

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

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Objections of: RENEE G ELMS, PETER )  
RIVERA, RENEE M WOZNIAK, MARIA G )  
OREGEL and EVELYN RAZO )

To the Nomination ) No.: 19-EB-ALD-098  
Papers of: OTIS DAVIS, JR. )

Candidate for the office of )  
Alderman of the 15th 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 RENEE G ELMS, PETER RIVERA, RENEE M WOZNIAK, MARIA G OREGEL and EVELYN RAZO (“Objectors”) to the nomination papers (“Nomination Papers”) of OTIS DAVIS, JR., candidate for the office of Alderman of the 15th 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 Objectors 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 Monday, December 10, 2018 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Linda R. Crane for further hearings and proceedings.

6. The Objectors 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 or filed appearances during such hearing; the Objectors, RENEE G ELMS, PETER RIVERA, RENEE M WOZNIAK, MARIA G OREGEL and EVELYN RAZO, and/or their Attorney, JAMES P. NALLY; and the Candidate, OTIS DAVIS, JR., and/or his Attorney, ANDREW FINKO.

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 Objectors and/or their 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 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 remaining number of signatures deemed valid as a result of the records examination total 682.

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 the office of Alderman for the 15th Ward of the City of Chicago.

14. 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 682 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 Alderman for the 15th Ward of the City of Chicago, and that the Candidate's Nomination Papers should be found valid.

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 a sufficient number of valid signatures on his nominating petitions and that the Nomination Papers of OTIS DAVIS, JR. are, therefore, valid.


IT IS THEREFORE ORDERED that the Objections of RENEE G ELMS, PETER RIVERA, RENEE M WOZNIAK, MARIA G OREGEL and EVELYN RAZO to the Nomination Papers of OTIS DAVIS, JR., candidate for the office of Alderman for the 15th Ward of the City of Chicago, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of OTIS DAVIS, JR., candidate for the office of Alderman for the 15th Ward of the City of Chicago, SHALL 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 25, 2019.



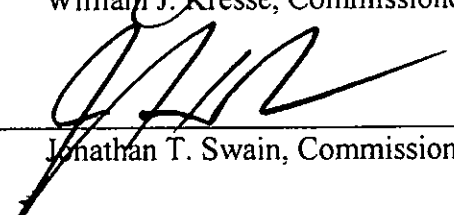
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Marisel A. Hernandez, Chair



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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 DULY CONSTITUTED ELECTORAL BOARD FOR THE HEARING AND PASSING OF OBJECTIONS TO NOMINATION PAPERS OF CANDIDATES FOR ELECTION TO THE OFFICE OF ALDERMAN OF THE 15<sup>TH</sup> WARD, CITY OF CHICAGO, ILLINOIS TO BE VOTED UPON AT THE FEBRUARY 26<sup>TH</sup>, 2019 MUNICIPAL GENERAL ELECTION**

**IN THE MATTER OF )  
RENEE G. ELMS, PETER RIVERA )  
RENEE M. WOZNIAK, MARIA G. OREGEL )  
EVELYN RAZO )**

**Petitioner-Objector )**

**Vs. )**

**OTIS DAVIS, JR. )**

**Respondent-Candidate )**

**No. 19- EB - ALD - 098**

**HEARING OFFICER'S RECOMMENDED DECISION**

This matter having come before the Board of Elections Commissioners for the City of Chicago ("CBOE") on verified objections of **RENEE G. ELMS, et. al.**, ("Objectors") to the nomination papers of **OTIS DAVIS, JR.** ("Candidate"), Linda R. Crane, the Hearing Officer ("H.O."), finds and recommends the following:

1. That the Respondent Candidate, **OTIS DAVIS, JR.**, has filed Nomination Papers in support of his nomination to the office of Alderman for the 15<sup>th</sup> Ward of the City of Chicago in the State of Illinois to be voted upon during the upcoming Municipal General Election on February 26, 2019 ("Election"). The Petitioners-Objectors, **RENEE G. ELMS, et. al.**, filed a Verified Objector's Petition Objecting to the sufficiency of the Candidate's nomination papers for various reasons stated in Paragraphs 2 through 9 of their Petition.

