

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

Objections of: KEVIN BAILEY)
)
)
To the Nomination) No.: 19-EB-ALD-138
Papers of: CASSIUS L. RUDOLPH)
)
Candidate for the office of)
Alderman of the 20th 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 KEVIN BAILEY (“Objector”) to the nomination papers (“Nomination Papers”) of CASSIUS L. RUDOLPH, for the office of Alderman of the 20th 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 Joseph Morris 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, KEVIN BAILEY, pro se; and the Candidate, CASSIUS L. RUDOLPH, and or his Attorney, ROSS D SECLER.

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 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 Electoral 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 number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 1,086;
- C. The remaining number of signatures deemed valid as a result of the records examination total 274.

13. 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 20th Ward of the City of Chicago.

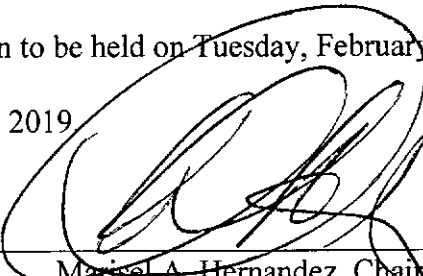
14. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. Based upon the evidence presented, the Hearing Officer found that the Candidate's Nomination Papers contained only 274 valid signatures, which is less than the minimum number of valid signatures required by law to be placed upon the official ballot as a candidate for the office of Alderman for the 20th Ward of the City of Chicago, and that the Candidate's Nomination Papers should be found invalid.

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 his nominating petitions and that the Nomination Papers of CASSIUS L. RUDOLPH are, therefore, invalid.

IT IS THEREFORE ORDERED that the Objections of KEVIN BAILEY to the Nomination Papers of CASSIUS L. RUDOLPH, candidate for election to the office of Alderman of the 20th Ward of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of CASSIUS L. RUDOLPH, candidate for the office of Alderman for the 20th 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.

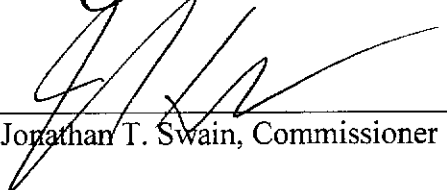
Dated: Chicago, Illinois, on Friday, January 18, 2019



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

BEFORE
THE BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO
AS THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OBJECTIONS
TO NOMINATION PAPERS OF CANDIDATES
FOR THE FEBRUARY 26, 2019, MUNICIPAL GENERAL ELECTION
FOR MAYOR, CLERK, TREASURER, AND ALDERMAN
IN THE CITY OF CHICAGO

KEVIN BAILEY,)
)
Objector,)
) No. 19-EB-ALD-138
vs.)
) Hearing Officer Morris
CASSIUS L. RUDOLPH,)
)
Candidate.)

REPORT OF THE HEARING OFFICER

Introduction

1. The Objector alleged that the Candidate failed to meet the minimum requirement of 473 signatures to win a place on the ballot for election as Alderman of the 20th Ward. Although the Candidate moved to strike and dismiss the Objector’s Petition as a “shot-gun” effort not properly grounded in inquiry and investigation, and although the Objector responded to the motion to strike and dismiss only feebly, the results of the records examination show the Objector’s Petition was well-founded. So many signatures were invalid that the minium required number was not obtained. Meanwhile, the Candidate preserved so few appeals during the course of the records examination that he filed no Rule 8 motion at the conclusion of the records examination and effectively abandoned his defense of his Nomination Papers. The results of the records examination, uncontroverted by the Candidate, justify the sustaining of the Objector’s Petition.

Procedural Background

2. An Initial Hearing was held herein on December 10, 2018. The Objector attended in his proper person and appeared *pro se*. The Candidate attended by counsel, Ross D. Secler and Mary Ryan Norwell of Odelson & Sterk. Appearances of the parties were entered and exchanged and counsel on both sides submitted e-mail addresses from and through which they agreed to file and serve papers and otherwise communicate with the Electoral Board, the Hearing Officer, and each other. Confidentiality and Non-Disclosure Agreements were properly executed and filed. The Candidate's Nomination Papers were marked as Board Exhibit A and received into the record. The Objectors' Petition was marked as Board Exhibit B and received into the record. The Notice of Call and the parties' waivers of service of summonses were marked as Board Group Exhibit C and received into the record. The parties' written appearances and confidentiality and non-disclosure agreements were marked as Board Group Exhibit D and received into the record.

3. It was evident on the face of the Objector's Petition that a records examination was required and, at the Initial Hearing, a directive for a records examination was entered.

