

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

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Objections of: KOREY D. BILBRO and )  
 EARL C. WILLIAMS, Sr. )  
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 To the Nomination ) No.: 19-EB-MUN-002  
 Papers of: ROGER L. WASHINGTON )  
 )  
 Candidate for the office of Mayor for the City )  
 of Chicago )  
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**FINDINGS AND DECISION**

The duly constituted Electoral Board, consisting of the Board of Election Commissioners for the City of Chicago, Commissioners Marisel A. Hernandez, William J. Kresse and Jonathan T. Swain, organized by law in response to a Call issued by Marisel A. Hernandez, Chairwoman of said Electoral Board, for the purpose of hearing and passing upon objections (“Objections”) of KOREY D. BILBRO and EARL C. WILLIAMS, Sr. (“Objectors”) to the nomination papers (“Nomination Papers”) of ROGER L. WASHINGTON, candidate for the office of Mayor for the City of Chicago (“Candidate”) at the General Municipal Election to be held on Tuesday, February 26, 2019, having convened on Monday, December 10, 2018, at 8:30 a.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 were duly and timely filed.
2. The Electoral Board was legally constituted under the laws of the State of Illinois.

3. A Call to the hearing on said Objections was duly issued by the Chair of the Electoral Board and sent for service 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 Monday, December 10, 2018 and was continued from time to time. The Electoral Board assigned this matter to Hearing Officer Lynne Ostfeld for further hearings and proceedings.

5. The Objectors 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. On such date and time, the Hearing Officer called the case by calling aloud the case number, the name of the Objectors and the name of the Candidate. The following persons, among others, answered and were present at such hearing: the Objectors, KOREY D. BILBRO and EARL C. WILLIAMS, Sr. and/or their attorneys PERICLES ABBASI and FRANK AVILA.

6. The Candidate, ROGER L. WASHINGTON, did not answer to the call nor did he appear at the hearing. The case was called again at least two more times at least 15 minutes apart on December 10, 2018 and at no time did the Candidate or any person purporting to represent the Candidate appear.

7. The Electoral Board finds that the Cook County Sheriff attempted to serve the Candidate with a copy of the Objector's Petition and with a copy of the Call to the Monday, December 10, 2018 hearing in this cause on three separate occasions: December 6, 2018 (17:48), December 12, 2018 (18:14) and December 17, 2018 (17:40). The return of the Sheriff's office indicated that the reason that the Candidate was not served was "No Contact." The Candidate was also sent a copy of the Call to the December 10, 2018 meeting by certified mail, but a signed receipt acknowledging receipt of the certified mail item has never been returned by the Postal

Service for that service. However, a signed receipt acknowledging receipt of the certified mail item was returned by the U.S. Postal Service for second service certified mail sent December 11, 2018 and delivered December 15, 2018.

8. The initial hearing was continued to December 13, 2018 at 9:00 a.m. to allow for additional service upon the Candidate of a copy of the Objections and notice of hearing. The Cook County Sheriff again attempted to serve the Candidate with a notice of continued hearing for the December 19, 2018 hearing on December 17, 2018 at 5:40 pm. The Sheriff's return of service indicated that the reason the Candidate was not served on these occasions was "no contact". A copy of the notice of continued hearing was also sent to the Candidate by certified mail, return receipt requested, with the return receipt returned to the Board by the Postal Service indicating delivery with signature on December 15, 2018.

9. The Electoral Board finds that the Candidate, ROGER L. WASHINGTON, did not appear at any of the duly called meetings and hearings conducted in this matter after numerous attempts to serve the Candidate with a copy of the Call and the Objector's Petition by the means of service specified in the statute. He failed to attend hearings on December 10, 13 and 19, 2018, despite knowing that Nomination Papers were filed on his behalf and that the Electoral Board agendas have been duly posted on its website and offices at all relevant times. The Objectors also submitted evidence as detailed in the Hearing Officer's report indicating that the Candidate had notice of the pending Objections as early as December 13.

