

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

Objections of: Sandra Ramsey)
)
)
To the Nomination) No.: 12-EB-SS-05
Papers of: Annazette R. Collins)
)
Candidate for the nomination of the)
Democratic Party for the office of)
State Senator for the 5th Legislative District,)
State of Illinois)

FINDINGS AND DECISION

The duly constituted Electoral Board, consisting of Board of Election Commissioners for the City of Chicago 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 Sandra Ramsey (“Objector”) to the nomination papers (“Nomination Papers”) of Annazette R. Collins, candidate for the nomination of the Democratic Party for the office of State Senator for the 5th Legislative District of the State of Illinois (“Candidate”) at the General Primary Election to be held on March 20, 2012, having convened on December 19, 2011, at 8:30 AM, 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 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 was held on these Objections commencing on December 19, 2011 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer John Ashenden 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 Call. The following persons, among others, were present at such hearing; the Objector, Sandra Ramsey, by attorneys John B. Lower and Jeffrey D. Greenspan; and the Candidate, Annazette R. Collins, by attorney Michael J. Kasper.

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 her duly authorized representative was present during the examination of the registration records.

10. The Objector and/or her 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 1,000.
 - B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 2,300.
 - C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 859.
 - D. The remaining number of signatures deemed valid as a result of the records examination total 1,441.

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 nomination of Democratic Party to the office of State Senator for the 5th Legislative District of the State of Illinois.

14. The Objector also alleged a "pattern of fraud" in that that the affidavits of seven petition circulators were not signed in the presence of a notary public and that, as a result, all petition sheets circulated by such individuals are invalid.

15. The Objector further alleged that the Candidate did not, in fact, reside at the address shown on her Nomination Papers and failed to meet the residency requirements for the office of State Senator in the 5th Legislative District.

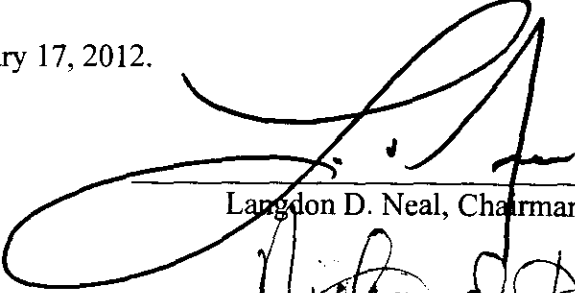
16. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. Based upon the evidence presented, the Hearing Officer found that the Candidate's Nomination Papers contained 1,441 valid signatures, which exceeds the minimum number of valid signatures required by law to be placed upon the ballot as a candidate of the Democratic Party for the office of State Senator for the 5th Legislative District of the State of Illinois. The Hearing Officer further found that there was no pattern of fraud demonstrated and that the Candidate satisfied the residency requirements for the office of State Senator in the 5th Legislative District. Accordingly, the Hearing Officer has recommended that the Candidate's Nomination Papers be found valid.

17. 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. A copy of the Hearing Officer's report is attached hereto and is incorporated herein and made a part of the Electoral Board's decision in this case.

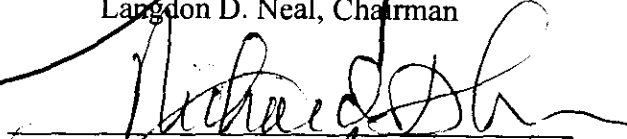
18. For the reasons stated above, the Electoral Board finds that the Nomination Papers of Annazette R. Collins are, therefore, valid.

IT IS THEREFORE ORDERED that the Objections of Sandra Ramsey to the Nomination Papers of Annazette R. Collins, candidate for nomination of the Democratic Party for the office of State Senator for the 5th Legislative District of the City of State of Illinois, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of Annazette R. Collins, candidate for nomination of the Democratic Party for the office of State Senator for the 5th Legislative District of the City of State of Illinois, SHALL be printed on the official ballot for the General Primary Election to be held on March 20, 2012.

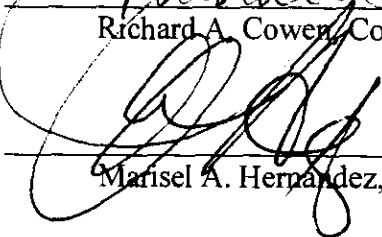
Dated: Chicago, Illinois, on January 17, 2012.



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 5 days after service of the decision of the Electoral Board.

BOARD OF ELECTION COMISSIONER OF THE CITY OF CHICAGO

Objections of:)	
SANDRA RAMSEY)	
)	
To the Nomination Papers of:)	No. 12-EB-SS-05
ANNAZETTE COLLINS)	
)	John R. Ashenden
Candidate for the Office of State Senator of)	Hearing Officer
the Fifth Legislative District, State of)	
Illinois, to be voted upon at the March 20,)	
2012 General Primary Election.)	

