

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

Objections of: Laroy Davis)	
)	
)	
To the Nomination)	No.: 16-EB-WC-44
Papers of: Howard B. Brookins, Jr.)	
)	
Candidate for the office of Democratic Party)	
Ward Committeeman of the 21st 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 Laroy Davis ("Objector") to the nomination papers ("Nominating Papers") of Howard B. Brookins, Jr., candidate for the office of Democratic Party Ward Committeeman for the 21st 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 Yamil Colón 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, Laroy Davis, by his attorney, Eric M. White; and the Candidate, Howard B. Brookins, Jr., by his attorney, Michael J. Kasper.

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 934.
 - B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 2,522.
 - C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 1,537.
 - D. The remaining number of signatures deemed valid as a result of the records examination total 985.

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 Democratic Party Ward Committeeman for the 21st Ward of the City of Chicago.

14. Both parties filed Rule 8 motions. On January 7, 2016, the Hearing Officer conducted a hearing at which time the parties presented evidence concerning paragraphs 10 and 11 of the Objector's Petition alleging that certain petition circulators did not reside at the address listed in the circulator's affidavit in the nominating petition sheets.

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 978 valid signatures, which exceeds the minimum

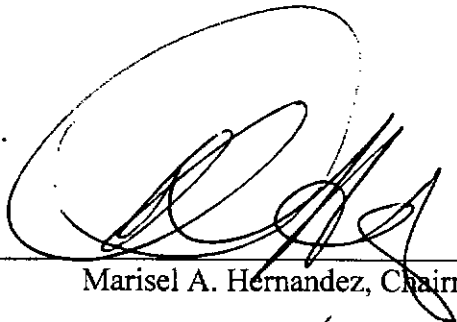
number of valid signatures required by law to be placed upon the ballot as a candidate for the office of Democratic Party Ward Committeeman for the 21st Ward of the City of Chicago, and recommends that the Candidate's Nomination Papers be found valid.

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

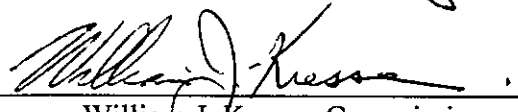
17. For the reasons stated above, the Electoral Board finds that the Candidate has a sufficient number of valid signatures on his nominating petitions and that the Nomination Papers of Howard B. Brookins, Jr. are, therefore, valid.

IT IS THEREFORE ORDERED that the Objections of Laroy Davis to the Nomination Papers of Howard B. Brookins, Jr., candidate for the office of Democratic Party Ward Committeeman for the 21st Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of Howard B. Brookins, Jr., candidate for the office of Democratic Party Ward Committeeman for the 21st 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.

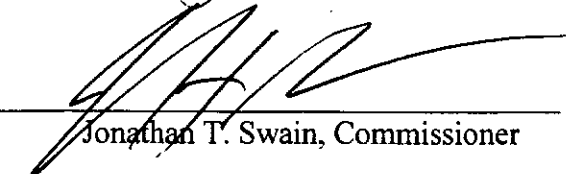
Dated: Chicago, Illinois, on January 15, 2016.



Marisel A. Hernandez, Chairman



William J. Kresse, Commissioner



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.

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

LAROY DAVIS,)	
)	
Petitioner-Objectors,)	
)	
v.)	NO. 16 EB-WC 44
)	
HOWARD B. BROOKINS, JR.)	
)	
Respondent- Candidate.)	

HEARING OFFICER’S REPORT AND RECOMMENDATION

This matter came to be heard initially on December 14, 2015. The Objector, Mr. Laroy Davis, was represented by Mr. Eric White, Esq. The Candidate, Mr. Howard B. Brookins, Jr., was represented by Mr. Michael J. Kasper, Esq. At the initial Case Management Conference, the Objector presented his Petition for Objection. Due to the nature of the objections presented by the Objector, a directive for a Record Examination was entered and set for December 17, 2015 by the Hearing Officer.

ISSUES RAISED

The Objector’s Petition alleged that the Candidate’s nomination papers were not lawful in that they contained defects including: the petition signature sheets contained signatures of individuals not registered and legal voters; signatures of individuals who are not registered voters at the addresses shown or not within the district; individual signatures not signed in their proper person and not genuine; repeat signatures; and signatures with incomplete addresses. In addition, it was alleged in paragraph 10 and 11 of the Objector’s Petition that two circulators did not reside at the addresses sworn to on the petition sheets.