10. A candidate cannot evade the effects of a duly filed objection to his or her nomination papers by simply being unavailable for service of papers nor should the objections be rendered moot by virtue of the fact that a candidate cannot be found by the statutory methods of service. If this were permitted, candidates would simply go into "hiding" until the objection

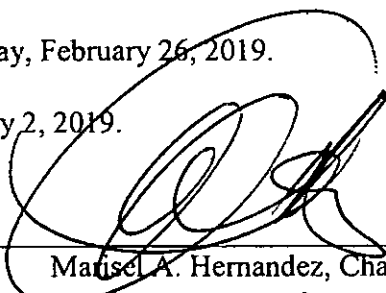
process had run its course, thereby frustrating the statutory scheme for testing whether the candidate is eligible to be on the ballot.

11. The Electoral Board further finds that the Objector's petition, on its face, contains sufficient allegations, if accepted as true, to invalidate the Candidate's Nomination Papers.

12. Therefore, the Electoral Board finds that the Candidate, ROGER L. WASHINGTON, is in default, that the Objections are sustained, and that the Candidate's Nomination Papers are invalid.


IT IS THEREFORE ORDERED that the Objections of KOREY D. BILBRO and EARL C. WILLIAMS, Sr. to the Nomination Papers of ROGER L. WASHINGTON, candidate for the office of Mayor for the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of ROGER L. WASHINGTON, candidate the office of Mayor for the City of Chicago, SHALL NOT be printed on the official ballot for the General Municipal Election to be held on Tuesday, February 26, 2019.

Dated: Chicago, Illinois, on Wednesday, January 2, 2019.



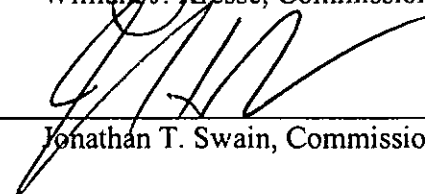
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Marisel A. Hernandez, Chairwoman



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William J. Kresse, Commissioner



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Jonathan T. Swain, 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.

CHICAGO BOARD OF ELECTION COMMISSIONERS

Objections of: )  
KOREY D. BILBRO and )  
EARL C. WILLIAMS, SR. )  
)  
To the Nomination )  
Papers of: ) No. 19-EB-MUN-002  
ROGER L. WASHINGTON )  
) Lynne R. Ostfeld,  
Candidate for the Office of ) Hearing Officer  
Mayor of the City of Chicago )

RECOMMENDED DECISION

This matter having come before the Chicago Board of Election Commissioners ("CBOE") on objections of Korey D. Bilbro and Earl C. Williams, Sr. ("objectors") to the nomination papers of Roger L. Washington, ("candidate"), Lynne R. Ostfeld, Esq., Hearing Officer, finds and recommends as follows:

1. Hearing on the objections to the candidacy of Roger L. Washington for Mayor of the City of Chicago was begun on December 10, 2018. In attendance at the hearing was one of the objectors, Earl Williams. The candidate was not in attendance. The CBOE file indicated that service of notice of the objections had not been made on the candidate.

2. The objectors requested that Roger L. Washington's name not be printed on the ballot for election to the office of Mayor of the City of Chicago, based on the objection that he did not have the 12,500 requisite signatures from duly qualified, registered, and legal voters, as detailed below:

A. the nomination papers contained the names of persons who were not registered voters at the addresses shown;

B. the nomination papers contained the names of people who did not sign the papers in their own proper persons, whose signatures were not genuine;

C. the nomination papers contained sheets with the names of people whose addresses were not in the City of Chicago;

D. the nomination papers contained petition sheets with addresses either missing or incomplete;

E. the nomination papers contained petition sheets where signers signed more than one time.

3. The hearing was continued to December 13, 2018 at 9:00 a.m. so that service could be had on the candidate.

4. At the continued hearing on December 13, 2018, attorney Pericles "Perry" Abbasi was in attendance on behalf of his client Earl Williams, one of the objectors, as was Mr. Williams.

5. The candidate was not in attendance. There was no proof of service of the objections and notice of the hearing on the candidate.

6. Mr. Abbasi and Mr. Williams orally moved for a default judgment of the candidate on the basis that social media showed that the candidate was aware of the objections to his candidacy.

