

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

Objections of: Larry G. Nelson)	
)	
)	
To the Nomination)	No.: 12-EB-WC-23
Papers of: Wallace E. "Mickey" Johnson)	
)	
Candidate for the office of Democratic Party)	
Ward Committeeman for the 24th Ward, City)	
of Chicago)	

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 Larry G. Nelson ("Objector") to the nomination papers ("Nominating Papers") of Wallace E. "Mickey" Johnson, candidate for the office of Democratic Party Ward Committeeman for the 24th Ward of the City of Chicago ("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 held on these Objections commenced on December 19, 2011 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer William Kresse for further hearings and proceedings.

6. The Objector and the Candidate were directed by the Electoral Board's Call served upon them 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, Larry G. Nelson, pro se; the Candidate, Wallace E. "Mickey" Johnson, by attorney James P. Nally.

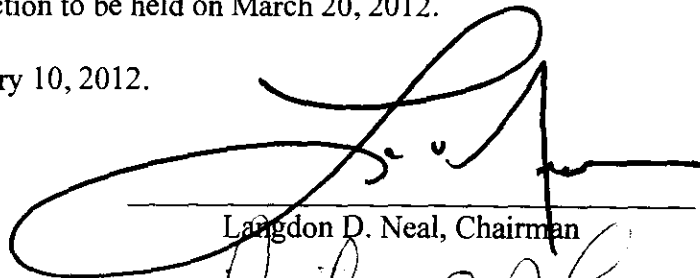
7. The Hearing Officer has tendered to the Electoral Board his report and recommended decision. The Hearing Officer recommends that the Objections to the Candidate's Nomination Papers be overruled and dismissed and that the Nomination Papers be declared valid.

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

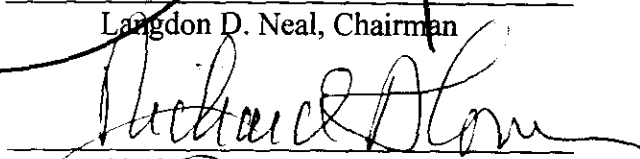
9. For the reasons stated above, the Electoral Board overrules in part and dismisses in part the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of Larry G. Nelson to the Nomination Papers of Wallace E. "Mickey" Johnson, candidate for the office of Democratic Party Ward Committeeman for the 24th Ward of the City of Chicago, are hereby OVERRULED in part and DISMISSED in part and said Nomination Papers are hereby declared VALID and the name of Wallace E. "Mickey" Johnson, candidate for the office of Democratic Party Ward Committeeman for the 24th Ward of the City of Chicago, SHALL be printed on the official ballot for the General Primary Election to be held on March 20, 2012.

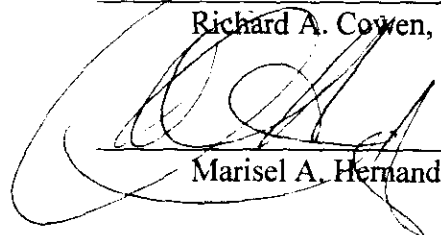
Dated: Chicago, Illinois, on January 10, 2012.



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.

**BEFORE THE DULY CONSTITUTED ELECTORAL BOARD FOR THE
HEARING AND PASSING UPON OF OBJECTIONS TO NOMINATION
PAPERS OF CANDIDATES FOR THE MARCH 20, 2012 PRIMARY ELECTION IN
THE CITY OF CHICAGO**

LARRY G. NELSON,

Objector,

vs.

WALLACE E. "MICKEY" JOHNSON,

Candidate.

No. 12-EB-WC-023

Hearing Officer William J. Kresse

Report and Recommended Decision of the Hearing Officer

To the Board of Election Commissioners of the City of Chicago:

Hearing Officer William J. Kresse reports as follows:

1. This matter came before the Hearing Officer, pursuant to notice, for hearing on December 19, 2011. The Candidate was present by counsel, and the Objector was present, *pro se*. No issue was raised as to sufficiency or timeliness of notice of the objection or of the hearing. Both parties filed written appearances.

2. Without objection, the Candidate's nomination papers for the office of Democratic Party Committeeman of the 24th Ward of the City of Chicago were admitted into the record as Group Exhibit A; the Objector's Petition and attachments were admitted into the record as Group Exhibit B; and the return of service of process, and a copy of the Call and attachments were admitted into the record as Group Exhibit C.

