hearing Officer: Eileen M. Letts
Respondent-Candidate	)	

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**HEARING OFFICER'S FINDINGS AND RECOMMENDATION**

In the matter of Petitioner-Objector, Quincy Augustus ("Objector") regarding the Nomination Papers of Respondent-Candidate, William "Mr. D" Delay, Candidate for Office of Republican Ward Committeeman for the 18<sup>th</sup> Ward, City of Chicago, State of Illinois ("Candidate"), the hearing having convened on December 14, 2015. Eileen M. Letts, Esq., the duly appointed Hearing Officer, in this matter, hereby makes the following Report and Recommended Findings to the Board of Election Commissioners of the City of Chicago ("CBEC"):

1. The Candidate filed Nomination Papers with the CBEC for the nomination for the Office of Republican Ward Committeeman for the 18<sup>th</sup> Ward, City of Chicago, State of Illinois for the Municipal General Election to be held on March 15, 2016. Such Nomination Papers consisted of a Statement of Candidacy and the Candidate's Nomination Papers, they were marked as Board Group Exhibit A and admitted into evidence.
2. The Verified Objector's Petition was timely filed. Such Petition was

marked as Board Group Exhibit B and admitted into evidence. A call to the hearing on said objections was duly issued by the Chairman of the CBEC and served upon all parties. The call and proof of service thereof were marked and admitted into evidence as Board Group Exhibit C. Both parties filed appearances and they were marked and admitted into evidence as Board Group Exhibit D.

3. The Initial Public Hearing concerning the objections was scheduled to commence on December 14, 2015, at 3:30 p.m. The Candidate and the Objector appeared.

4. The Candidate appeared Pro Se, and the Objector appeared by his attorney Sharee Langenstein.

5. All parties were provided copies of the rules and procedures of the CBEC, and were instructed to become familiar with the rules. At that status, the Hearing Officer reminded counsel that this case was on an expedited basis, and continuances would not be granted as a matter of course. At the initial hearing, all parties agreed to service via email.

6. The matter was continued for status until December 21, 2015 at 11:30 a.m. based on the need for a records examination. At the status on December 21, 2015, the records examination date was granted for December 30, 2015 at 9:30 a.m.

7. The matter was then scheduled for January 6, 2016 at 2:00 p.m. for a report of the records exam.

8. The records examination was conducted on January 2, 2016. On January 3, 2016, a Rule 8 Motion was filed by the Objector.



9. The status for the results of the records examination had been continued until January 6, 2016, however in the interim, the Hearing Officer sent an email to both parties indicating that if they could be prepared to have a hearing on the Rule 8 Motion on January 6, 2016 she would be willing to conduct the hearing. However, if not prepared, they would set a date to expeditiously have the Rule 8 Hearing after the January 6, 2016 status.

10. On January 6, 2016, a status was convened at 2:00 p.m. The Hearing Officer admitted the results of the final petition summary report admitted into evidence as Exhibit E. At that time, the results of the final petition summary were read into the record.

Signatures Required	132
Total Pages	9
Total Signatures	204
Total Objections	90
Total Ruled On	90
Total Remaining	0
Total Sustained	67
Total Overruled	23
For Review (Candidate)	40
For Review (Objector)	24
Total Valid Signatures	137
Total Unchallenged Signatures	114

11. The result of the records examination was that the Candidate filed 5 signatures greater than the required minimum. The Candidate did not file a response to the Objector's Rule 8 Motion.

12. At the status hearing, counsel for the Objector stated that she had not been able to fully prepare by providing affidavits and witnesses to proceed with the Rule 8 Hearing on that date. However, as had previously been raised in the original objection, the Objector was prepared to move forward on the felony conviction issues as had been put forth in the Objector's petition.

13. The Candidate objected on record to a continuance on the Rule 8 Motion. However, as had previously been set forth to both the Candidate and the Objector, the Hearing Officer stated that January 6, 2016, was initially set for status and not a Rule 8 Hearing therefore in light of the inability of the Objector to have all of her evidence ready for that date the matter would be continued for a date in the near future. Therefore, the Hearing Officer overruled the Objection by the Candidate.

