

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

Objections of: BRUCE WASHINGTON)
)
)
To the Nomination) No.: 19-EB-ALD-001
Papers of: GAYINGA WASHINGTON)
) Rel.: 19-EB-ALD-005
Candidate for the office of)
Alderman of the 29th Ward of the 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 Jonathan T. Swain, 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 BRUCE WASHINGTON (“Objector”) to the nomination papers (“Nomination Papers”) of GAYINGA WASHINGTON, for the office of Alderman of the 29th Ward of the City of Chicago (“Candidate”) at the General Municipal Election to be held on Tuesday, February 26, 2019, having convened on Monday, December 10, 2018 at 8:30 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 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.

4. A public hearing held on these Objections commenced on Monday, December 10, 2018 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Kevin E. Bry 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, BRUCE WASHINGTON, and/or his Attorney, PERICLES ABBASI; and the Candidate, GAYINGA WASHINGTON, *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 and directed all parties to appear and be present, either personally or by authorized representatives, during this records examination.

8. The Candidate and Objector and/or their duly authorized representatives were present during the examination of the registration records.

9. 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.

10. 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 remaining number of signatures deemed valid as a result of the records examination total 226.

11. 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 the office of Alderman of the 29th Ward of the City of Chicago.

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

13. 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 only 226 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 the office of Alderman for the 29th Ward of the City of Chicago, and that the Candidate's Nomination Papers should be found invalid.

14. The Hearing Officer further found that the Candidate's Nomination Papers are legally invalid for this nonpartisan election because the headings of the signature petition sheets contained a political party designation in violation of section 10-3 of the Election Code (10 ILCS 5/10-3). See *Toney v. Maxwell*, 91-EB-ALD-122 (Chicago Electoral Board 1991), *Hardy v. Percy*, 15-EB-ALD-009 (Chicago Electoral Board 2015), and others.

15. 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.

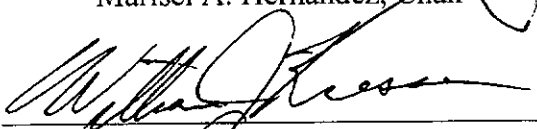
16. For the reasons stated above, the Electoral Board finds that the Candidate has an insufficient number of valid signatures on her nominating petitions and that the Nomination Papers of GAYINGA WASHINGTON are, therefore, invalid.

IT IS THEREFORE ORDERED that the Objections of BRUCE WASHINGTON to the Nomination Papers of GAYINGA WASHINGTON, candidate for election to the office of Alderman of the 29th Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of GAYINGA WASHINGTON, candidate for the office of Alderman for the 29th Ward of the City of Chicago, SHALL NOT be printed on the official ballot for the General Municipal Election to be held on Tuesday, February 26, 2019.

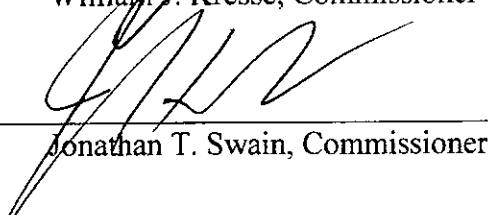
Dated: Chicago, Illinois, on Friday, January 18, 2019.



Marisel A. Hernandez, Chair



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 FOR THE HEARING AND PASSING
UPON OF OBJECTIONS TO THE NOMINATING PAPERS OF THE CANDIDATES
FOR THE FEBRUARY 28, 2017 MUNICIPAL ELECTION FOR ALDERMAN OF THE
29TH WARD IN THE CITY OF CHICAGO**

BRUCE WASHINGTON,)
)
 Objector,)
)
 v.) No. 19 EB ALD 001
GAYINGA WASHINGTON,)
)
 Candidate.)

HEARING OFFICER’S REPORT AND RECOMMENDED DECISION

This matter was initially heard on December 10, 2018. The Objector appeared through counsel, Pericles C. Abassi, and the Candidate appeared personally. After discussion, the candidate waived service and the parties were given the opportunity to file preliminary motions. A records examination pursuant to Rule 6 of the Board’s rules was ordered.

CANDIDATE’S MOTION TO DISMISS

The Candidate did file a Motion to Dismiss within the time the hearing officer allotted. Her motion asserted, *inter alia*, that she personally and properly circulated the petition and verbally confirmed necessary information with the signers, that the proper residence and registration of objected-to signatures had been confirmed by electronic records, that the voters were not confused as to the office she was seeking or the election they were signing for, and that redistricting will result in numerous objected-to signatures being ruled valid.

The Objector responded to the Motion to Dismiss, asserting that the Candidate’s arguments as to the validity of signatures based upon her proper circulation will be proven or disproven at the records examination, that her placement of a partisan designation on nomination

petitions requires that all signatures be stricken, and her reference to the district (1) and Ward (29) in her nomination papers creates confusion and requires that they be stricken.

