GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ELECTIONS

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SPECIAL BOARD MEETING

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FRIDAY

AUGUST 19, 2022

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The District of Columbia Board of Elections convened via Video Conference, pursuant to notice at 9:07 a.m. EDT, Gary Thompson, Chair, presiding.

BOARD OF ELECTIONS MEMBERS PRESENT:

GARY THOMPSON, Chair
MIKE GILL, Member
KARYN GREENFIELD, Member

BOARD OF ELECTIONS STAFF PRESENT:

MONICA HOLMAN EVANS, Director
TERRI STROUD, General Counsel
CHRISTINE PEMBROOK, Sr. Staff Attorney
MARISSA CORRENTE, Registrar
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MR. THOMPSON: All right, well, we're going to go ahead and start the meeting.

My name is Gary Thompson, the chair of the Board of Elections. Hopefully, everybody can hear me okay.

MR. GURLEY: Yes, can you hear me?

MR. THOMPSON: Yes, we can hear you.

MR. GURLEY: Okay, great.

MR. THOMPSON: And with us here today also is Mike Gayle and Karyn Greenfield, the other two Board Members.

And so, we have a quorum to proceed with this special meeting to hear two challenges or two appeals to determinations on petitions for the general election.

Also, the Executive Director, Monica Holman Evans is on as well as in our BOE our Registrar, Marissa Corrente. And from the Office of General Counsel, Christine Pembrook.

We've got two matters to consider, as
I mentioned. And we're going to start with Mr. Calvin Gurley's appeal of his petition determination.

And first, I'm going to turn it over to Ms. Pembrook to summarize the BOE's determination and then she'll call upon Marissa Corrente to give us some -- the details of the determination.

And then, Mr. Gurley, we'll ask you to speak.

So, Ms. Pembrook, why don't you go ahead?

MS. PEMBROOK: Thank you, Chair Thompson. Good morning everyone.

The first matter on the agenda is in re Calvin H. Gurley. Mr. Gurley submitted a petition to be a candidate for the Office of chair of the Council.

That petition was reviewed by the Board staff and a determination was made that a preliminary determination, which is a determination as to the face of the petition. We
don't really look behind the validity of the signatures.

But Mr. Gurley's petition failed to contain a sufficient number of signatures.

And he was notified of that determination by letter and he filed a timely appeal of that determination.

So, with that, I guess, the Registrar voters can give more background as to the determination as to the number of signatures on his petition.

MS. CORRENTE: Sure. So, on Monday, August 15th, we issued the preliminary determination to Mr. Gurley. And we sent it via mail and also emailed it that day as well.

And, ultimately, the outcome of the letter was that Mr. Gurley failed to file with the Board the required number of valid signatures according to D.C. Municipal Regulations Title 3, Chapter 1605.3(a) and 1605.4.

Though, we have a further breakdown of that. So, Mr. Gurley filed his nominating
petition on August 10th and did not meet the minimum signature requirement for the Office of Chair. The minimum requirement to obtain ballot access for this office is 3,000 signatures of registered District voters.

In total, with both his initial and supplemental filings, Mr. Gurley's petition appeared to contain 3,052 signatures. However, after the 236 signatures on the 24 petition sheets with incomplete circulator affidavits were discounted, the petition was determined to contain 2,816 signatures.

And, Mr. Gurley's sheets also weren't all properly numbered. So, when we went through them, ultimately, we found that there were 24 sheets that had incomplete circulator affidavits.

And that was a mix of different missing information. Some of it was just missing the circulator date. Some of it was missing the circulator signature. Some of it was the circulator name or address. So, it was a mix of different reasons that the circulator affidavit
was incomplete.

But, ultimately, it totaled 24 pages and accounted for 236 signatures, which brought Mr. Gurley below the required threshold.

MS. PEMBROOK: Chair Thompson, you're on mute.

MR. THOMPSON: All right, thank you so much. So, about that, I had a connection issue with my laptop and I'm on with my cell phone now.

Thank you so much.

Mr. Gurley, we're going to go ahead and hear from you. First, I'd like to swear you in and ask you if -- that you're -- everything that -- your testimony will be truthful.

MR. GURLEY: Yes, do I have to raise my hand?

MR. THOMPSON: That's okay.

Thank you, Mr. Gurley, for being here, I really appreciate you taking the time to explain your appeal before us.

So, go ahead, please.

MR. GURLEY: Well, thank you for the
opportunity. Good morning, everyone. I do appreciate this opportunity.

The office of appeals, and the office there, and the new Registrar is thorough. She's doing her job well.

I did send in a written appeal to the Chair and the Members will be able to read that. Or you're just going to take oral testimony?

MR. THOMPSON: I think both. We've all had a chance to read it and would also like to hear any additional comments you'd like to make.

MR. GURLEY: Oh, okay. If you've already read it, then that's great then.

