

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

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Objections of: Richard Thompson )  
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To the Nomination ) No.: 11-EB-MUN-054  
Papers of: Fredrick K White )  
 ) Related Case: 11-EB-MUN-045  
Candidate for the office of )  
Mayor of the City of Chicago )

**FINDINGS AND DECISION**

The duly constituted Electoral Board, consisting of Board of Election Commissioners of 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 Richard Thompson (“Objector”) to the nomination papers (“Nomination Papers”) of Fredrick K White, candidate for the office of Mayor of the City of Chicago (“Candidate”) to be elected at the Municipal General Election to be held on February 22, 2011, having convened on December 6, 2010, at 9:00 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 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 6, 2010 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Linda R. Crane 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, Richard Thompson, by attorney James Robinson; and the Candidate, Fredrick K. White, pro se.

7. The Objector filed on December 17, 2010 a motion to withdraw Objector's Petition. The Electoral Board denies the Objector's motion.


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

9. 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 report and recommendations is attached hereto and is incorporated herein as part of the decision of the Electoral Board.

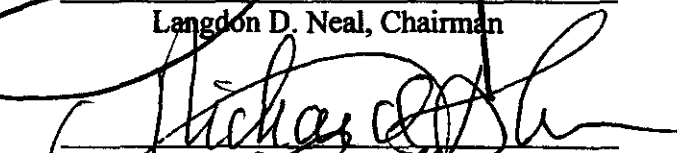
10. For the reasons stated above, the Electoral Board sustains the Objections to the Candidate's Nomination Papers and finds that the Candidate's Nomination Papers are invalid.

IT IS THEREFORE ORDERED that the Objections of Richard Thompson to the Nomination Papers of Fredrick K White, candidate for election to the office Mayor of the City of Chicago, are hereby SUSTAINED and said Nomination Papers are hereby declared INVALID and the name of Fredrick K White, candidate for election to the office of Mayor of the City of Chicago, SHALL NOT be printed on the official ballot for the Municipal General Election to be held on February 22, 2011.

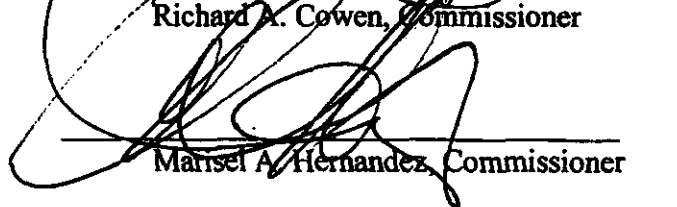
Dated: Chicago, Illinois, on January 11, 2011.



Langdon D. Neal, Chairman



Richard A. Cowen, Commissioner



Mansel 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 BOARD OF ELECTION COMMISSIONERS**  
**SITTING AS THE DULY CONSTITUTED MUNICIPAL OFFICERS**  
**ELECTORAL BOARD FOR THE CITY OF CHICAGO**

**RICHARD THOMPSON** )  
 )  
 **Petitioner-Objector** )  
 )  
 )  
 v. )  
 )  
 )  
 **FREDRICK K. WHITE** )  
 )  
 **Respondent-Candidate** )

**No. 11 - EB - MUN-054**  
**Linda R. Crane**  
**Hearing Examiner**

**2011 JAN - 7 P 2:49**  
**BOARD OF ELECTIONS**

**RECOMMENDED DECISION**

This matter having come before the Chicago Board of Election Commissioners ("CBOE") on verified objections of **RICHARD THOMPSON** ("objector") to the nomination papers of **FREDRICK K. WHITE**, ("candidate"), Linda R. Crane, the Hearing Examiner, finds and recommends as follows:

1. The candidate, **FREDRICK K. WHITE**, has filed Nomination Papers in support of his nomination to the office of Mayor of the City of Chicago to be voted upon during the upcoming election on February 22, 2011 (election).
2. The objector, **RICHARD THOMPSON**, has filed a Verified Objector's Petition objecting to the sufficiency of the Candidate's nomination papers for various reasons stated in Paragraphs 2 and 3 of his Petition.
3. Paragraph 2 of the Objector's Petition alleges that the Candidate "*has filed far less than the required 12,500 signatures of allegedly duly qualified, legal, and registered voters of the City of Chicago.*"

4. Paragraph 3 of the objector *"states that each of the petition sheets of the Candidate contain(s) 25 signatures per sheet or less. Your Objector further states that simply multiplying the number of petitions (sic) sheets turned in by the Candidate by 25 signatures per sheet results in a total maximum number of signatures below the required 12,500."*
5. The initial hearing on this matter was held on December 6, 2010, and both parties were present. The objector filed his Appearances through his attorney, Mr. James Robinson.
6. At the outset of the initial hearing, prior to filing his appearance, the candidate requested that the matter be *"dismissed without prejudice, because there (are) no nominating papers for a Frederick K. White."* [12-6-2010 transcript at page 2] Essentially, the candidate was not raising the issue of whether his name had been misspelled in the Petition; but whether he was the intended target of the Petition. Consequently, the Hearing Examiner understood that the candidate had refused to file a general appearance for purposes of initiating a hearing on the objections to his candidacy. The Hearing Examiner acknowledged the limited nature of the candidate's appearance which was to contest any presumption that he was the named candidate in the Objector's Petition; and, further that he rejected the idea that he had any stake in the proceedings that were being initiated insofar as they were irrelevant to his candidacy. [12-6-2010 transcript at pages 10-11]
7. The Objector requested a determination of the question of whether the candidate had filed a sufficient number of signature pages to meet the required minimum of 12,500, without the need for a Record Examination.