14. The Hearing Officer was tendered certain exhibits by the Objector's attorney. The first being CR#14, CR0981201 was admitted into evidence as Objector's Exhibit #1. Case No. 84C00133601 was admitted into evidence as Objector's Exhibit #2. A printout that the upper left hand corner stated Delay offenses based on a Lexis Nexis printout was admitted evidence as Objector's Exhibit #3 for identification. Case No. 84C00333701 was admitted into evidence as Objector's Exhibit #4 for identification because a lack of certification on the exhibit.

15. After the admission of these exhibits, the Candidate tendered a Motion to Dismiss the Objector's Petition.

16. The Hearing Officer specifically stated that not having reviewed it, the only issues it could relate to would be those issues related to the Candidate's felony convictions. The Candidate not having provided a response to the Rule 8 Motion in a timely matter, had waived his right to do so.

17. Based on the tender of the Objection by the Candidate, the Hearing Officer granted the Objector until January 7, 2016 at 5:00 p.m. to file a response.

18. The Hearing Officer informed counsel for the Objector that a document stating the legal basis for the felony convictions should be tendered no later than 5:00 p.m. on January 7, 2016. In addition, if the Objector's counsel wish to tendered a response to the Candidate's Motion she was given leave until 5:00 p.m. on January 7, 2016, to file that document as well. The Hearing Officer also granted the Candidate until 5:00 p.m. on January 7, 2016, to file a memo with any legal authority responding to the issue of the felony conviction until January 7, 2016, at 5:00 p.m.

19. The Hearing Officer continued the matter for a Rule 8 Hearing as well as a hearing on the felony convictions raised in the Objector's petition until January 12, 2016, at 1:00 p.m.

20. There were two issues before the hearing officer, the first one was related to the number of signatures that were provided by the Candidate. The second matter was the felony convictions stated in the Objector's petition alleging the Candidate was not eligible to run for office. The Hearing Officer took

up the matter of the signatures first. The report of the records exam indicated the Candidate needed 132 signatures to be placed on the ballot. The records exam indicated that he had 137, five more than were needed. At the Rule 8 hearing the Objector gave argument on seven signatures. The Hearing Officer sustained the objections to four, overruled one, and took two under advisement, leaving the Candidate with 136 signatures which was four more than required to be on the ballot. Therefore, the Hearing Officer determined that the Candidate had sufficient number of signatures to remain on the ballot based on the Rule 8 hearing.

21. The Hearing Officer then turned her attention to the second objection of the Objector related to the petition stating that the Candidate was not qualified to hold office of the 18<sup>th</sup> Ward Republican Ward Committeeman because he was convicted of multiple felony offenses, including a Class X felony (solicitation/murder), a Class 2 felony (use of a false name), and several Class 3 felonies (theft of greater than \$300, and possession of weapon by a felon.) The petition stated that these felonies individually and collectively would prohibit the Candidate from holding office pursuant to Illinois Election Code.

22. While many of Candidate's felony convictions occurred years ago, his conviction for the use of a false name occurred in 2015. Because the conviction was entered only last year, and because of the nature of the crime committed, the Objector argues that Candidate's most recent felony conviction remains relevant for the Board's consideration regarding his viability for the position of 18<sup>th</sup> Ward Republican Ward Committeeman.

23. At the hearing on January 12, 2016, the Objector's attorney submitted Exhibit 4 into evidence, which was a certified copy of Candidate's conviction. The Hearing Officer noted that the use of the false name and certified statement of conviction in Exhibit 1 were dated 2015. When questioned on these arguments at the hearing, the Candidate stated that these were "certified comments of a William Delay," and that they may not have been him.

24. The Objector then called Christopher Cleveland to testify as an expert. Mr. Cleveland is the current chairman of the Chicago Republican Party and 43<sup>rd</sup> Ward Republican Committeeman. Mr. Cleveland testified that one of the outgoing governor's final acts was to sign changes to the Election Code into law assigning ward committeemen the responsibility of approving election judges. In prior years, the decision rested with the county chairman.