And if you note that the written part, I'm just using that, so I won't deviate.

Brought up the point and the new Registrar, if she doesn't mind me using her first name, Ms. Melissa, did -- told me the situation whereas the 24 pages did have a problem with the circulator things or that particular portion of the petition page.
As I've written in the appeal, that the Board of Elections, when I first came to initiate my campaign, they did vet and do a background, if you can say background check, and validated everything as far as my address, my voter status, that being an independent, I wasn't going to cry. And everything was on record with the Board of Elections.

And that, in itself, I would think that the records verified as being a candidate and as a resident of the District. So, there shouldn't be any question as far as in that space of the circulator that I'm a non-resident circulator.

I was hoping that the Board would accept that that particular person who signed Calvin Gurley, who's already on record that the signature or the printed name would be acceptable as far as validating that circulator's question if I'm a non-resident or not.

I was hoping that either/or if there's a signature then -- and a missing name or a
printed name, that the Board would accept that
and forgive that and vice versa, if there was a
printed name and the signature was missing.

As I said, again, I'm on record and I
was already vetted that I am a citizen and a
registered voter in the District. So, that
shouldn't be come into any question.

I was hoping if there could be any --
so, the leniency is on the Board, I was hoping.

But the main situation is the first
ground was a new administration and then in the
change in procedures and policies in the
Registrar's Office.

As you know, Ms. Karen Brooks was the
BOE with the third floor. As long as I know,
since I first ran in my first election, I ran in
several. And her name, Ms. Brooks, has become
like an institution in her office in which she
managed, had many staff people come and go. But
she maintained her position there.

During this time of Ms. Karen Brooks,
and she was the Registrar, the policy and
practice for candidates of the submittal span
over many years. And the candidates were given
an opportunity to submit to one of the Board
staff, this is just the old way of Karen, and
it's been the way for at least 20 years.

That the staffer would take the
petition forms and do a cursory review. They do
a count. They lightly review and then they'd
clarify any ambiguity right in front of the
candidate there so there won't be any
misinterpretations.

And, plus, in thinking back, I think
that this particular procedure that Ms. Brooks
used reduced the number of potential hearings
that we're having right now because those
staffers, when they do the cursory review, they
would bring out any ambiguities and then the
candidate would know that there's something
missing or there is something peculiar, something
irregular.

And, at that particular time, there
would be a visual, there would be a situation of
transparency.

And that is the particular procedure that I came to know, I came to understand, and I came to respect. That was the procedure or office policy of the BOE that was clad in stone and iron that that particular procedure was the standard and would remain the standard for years.

So, when many candidates came in through the door at five o'clock, there were, you know, we sat -- they were taken in and given an area in which to wait for the staffer to call them over.

In some instances, people came in through the five o'clock time or period of the deadline. And some people came early, like I did, two hours or so. As long as to make sure traffic wouldn't hold you up in getting to the BOE. And, you know how traffic is in D.C., so getting there early, and sometimes, so, you know, and completing their forms and checking their forms also.

And numbering and all the
requirements, getting your petition grouped
together so they could go to Ms. Karen Brooks
during her policy there.

MR. THOMPSON: Mr. Gurley, could I as
you a question?

MR. GURLEY: Yes, sir.

MR. THOMPSON: Thank you.

We're not really enforcing time limits
today, no problems. But we don't want to go on
too long.

MR. GURLEY: Oh, okay.

MR. THOMPSON: I was wondering if you
could address -- there's a number of circulator
signatures that are absent. There's a lot of
sheets that don't have the name or the signature
of the circulator or the affidavit filled out. I
was wondering if you can comment on why there
were a number of sheets that lacked those things
and, you know, what might you say to cure the --
what appears to be a defect in the circulator
sheets?

MR. GURLEY: I relied upon the old
procedure or the old policy of submitting the
document. And I relied on that pretty heavily
that there would be a transparency, cursory
review with the staffer there and witnessing it,
bringing out or allowing me to cure those
petitions.

So, as I put it in the statement, Ms. Brooks policy and method of doing the five
o'clock, you know, five o'clock deadline is
different for different people.

Ms. Brooks policy which I had been
accustomed to and I respect and came to
understand.

And Ms. Melissa, neither is wrong or
right. It's just, at that particular time, when
I walked into the five o'clock on that particular
day on the tenth, that I was anticipating, and
when I got there, I got there pretty early, Ms.
Melissa can let you know, at least about three
o'clock.

And I did try to take the time, and I
did take the time to count and make sure that
each page was numbered and the circulator was filled out.

I was hoping that that particular procedure in which the staffers were there, that when they did do the cursory review that those particular shortages or shortfalls would be caught so I could cure it. And that was the pretty much the practice at that time.

But now, I understand that when you get there, file on the deadline or earlier, that you just surrender.

