

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

_____ Christopher Hershey) Challenger)) v.)) Veda Rasheed,) Candidate.) _____)	Administrative Hearing Docket No. 18-031 Challenge to the Nominating Petition of Veda Rasheed, Candidate for Office of the Advisory Neighborhood Commissioner for Single Member District 7E01
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MEMORANDUM OPINION AND ORDER

This matter came before the District of Columbia Board of Elections (hereinafter referred to as “the Board”) on September 5, 2018. The issue involves a challenge to the nominating petition of Veda Rasheed (“Ms. Rasheed” or “Candidate”) as a candidate for Office of the Advisory Neighborhood Commissioner for Single Member District 7E01. The challenge was filed by Christopher Hershey (“Mr. Hershey” or “the Challenger”). Mr. Hershey asserted that his challenges, if valid, would leave Ms. Rasheed’s nominating petition below the statutory minimum of 25 signatures of registered voters, thereby disqualifying Ms. Rasheed from ballot access in the November 8, 2018 General Election.

Chairman D. Michael Bennett and Board members Mike Gill and Dionna Lewis presided over the hearing. The Candidate appeared *pro se*. The Challenger was represented by Calvin Dark.

This Memorandum Opinion constitutes the Board’s findings of fact and conclusions of law.

I. FINDINGS OF FACT

1. On August 6, 2018 Veda Rasheed submitted a nominating petition containing 34 signatures to appear on the ballot in the November 6, 2018 General Election as a nominee for the office of the Advisory Neighborhood Commissioner for Single Member District 7E01.
2. The minimum petition requirement for ballot access for the office of the Advisory Neighborhood Commissioner for Single Member District 7E01 is 25 signatures of qualified electors registered in the same Single Member District as the candidate. D.C. Official Code § 1-309.05(a)(1)(B).
3. Ms. Rasheed's petition was posted for public inspection for 10 days as required by law. D.C. Official Code § 1-1001.08 (o)(1).
4. On August 20, 2018, Christopher Hershey, a registered voter in the District of Columbia, filed a challenge to Ms. Rasheed's nominating petition. Mr. Hershey challenged 25 individual signatures, challenged pursuant to the Board's regulations at 3 DCMR § 1607.1, citing the specific ground or grounds for challenge.
5. On August 22, 2018, both the Candidate and the Challenger were sent notice by email confirming receipt of the Challenge, providing a copy of the Challenge and notice of the time period to cure signature defects by change of address. The same email provided notice of the date and time of a scheduled prehearing conference concerning the Challenge.
6. A prehearing conference was held at 10:30 AM on Tuesday, August 28 at the Board's offices at 1015 Half Street SE Suite 750. Both the Challenger and the Candidate were in attendance.
7. At the prehearing conference, the Registrar of Voters ("the Registrar") gave her preliminary report concerning the challenge. The Registrar's review of the challenges concluded that 5 challenges were valid and 20 of the challenges were invalid. The Registrar

further concluded that as a result of the 5 valid challenges, the Candidate's nominating petition contained 29 signatures, 4 signatures above the requirement for ballot access. At the request of the challenger, the matter was scheduled for a public hearing to be held on September 5, 2018 at 11 AM.

8. Both Ms. Rasheed and Mr. Hershey were advised of the hearing date and time via telephone and email on Thursday, August 30, 2018.
9. The hearing on this matter occurred as scheduled on Wednesday, September 5, 2018. The Candidate appeared *pro se* and Calvin Dark appeared on behalf of the Challenger.
10. At the hearing, the Registrar provided the Board with her preliminary report of the challenge. The preliminary report was identical to the report read at the prehearing conference.

II. CONCLUSIONS OF LAW

11. The District of Columbia Election Code provides, in relevant part, that nominating petition challenges shall occur in the following manner:

Any registered qualified elector may within the 10-day period challenge the validity of any petition by written statement signed by the challenger and filed with the Board and specifying concisely the alleged defects in the petition. A copy of the challenge shall be sent by the Board promptly to the person designated for the purpose in the nominating petition... The Board shall receive evidence in support of and in opposition to the challenge and shall determine the validity of the challenged nominating petition not more than 20 days after the challenge has been filed. D.C. Official Code § 1-1001.08 (o)(1)-(2).

12. The District of Columbia Code also provides, in relevant part, that nominating petitions shall contain an affidavit, made under penalty of perjury, signed by the circulator of that petition which states the circulator is a qualified petition circulator and has:

- (a) Personally circulated the petition;
- (b) Personally witnessed each person sign the petition; and

(c) Inquired from each signer whether he or she is a registered voter in the same party as the candidate and, where applicable, whether the signer is registered in and a resident of the ward from which the candidate seeks election. D.C. Code §1-1001.08(b)(3)(a)-(c)

13. The burden of proof in a nominating petition challenge lies on the Challenger (see D.C. Code § 1-1001.08(o)(2)). Pursuant to 3 DCMR § 424.1, “The party who asserts the claim bears the affirmative duty of establishing the truth of the assertion.” Here, the Challenger filed a challenge to the nominating petitions of the Candidate Ms. Rasheed and specified the petition was defective because the Candidate failed to fulfill the requirements of the petition circulator’s affidavit, among other issues. Specifically, Mr. Hershey alleged that Ms. Rasheed did not personally witness at least three signatures on her nominating petitions as required by the affidavit. Mr. Hershey had the burden of proof in establishing the truth of his assertion that the Candidate’s nominating petitions were defective and therefore the Board should deny her ballot access for the November 6 General Election.
14. The Board accepts the Registrar’s findings that after the valid challenges of 5 other signatures, Ms. Rasheed’s nominating petition contained 29 signatures of registered voters in the same Single Member District as the candidate, which is 4 more than the required minimum for ballot access to this office. Mr. Hershey presented evidence that Ms. Rasheed did not personally witness three challenged signatures on her nominating petition in the form of two signed statements and one unsigned statement. The Registrar designated these signatures as valid challenges. In response, Ms. Rasheed stated on the record that she did personally circulate her nominating petitions. As stated *supra*, D.C. law requires the petition circulator to “personally witness every signature” collected on a nominating petition. Accordingly, the Board will affirm that those three signatures were valid challenges and will not be counted towards the Candidate’s nominating petitions.

15. The Challenger did not present any additional evidence that Ms. Rasheed failed to fulfill her obligations as the petition circulator. Specifically, Mr. Hershey did not proffer evidence that Ms. Rasheed did not personally witness the other valid petition signatures. Without such evidence, the Board finds the Challenger has not met his burden of proof establishing that Ms. Rasheed's nominating petitions were defective and warrant her exclusion from the ballot. Because Ms. Rasheed's nominating petitions contain the valid signatures of at least 25 qualified electors registered in the same Single Member District as the candidate, the Board concludes that Ms. Rasheed qualifies for ballot access in the November 6, 2018 General Election.

ORDER

Based on the findings of fact and conclusions of law contained in the Board's Memorandum Opinion, it is hereby **ORDERED** that the Challenge filed by Mr. Christopher Hershey is denied. It is further **ORDERED** that Ms. Veda Rasheed, the Candidate, be granted ballot access in the November 6 General Election.

September 10, 2018



D. Michael Bennett
Chairman, Board of Elections

CERTIFICATE OF SERVICE

The undersigned does hereby certify a copy of the foregoing Order was served by email this 10th day of September, 2018 on the following:

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/s/ Amanda Stevens Joiner
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