

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

Objections of: Bessie Lockett)
)
)
To the Nomination) No.: 12-EB-IND-03
Papers of: Quintin Barton)
)
Independent candidate for the office of)
Representative in the General Assembly of the)
33rd Representative 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 Bessie Lockett (“Objector”) to the nomination papers (“Nomination Papers”) of Quintin Barton, Independent candidate for the office of Representative in the General Assembly of the 33rd Representative District in the State of Illinois (“Candidate”) at the General Election to be held on November 6, 2012, having convened on July 10, 2012 at 4:00 p.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 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 July 10, 2012 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Barbara Goodman 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, Bessie Luckett, by attorney, Michael Kasper; and the Candidate, Quintin Barton, pro se.

7. The Candidate filed a motion to strike and dismiss the Objector's Petition, arguing in part that the objections were allegedly "shotgunned." The Hearing Officer, after reviewing the results of the records examination, observed that 88% of the objections filed against the Candidate's nominating petition sheet signatures were sustained during the records examination. Paragraph 10 of the Objector's Petition alleged that the Candidate had voted in the March 20, 2012 Democratic Party Primary Election and that under recent amendments Section 7-43(f) of the Election Code the Candidate was ineligible to run as an independent candidate in the November 6, 2012 General Election. The Candidate's motion to strike and dismiss argued that Section 7-43(f) is unconstitutional. The Hearing Officer concluded that a determination of the unconstitutionality of a statute is outside the purview of the Electoral Board. Accordingly, the Hearing Officer denied the Candidate's motion to strike and dismiss.

8. 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.

9. The Hearing Officer directed all parties to appear and be present, either personally and/or by their authorized representatives, during this records examination.

10. The Candidate and/or his duly authorized representative was present during the examination of the registration records.

11. The Objector and/or her duly authorized representative was present during the examination of the registration records.

12. 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.

13. 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 1,500;

B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 2,554;

C. The number of signatures deemed invalid because of objections sustained as a result of the records examination total 1,819;

D. The remaining number of signatures deemed valid as a result of the records examination total 735.

14. 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 nomination of the Independent Party for the office of Representative in the General Assembly of the 33rd Representative District of the State of Illinois.

15. The Candidate filed a motion pursuant to Rule 8 of the Board's Rules of Procedure seeking to object to the Board's clerk's findings during the records examination; however, the motion lacked any specificity whatsoever and was therefore denied.

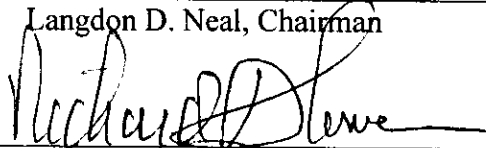
16. The Hearing Officer has tendered to the Electoral Board a report and recommended decision. Based upon the evidence presented, the Hearing Officer found that the Candidate's Nomination Papers contained only 765 valid signatures, which is less than the minimum number of valid signatures required by law to be placed upon the official ballot as an Independent candidate for the office of Representative in the General Assembly for the 33rd Representative District of the State of Illinois, and that the Candidate's Nomination Papers should be found invalid.

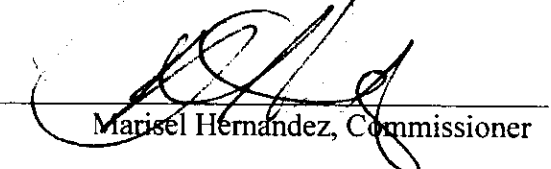
17. The Electoral Board, having considered the evidence and arguments tendered by the parties and the Hearing Officer's report of recommended findings and conclusions of law, hereby adopts the Hearing Officer's recommended findings and conclusions of law. A copy of the Hearing Officer's report is attached 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 sustains the Objections to the Candidate's Nomination Papers and finds that such papers are invalid.

IT IS THEREFORE ORDERED that the Objections of Bessie Lockett to the Nomination Papers of Quintin Barton, Independent candidate for election to the office of Representative in the General Assembly of the 33rd Representative District of the State of Illinois are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of Quintin Barton, Independent candidate for the office of Representative in the General Assembly for the 33rd Representative District of the State of Illinois, SHALL NOT be printed on the official ballot for the General Election to be held on November 6, 2012.

Dated: Chicago, Illinois, on August 20, 2012.

