

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

Objections of: RENEE G. ELMS, PETER)
RIVERA, RENEE M WOZNIAK, MARIA G)
OREGEL and EVELYN RAZO)
)
To the Nomination) No.: 19-EB-ALD-105
Papers of: JOSEPH G. WILLIAMS)
)
Candidate for the office of)
Alderman of the 15th Ward of the City of)
Chicago)
)

FINDINGS AND DECISION
(Corrected *nunc pro tunc* on Jan. 25, 2019)

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 JOSEPH G. WILLIAMS, 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 Thomas Quinn 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, JOSEPH G. WILLIAMS, and/or his 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 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 556.

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 conducted a hearing to allow the Objectors an opportunity to present evidence in support of their 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 556 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.

16. The Hearing Officer conducted an evidentiary hearing in which it was argued by the Objectors that several of the Candidate's petition sheets were circulated earlier than the beginning of the statutory 90-day circulation period. The Hearing Officer considered various "too early" affidavits and submitted by the Objectors in which the affiants claimed they signed the Candidate's petitions prior to August 28, 2019, but provided no specifics as to when and where they signed the petition. The Hearing Officer also heard testimony from witnesses offered by the Objectors with allegations that the Candidate circulated petitions "too early" at a backyard barbeque on August 19, 2018. The Hearing Officer then considered rebuttal testimony and affidavits offered by the Candidate. The Hearing Officer submitted recommended factual findings and conclusions of law on this issue, finding that the Objectors failed to meet their burden of proof in establishing that sheets 1-35 were circulated too early.

17. The Objectors filed a Rule 20 motion and were provided an opportunity to present additional argument before the Electoral Board. However, the Electoral Board found that the additional argument was relevant and strong, but it was not persuasive.

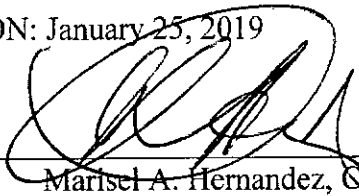
18. The Electoral Board, having considered the evidence and arguments tendered by the parties and the Hearing Officer's report of recommended findings and conclusions of law, hereby adopts the Hearing Officer's recommended findings and conclusions of law and incorporates them herein.

19. 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 JOSEPH G. WILLIAMS 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 JOSEPH G. WILLIAMS, 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 JOSEPH G. WILLIAMS, 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.

ORIGINAL DATE OF DECISION: Chicago, Illinois, on Tuesday, January 22, 2019.

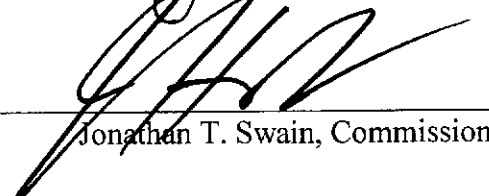
DECISION CORRECTED *NUNC PRO TUNC* ON: January 25, 2019



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**

In the matter of:)	
)	
RENEE G. ELMS, PETER RIVERA, RENEE M. WOZNIAK, MARIA G. OREGEL, and EVELYN RAZO,)	
Petitioners-Objectors,)	
)	No. 19-EB-ALD-105
v.)	
)	
JOSEPH G. WILLIAMS,)	
Respondent-Candidate.)	
)	
For the election for the Office of Alderman for the 15th Ward, City of Chicago, to be voted on at the Municipal General Election to be held on February 26, 2019.)	

RECOMMENDED DECISION

This matter comes before the Board of Election Commissioners of the City of Chicago on the Objectors' Petition of Renee G. Elms, Peter Rivera, Renee M. Wozniak, Maria G. Oregel, and Evelyn Razo ("Objectors") to the nomination papers of Joseph G. Williams ("Candidate") as a candidate for the Office of Alderman for the 15th Ward, City of Chicago.

The initial hearing commenced on December 10, 2018. The Objectors appeared through their attorney, James P. Nally, and the Candidate appeared *pro se*. The Candidate filed a Motion to Dismiss the Objector's Petition which, after briefing, was heard on December 22, 2018. This hearing was essentially an evidentiary hearing as to ¶11 of the Objectors' Petition. That paragraph alleged that the Candidate was ineligible to serve as alderman because of a prior felony conviction. The Candidate testified that he was not the individual described in the uncertified records from the Illinois State Police which were produced by the Objectors. Based

upon the evidence adduced at that hearing, a finding was made that the Objectors had not carried their burden in regards to ¶11.