25. The Objector utilizes this testimony to argue that ward committeeman has now been elevated to a position which requires the public trust. As such, the Objector cites to two statutes which indicate legislative intent to bar a convicted felon from candidacy. Section 29-15 states that "[a]ny person convicted of an infamous crime as such term is defined in Section 124-1 of the Code of Criminal Procedure of 1963, as amended, shall thereafter be prohibited from holding any office of honor, trust, or profit, unless such person is again restored to such rights by the terms of a pardon for the offense or otherwise according to law." 10 ILCS 5/29-15. Indeed, there was a change in section 14-3.1 of the Election Code that transferred from the county chairman to ward committeemen the responsibility of furnishing to the Board of Election Commissioners in the City of Chicago lists of

persons to represent the political parties as judges of election. P.A. 98-1171, effective June 1, 2015, Article 14 of the Code reflects the intent of the legislature that such judges of election represent the political party from which they are nominated. However, it is doubtful that the change in Section 14-3.1 alone elevates the position of ward committeeman to the status of an "office of honor, trust or profit" within the meaning of Section 29-15.

26. In the Candidate's response, he called Joseph Barton as a witness, a political consultant with his own company called Barton & Company. Mr. Barton cited to provisions of the Board of Elections Commission rules and regulations of how to be a committeeman, which state that a person has to be 18 years or older, to be a U.S. citizen, and live and be a voter in the ward where he/she seeks to be a candidate. Mr. Barton testified that these provisions were silent as to whether a person who has been convicted of a felony is barred from being a viable candidate and seeking elected office.

27. In response to Mr. Barton's testimony, the Objector argued that if ballots were being transported in a car by two election judges—one Republican and one Democrat—they would be appointed by a committeeman. Having the power to appoint such a person places the ward committeeman in a unique position of trust with regard to ensuring the integrity of the election process.

28. One of the Candidate's crimes includes a 2015 charge of felonious use of a false name—a felony relating to forgery and dishonesty. Alvarez v. Williams, 2014 IL App (1<sup>st</sup>) 133443; see also 625 ILCS 5/4-105. In the Williams

case, the court makes specific reference to a felony being infamous when "it is inconsistent with commonly accepted principles of honesty and decency, or involves moral turpitude," which includes convictions of forgery. Id. quoting People ex rel. City of Kankakee v. Morris, 126 Ill. App. 3d 722, 726 (1984).

29. The Candidate previously petitioned to run for 5<sup>th</sup> Ward Republican Ward Committeeman in 2000. On February 1, 2000, the Board issued its findings regarding his position. In its opinion at the time, the Board stated that the position of ward committeeman "is neither a public office nor an 'office of honor, trust, or profit' within the meaning and scope of Section 29-15.' Therefore, Section 29-15 does not prohibit the Candidate from holding the position of Ward Committeeman for the 5<sup>th</sup> Ward, Republican Party, nor does it prohibit the Candidate from being a candidate for said office." No. 00-EB-WC-041, ¶ 21 (February 1, 2000).

30. Notwithstanding that holding, the Board then stated that the Candidate was not legally qualified to hold the office of ward committeeman because he entered into a plea agreement wherein he admitted committing a felony and infamous crime for which he was scheduled to be sentenced eighteen days before the date of the March 21, 2000 election. No. 00-EB-WC-041, ¶ 24-8 (February 1, 2000).

31. Subsequent to the Board's decision, the Candidate sought judicial review of the Board's decision. The Circuit Court dismissed the plaintiff's action for lack of subject matter jurisdiction, and he appealed. The Illinois Appellate Court held that the Board lacked authority to invalidate Candidate's nomination papers on a ground not raised in the Objector's petition. Delay v. Bd. of Election

Comm'ners of Chicago, No. 1-00-0565. The court reasoned that the objectors' petition "shall state fully the nature of the objections to the certificate of nomination or nomination papers." Id. quoting 10 ILCS 5/10-8. Because evidence of the plea agreement was irrelevant to the grounds stated in the Objector's petition (as his objections dealt only with the sufficiency of valid signatures), the Appellate Court reversed and remanded the decision. Upon remand, the Board found that because it cannot consider the evidence pertaining to the Candidate's February 5, 1999 plea agreement, it cannot be used to invalidate his Nomination Papers. No. 00-EB-WC-041, (March 17, 2000). Therefore, the Candidate's Nomination Papers were valid, and that his name was to be certified and put on the ballot.

