

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

Objections of: FRIEDA ROBINSON)
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)
)
To the Nomination) No. 08-EB-WC-16
Papers of: YVETTE WILLIAMS)
)
)
Candidate for the office of Ward)
Committeeman for the 17th Ward of the)
City of Chicago, 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 FRIEDA ROBINSON ("Objector") to the nomination papers ("Nomination Papers") of YVETTE WILLIAMS, candidate for the office of Ward Committeeman for the 17th Ward of the City of Chicago, Democratic Party ("Candidate"), having convened on November 26, 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 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 November 26, 2007 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Examiner William P. Jones for further hearings and proceedings.

6. The Objector 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 Objector, FRIEDA ROBINSON, appearing by counsel, James P. Nally; and the Candidate, YVETTE WILLIAMS, appearing pro se.

7. The principal Objections against the Candidate's Nomination Papers were those contained in paragraphs 9 and 10 of the Objector's Petition alleging that the circulator's affidavit on each sheet signed by the Candidate as the circulator of said sheet is false because the purported circulator did not actually obtain, solicit or witness the affixing of voter's signatures to those sheets. The Objector contends, therefore, that each and every sheet circulated by the Candidate is in violation of the Election Code and that such conduct by the Candidate/circulator demonstrates a pattern of fraud and disregard of the Election Code to such a degree that all petition sheets circulated by the Candidate is invalid.

8. An evidentiary hearing was conducted and the Objector presented witnesses, including the Candidate herself, and affidavits of individuals whose names and purported signatures appeared on the Candidate's petitions.

9. The Hearing Examiner, after hearing the testimony and reviewing the evidence, concluded that the Objector had failed to establish that the actions of the Candidate/circulator constituted, by clear and convincing evidence, a pattern of fraud, false swearing and utter disregard for the requirements of the Election Code.

10. However, the Hearing Examiner also took judicial/administrative notice of the hearing examiner's findings of fact and conclusions of law in another matter in which the Candidate here circulated petition sheets on her own behalf for the office of Representative in the General Assembly in case number 08-EB-RGA-21, *Clara Kirk v. Yvette Williams*. There, the hearing examiner found (and the Electoral Board subsequently adopted the hearing examiner's finding) that Ms. Williams had engaged in a pattern of fraud, false swearing and disregard for the requirements of the Election Code by falsely swearing that she was the circulator of her nominating petitions for the office of State Representative.

11. The Hearing Examiner here found that although the evidence presented by the Objector in the instant case was not sufficient by itself to establish a pattern of fraud, false swearing and disregard for the Election Code, he concluded that the findings of fact in the *Kirk* case that Ms. Williams had engaged in such conduct while circulating her petitions in that case (while at the same time, according to her own testimony, also circulating her petitions in this case) could be and would be used to support a finding of a

pattern of fraud, false swearing and disregard for the requirements of the Election Code in the instant case.

12. The Hearing Examiner finds that of the Candidate's 82 petition sheets, the 79 of the petition sheets signed by the Candidate as the circulator of said sheets should be invalidated, leaving only 28 valid signatures on her petition. The minimum signature requirement for the office in question is 445.

13. The Hearing Examiner has tendered to the Electoral Board his report and recommended decision. The Hearing Examiner recommends that the Objections to the Candidate's Nomination Papers be sustained and that the Nomination Papers be found invalid.


14. The Electoral Board, having reviewed the record of proceedings in this matter and having considered the report and recommendations of the Hearing Examiner, as well as all argument and evidence submitted by the parties, hereby adopts the Hearing Examiner's recommended findings and conclusions of law. A copy of the Hearing Examiner's Report and Recommended Decision is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

15. The Electoral Board finds that if the evidence supports a finding that the circulator lied under oath, it further supports a decision to refuse to count any signatures that the circulator purportedly witnessed. *Harmon v. Town of Cicero Municipal Officers Electoral Board*, 371 Ill.App.3d 1111, 864 N.E.2d 996 (1st Dist. 2007); *Fortas v. Dixon*, 122 Ill.App.3d 697, 462 N.E.2d 615 (1st Dist. 1984).

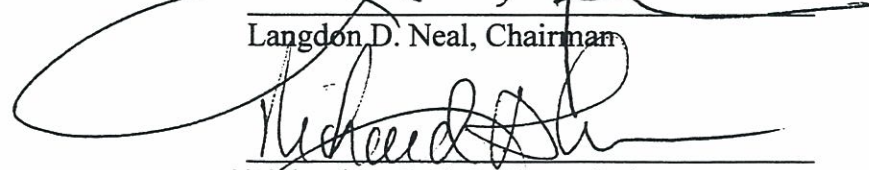
16. For the reasons stated above, the Electoral Board sustains the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are invalid.