7. The Hearing Officer instructed the objector to submit a written motion for default.

8. The Hearing Officer continued the hearing to December 19, 2018, at 1:30 p.m. to rule on the motion for default.

9. She directed the CBOE staff to make a third attempt at service on the candidate, to include service via email of the objections and notice of same, as well as of the hearing.

10. The objectors timely submitted their Motion to Find Candidate in Default.

11. Service was made on the candidate on December 15, 2018 via certified mail.

12. At the continued hearing on December 19, 2018, the objectors were present, through another of their attorneys, Frank Avila. The candidate was not present. The Hearing Officer called the case three times, without anyone appearing on behalf of the candidate.

13. Attorney Avila orally argued the Motion to Find Candidate in Default.

14. The argument that candidate should be defaulted is based on the allegations that he had actual knowledge of the objections against his candidacy and that he cannot profit from being unavailable for service of the objections. The objectors submitted the following in support of their allegation that the candidate knew that objections had been filed against his nominating petitions:

A. a copy of a Chicago Reader article (Dec. 13, 2018) recounting an interview with the candidate wherein the candidate, Roger Washington, stated that challenges to his candidacy reportedly came from mayoral hopeful Willie Wilson. (Ex. A);

B. a copy of a tweet from Roger L. Washington@24thWard (Dec. 4, 2018) reading "Willie Wilson Why?". (Ex. B);

C. a copy of a page from the candidate's Facebook page "Roger L. Washington for Mayor of Chicago" (Dec. 3, 2018) reading "Mayoral Candidate Willie Wilson has launched a legal challenge to prevent all other Black men from appearing on the Ballot for Mayor #WilliesAcraInTheBarrel", and (Dec. 13, 2018) "Huge s/o to the Chicago Reader for an awesome article pls my very first newspaper quote! pg 10 & 11". (Ex. C);

D. a copy of a Facebook page to which the candidate replied and criticized 'Rickey "Hollywood" Hendon' for filing challenges against himself and other candidates for mayor, and asking "why?". (Ex. D).

15. The objectors also argued that the holding in *Glatstein v. Beacham*, No. 15 EB ALD 029 (CBOE) (2/24/15), supported finding that a candidate has actual knowledge of objections to his candidacy based on a newspaper report stating the same.

### **Findings of Fact and Conclusions of Law**

16. The candidate was served with notice of the objections against him on December 15, 2018, and did not appear at the hearing on December 19, 2018, which was the third hearing in this matter, nor make known an intent to fight the objections in order to get onto the ballot.

17. The weight of the evidence presented by the objectors showed that the candidate had long had knowledge of the objections made to his nominating petitions.

18. The *Glatstein* decision supports defaulting a candidate who may not have received notice of the objections against him by stating, in paragraph numbered 12:

"A candidate cannot evade the effects of a duly filed objection to his or her nomination papers by simply being unavailable for service of papers nor should the objections be rendered moot by virtue of the fact that a candidate cannot be found by the statutory methods of service. If this were permitted, candidates would simply go into 'hiding' until the objection process had run its course, thereby frustrating the statutory scheme for testing whether the candidate is eligible to

be on the ballot. *See, e.g., Ho v. Donovan*, 569 F.3d 677, 680 (7th Cir. 2009)."

*Glatstein v. Beacham*, No. 15 EB ALD 029 (CBOE) (2/24/15)

19. Although not argued, Rule 12 allows a candidate to be defaulted for failure to appear. Chicago Board of Election Commissioners Rules of Procedure, adopted 12/10/2018. In the instant case, Roger L. Washington, the Candidate, never appeared physically or through an attorney at any of the three hearings of this case.

20. Taking all of the objections submitted as true, Roger L. Washington does not have sufficient valid signatures to be placed on the ballot.

21. The Hearing Officer recommends that this Board find that the Nomination Papers of ROGER L. WASHINGTON be declared to be INVALID for the reasons stated above.

22. The Hearing Officer recommends that this Board order that the name of ROGER L. WASHINGTON NOT be printed on the ballot as a candidate for Mayor of the City of Chicago, at the election to be held on February 26, 2019, for the reasons stated above.

Dated: Chicago, Illinois, this 27th day of December, 2018.

  
Lynne R. Ostfeld, Hearing Officer