The Record Examination was completed on December 24, 2015. A status date was set for December 29, 2015 where the Petition Summary Report of the Record Examination results were read into the record. The Report disclosed that the Candidate exceeded the

minimum 934 signatures by 51 signatures. Both parties having filed Rule 8 Motions, a hearing date was set for January 7, 2016: and both had been directed to submit courtesy copies of their documents and evidence to the Hearing Officer by January 5, 2016.

Due to an inadvertent confusion between the Hearing Officer and the Objector's counsel about issuing subpoenas after the time allowed to do so, the Hearing Officer sent an email to both sides extending an opportunity to issue late subpoenas (See December 27, 2015 Email in Board File). Neither party requested the issuance of a subpoena thereafter.

On January 5, 2016, at 3:14 p.m., the Objector submitted an email to the Hearing Officer and Candidate containing a Rule 10 notice of evidence expected to present at trial. Two items were included with the Notice: 1) An Affidavit purportedly signed by the Candidate's circulator Kevin Davis; and 2) A Freedom of Information Act request from the City of Chicago, and a response thereto relating to the residential address of circulator Corwin Lasenby. On January 5, 2016, at 11:16 p.m., the Candidate submitted an email to the Hearing Officer and Objector containing a "Candidate's Disclosure of Rebuttal Witness". It disclosed Mr. Kevin Davis as the rebuttal witness. In addition, on January 6, 2016, at 5:14 p.m., the Candidate submitted an email to the Hearing Officer and Objector containing a "Candidate's Supplemental Disclosure of Rebuttal Evidence". It disclosed the certified voter registration records for Kevin Davis and Corwin Lasenby.

FACTS AND EVIDENCE PRESENTED BY THE PARTIES

At the hearing the Objector appeared by counsel alone without any witnesses. The Candidate appeared by counsel with one "rebuttal" witness. The substance of the Objector's Rule 8 Motion consisted of challenging the residential address of two of the Candidate's petition circulators, namely: Mr. Corwin Lasenby and Mr. Kevin Davis.

At the commencement of the hearing, the Objector made a motion and argument to

strike the pleadings of the Candidate; strike the Candidate; and disallow the presentation of the rebuttal witness. The essence of the Objector's argument was that the Candidate did not timely comply with Board Rules 14 and 16 when he filed the "Candidate's Disclosure of Rebuttal Witness" on January 5, 2016, at 11:16 p.m.; and the, "Candidate's Supplemental Disclosure of Rebuttal Evidence" on January 6, 2016, at 5:14 p.m.

Rule 14 provides in relevant part that: "Failure to adhere to these Rules or to a directive of a hearing officer or the Electoral Board **may** (Emphasis Added) be grounds for dismissal of the objector's petition or for default of the candidate..." Rule 16 relates to the timely filing and service of documents.

In the present case, applying a strict compliance of the above Rules as urged by the Objector would have resulted in the Hearing Officer finding that the only evidence to be heard would have been 2 hearsay documents presented by the Objector; and therefore a summary technical disposition of a very important matter.

It became apparent from the Candidate's filings and legal posture, that he did not intend to present a case in chief, but rather was relying on evidence intended to rebut the documents which the Objector had disclosed as his evidence. Barring the presentation of rebuttal evidence because of a *de minimus* late filing would have been contrary to the spirit of due process. The late filing was not significant in time, nor did it appear to prejudice either side. In addition, the rebuttal witness was a key and relevant witness, since he was the (circulator) signator of the affidavit which the Objector intended to present as evidence in his case in chief. Therefore, the hearing officer ruled that the Objector's motion to strike the Candidate's pleadings and bar his rebuttal witness was denied. In the opinion of the Hearing Officer, allowing the rebuttal witness would be in the best interest of justice and fairness for all concerned.

Next, the Objector began his case by arguing to the Hearing Officer that a certain number of the Candidate's petition sheets (8, 9, 10, 45, 95, 96, 97, 98, 99, 100, 101, 103, 106, 107, 108, 109, 110, 118, 122, 123, 124, and 125) should be stricken. The argument was advanced in reliance of the Affidavit of Circulator Kevin Davis. It contained the name of Kevin Davis; a purported residential address as 8186 S. Marshfield, Chicago, Illinois; and the notarized signature of Kevin Davis. (See Objector's Exhibit 1). The Objector argued that the petition sheets should be stricken because of false swearing by Mr. Davis, whose address on the petition sheets appeared as 8118 S. May St., Chicago, Illinois.