2. That the initial hearing on the matter was held on December 10, 2018. Both parties were present and filed their Appearances: the Candidate by and through his attorney, Andrew Finko; and the Objectors, by and through their attorney, James P. Nally. The hearing began with a review of the file to make sure that it was complete, a discussion about general procedures, and the issues raised by the Objector's Petition. A briefing schedule was set for the filing of a Motion to Strike and Responses, if any, under Rule 5 of the Board's Rules of Procedure. Neither party requested subpoenas.
3. That a second hearing was held on December 17, 2018 at which time the parties informed the H.O. that no Rule 5 pleadings had been filed and that all of the issues would be resolved by a Records Examination. The next hearing date of December 27, 2018 was scheduled.
4. That on December 27, 2018, the third hearing convened. The parties stated that the RE had begun on December 21, 2018, but had not yet been finalized. The situation was the same at the time of the next hearing on January 2, 2019.
5. That on January 8, 2019, the fifth hearing on this matter convened and the RE results were read into the record.
6. That the Final results of the Record Examination duly certified on January 6, 2019 and the reported results were as follows:

<b>Signatures Required:</b>	<b>473</b>
<b>Total Pages:</b>	<b>149</b>
<b>Total Signatures:</b>	<b>2884</b>
<b>Total Objections:</b>	<b>3830</b>
<b>Total Ruled On:</b>	<b>3830</b>
<b>Total Remaining:</b>	<b>0</b>
<b>Total Sustained:</b>	<b>2202</b>
<b>Total Overruled:</b>	<b>391</b>
<b>For Review (Candidate):</b>	<b>287</b>
<b>For Review (Objector):</b>	<b>448</b>

**Total Valid Signatures: 682**  
**Total Unchallenged Sigs: 291**

**209 Signatures greater than the required minimum**

7. That on January 7, 2019, the Objectors had filed a Rule 8 Motion requesting an evidentiary hearing into their allegations that the records examiner, Matthew Daniels, had applied an improper standard when ruling on the validity of the signatures throughout the Records Examination. The Candidate had filed a timely Motion to Strike the Objector's Rule 8 Motion.
8. That after the RE results were read by the H.O., the Objector's attorney, Mr. Nally, requested a Rule 8 hearing and an evidentiary hearing on the on-going objections contained in Paragraphs 7 and 8 of the Objector's Petition.
9. That at the end of the arguments made during the Rule 8 hearing, the H.O. granted the Candidate's Motion to Strike the Rule 8 Motion on the basis that the Objector had failed to comply with subparagraph (d) of Rule 8, which requires *that "an evidentiary hearing concerning the results of a Rule 6 records examination must identify the petition sheet and line number for any signature that was examined and objected to during the Rule 6 records examination and concerning which the moving party wishes to challenge the ruling on such signature. ..."* The Objectors' Rule 8 Motion was a single page pleading that did not identify any of the sheet and line numbers of the signatures for which additional review was being requested. Mr. Nally argued strenuously that this particular Rule 8 pleading was not covered by the strict procedural content requirements of Rule 8 because it posed a legal issue that arose from a systemic problem, not a typical disagreement with the findings of the record examiner. The H. O. disagreed both with

the assertion that this situation was unique as well as with the assertion that Rule 8 allows exceptions for unique situations.