32. The Objector then cited Parker v. Lyons, a 2014 Seventh Circuit case which held that the right to run for or hold public office is not a fundamental right. Parker, 757 F.3d 701 (7th. Cir. 2014). A ban on felons running for elective office is valid if it is rationally related to a legitimate state interest, and that Illinois's interest in barring felons from elected office is to ensure public confidence in the honesty and integrity of those serving in state and local offices. Id.

33. In the present case, the Candidate was convicted of a recent felony relating to forging his own name and identity. However, the underlying question is whether the position of ward committeeman is considered to be an office of honor, trust or profit as intended by Section 29-15. This provision would only operate to bar a person from being ward committeeman if the position of ward



committeeman is considered to be "an office of honor, trust or profit" as intended by statute.

34. There is no statutory definition of what constitutes an "office of honor, trust or profit." However, Illinois courts have previously held that an "office of honor or profit" as provided in the 1848 and 1870 Illinois Constitutions<sup>1</sup> means "any civil position in which a person is appointed to perform *public* functions even though they may be administrative functions." Cromer v. Village of Maywood, 381 Ill. 337, 45 N.E.2d 617 (1942). But this case, as well as Dickson v. Brown, 17 Ill. 191, (1855), suggest that an "office" must be incidental to governmental service.

35. In Fergus v. Russel, the court held that, in defining the making of appropriations for state officers, there is an explicit definition that contains two essential elements, "both of which must be present in determining any position to be an office: (1) the position must be a public one, created either by the Constitution or by law; and (2) it must be a permanent position, with continuing duties." Fergus, 110 N.E. 130 (1915).

36. But, as the courts have instructed in People v. Brady and Kell v. Kramer, the position of ward committeeman is not a "public office." Brady held that a "public office" is one of a public nature involving the exercise of a governmental function or some portion of the sovereignty of the state. Brady, 223 Ill.App. 95 (First Dist. 1921). Brady also held that "They [committeeman] in no way represent the State or any political division thereof, and cannot be classified as belonging to either the legislative, executive or judicial departments of the

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<sup>1</sup> The 1970 Constitution does not define either the term "office" or "public office."

State. They represent only a political party. \*\*\* Such committees are not, therefore, officers of the State, but are the representatives of voluntary associations." Id. Therefore, political committeemen are not public officers. Accord, see People v. Litsinger, 223 Ill. App. 103, (1921) (the position of ward committeeman of a political party is not an "office" the title to which can be tried by an information in the nature of a quo warranto).

37. In Kell v. Kramer, the court held political party committeemen are not public officers required to give bond or take oath, but represent, and are accountable only to, members of political parties. Kell, 328 Ill. 512, 160 N.E. 60 (1928). In McCarthy v. Streit, the court held that township committeemen are not public officers and are only accountable to the members of the political parties, citing Kramer. Streit, 182 Ill. App. 3d 1026, 538 N.E.2d 873 (1<sup>st</sup> Dist. 1989).

38. Therefore, the position of ward committeeman fails to satisfy the first essential element set forth in Fergus, suggesting that it is not an "office," at least within the meaning of the 1870 Constitution.

39. These cases all suggest that the position of ward committeeman is not an "office" or a "public office." Whether this means that the position of ward committeeman cannot be an "office of honor, trust or profit" within the meaning of Section 29-15 is not expressly stated. But, as noted in People ex rel. Ryan v. Coles, "To assure public confidence in the essential integrity of state and local government, the legislature decided that persons convicted of certain crimes manifesting moral turpitude, as enumerated in section 124-1 of the Code of Criminal Procedure of 1963 were disqualified from holding *public office*." Coles,

64 Ill. App. 3d 807, 381 N.E.2d 990 (2<sup>nd</sup> Dist. 1978) (Italics added). This suggests again that Section 29-15 was intended to apply only to "public office," and not to party offices such as ward committeeman.

### HEARING OFFICER'S RECOMMENDATIONS

It is therefore the recommendation of the Hearing Officer that the Nomination Papers in this case be declared valid, and that the name of WILLIAM "Mr. D" DELAY, SHALL be printed on the official ballot for the Municipal General Election to be held on March 15, 2016.

Dated: Chicago, Illinois, on January 15, 2016.

Respectfully submitted

*Eileen M. Letts*

Eileen M. Letts, Hearing Officer