Similarly, the Objector made an argument to the Hearing Officer regarding the Candidate's petition sheet number 69, which was the only sheet circulated and sworn to by Mr. Corwin Lasenby. It was alleged by the Objector, that petition sheet number 69 should be stricken because of the circulator's false swearing to his address as 7007 S. Congress, Chicago, Illinois.

In support of his argument, Objector read from documents received from the Department of Planning and Development, City of Chicago. These purported to verify the non-existence of the 7007 S. Congress, Chicago, Illinois address n sheet 69 of Circulator Lanesby.

Following this argument, the Objector rested his case. Whereupon, the Candidate moved for a directed verdict. The basis for said motion was that the Objector failed to move for the introduction of his documents into evidence and presented no other evidence in support of his Rule 8 Motion. The Hearing Office reserved ruling on the motion for a directed verdict pending the presentation of the rebuttal evidence of the Candidate.

The Candidate began his case by presenting his rebuttal witness, the circulator in question, Mr. Kevin Davis. Mr. Davis testified that he circulated nominating petitions for the Candidate. He identified his name on a petition sheet which he was shown by counsel, and he testified that the address contained on the petition sheet was his address. He stated that he placed this address on all of the petition sheets which he circulated. In addition, he stated that he lives there with his auntie; her daughter; and her husband. He testified that he sleeps there most nights for the last year and a half.

Mr. Davis testified that he was familiar with 8136 S. Marshfield because his brother lives there. He stated that he goes to his brother's house and sleeps there "two, three days out of the week". (See Transcript at Page 28, L-1).

Mr. Davis testified that he considered his home address to be 8118 S. May. He affirmed that he was registered at that address. Upon request of counsel, Mr. Davis produced a valid voter's registration card showing his name and address at 8118 S. May which he showed to the Hearing Officer. (See Transcript Page 28). He stated that it was the original voter registration card which he received from the Board of Elections. (See Candidate's Exhibit 1).

The testimony of Mr. Davis was then directed to the Affidavit produced by the Objector. Mr. Davis was asked to explain the circumstances of the affidavit. He stated that a young lady had left a note with a telephone number for him at his brother's residence. He said that when he called the lady, she asked to meet with him. They agreed to meet at his brother's house, 8136 S. Marshfield. At the meeting, Mr. Davis stated that the lady asked him whether he lived there. He responded that he stayed there because she asked about both addresses. Mr. Davis then stated that the lady asked him to sign her petition to get someone on the ballot. He testified that he didn't realize what he was signing because he didn't have his glasses. He said he signed something

and she gave him \$30.00 which he accepted. He stated that he didn't think about what it (Affidavit) was until after he tried calling back the lady and was unable to reach her.

Mr. Davis stated that at the time that he signed the Affidavit which the lady gave him, he was at his brother's home at 8136 S. Marshfield. He said that was the reason he put down the Marshfield address on the Affidavit. Mr. Davis further testified that he did not read the Affidavit and that the lady did not describe it to him. He repeated that the lady told him that it was to get someone on the ballot. Mr. Davis testified that he came to testify on behalf of Mr. Brookins because he worked for him and wanted to help him.

Mr. Davis was then cross-examined by the Objector. Mr. Davis affirmed his version of the circumstances of how he came to sign the Affidavit. When he was presented with the Affidavit for review, he acknowledged that he placed his name, address and signature on the document, but that he did not read it. Thereafter, the Affidavit was offered into evidence by the Objector for the first time, and it was so received.

The Objector next questioned Mr. Davis about petition sheet number 124, line 20. Mr. Davis admitted that he had signed that sheet as a petitioner/voter, and that he indicated his address to be 8136 S. Marshfield. He stated that his brother lived at that address and that he uses two different addresses.

At the conclusion of Mr. Davis' testimony, the Candidate offered into evidence a certified copy of Kevin Davis' voter registration record from the Board of Elections. It showed Mr. Davis' address to be 8118 S. May St., Chicago, Illinois 60620. In addition, the Candidate offered into evidence a copy of the Corwin Lanseby's voter registration record from the Board of Elections. It showed Mr. Lanseby's address to be 7007 S. Constance Ave., Chicago, Illinois 60649. It was argued by the candidate that the discrepancy between the Candidate's petition sheet number 69 showing Lanseby's address as 7007 S. Congress, and the voter registration record address of 7007 S.

Constance was a "Scribner's error".