A records examination of the Candidate's Petition for Nomination sheets was completed on January 5, 2019, and a Final Petition Summary Report was issued on January 8, 2019. A total of 473 signatures are required for the office sought. The Candidate submitted 1,900 signatures and objections were sustained to 1,344 signatures. The Report states that the Candidate had 556 valid signatures, which is 83 greater than the required minimum. Neither party filed a Rule 8 Motion contesting the findings of the records examination.

A teleconference status call was held on January 10, 2019. The Objectors requested an evidentiary hearing on ¶7 and ¶8 of the Objectors' Petition. Those paragraphs allege, respectively, that several petition signers signed the nomination petitions of another candidate for the same office before signing for the Candidate and that sheets 1-35 were circulated before the date that they could legally be circulated.

Final Hearing

A final evidentiary hearing commenced on January 13, 2019, at 2pm. Board Group Exhibits A-D were previously marked and received into evidence and consist of, respectively, the Candidate's Nomination Papers (including Petition Nomination Sheets), Objectors' Petition (including Appendix-Recapitulation Sheets), the Call, and the Appearances. The Final Petition Summary Report with Petition Summary Detail was received into evidence as Board Group Exhibit E.

In support of ¶7 of the Objectors' Petition, the Objectors submitted Objectors' Group Exhibit 1 which consists of 24 affidavits of individuals who attest to the fact that they signed petitions of another 15th Ward candidate before they signed the Candidate's petitions (at times

hereinafter referred to as "first signer" affidavits). In support of ¶8 of the Objectors' Petition, the Objectors submitted Objectors' Group Exhibit 2 which consists of the affidavits of 11 individuals who state that they signed the Candidate's petitions before August 28, 2018 (at times hereinafter referred to as "too early" affidavits).

In addition to these exhibits, the Objectors called Keith Kersee and Freddie McDaniel as witnesses. Both witnesses testified that the Candidate circulated his petition sheets at a barbeque attended by over 1000 people at Hermitage Park on August 19, 2018. Both witnesses testified that they refused the Candidate's request to sign his petitions though neither stated that they actually examined the petitions. It is significant to note that none of the "too early" affiants in Objectors' Group Exhibit 2 state that they signed the Candidate's petitions at this barbeque.

For his case, the Candidate submitted Candidate's Group Exhibits A and B into evidence which are affidavits of individuals who state, respectively, that they signed the Candidate's petitions after August 28, 2018 and that they signed the Candidate's petitions before those of any other candidate. The Candidate also offered Candidate's Exhibit C which is a receipt from Progress Printing Corp. indicating that the Candidate paid \$150 for "Petitions" on August 28, 2018. Jasmine Wilson, the Candidate's wife, and the Candidate both testified that his petitions were picked up on August 28th and were not available on August 19, 2018. The Candidate testified that he wanted to ensure that his petitions were printed by a union shop and that each sheet contained a union bug. It is noted, that all of the Candidate's petition sheets display a union bug from Progress Printing Corp.

The Candidate acknowledged that he was at the August 19th barbeque but denied that he circulated petitions at that event. He stated that he introduced himself to several attendees and handed out campaign material. The Candidate testified that petition sheets 1-35 were circulated

in a door-to-door manner by he and his wife on August 28 and August 29, 2018. A review of sheets 1-35 shows that sheets 27 and 28 were circulated by Jasmine Wilson and that the remainder were circulated by the Candidate.

Analysis

A complete finding in favor of the Objectors as to ¶7 of the Objectors' Petition would result in the striking of 24 petition signatures. Since the records examination found that the Candidate submitted 83 valid signatures in excess of the required minimum, it is imperative to the success of the Objectors' Petition that a finding be entered that the Candidate circulated petition sheets before the first day he was legally permitted to do so. For this reason, ¶8 of the Objectors' Petition will be analyzed first.