10. That on January 15, 2019, the sixth and final hearing for this matter convened to allow the parties to present evidence related to the objections raised in Paragraph 7 of the Objectors' Petition alleging that some of the Candidate's signatures were made subsequent to the same voter signing a petition for a different candidate in the Election; and in Paragraph 8 of the Objectors' Petition alleging that the Candidate had engaged in activities that established a pattern of fraud. The parties exchanged evidence the day before the hearing, on January 14, 2019 after which Mr. Finko filed a Motion to Bar or in the Alternative for an Extension of Time.
11. That regarding the first to sign issue, Mr. Nally proffered fifty-four (54) affidavits from voters who swore that they had signed the Candidate's petition sheet after already signing a petition sheet for a different candidate in the Election. After review by opposing counsel and some discussion, the H.O. accepted these affidavits into evidence as Objectors' Group Exhibit 2. The maximum possible effect of these affidavits would be to reduce the Candidate's number of valid signatures from 209 greater than the required minimum to 155 greater than the required minimum.
12. That regarding the pattern of fraud issue, Mr. Nally argued that it would be proven by evidence that the Candidate did not, in fact, circulate signature sheets that he purported to circulate and signed as the circulator. Mr. Nally asserted that if the pattern of fraud were proven, that all of the sheets that bore the Candidate's signature as circulator should be stricken and doing so would bring the Candidate's total number of valid signatures below the required minimum. Mr. Nally proffered seventeen (17) affidavits from voters who



swore that the Candidate was not present when they signed his petition sheets. After review by opposing counsel and some discussion, the H. O. accepted these affidavits into evidence as Objectors' Group Exhibit 2 but did not rule on their probative value.

13. That Mr. Finko called two witnesses to rebut the statements contained in the affidavits that he had not circulated the petition sheets that he had signed as circulator. The first was the Candidate, Otis Davis, Jr., who testified that he had been present when all of his petition sheets were circulated; that he was sometimes alone and sometimes accompanied by one or two campaign workers; that sometimes the campaign workers handed the petition sheets to the voter; but that he was never further than a few feet away from the voter at the time that all of his petition sheets were signed, giving him ample opportunity to see the signatures being made. (see, *People v. Mc Culloch*, 404 Ill.App.3<sup>rd</sup> 125, 936 N.E.2d 743 (2010)) His testimony included specific recollections and anecdotes about other voters who signed different lines on each of petition sheets that had been signed by the voters who signed the Objectors' affidavits in their Group Exhibit. Even if the sworn statements in the affidavits were true, this testimony significantly reduced the probative value of the contrary statements contained in the Objectors' affidavits because it directly prevents the inference that the Candidate had not been present when all of the signatures on those pages were collected. The Candidate's second witness, Clayton De Loach, testified that he became a member of the church where the Candidate is the pastor after first meeting him in front of his house when he was approached by the Candidate and one of his campaign workers who asked him to sign the Candidate's petition sheet. During cross-examination of both of the witnesses, Mr. Nally probed the questions of whether the Candidate was present when he was collecting all of the signatures; and, of the voter,

whether he recalled that the Candidate was present when he signed the Candidate's petition. All of the testimonial evidence (on direct and cross) strongly favored the Candidate insofar as it contraindicated the existence lack of credibility or other indications of the presence of a pattern of fraud that would justify a finding that every sheet that was signed by the Candidate as the circulator should be sufficiently disregarded to reduce the number of valid signatures substantially and definitely not below the required minimum.

Based on the foregoing stated facts, the H.O. recommends that the Board make the following rulings:

- a. That the Objectors have neither proven through evidence that the Candidate lacks credibility that would call into question the integrity of all of the petition sheets that he signed as circulator (See generally, *Fortas v. Dixon*, citing *People v. McCulloch* (supra); nor have they provided clear and convincing evidence of a pattern of fraud that would justify disregarding all of the signatures on the petition sheets that he signed as circulator. (e.g. *Briscoe, et. al. v. Board of Election Commissioners, et a.*, 2015 COEL 000016 (Cir. Ct. Cook Co., 2015); *De May v. City of Chicago Board of Elections*, 2015 COEL 000013 (2015); and
- b. That the objections in Paragraph 7 of the Objector's Petition should be sustained; and
- c. That the objections in Paragraph 8 of the Objector's Petition should be overruled; and
- d. That, therefore, the Candidate has significantly greater than the number of the required minimum number of valid signatures and his name should be placed on the ballot in the Election.

Respectfully submitted,

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Date: January 21, 2019

By: Linda R. Crane  
Linda R. Crane, Hearing Officer