IT IS THEREFORE ORDERED, that the Objections of FRIEDA ROBINSON to the Nomination papers of YVETTE WILLIAMS, candidate for the election to the office of Ward Committeeman for the 17th Ward of the City of Chicago, Democratic Party are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of YVETTE WILLIAMS, candidate for election to the office of Ward Committeeman for the 17th Ward of the City of Chicago, Democratic Party, SHALL NOT be printed on the official ballot for the General Primary Election to be held on February 5, 2008.

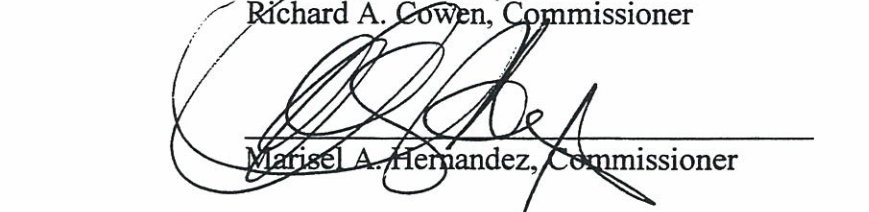
Dated: Chicago, Illinois, this 16th day of December 2007.



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 CHICAGO BOARD OF
ELECTION COMMISSIONERS

Hearing Examiner's Report

Frieda Robinson,)
)
Objector,)
) No. 08-EB-WC-16
vs.)
)
Yvette Williams,)
)
Candidate.)

2007 DEC 13 P 5

EXAMINER'S FINDINGS AND RECOMMENDATIONS

1. The initial hearing commenced at 10:30 a.m. on November 26, 2007. The Objector appeared through legal counsel, Mr. Nally. The Candidate appeared *pro se*. Board Group Exhibits A through D, inclusive, were identified, marked and admitted as the Candidate's Papers, the Objector's Petition, the Sheriff's Return of Service, and the Appearances, respectively.

2. The Candidate stated her intention to file a Motion to Strike/Dismiss and a briefing schedule and hearing date was scheduled for 12.30 p.m. on November 30, 2007.

3. ~~The parties timely motions and responses, including Candidate's Amended Motion to Strike and Dismiss. This matter came to hearing on November 30, 2007 upon the Candidate's Motion, as amended. After arguments, Candidate's Motion to Strike and Dismiss, as amended, was denied. The Hearing Examiner noted that there appeared to be 477 uncontested signatures and therefore the ultimate evidentiary would largely come from Paragraphs 9 and 10 of the Objector's Petition, which paragraphs included a "pattern of fraud" allegation. The matter~~

was continued to December 6, 2007 for the parties to determine the issue of the witness subpoenas.

4. This matter was called to hearing on December 6, 2007. As previously, the Candidate appeared *pro se* and the Objector appeared through legal counsel. At this hearing the Objector filed his Request for the Issuance of six (6) subpoenas, namely:

- | | | | |
|----|---------------|----|-------------------|
| a. | Vivien Jones | d. | Geraldine Waters |
| b. | Ray Waters | e. | Terry D. Holloway |
| c. | Steven Thomas | f. | Ruby Vaughn |

These individuals were signers on the nomination sheets and Mr. Holloway also was a circulator of sheets 76 and 81. The Hearing Examiner granted the Objector's request and these six subpoena were issued. The Candidate sought to obtain the issuance of a subpoena upon the Objector, Frieda Robinson. The Hearing Examiner explained that a subpoena upon a party was not appropriate but that a Supreme Court Rule 237 Notice To Produce could be used. The Hearing Examiner explained that the Objector had the right to have such a notice be put in writing and served upon Objector's counsel. The matter was then continued for final hearing at 9:30 a.m. on Thursday, December 13, 2007 without further notice.

5. This matter came for hearing at approximately 9:40 a.m. on December 13, 2007. The Candidate appeared *pro se*. The Objector appeared by legal counsel. Objector called as a subpoena witness, Geraldine Waters, a petition signer, Sheet 81 Line 2. Ms. Waters testified that while at her home she signed before a male circulator, maybe 30 years of age, Black, 5'9" with a hat. Sheet 81, Line 2 was noted as being incorporated within Board Group Exhibit A (Candidate's Papers) and was used during examination of Ms. Waters. On cross-examination and while referring to Objector's Group Exhibit. 1, Ms. Waters noted that the name of Jerry (Tony) D. Holloway was shown to be the circulator on the Circulator's Affidavit.

