

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

Objections of: LOVIE R. COPELAND,)	
LARRY D. REID)	
)	
)	
To the Nomination)	No. 08-EB-SS-03
Papers of: DEREK D. McNEAL)	
)	
)	
Candidate for the office of)	
State Senator for the 3rd Legislative)	
District, State of Illinois, Democratic Party)	

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of Chicago Board of Election Commissioners Langdon D. Neal, Richard A. Cowen, and Marisel A. Hernandez, organized by law in response to a Call issued by Langdon D. Neal, Chairman of said Electoral Board, for the purpose of hearing and passing upon objections ("Objections") of LOVIE R. COPELAND, LARRY D. REID ("Objectors") to the nomination papers ("Nomination Papers") of DEREK D. McNEAL, candidate for the nomination of the Democratic Party to the office of State Senator for the 3rd Legislative District, State of Illinois ("Candidate"), having convened on November 20, 2007, at 10:00 a.m., at 69 W. Washington Street, 8th Floor Conference Room, 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 Objectors 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 November 20, 2007 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner Terence E. Flynn for further hearings and proceedings.

6. The Objectors and the Candidate were directed by the Electoral Board to appear before the Hearing Examiner for a hearing on the date and at the time designated on the Electoral Board's docket. The following persons, among others, were present at such hearing: the Objectors, LOVIE R. COPELAND and LARRY D. REID, appearing by counsel, Marshall L. Blanksenship. Neither the Candidate, DEREK D. McNEAL, nor any representative of the Candidate answered or appeared after the case was called and then recalled a second and third time.

7. The Hearing Examiner found that the file contained a Sheriff's return of personal service of the Call of the Board on the Candidate, DEREK D. McNEAL at the address shown on his nomination papers, 6225 S. Champlain, Chicago, Illinois, at 4:52 p.m. on November 16, 2007.

8. Paragraph 4 of the Objectors' Petition alleges that the Candidate's Nomination Papers contain only 505 purportedly valid signatures on the face of the

petitions. The Hearing Examiner further found that the Candidate's petition contained only 504 purportedly valid signatures of voters on the face of such petition, less than the minimum number of 1,000 signatures required by law to qualify for the ballot for the office in question. Therefore, the Objectors' petition states sufficient grounds to invalidate the Candidate's Nomination Papers.

9. The Objectors' petition alleged other grounds for disqualification that are not necessary to adjudicate.

10. The Objectors moved that the Candidate be defaulted for failing to appear.

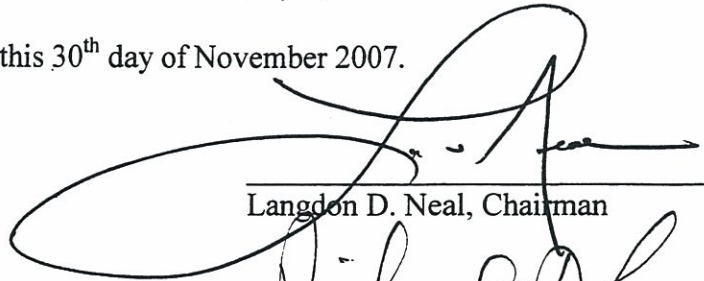
11. The Hearing Examiner recommends that the Candidate be defaulted for failing to appear at the hearing conducted in this cause after being served with a copy of the Call, that the Objections be sustained, and that the name of the Candidate not be printed on the ballot for the February 5, 2008 primary election.

12. The Electoral Board hereby adopts the Hearing Examiner's recommended findings and conclusions of law and finds that the Candidate is defaulted for failing to appear at the hearing conducted in this cause after being served with a copy of the Call. The Electoral Board further finds that the Objections are sustained and that the Candidate's Nomination Papers are invalid.