Langdon D. Neal, Chairman


Richard A. Cowen, Commissioner


Marisel 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 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 NOVEMBER 6, 2012 GENERAL ELECTION**

BESSIE LUCKETT)	
)	
Objector)	
)	12 EB IND 03
)	
-v-)	
)	
QUINTIN BARTON)	
)	
Candidate)	

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BOARD OF ELECTIONS
COMMISSIONER

HEARING EXAMINER'S REPORT AND RECOMMENDED DECISION

This matter was first heard on July 11, 2012. The Objector appeared through counsel Michael J. Kasper and the Candidate appeared pro se. The parties were given an opportunity to file preliminary motions. Candidate filed a Motion to Strike and Dismiss. Objector chose not to file a written response.

Paragraph 10 of the Objector's Petition alleged that "*the Candidate voted in the Democratic Party's Primary Election on March 20, 2012 and as a result, he is legally prohibited from running as an Independent in the November 6, 2012 General Election. 10 ILCS 5/7-43(f)*" Attached to the Objector's Petition at Exhibit B was the certified voting record of the Candidate which established that the Candidate, in fact, voted in the Democratic Primary as alleged by the Objector. In his Motion, Candidate contended that such prohibition is unconstitutional.

Paragraph 7-43(f) which was recently amended provides in pertinent part as follows:

A person (i) who filed a statement of candidacy for a partisan office as a qualified primary voter of an established political party or (ii) who **voted the ballot of an established political party at a general primary**

election may not file a statement of candidacy as a candidate of a different established political party or as an independent candidate for a partisan office to be filled at the general election immediately following the general primary for which the person filed the statement or voted the ballot. A person may file a statement of candidacy for a partisan office as a qualified primary voter of an established political party regardless of any prior filing of candidacy for a partisan office or voting the ballot of an established political party at any prior election.

Section 7-43(f) provides a clear and unequivocal prohibition against voting for a partisan candidate at the primary and running as an independent candidate at the general election. The determination of the constitutionality of this newly amended statute is outside the purview of this Hearing Officer and the Electoral Board. Accordingly, the Candidate's Motion was denied.

The Objector's Petition also contained allegations regarding the sufficiency of the signatures. In his Motion to Strike and Dismiss, the candidate alleged that the objections were "shotgunned". Candidate based this argument in part because the appendix recapitulation sheets contained certain sheets that originally contained the wrong district number. The district number on these sheets was scratched out and the correct district number was written in. The candidate argued that the revisions to the district number on these sheets were not initialed and should therefore not be deemed valid revisions. The Candidate also argued that he did not believe that the Objector could have researched the validity of all of the signatures herself given her age. The motion was taken under advisement and a recorded examination was conducted.

The results of the records examination were as follows:

- A. The minimum number of valid signatures required by law for placement on the ballot for the office in question is 1,500.
- B. The number of purportedly valid signatures appearing on the nominating petition filed by the Candidate total 2,554.
- C. The number of signatures deemed invalid because of objections sustained in the records examination total 1,819.

D. The remaining number of signatures deemed valid as a result of the records examination total 735.

The results of the records examination established that the candidate had 765 signatures less than the required number of signatures for placement on the ballot.

The Candidate filed a motion pursuant to Rule 8 of the Board's Rules of Procedure. However, said motion failed to contain the specificity required in Rule 8 in that it did not identify the sheets and lines for which further evidence would be presented. Therefore the Rule 8 Motion did not change the results of the records examination.

With respect to the Candidate's Motion to Strike and Dismiss which had previously been taken under advisement, the Objector pointed out that the results of the records examination disclosed that 88% of the specific sheet and line objections were sustained. Objector argued that said rate of sustained objections clearly and conclusively proved that the objector's petition was not "shotgunned".

It is my opinion that the rate of sustained objections successfully rebutted any argument that the objections were not based in law or fact or were in any way "shotgunned". Further, there is no requirement that an Objector work alone in preparing an Objector's Petition and therefore whether the Objector researched every signature on her own was not relevant to the overall validity of the Objector's Petition. For these reasons, the Motion to Strike and Dismiss was denied.

RECOMMENDATION

In light of the foregoing, it is my recommendation that the objections of Bessie Lockett be **sustained** in conformity with the results of the records examination. It is my further recommendation that paragraph 10 of the Objector's Petition be **sustained** in that Section 7-43(f)

of the Election Code prohibits the Candidate from running as an Independent Candidate after having voted for a partisan candidate at the General Primary. Therefore, it is also my recommendation that the nominating papers of candidate Quintin Barton be deemed **invalid** and that the name of candidate Quintin Barton for the office of Representative in the General Assembly in the 33rd Representative District **not be** printed on the ballot at the November 6, 2012 General Election.

Respectfully submitted,

Barbara Goodman /s/

Barbara Goodman, Hearing Examiner
August 14, 2012

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COMMISSIONER