6. Objector called the *pro se* Candidate as a witness for adversary examination. The Candidate testified that she circulated 79 of 82 petitions. Candidate initially testified that simultaneous to the circulation for office of Ward Committeeman, she circulated her petitions for State Representative (32nd District). The Candidate, also, within the adversary examination, subsequently testified that she did not always simultaneously circulate both sets of petitions. The Candidate testified that she would circulate from 7:00 a.m. to 8:00 p.m.

7. At this point in the hearing, Objector sought admission of 65 "signer" Affidavits. Over objection of Candidate, these Affidavits were admitted as being Objector's Group Exhibit 1, as being relevant to the issue of "pattern of fraud" as pleaded in Paragraph 9 of Objector's Petition. Objector rested. Candidate rested and Final Statements were made.

8. The Hearing Examiner finds that 445 minimum valid signatures are required. The Hearing Examiner also finds that the sheets contain 477 uncontested signatures – uncontested other than the Paragraphs 9 and 10 of Objector's Petition.

9. The Hearing Examiner finds that a review of Affidavits contained in Objector's Group Exhibit 1 correspond to signers on 29 sheets out of a total of 79 sheets ostensibly circulated by the Candidate. This figure represents 36.7% of the Candidate-circulated sheets. However, the Hearing Examiner finds that the Affidavit of Geraldine Waters (Sheet 81, Line 2) is included and based upon the credible testimony of witness Waters, the Hearing Examiner finds that in fact Ms. Waters signed before circulator Holloway and thus Sheet 81 will not be included, leaving 28 sheets of Affidavits out of a total of 79 Affidavits, or 35.4%.

10. The Hearing Examiner also finds that the Affidavits (other than Geraldine Waters) of Objector's Group Exhibit 1 invalidate 64 signatures out of a total of 804 signatures or 7.8%.

11. The Hearing Examiner also notes that Objector's sole evidence arises from Affidavits. Thus, no supportive testimony was introduced by Objector.

12. Considering all the evidence, the Hearing Examiner concludes that, as to the evidence presented in the instant matter, the Objector failed to establish that the acts of Circulator-Candidate constituted, by clear and convincing evidence, a pattern of fraud and false swearing and a complete and utter disregard for the requirements of the Election Code. *Fortas v. Dixon*, 122 Ill.App. 3d 697, 462 N.E. 2d 615 (1st Dist. 1984); *Huskey v. Municipal Officers Electoral Bd.*, 170 Ill.App. 3d 364, 523 N.E.1d 1299 (1st Dist. 1987). Further, the Hearing Examiner finds that the facts herein are significantly different from the facts, for example, in *Streeter v. Goodloe*, 99-EB-ALD-15 (CBEC, February 2, 1999). This conclusion means that individual invalidations noted above would not have the effect of invalidating all the signature on the 28 sheets. Therefore, on the bases of the evidence in this matter, Candidate's Papers contain more than the minimum valid requirement of 445 signatures.

13. As part of the evidentiary hearing Objector's counsel argued that in addition to the evidence presented in the instant case, the Board must consider the conclusions entered in another current matter RGA-21 *Kirk v Yvette Williams*. Objector argues that Yvette Williams sought candidacy for two offices and circulated petitions simultaneously in both matters.

14. The Hearing Examiner concludes that the Findings Of Fact And Recommended Decision (12/12/07) are matters of public record and as such can be admitted and considered *sua sponte* pursuant to judicial notice.*

15. The Hearing Examiner notes Paragraphs A1 through A23 inclusive of the

* The Board is to consider this Decision and it is on the Board's Agenda for 12/14 or 12/15, 2007.

Findings of Fact in the *Kirk v Yvette Williams* Hearing Examiner's Decision. Although, a pattern of fraud was not found in the instant case, the Hearing Examiner having noted the findings of fact in the *Kirk* case concludes as a matter of law that judicial notice of the *Kirk* finding would establish the conclusion of a pattern of fraud.

16. If evidence is relevant to the protection of the electoral process, the Electoral Board cannot close its eyes and ears. *Fortas v. Dixon*, 122 Ill.App. 3d 697, 462 N.E.1d 615, 618 (1st Dist. 1984)

17. So finding results in the invalidation of 79 out of 82 petition sheets in the instant case.

18. So finding results in the sheets circulated by Mr. Holloway, Sheets 74 (10 signatures), Sheet 76 (10 signatures) and Sheet 81 (8 signatures) as being the only valid signatures, totaling 28 signatures and therefore below the minimum valid signature requirement of 445.

19. As such the Hearing Examiner recommends that the name of Yvette Williams not appear on the ballot for the office of Democratic Ward Committeeman of the 17th Ward.

Date: December 13, 2007



Hearing Examiner
William P. Jones