4. On December 11, 2018, the Candidate filed a motion to strike and dismiss the Objector's Petition. The motion was due under Rule 5(b)(i) of the Rules of the Electoral Board at 5:00 p.m. that day but was logged in by the Board's clerks and marked filed as of 5:04 p.m. When this was called to the attention of the Hearing Officer, it was initially unclear to the Hearing Officer whether the motion was filed four minutes late or was timely but was logged four minutes late. To avoid time-consuming disputes over a trivial gap in time affecting a non-jurisdictional event, the Hearing Officer, *sua sponte*, enlarged the time for filing of the motion by four minutes and enlarged the time within which the Objector could file his response, if any, by a corresponding period of four

minutes, that is, to December 12, 2018, at 5:04 p.m. The Objector's eventual response did little more than object to the four-minute delay with which the Candidate's motion was filed. Inasmuch as commencement of the records examination had been delayed by the volume of such examinations required in this election cycle, the time within which Objector was permitted to respond to the motion to strike and dismiss was further enlarged to and including December 14, 2019, at 5:04 p.m., to avoid any possible prejudice to Objector by the four-minute delay with which Candidate's motion to strike and dismiss was filed. Again, the Objector's response dwelt on the delay at the time of the filing of the motion and contributed little to the evaluation of the motion. The motion was taken under advisement to be considered with the results of the records examination and the case in chief.

5. On January 7, 2019, a preliminary report of the records examination was disclosed to the parties by the Deputy Executive Director of the Board. It showed that the Candidate's Nomination Papers had contained a total of 1,086 signatures; the Objector had lodged 1,908 objections (thus asserting more than one objection to some signatures); only 18 signatures were not the subjects of objections; objections to 810 signatures had been sustained, and objections as to 258 had been overruled. Thus, only 276 valid signatures were found in the Candidate's Nomination Papers. Meanwhile, the Objector preserved appeals from 440 decisions to overrule objections, while the Candidate preserved appeals from only 2 decisions to sustain objections.

6. A series of status hearings held while awaiting results of the records examination was held culminating in a Status Hearing convened on January 7, 2019, at which the Objector was present, *pro se*, and the Candidate was present both by counsel, Mary Ryan Norwell, and in his proper person. The Candidate acknowledged that the preliminary report of the records examination showed that his Nomination Papers contained fewer than the minimum number of required

signatures. The Candidate further acknowledged that he had preserved only two appeals from decisions by the record examiners sustaining the Objector's objections to signatures and that, thus, any Rule 8 motion he might file was arithmetically destined to be unavailing. It was agreed that no further proceedings were to be had, the record was closed, and the case was taken under advisement.

Analysis and Evaluation

7. It is well settled that objections made with no basis in law or fact or otherwise made in bad faith may be dismissed. *Baker v. James*, 94 CO 99, Cir. Ct. Cook Cty. (Kinnaid, J., Feb. 28, 1994). "Shot-gun" objections are thus dismissable. *Barton v. Coleman*, 95-EB-ALD-144, CBEC, Jan. 28, 1995. But where a substantial number of objections are sustained in a records examination, the argument that objections are "shot-gun" in nature or otherwise made in bad faith is vitiated, and the validity of the objections is evident. *Johnson v. McClain*, 04-EB-WC-21, Feb. 12, 2004.

8. In this case, the records examination showed that, of 1,086 signatures contained in Candidate's Nomination Papers, only 276 were valid. That is, 74.5% of the signatures supporting Candidate's Nomination Papers were found to be invalid. The record thus supports the proposition that the Objector's objections were made in good faith. Granting of the motion to strike and dismiss the Objector's Petition is therefore unwarranted.

9. Placement on the ballot for election as Alderman of the 20th Ward requires a minimum of 473 signatures. The record shows that Candidate garnered only 276 valid signatures.

Recommended Decision

10. On the bases of an examination of the face of the Nomination Papers, of the Objector's Petition, of all the submissions of the parties, of the report of the records examination, and of all other proceedings held herein, the Hearing Officer recommends that the Electoral Board

enter the following finding of fact: The Nomination Papers of the Candidate are supported by valid signatures of 276 electors of the 20th Ward of Chicago.

11. The Hearing Officer recommends that the Electoral Board enter the following conclusions of law:

(a) The Nomination Papers of the Candidate are supported by an insufficient number of valid signatures of electors of the 20th Ward of Chicago, with 473 such signatures being required by law but only 276 such signatures having been obtained.

(b) The Objector's Petition is well founded, and the relief sought therein should be granted.

(c) The Candidate's motion under Rule 5 of the Rules of the Electoral Board to strike and dismiss the Objector's Petition is unfounded and should be denied.

(c) The Candidate's Nomination Papers are insufficient in law and fact.

12. The Hearing Officer recommends that the Electoral Board enter the following final administrative decision:

The name of CASSIUS L. RUDOLPH shall not appear and shall not be printed on the ballot for election to the office of Alderman of the 20th Ward of the City of Chicago to be voted for at the Municipal General Election to be held on February 26, 2019.

Enter:

/s/ JOSEPH A. MORRIS

JOSEPH A. MORRIS
Hearing Officer

Dated: January 11, 2019.