MR. THOMPSON: So, let me just ask this question. If they -- if someone had looked at your sheets and immediately pointed out the defects in several of them, missing circulator signatures, et cetera --

MR. GURLEY: Yes.

MR. THOMPSON: -- what -- would you have been able to cure the defect immediately with -- I mean, how would you have gotten the correct circulator signature and date and address on each of the sheets where it was missing?
MR. GURLEY: Oh, I was the circulator for each one of those 3,052 signatures. Okay? I had the normal form that my wife performed, but I did the majority of that 3,000. I was the circulator.

I didn't have the money, and I did have people to volunteer to help me, but they never came through. So, I was left with the task of circulating most of that. I did have help from my wife, as I told you, and a neighbor up the street.

But aside from that, the ones that, the 24 or the 20 are solely mine. And she said, either saw my name, probably not the printed name or you saw the signature and perhaps not the address. But there was an identifier on that particular circulator that did identify that street being on the account of Calvin Gurley.

Yes, at the time that -- if in the old practice, yes, there would be time to cure that, that being, you know, once you are in the office, the Registrar's Office after five, that they
would ask you, are you through verifying and
reviewing your pages or your submittals.

And they said, they, that being the
staff with Ms. Karen, allowed for that time to be
used as they were, I guess, reviewing everyone
else, and they would allow you to cure your
submittals.

MR. THOMPSON: So, there are 24 sheets
with missing information regarding the
circulator. And you're saying that if you were
given the opportunity when you came in, you would
-- you personally would have signed each one
where it was missing and added your name, added
your address, completed the affidavit?

MR. GURLEY: Yes, I would have
completed it, yes, if I was given time. But, as
I said, there's two different systems here and at
that particular time, I was asked to surrender
those particular.

And I do appreciate that the time, you
know, I surrendered around, I think it was 5:15
or so, 5:15, 5:20. By the time they finished,
they being the office, finished the count, it was about 5:20, 5:25 I believe.

But I surrendered it around 5:15. And from 5:15 to around 5:15 to 5:25, ten minutes, the staff took the particular bundle and took it with them and they counted it to make sure the numbers were there.

And there was no, as I said, in the past, there was no cursory type of review. There was no -- and personal, visual candidate and staffer as far as reviewing each one page and making sure that everything was legit and everything was complete.

But that's the old Karen Brooks way and now, you know, it's the new one.

MR. THOMPSON: Let me just, you know, set aside the -- your experience with the former Registrar or anything else.

I guess what I'm asking is, as you sit here today under oath, you're testifying that you personally were the circulator on each of these 24 sheets?
MR. GURLEY: Yes.

MR. THOMPSON: And sometimes, you forgot to sign them. But you're testifying to that today?

MR. GURLEY: Yes.

MR. THOMPSON: And, just for the record, what is your address?

MR. GURLEY: My address is 612 Underwood Street, Northwest.

MR. THOMPSON: Okay.


MR. THOMPSON: All right.

And you would sign the affidavit? I'm sure you're familiar with the affidavit that's on the circulator sheet, you would sign onto the terms of that affidavit as well?

MR. GURLEY: Yes, yes, yes, sir.

MR. THOMPSON: Okay.

All right, well, I think I understand --

MS. EVANS: Mr. Chairman?

MR. THOMPSON: Yes, go ahead.
MS. EVANS: Yes, good morning.

Just a question for Mr. Gurley. Did you receive a copy of our circulating and filing nominating petitions guidelines that outline the responsibilities of the candidates? Did you receive that when you picked up your petitions that outlined the current?

You keep referring to the former process and I can't speak to what Ms. Brooks said, but we did provide candidates with the process as it stands with all of the responsibilities for filing nominating petitions and supporting documents.

And I was just curious to know if you received that document?

Thank you.

MR. GURLEY: I'm sure that I did receive it. The Registrar's Office is very thorough in following those particular guidelines and the package. They're very thorough as a routine.

So, I have read it many years ago.
So, when I do, as I said, this, you know, into a campaign, I'm quite sure that those particular headings are checked off on a check off list.

So, it was included, but if there was any new additions or any new news or law that was made to it, I'm quite sure that the Registrar's Office would have told me. But I took it for granted that since I received this before, you know, maybe ten years ago, that it hasn't changed. And I know the language pretty much, so don't review it all the time. I receive a package.

MR. THOMPSON: Okay. Any other Board Members have questions for Mr. Gurley?

(NO AUDIBLE RESPONSE)

MR. THOMPSON: Okay.

Mr. Gurley, I know you've been on the ballot many times, appreciate your participation and you certainly are familiar with the process, that's clear.

MR. GURLEY: Yes.

MR. THOMPSON: And that's a lot of
MR. GURLEY: Yes, it is kind of monkeypox or whatever else is going on, I had to, I guess, I separate myself from my wife a couple weeks because of being out in the public.

