

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

Kathy Henderson,)
Challenger)
)
)
v.)
)
)
Amone Banks)

Candidate.)

Administrative
Order #18-030

Re: Nominating Petition
Challenge for the Office
Ward 5 Member of the
Council

MEMORANDUM OPINION AND ORDER

INTRODUCTION

This matter came before the District of Columbia Board of Elections (“the Board”) on August 31, 2018. It is a challenge to the nominating petition of Amone Banks (“Mr. Banks”) for the office of Ward 5 Member of the Council filed by Kathy Henderson (“Ms. Henderson”) pursuant to D.C. Code § 1-1001.08 (o)(1) (2001 Ed.). Both parties appeared *pro se*. Chairman D. Michael Bennett and Board members Dionna Lewis and Michael Gill presided over the hearing.

BACKGROUND

On August 3, 2018, Amone Banks submitted a nominating petition to appear on the ballot as a candidate in the November 6, 2018 General Election contest for the Ward 5 Member of the Council. That petition was posted for public inspection for 10 days, as required by law, and challenged on August 20, 2018 by Kathy Henderson, a registered voter in the District of Columbia. Mr. Banks submitted five hundred, sixty-eight (568) signatures. The minimum number of signatures required for ballot access for this office is five hundred (500) signatures of District

voters who are duly registered in the same ward as the candidate. Pursuant to Title 3 D.C.M.R. § 1603.7, the Board accepted 568 signatures for review.

Challenger Kathy Henderson filed a challenge to eighty-six (86) signatures, enumerated by line and page number on individual “challenge sheets” filed for each petition page. The petition signatures were challenged pursuant to 3 D.C.M.R. §1607.1 of the Board’s regulations on the following grounds: the signer is not a duly registered voter; the signer’s voter registration was designated as inactive on the voter roll at the time the petition was signed; the signer, according to the Board’s records, is not registered to vote at the address listed on the petition at the time the petition was signed; the petition does not include the address of the signer; the petition does not include the name of the signer where the signature is not sufficiently legible for identification; and the signer is not a registered voter in the ward or Single-Member District from which the candidate seeks nomination at the time the petition was signed. The Registrar’s review of the challenges indicates that thirty-four of the challenges are valid. This leaves the candidate’s nominating petition with 534 signatures, 34 signatures above the number required for ballot access. Mr. Banks submitted one valid change of address form that brought his signature total to 535 signatures, which is 35 above the number required for ballot access.

DISCUSSION

The United States Supreme Court has long recognized that states and localities have a responsibility to protect the integrity and reliability of the election process, and has generally accorded them latitude in establishing rules and procedures toward that end. “[T]here must be a substantial regulation of elections if they are to be fair and honest and if some sort of order is to accompany the democratic process.” *Buckley v. American Constitutional Law Foundation, Inc.*, 525 U.S. 182, 187 (1999). Accordingly, the District of Columbia has established a nominating

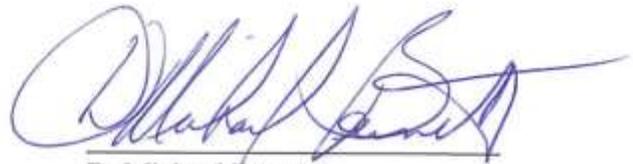
petition process that requires prospective candidates to demonstrate a modicum of support from a specific number of qualified electors as a condition precedent for ballot access. The rules and regulations promulgated by the Board to accept nominating petitions mandate that the petitions be subjected to a 10-day challenge process. Ms. Henderson asserts that her challenge was thwarted by the Registrar's office, because she did not have the proper materials to challenge Mr. Banks' candidacy. The Board cannot in fairness allow her to continue challenging signatures after the statutory 10-day challenge period. She was able to challenge enough signatures to remove Mr. Banks from the ballot, but less than half of her challenges were valid. There is no precedent for the Board to re-open the challenge process after the ten days has elapsed.

CONCLUSION

Mr. Banks secured 535 valid signatures, which is thirty-five signatures above the five hundred signatures required for ballot access. It is hereby:

ORDERED that candidate Amone Banks is granted ballot access for the office Ward 5 Member of the Council.

August 31, 2018
Date



D. Michael Bennett
Chairman,
Board of Elections