The Claims of the Objector's Petition

3. The Objector's Petition, filed on November 29, 2010, asserted in substance as follows:
- a. That as the Candidate is identified on his nomination papers as "Wallace E. 'Mickey' Johnson" and not "Wallace E. Johnson", the Candidate's name should not appear on the March 20, 2012 ballot; and
 - b. That as the Candidate's nomination papers contained fewer than the necessary 563 signatures of duly qualified, registered and legal voters of the 24th Ward, the Candidate's name should not appear on the March 20, 2012 ballot.

Motion to Strike and Dismiss

4 At the December 19, 2011 status hearing, the Candidate requested leave to file a motion to strike and dismiss the Objector's Petition. The Hearing Officer set a briefing schedule and set a hearing on the motion for December 23, 2011.

Proceedings on the Candidate's Motion to Strike and Dismiss

5. At the December 23, 2011 hearing, the Hearing Officer, having considered the parties' briefs, allowed the parties to orally argue their positions on the Candidate's Motion.

Question Presented by the Candidate's Motion to Strike and Dismiss

6. As submitted to the Board, this Motion presents two questions:
- a. With regards to the objections regarding the number of signatures in the Candidate's nomination papers, did the Objector's Petition "state fully the nature

of the objections” to the Candidates nominating papers as required under the Illinois Election Code?

- b. With regards to the objections regarding the Candidate’s name, did the Objector state a valid objection?

**Recommended Findings and Conclusions on the Candidate’s Motion to Strike
and Dismiss– Candidate’s Name**

7. In regards to the Objector’s objections as to the Candidate’s use of the name “Wallace E. ‘Mickey’ Johnson”: on the bases of the Objector’s Petition and attachments; and of the briefs and statements of the parties; the Hearing Officer recommends that the Electoral Board enter the following findings and conclusions of law:

- a. That the Candidate has chosen to use the name “Wallace E. ‘Mickey’ Johnson” on his nomination papers, and has consistently used said name.
- b. That the Illinois Election Code, at 10 ILCS 5/10-5.1, “specifically authorizes candidates to use nicknames in the designation of their names.” *Fowler v. Phelan*, 11-EB-ALD-055, CBEC, January 3, 2011.
- c. That this Board takes administrative notice that in numerous generally available publications, including, but not limited to, publications relating to the Candidate’s career as a professional basketball player and college coach, the Candidate is referred to by the nickname “Mickey”.
- d. That with regards to Paragraphs 8 and 9 of the Objector’s Petition which contend that the Candidate’s nominating papers should be rendered invalid due to the use by the Candidate of the name “Wallace E. ‘Mickey’ Johnson” on his nomination

papers, the Candidate's Motion to Strike and Dismiss is well founded, and the relief sought therein should be granted.

- e. That Paragraphs 8 and 9 of the Objector's Petition are dismissed and stricken.

**Recommended Findings and Conclusions on the Candidate's Motion to Strike
and Dismiss – Signatures on Nomination Petition**

8. In his motion to Strike and Dismiss, the Candidate contends that the Objector's objections to the signatures on the Candidate's nomination papers should be stricken because these objections violate Section 10-8 of the Illinois Election Code.

9. The Candidate's motion arises from the fact that the Objector's Petition states various bases for objecting to signatures on the Candidate's nomination papers, then for each basis makes reference to a particular column on the grid on the Appendix to the Petition. However, in each such case, the stated basis for an objection in the Petition does not agree with the column referred in the Appendix. For example:

- a. In Paragraph 3 of the Objector's Petition, the Objector states that certain signatures on the Candidate's petitions are of "persons who are not in fact duly qualified, registered, and legal voters at the addresses shown opposite their names in the 24th Ward of the City of Chicago", and then makes reference to a column "A" on the Petition's Appendix purportedly titled "SIGNER NOT REGISTERED". However, Column "A" on the Appendix grid is, in fact, titled "Signer's Signature Not Genuine"; a substantively different basis for objection.