No petition sheet can be circulated more than 90 days preceding the last date for filing such petition (10 ILCS 5/10-4). Therefore, the first day that petition sheets may be circulated for the February 26, 2019, election is Tuesday, August 28, 2018 (2019 Election Information Pamphlet & Calendar, p. 6). As mentioned previously, the Objectors submitted the affidavits of 11 individuals who state that they signed the Candidate's petition sheets before August 28, 2018.

These "too early" affidavits are identical in wording and provide no indication as to the date that the affiant actually signed the Candidate's petitions. Needless to say, signing a candidate's petition sheet is typically an uneventful act. None of the affiants explain why they are so certain, five months later, that they signed the Candidate's petitions before August 28th. As mentioned previously, none of the affiants state that they signed the petitions at the August 19th barbeque. It is recommended that the affidavits at Objectors' Group Exhibit 1 should be given little weight and are certainly not dispositive of the assertion that the Candidate circulated 35 petition sheets before August 28, 2018.

A review of some of these "too early" affidavits perhaps illustrates why these affidavits are of limited probative value. In his affidavit, Torrence Hardin states that he signed the Candidate's petition before August 28th. In the Objectors' Petition, however, it is alleged that Hardin signed the petition of Candidate Raymond A. Lopez *before* he signed the Candidate's petition. In other words, Objectors allege that Hardin signed the Candidate's petition both too early and too late. Affiants Rose Robinson, Maria Burgess, and Carolyn Phillips signed affidavits at Objectors' Group Exhibit 2 stating that they signed the petitions before August 28th and affidavits at Candidate's Exhibit A stating that they signed the petitions after August 28th. Clearly, they have no idea as to the precise date that they signed the petitions.

While the testimony of witnesses Kersee and McDaniel is not as contradictory as these affidavits, it still does not satisfy the Objectors' burden to show that sheets 1-35 were circulated before August 28th. Neither witness actually saw the Candidate's petition. More importantly, if sheets 1-35 were circulated at a barbeque attended by over 1000 people, one would expect that the addresses of the signers would be random and from many different neighborhoods. A review of sheets 1-35 show that this is not the case. For example, with few exceptions, sheets 1-35 are from signers residing at sequential addresses in a limited area ranging from the 5600 to 6600 blocks of South Marshfield Ave., Paulina St., Hermitage Ave., Wood St., Honore St., Wolcott Ave., Winchester Ave., and Seeley Ave. Judicial notice is taken of the fact that these streets are next to each other. In other words, the addresses of the signers of the Candidate's petitions indicate that the petitions were circulated in a door-to-door manner, as the Candidate testified, and not at a large community barbeque, as the Objectors allege.

In considering the various objections asserted herein, it is noted that access to a position on the ballot is a substantial right which should not be lightly denied. *Welch v. Johnson*, 147

Ill.2d 40 (1992). Also, the burden of proof in a proceeding to contest nominating petitions lies with the objector. *Hagen v. Stone*, 277 Ill.App.3d 388 (1st Dist. 1995). It is recommended that a finding be entered that the Objectors have failed to carry their burden proving that the Candidate circulated petition sheets 1-35 before August 28, 2018. In fact, it is more probably true than not true that the Candidate circulated these petitions in the door-to-door manner to which he testified. Also, there is no reason to doubt the Candidate's testimony that these petition sheets were not even in his possession before he and his wife picked them up from Progress Printing on August 28, 2018.

Many of the affidavits submitted in support of the "first signer" allegations of ¶7 of the Objectors' Petition suffer from the same lack of information that the "too early" affidavits suffer from. None of the "first signer" affiants explain why they are so certain of the order in which they signed the competing petitions. Even assuming, *arguendo*, that the "first signer" affidavits in the instant case are reliable, the result recommended herein would not change. Since only 24 such affidavits are properly considered, the Candidate would still have 59 valid signatures more than the required minimum.

Accordingly, for the foregoing reasons, it is recommended that the name Joseph G. Williams of 6405 S. Wolcott Ave., Chicago, IL, should be printed on the ballot for Candidate for Election to the Office of Alderman for the 15th Ward, City of Chicago, to be voted for at the Municipal General Election to be held on February 26, 2019



Thomas P. Quinn - Hearing Officer - 1/14/19