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 BOARD OF ELECTIONS
 COMMISSIONER

REVISED RECOMMENDED DECISION

This matter having come before the Chicago Board of Election Commissioners ("CBOE") on the Objector's Petition of Sandra Ramsey ("objector") to the nomination papers of Annazette R. Collins ("candidate"), John R. Ashenden, Hearing Officer, finds and recommends as follows:

I. Summary of Proceedings

1. At the initial hearing on December 19, 2012, the candidate's attorneys Michael Kasper and Kevin Morpew appeared on behalf of the Candidate. The objector appeared through legal counsel, Jeffery Greenspan and John Lower.

2. Objector's Petition alleges (a) that Candidate failed to acquire 1,000 valid signatures due to signatures of persons who are not registered voters or registered at address listed, forged signatures, signatures of persons residing outside the 5th Legislative District, petition sheets not circulated by the person who signed the circulator's affidavit, petition sheets with invalidly notarized and forged circulator's affidavit, sheets listing an invalid address for the circulator; (b) that Candidate failed to meet the residency requirements for the 5th Legislative District; and (c) that Candidate's Nominating Papers demonstrated a pattern of fraud rendering them invalid in their entirety.

3. A records examination was ordered and a status hearing set.

December 27, 2011 Hearing

4. Objector was ordered to produce evidence relating to the issue of circulators' affidavits and to the issue of Candidate's residency. A hearing was set to January 3, 2012.

5. On December 31, 2011, Objector filed a Motion for an Evidentiary Hearing Pursuant to Rule 8 alleging that affidavits of seven circulators ("Circulator Group 1") were not signed in the presence of a notary and requesting that the notary, Eileen E. Jackson, be subpoenaed. In support of this, the motion identified seven circulators for whom the signatures or addresses on their affidavits allegedly failed to match the signatures or addresses in their voter registration records, and a document was attached purporting to show that a person named Edward Tyler, whose name matched one of the circulators, was incarcerated during the relevant period. The motion also addressed the issue of Candidate's residency, alleging that leasehold records for Candidate's claimed residence at 2159 West Warren Avenue ("2159 Warren") indicated a differently named tenant and that Candidate owned and held an owner-occupied mortgage upon a property outside the district at 6127 South Woodlawn ("6127 Woodlawn"). Attached were copies of the 2159 Warren lease signed by Keith Langston, copies of several rent checks for 2159 Warren signed by Keith Langston, and a printout of the Cook County Recorder of Deeds record, apparently for 6127 Woodlawn.

January 3, 2012 Hearing

6. The Hearing Officer reviewed the results of the records examination, which showed that the Candidate had collected 1,441 valid signatures, 441 signatures above the required minimum. Candidate agreed to present evidence regarding Candidate's residence at 2159 Warren, and both sides agreed to brief the issue concerning circulator affidavits. An evidentiary hearing regarding Candidate's residency was set for January 5, 2012 at 2:00 p.m.

7. On January 4, 2012, Candidate submitted a memorandum showing that the petition sheets of the disputed circulators contained only 73 valid signatures and that Candidate's nominating papers would still have well over 1,000 signatures even if these petition sheets were invalid.

January 5, 2012 Hearing

8. Prior to this hearing a subpoena was issued for Jason Pyle from the County Assessor's Office. The evidentiary hearing was convened on the issue of Candidate's residency. Objector submitted into evidence: (1) a mortgage instrument signed by Candidate for 6127 Woodlawn that included a clause suggesting Candidate was required to occupy the property; and (2) records from the County Assessor's Office that purportedly demonstrated Candidate had obtained a homeowner's tax exemption in 2009 and 2010 for 6127 Woodlawn. In rebuttal, Candidate introduced over twenty official documents listing Candidate's address as 2159 Warren, including Candidate's driver's license, voter registration, bank statements, tax returns and personal checks.

9. Candidate called Jason Pyle from the County Assessor's Office to testify that Candidate had refunded the amount of her 2009 and 2010 homeowner's exemptions for 6127 Woodlawn. Documents were introduced to this effect.

10. Candidate then called Keith Langston to testify that he was Candidate's husband and that the two of them had lived together at 2159 Warren at least since December 5, 2009, that Candidate kept all of her personal effects at that address and that the two of them intended to remain at that address as a permanent home and had so intended at least since December 5, 2009.

11. Candidate next called Barbara Collins, who testified that she was Candidate's mother, that the witness herself had until recently lived at 6127 Woodlawn, that Candidate did not live there with her and that Candidate had not at any time lived there at least since December 5, 2009.

12. Both parties agreed to file memoranda of law regarding their differing interpretations of constitutional residency requirements, and the issue of residency was taken under advisement. Objector's request to subpoena Eileen Jackson was also discussed. Objector suggested that, as an alternative, several circulators could be subpoenaed and agreed to file a memorandum in support of her contention that many of Candidate's circulators did not appear before a notary. A hearing was set to January 9, 2012 to resolve these remaining issues.

13. On January 6, 2012 Objector renewed her request to subpoena notary Eileen Jackson and additionally requested the subpoena of seven named circulators ("Circulator Group 2"). Attached to this request was a memorandum alleging that an examination of Candidate's original nominating papers had revealed that on a number of petition sheets "the name and signatures were signed in different ink and that the names printed in the affidavit was written by a different person than the name written in notary jurat and not by the Notary."