- b. In Paragraph 4 of the Objector's Petition, the Objector states that certain signatures on the Candidate's petitions are of "persons ... who are not ... voters at addresses ... located within the boundaries of the 24th Ward of the City of Chicago as shown by the addresses they have given on the petition". and then makes reference to a column "B" on the Petition's Appendix purportedly titled "SIGNER NOT IN DISTRICT". However, Column "B" on the Appendix grid is, in fact, titled "Signer Not Registered At Address Shown"; a substantively different, and contradictory, basis for objection.
- c. In Paragraph 5 of the Objector's Petition, the Objector states that certain signatures on the Candidate's petitions are of "persons who did not sign ... in their own proper persons, and that the said signatures are not genuine", and then makes reference to a column "C" on the Petition's Appendix purportedly titled "SIGNER NOT PROPER PERSON AND NOT GENUINE". However, Column "C" on the Appendix grid is, in fact, titled "Signer Resides Outside District"; a substantively different basis for objection.
- d. In Paragraph 6 of the Objector's Petition, the Objector states that certain signatures on the Candidate's petitions are "legally defective and deficient for a variety of reasons". and then makes reference to a column "E" on the Petition's Appendix purportedly titled "OTHER". However, Column "E" on the Appendix grid is, in fact, titled "Signer Signed Petition More Than Once At Sheets/Lines Indicated". (There is, in fact, an Appendix grid

column labeled “Other”, but it is column “G”, and was only utilized 11 times in the 105 pages of the Appendix.)

- e. It should also be noted that the Objector’s Petition Appendix grid contains three other columns, namely, “D”, “E”, and “F”, which are not referenced at all in the body of the Objector’s petition, and that the heading on column “F”, “Signer’s Signature Printed And Not Genuine” references an invalid objection (*Simms-Johnson v. Coordes*, 04-EB-WC-05, CBEC, January 20, 2004).

10. Section 10-8 of the Illinois Election Code requires that an “objector’s petition ... shall state fully the nature of the objections ... to the nomination papers.” 10 ILCS 5/10-8.

11. Implicit in this Section 10-8 mandate is the requirement that the objection petition must present the objections in such a manner so as to “adequately apprise the candidate of the specificity of each objection, thus making evaluation possible.” *Elysee v. Patterson*, 04-EB-RGA-14, CBEC, January 20, 2004, *citing*, *Alschuler v. Feigenholtz*, 94-EB-REP-009, January 19, 1994. Thus, the Candidate is not to be placed under the burden of deciphering the Objector’s objections. And while this mandate is mostly cited in cases where general objections are made without specification to particular petition signatures, the mandate is likewise applicable in cases where the Objector - the party with complete control over the content and format of the Petition and Appendix - files a Petition and Appendix that is so inconsistent, confusing, open-ended, and internally contradictory that it denies the Candidate any meaningful opportunity to evaluate the objections in a timely manner.

12. Accordingly, in regards to the Objector’s objections as to the signatures on the Candidate’s Petition: on the bases of the Objector’s Petition and attachments; and of the briefs

and statements of the parties; the Hearing Officer recommends that the Electoral Board enter the following findings and conclusions of law:

- a. That the Candidate filed with the Board Nomination Papers that include 105 petition signature sheets containing 1,538 signatures, and that 563 signatures of duly qualified, registered and legal voters are required for the office that the Candidate seeks.
- b. That the Objector filed an Objection Petition that, in part, challenges many of these signatures.
- c. That the Candidate has moved to strike and dismiss that portion of the Objector's Petition that challenges the petition signatures pursuant to the requirement in Section 10-8 of the Illinois Election Code that "objector's petition ... state fully the nature of the objections ... to the nomination papers." 10 ILCS 5/10-8.
- d. That the deficiencies found in the Objector's Petition and Appendix are beyond simple mislabeling; they are so inconsistent, confusing, open-ended, and internally contradictory that they deny the Candidate any meaningful opportunity to evaluate the objections in a timely manner; thus, the Objector's Petition is in violation of Section 10-8 of the Illinois Election Code.
- e. That with regards to those paragraphs of the Objector's Petition which challenge petition signatures (Paragraphs 3, 4, 5 and 6), the Candidate's Motion to Strike and Dismiss is well founded, and the relief sought therein should be granted.
- f. That Paragraphs 3, 4, 5 and 6 of the Objector's Petition are dismissed and stricken.

Recommended Decision With Regard to the Objector's Petition

19. Having struck all operative paragraphs of the Objector's Petition, the Hearing Examiner recommends that the Electoral Board enter the following final administrative decision: That the Objector's Petition be DISMISSED, and that the name of WALLACE E. "MICKEY" JOHNSON shall appear and shall be printed on the ballot for election to the office of Democratic Party Committeeman for the 24th Ward of the City of Chicago to be voted for at the Primary Election to be held on March 20, 2012.

Dated: January 2, 2012.

Respectfully submitted,

s/ William J. Kresse

William J. Kresse
Hearing Officer