8. The Candidate requested an opportunity to file a Motion to Strike and Dismiss the objections to the extent that the objections were being treated as directed to his candidacy.
9. A second hearing was scheduled for December 16, 2010 to allow the candidate an opportunity to file a Rule 5 Motion to Strike the Objector's Petition. No Records Examination was ordered.
10. December 7, 2010, the candidate filed a Motion to Dismiss Without Prejudice, in which he stated that objections were filed against the nomination papers of a person named "Frederick" K. White (with an "e"). The motion does not, however, actually state a reason for dismissal. It is necessary to infer the reason why he is contesting the allegations in the Objector's Petition—presumably because it is either invalid because it misspells his name; or because it simply names someone other than himself as the target candidate. The motion itself, however, does not contain plain language to make either point.
11. On December 10, 2010, the objector filed a Reply to Motion to Dismiss Objector's Petition citing Illinois case law that that deny Motions to Dismiss based on "*misnomer*" where the misnomer is merely a misspelling, and the Objector's petition correctly identified Candidate White's street address and the office being sought," and where there is no evidence of "*actual confusion*" about the identity of the person intended to be named in the Objector's Petition. *Citing Davis v. Hendon, 02-EB-SS-09 (CBEC 2002) and Wollan v. Jacoby, 653 N.E. 2d 1303 (1<sup>st</sup> Dist. 1995)*

12. On December 13, 2010, the second hearing was held and both parties appeared - the candidate, pro se; and the objector through his attorney, James Robinson. At each hearing, the Hearing Examiner advised the candidate to retain legal representation or counsel in order to navigate the process necessary to preserve his rights.
13. During the second hearing, the parties repeated their arguments on the issue surrounding the spelling of the candidate's name. The candidate raised a question about whether it was the objector's intent to name him or a completely different person, when he identified the name of the respondent-candidate who was the target of his objection. The Hearing Examiner thought that the point had merit and asked the objector's attorney, James Robinson, whether he was aware of the intent of the drafter of the Verified Objector's Petition and/or whether he had drafted it. Mr. Robinson answered "no" to both questions. The Hearing Examiner asked Mr. Robinson to either bring the objector to the next hearing to give testimony about his intent that Fredrick K. White was whose candidacy to which he had intended to raise the objections. Alternatively, the objector was given the option of signing a notarized affidavit to that effect. Mr. Robinson agreed and stated that he would secure the objector's notarized affidavit and provide it to the Hearing Examiner before 5 pm the next day, December 17, 2010. [12-16-2010 transcript at pages 24-28]
14. Also during the second hearing, the Hearing Examiner counted the number of nomination petitions ("signature sheets") that the candidate, Fredrick K. White, had filed with his nomination papers. There were 47 signature sheets containing

up to 25 signatures on each for a maximum total of 1175 signatures, far fewer than the 12,500 required. Mr. White admitted that he had filed no more than 1175 signatures in support of his nomination for Mayor in the upcoming election.

15. On December 17, 2010, the objector filed a Motion to Withdraw Objector's Petition. Mr. Robinson did not provide the notarized affidavit stating that the objector had intended to bring his objections against "Fredrick" K. White, as opposed to the hypothetical candidate named "Frederick" K. White – both of whom presumably reside at the same address.
16. For the reasons stated above, the Hearing Examiner recommends the following to the Chicago Board of Elections Commissioners:
  - a. That the candidate's Rule 5 Motion to Dismiss is insufficient and should be denied;
  - b. That the candidate's continual and repeated refusal to admit that he was the proper person named in the Verified Objector's Petition led him to continually refuse to accept service in his proper name and address. Further, the candidate took numerous affirmative steps in furtherance of his decision to refuse to submit to the jurisdiction of the CBOE, including but not limited to refusing to file a "general" Appearance during the initial trial call and thereafter.
  - c. Consequently, the candidate refused "appear" at the initial hearing and continued through to the subsequent hearing.
  - d. That the objector's petition contained sufficient allegations, if accepted as true, to invalidate the candidates' nomination papers.



- e. Because of the facts stated in the preceding paragraphs b., c. and d., the candidate's candidacy is in default and his nomination papers are invalid. *Austin, et.al. v. Tatum*, 08-EB-RGA-13, (CBEC, November 30, 2007); *Copeland v. McNeal*, 08-EB-SS-03, (CBEC, November 30, 2007).
- f. That the eventual withdrawal of the Objector's Petition does not affect the above findings.
- g. That the Respondent's name should be excluded from the ballot during the upcoming election.

Respectfully submitted,

Date: January 6, 2011

By:



LINDA R. CRANE/Hearing Examiner