14. On January 9, 2012, Objector and Candidate both filed memoranda of law regarding Candidate's residency and how to calculate the two-year durational residency requirement.

January 9, 2012 Hearing

15. Given the scarcity of evidence to show that either Candidate or notary Eileen Jackson had engaged in a pattern of fraud or that there were sufficient questionable petition sheets to overcome Candidate's 441-signature cushion, Objector's subpoena requests for Eileen Jackson and Candidate's circulators were denied.

II. Findings of Fact and Law

Residency

16. Article IV, section 2(c) of the Illinois Constitution states that a candidate must be "for the two years preceding his election or appointment a resident of the district which he is to

represent.” Candidate and Objector disagree on the meaning of this clause. Candidate argues that Candidate is required to be a resident only for the two years preceding the November 6, 2012 election—November 6, 2010—while Objector interprets the clause to mean two years preceding Candidate’s December 5, 2011 filing of her Nominating Papers—December 5, 2009.

17. Objector cites *Cinkus v. Village of Stickney Municipal Officers Electoral Board*, 228 Ill.2d 200 (2008), for the proposition that a candidate must be qualified for office on the date she files her nominating papers. Even if *Cinkus*—a case interpreting a statutory requirement for holding municipal office rather than a constitutional requirement for holding state office—were controlling, Objector’s conclusion does not follow from the reasoning of that case. It’s true that Candidate’s Statement of Candidacy attests to her qualifications for office in the present tense, but a candidate who will be a resident of the district “for the two years preceding his election” is presently qualified to be a state senator. Thus, although the issue probably makes no difference given Objector’s failure to present evidence that Candidate did not reside at 2159 Warren during the 2009-2011 “window,” the relevant period of time dates back only to November 6, 2010. The two required elements for residency in Illinois are “(1) physical presence, and (2) an intent to remain in that place as a permanent home.” *Maksym v. Board of Election Com’rs of City of Chicago*, 2011 WL 242421 (Ill. 2011)

18. Objector’s residency objection from the beginning has rested on Candidate’s alleged relationship with the property at 6127 Woodlawn. While the mortgage and homeowner’s exemption may have been sufficient *prima facie* evidence that Candidate resided at 6127 Woodlawn and therefore not at 2159 Warren, the testimony of Barbara Collins credibly explains Candidate’s apparent relationship to the former property. Meanwhile, Objector’s subsequent attempts to tie Candidate to other addresses—either 3235 Warren as certain property tax

documents allegedly suggest or 39 N. Mason as her husband's voter registration supposedly indicates—contradict Objector's original theory and seem like grasping at straws.

19. In light of the testimony by Jason Pyle, it is not clear that Candidate improperly obtained a homeowner's exemption in 2010 or any other year. Similarly, Candidate has pointed out that she would not necessarily have been in violation of her mortgage agreement if she lived at 2159 Warren as of December 5, 2009, since the relevant clause in the July, 2008 mortgage document submitted by Objector only required occupancy for one year and, in any case, was subject to the lender's discretion.

20. Regardless, neither question pertains to Candidate's residency, which requires only physical presence and an intent to remain. Candidate's husband's testimony that they have lived together at 2159 Warren for the last two years, supported by the numerous documents showing 2159 Warren as Candidate's address, satisfactorily rebut Objector's allegation that she lives elsewhere.

Circulator Affidavits

21. By Candidate's calculations, uncontroverted by Objector, even if all of the petition sheets in Circulator Group 1 were invalid, this would eliminate only 73 signatures from Candidate's count. Objector's theory that notary Eileen Jackson did not witness *any* of the circulators sign the petition sheets that she notarized might eliminate substantially more signatures if proved, but the petition sheets in Circulator Group 1 are weak evidence of this. "Edward Tyler" is not an unusual name, but even if Edward Tyler the circulator is the same man as Edward Tyler the inmate, this doesn't indicate that Eileen Jackson engaged in a fraudulent pattern of conduct such that all the petition sheets she notarized are necessarily tainted.

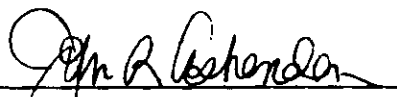
22. Objector's allegations concerning Circulator Group 2 are similarly unconvincing. An examination of Candidate's nominating papers shows that, indeed, the name printed in the body of the circulator's affidavit is often in different handwriting than the name printed in the notary jurat. In many cases, the circulator's signature and the notary's may be in different ink. Neither fact supports Objector's conclusion that "the circulator did not sign the affidavit in the presence of the Notary." The circulator doesn't need to fill out her statement in the notary's presence nor sign her name with the same pen that the notary used.

23. Given the scarcity of evidence that either Candidate or notary Eileen Jackson had engaged in a pattern of fraud or that there were sufficient questionable petition sheets to overcome Candidate's 441-signature cushion, Hearing Officer found it unnecessary to subpoena either the notary or the circulators.

III. Conclusion

24. For the foregoing reasons, the Hearing Officer recommends that the name of Annazette R. Collins appear on the ballot for State Senator of the Fifth Legislative District of the State of Illinois.

Date: January 13, 2012


Hearing Officer
John R. Ashenden