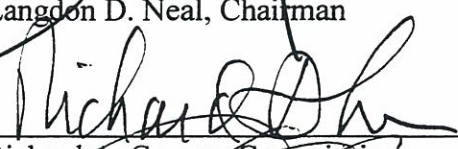
IT IS THEREFORE ORDERED, that the Objections of LOVIE R. COPELAND, and LARRY D. REID to the Nomination papers of DEREK D. McNEAL, candidate for the nomination of the Democratic Party to the office of State Senator for the 3rd Legislative District, State of Illinois are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of DEREK D. McNEAL, candidate for nomination of the Democratic Party to the office of State Senator for the 3rd

Legislative District, State of Illinois, SHALL NOT be printed on the official ballot for the General Primary Election to be held on February 5, 2008.

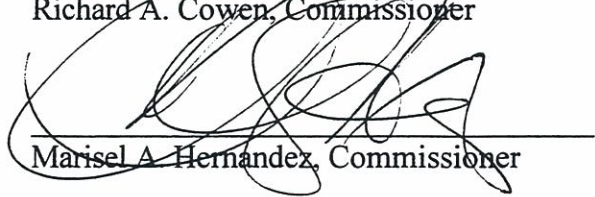
Dated: Chicago, Illinois, this 30th day of November 2007.



Langdon D. Neal, Chairman



Richard A. Cowen, Commissioner



Marisel A. Hernandez, 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 10 days after the decision of the Electoral Board.

BEFORE THE DULY CONSTITUTED ELECTORAL BOARD
FOR THE HEARING AND PASSING UPON OBJECTIONS TO
NOMINATION PAPERS OF CANDIDATES IN THE FEBRUARY 5, 2008 GENERAL
PRIMARY ELECTION

LOVIE R. COPELAND)		
LARRY D. REID)		
Petitioners-Objectors,)	08-EB-SS-03	
)	Minimum signature requirement:	
v.)	1000	
)	Office Sought:	
DEREK D. MCNEAL)	Democratic nomination for	
)	State Senate – 3 rd Legislative District	
Respondent-Candidate.)		

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**REPORT AND RECOMMENDATION
OF HEARING EXAMINER TERENCE E. FLYNN**

FINDINGS OF FACTS:

- 1) The verified objectors' petition to the nomination papers of the candidate was timely filed. Objectors appeared by their attorney. (Board Group Exhibit D)
- 2) This matter was scheduled for initial hearing at 11:00 a.m. on 11/20/07 and was called three times between 11:00 a.m. and 11:45 a.m.
- 3) Each of those three times, the Hearing Examiner, as is customary, asked if Derek McNeal, or anyone representing him or allied with him was in the room. No answer was made to those three inquiries.
- 4) The Hearing Examiner reviewed service on the candidate. The file reflected a Sheriff's return of personal service of the Call of the Board on Derek McNeal at the address in the nomination papers, 6225 S. Champlain in the City of Chicago, at 4:51 p.m. on 11/16/07. (Board Group Exhibit C)

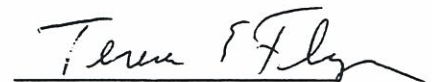
- 5) The minimum signature required for the office sought is 1000 signatures.
- 6) Paragraph 4 of the objectors' petition (Board Group Exhibit B) states that the candidate filed only 505 signatures. Upon independent review by the Hearing Examiner, I find 504 signatures were filed in the nomination papers of the candidate. (Board Group Exhibit A)
- 7) Objectors' petition contained other grounds for disqualification which were not necessary to adjudicate.

CONCLUSIONS OF LAW:

- A) Upon the non-appearance of the properly personally served candidate, objectors' attorney made a motion for default.
- B) As required by Board rules and procedure, the Hearing Examiner made an independent review of the number of signatures filed by the candidate. (See Finding of Fact #6 above.) Upon that review, candidate had slightly more than ½ of the minimum signature requirement (504 < 1000).
- C) Candidate was properly served with call (See Finding of Fact #4 above).
- D) As a result of proper service and significantly less signatures than required, candidate is defaulted and objectors' petition is sustained.

RECOMMENDATION:

It is the Recommendation of this Hearing Examiner that the name Derek D. McNeal not appear on the ballot in the February 5, 2008 election for nomination for State Senator of the Democratic Party in the 3rd Legislative District.



Terence E. Flynn
Hearing Examiner

Date: 11/24/07