The Objector then argued for the entry of his Freedom of Information Act documents for the city planning department. They too were admitted into evidence as Objector's Exhibit 2. After closing arguments, the matter was then adjourned.

CASE REVIEW AND FINDINGS

The Objector's Rule 8 Motion seeks to strike the signatures on 23 petition sheets listed in his Petition, 22 of which are alleged to have been circulated by Mr. Davis and 1 by Mr. Lanseby. However the Candidate's nomination papers actually contained 21 sheets circulated by Mr. Davis (8, 9, 10, 45, 95, 96, 97, 98, 99, 100, 101, 103, 106, 107, 108, 109, 110, 118, 122, 123, and 124), and sheet 69 circulated by Mr. Lanseby. The remaining nominating sheet number 125 was circulated by a person identified as Shannon Glen, and not by Mr. Davis as alleged in Objector's Petition. Therefore, all signatures on that sheet which have survived the record examination are valid in all other respects and no findings are made concerning these.

The Objector relied solely upon the Kevin Davis Affidavit, and on a City of Chicago Department of Planning response to a freedom of information request as his evidence to prove his case. No other witnesses or documents were presented by the Objector despite the fact that the deadline for issuing subpoenas was extended by the Hearing Officer for both sides.

With regard to the Lanseby address on sheet number 69, a Freedom of Information Request was made to the City of Chicago Planning Development Department. The records sought were identified as "The location of the Addresses: 7000 thru [sic] 7010 S. Congress Chicago, IL.". The response from the city was equally cryptic and inconclusive. It stated: "The Chicago Department of Planning and Development was unable to locate any documents which would be responsive to your FOIA request".

The best evidence presented to show the correct address of Mr. Corwin Lanseby was introduced when the Candidate submitted Mr. Lanseby's certified voter registration record. It squarely contradicted the non-existing address of 7007 S. Congress, Chicago, Il. contained in Lanseby's sheet 69, with his actual address of 7007 S. Constance, Chicago, Illinois. Unsupported speculation about a scribner's error is unpersuasive.

Therefore a finding is entered to sustain the objection of striking the petition sheet 69 circulated by Mr. Lanseby. The Candidate's counsel represented that after the record examination, there were only 7 valid signatures remaining on sheet 69, of the original 17 on the sheet. (See Transcript Page 49 -50). No objection was heard from the Objector. Consequently, these 7 signatures shall be subtracted from the Candidate's 51 signatures in excess, leaving 44 signatures over the minimum 934.

Mr. Kevin Davis was the only live witness presented to the hearing. It should be noted that Kevin Davis' testimony remained unrebutted. No witness contested that he did not live at the 8118 S. May St. address in Chicago; nor that he had a brother living at 8136 S. Marshfield with whom he stayed occasionally. No one refuted or questioned his voter registration card and the voter registration records of the Board of Election, both of which showed his address as 8118 S. May St., Chicago, Illinois 60620. This is the same address that he swore that he resided on all of his petition sheets.

Mr. Davis was not challenged with any question as to why he stayed at his brother's address. He was not asked to produce any other evidence of residence, such as a driver's license, state identification card, or any other proof of residence.

On cross-examination by the Objector about the affidavit that he signed stating that he lived at 8136 S. Marshfield, Mr. Davis again admitted that he was misled about what he was signing. He stated that he did not read the document because he did not have his glasses. He stated that he relied upon the representation of the lady who presented it to

him at the Marshfield address. These statements were never contradicted by any evidence or testimony by the lady. The affidavit could not have been admitted into evidence, but for Mr. Davis' testimony admitting his signature.

Again, none of the circumstances surrounding Mr. Davis' signature of the affidavit were contradicted. No one asked him why he was paid \$30.00 dollars after he signed the affidavit. He was not asked many details about the lady who presented him with the affidavit for signature. In short, the Objector did not present enough evidence to prove that Mr. Davis does not reside at 8118 S. May St., Chicago, Illinois, which is the address sworn to in all of his petition sheets circulated, and is the address contained in the voter registration records.

CONCLUSIONS AND RECOMMENDATION

The petition sheets circulated by Kevin Davis on behalf of Candidate Howard B. Brookins are valid and should not be disturbed. Mr. Brookins has 44 valid signatures in excess of the minimum number of 934 valid signatures necessary to support his nomination papers and candidacy. Therefore, the Objector's Petition is overruled and it is recommended that the Candidates' name should be placed on the March 15, 2016 election ballot.

Respectfully Submitted,

S/ Yamil E. Colón
Hearing Officer
January 10, 2016