On December 26, 2019, the preliminary motion to dismiss was heard, as well as argument on the legal portions of the objection. With respect to the motion to dismiss, 10 ILCS 5/10-8 through 10-10.1 provide the authority and framework for the filing and passing upon objections to a candidate's nomination papers. The mere claim of proper and legal conduct in obtaining signatures does not provide a sufficient basis to dismiss articulated objections to signatures; rather, Rule 6 of the Board's Rules of Procedure allow for the examination of voter registration records to determine the validity of the objections to individual signatures which were brought herein, and further, the parties may seek review of the Rule 6 records examination findings under Rule 8 of this Board's Rules and Procedures. The candidate's Motion to Dismiss on the basis of her legal and proper efforts to obtain signatures was denied.

With respect to the Candidate's Motion to Dismiss on the grounds that her nomination papers contained a partisan election designation, the candidate's Statement of Candidacy referenced a "democratic" primary ballot, and a "primary petition" form was used on the petition sheets, stating that the candidate was a candidate for the democratic party. The February 28, 2019, Municipal election is a non-partisan election.

However, a review of Electoral Board decisions makes it clear that the misdesignation of party status in a non-party election alone may not render nomination papers invalid. Thus, where the words "Democratic Party" were on the statement of candidacy for a non-partisan aldermanic election that alone did not invalidate the candidacy. *Moses v. Austin*, 07 EB ALD 0094 (Chicago Electoral Board, 2007). Moreover, designation of Independent status on aldermanic candidate's nomination papers on form appearing to be for partisan primary did not invalidate the candidacy.

Murray v. Burgoa, 07 EB ALD 008 (Chicago Electoral Board 2007). However, this Board has held that where an aldermanic candidate's introductory paragraph of the petition sheet—as opposed to the statement of candidacy—and circulator's affidavit identified the candidate as from the “Democratic Party,” this is in violation of the Election Code requiring aldermanic petitions to conform with the provisions relating to “nomination of independent candidates for public office by petition.” Thus, the Objector may still assert that the candidate's nomination petitions are therefore invalid. *Toney v. Maxwell*, 91-EB-ALD-122 (Chicago Electoral Board 1991); accord, *Williams v. Buckner*, 07-EB-ALD023 (Chicago Electoral Board 2007); *Munoz v. Molina*, 07-EB-ALD-057 (Chicago Electoral Board 2007); *Jackson v. Johnson*, 11-EB-ALD-158 (Chicago Electoral Board 2010); *Hardy v. Percy*, 15-EB-ALD-009 (Chicago Electoral Board 2015). Accordingly, the Motion to Dismiss was denied and the invalidity of the nomination papers may be advanced by the Candidate.

Finally, the Motion to Dismiss was granted as to the objection that the Candidate's Statement of Candidacy states she is running in District 1. The Statement of Candidacy clearly lists the “Alderman 29th Ward” in the box for office and lists “Alderman 29th Ward” in the body of the statement, as well as the proper date of election, while the petitions list the election date and alderman of the 29th Ward. It has been held that a failure to insert the Ward number in the statement of candidacy district box but placing it in the office box did not invalidate the candidacy (*Shepard v. Surridge*, 92 EB WC 78 (Chicago Electoral Board 1992) and the numerical designations and office listing do not invalidate this candidacy.

RECORDS EXAMINATION AND FURTHER PROCEEDINGS

The matter was continued for status to January 4, 2019, and then that status was rescheduled to January 8, 2019. On January 3, 2019, the final results of the Records

Examination pursuant to Rule 6 were communicated to the and parties, and the Candidate timely-filed a Rule 8 Motion seeking to contest numerous of the rulings of the Rule 6 Records Examination.

On January 8, 2019, status was held with respect to the Rule 8 Motion and hearing. The candidate indicated she might present one witness at hearing and was advised to be prepared to address the issue that less signatures had been objected-to in the Rule 8 motion than had been found invalid at the Records Examination, and also to address the findings of the Records examination that more signers had resided outside of the district than would disqualify candidacy based upon the minimum number of valid signatures required. The matter was continued for evidentiary hearing at 11:30 a.m. on January 10, 2019.

RULE 8 EVIDENTIARY HEARING

The morning of the Rule 8 Evidentiary Hearing, the candidate contacted the Objector through counsel and the Hearing officer and indicated she did not intend to present evidence. At the hearing, the candidate clarified that while she was not withdrawing her candidacy, she was not presenting evidence and offered no argument. The Objector rested upon the full results of the Records Examination.

RECOMMENDED DECISION

In addition to an invalidating ground based upon the reference to Democratic Party membership on a primary petition form in the nominating petitions for a nonpartisan election which supports invalidating the nomination papers, the Final Records Examination Report reveals that the candidate was 247 signatures short of the required 473 valid signatures. The Candidate's Rule 8 motion identified only some 160 signatures the Candidate was seeking to rehabilitate, and, as indicated, the Candidate presented no evidence at the Rule 8 hearing. Based

upon the Final Records Exam Report and the entire record, it is my recommendation that under Jackson-Hicks v. East St. Louis Board of Election Commissioners, 2015 IL 118929, 28 N.E.3d 170 (2015) the objections of Bruce Washington to the nominating papers of Gayinga Washington be sustained, and that the nomination papers of Gayinga Washington be deemed **invalid** and that the name of Gayinga Washington for said office **not be** printed on the ballot at the February 26, 2019, Municipal Election.

Respectfully Submitted,

s/ Kevin E. Bry

Kevin E. Bry, Hearing Officer
January 10, 2019