I had to give it to all those out there who were gathering signatures because --

MR. THOMPSON: Yes.

MR. GURLEY: -- that new pandemic that came out was serious and we didn't know where it was coming from, but I had to give circulators there to.

MR. THOMPSON: Okay. Well, here's what we're going to do, we have another appeal to hear and it also has to do with circulator signatures and information. So, we're going to hear that one.

And then we'll go into executive session as a Board and we'll talk about both cases because there's some common issues. And we'll have to talk about the extent to which some
defects can be waived and maybe some can't and then we'll make a determination.

MR. GURLEY: All right, thank you, sir.

MR. THOMPSON: We really appreciate you taking the time this morning.

MR. GURLEY: Well, I thank you for taking the time and giving me an opportunity. Have a nice -- the response will be in writing or you would call us, just right here, just wait or what?

MR. THOMPSON: I think what we'll do is we'll go into executive session. And then, if you'd like to wait, we'll come back onto the record and recite the determination.

And then, it will be followed by a written opinion.

MR. GURLEY: Okay, that'll be fine. Yes, I don't mind waiting.

MR. THOMPSON: Okay.

MR. GURLEY: Okay, thank you, sir.

MR. THOMPSON: All right, thank you so
much.

MR. GURLEY: All right.

MR. THOMPSON: Okay, Ms. Pembrook, anything else regarding Mr. Gurley's matter?

MS. PEMBROOK: No, I have nothing more for Mr. Gurley.

MR. THOMPSON: Okay, turning then to the next appeal by, I think, Mr. Douglass, if you could explain that one as next?

MS. PEMBROOK: Yes, thank you, Chair Thompson.

Earle Douglass submitted a nominating petition for the position of Advisory Neighborhood Commissioner for a Single Member District 3E04.

As a result of the preliminary review by the Registrar's Office, his petition was found to be insufficient and he was issued a formal determination that his petition would not be accepted.

He timely appealed from that decision.

And I guess maybe the Registrar can now address
the reasons for the finding with respect to the adequacy of the signatures on Mr. Douglass's petition.

    MS. CORRENTE: Thank you.

    So, we put a letter in the mail on August 15, and also followed up over email with that letter to Mr. Douglass.

    And basically, it outlined that he failed to file with the Board the required number of valid signatures according to D.C. Municipal Regulations Title 3, Chapter 1605.3(a) and 1605.4.

    So, when Mr. Douglass filed his nominating petition on August 9 and did not meet that signature requirement for the Advisory Neighborhood Commissioner for Single Member District 3E04, it was because the minimum requirement to obtain ballot access for this office is 25 signatures of duly registered Single Member District 3E04 voters.

    And his petition contained 20 signatures ultimately.
So, he submitted three pages that total 30 signatures, but one had an incomplete circulator affidavit. So, on that one, it was just that the circulator date was missing. So, removing that -- those ten signatures on that page because of that incomplete circulator affidavit, brought him below the minimum requirement, putting his total number at 20 signatures.

MR. THOMPSON: Okay, Mr. Douglass, I think you're on, is that right?

MR. DOUGLASS: Yes, sir.

MR. THOMPSON: And in speaking here today, do you promise to tell the truth?

MR. DOUGLASS: I do.

MR. THOMPSON: All right, well, please proceed and take a few minutes and explain your situation and maybe regarding the missing date.

MR. DOUGLASS: I don't think it'll take minutes. I made a mistake and forgot to put a date there.

I am the only circulator and that's --
I would like the opportunity to cure and correct or have it waived. It was a clerical error and I apologize.

MR. THOMPSON: What was the date, if you have that information?

MR. DOUGLASS: Everything was submitted on the ninth.

MR. THOMPSON: Okay.

All right, well, I certainly appreciate your situation. I ran for ANC four times and also had to walk around and get my 25 signatures. My dog helped me, that's all, you know. People wanted to pet my dog, then I said, okay, will you sign my petition? And I still struggled to get 25.

Okay, well, any questions from anybody from the BOE or the Board for Mr. Douglass?

MS. GREENFIELD: I don't have any questions.

MR. GILL: No, seems pretty straightforward.

MR. THOMPSON: All right, thank you,
Mr. Douglass, for taking the time to chat with us this morning.

MR. DOUGLASS: Sure.

MS. PEMBROOK: Chair Thompson, if I may just interject one comment?

MR. THOMPSON: Yes?

MS. PEMBROOK: I just want to make sure that both candidates understand that their petitions have been posted for a challenge period. So, the determination today doesn't necessarily mean one way or the other that their candidacy will be allowed to go forward.

People can submit challenges to their petition. The public is reviewing those petitions. And so, there may be further proceedings regardless of what the Board's decision is today.

MR. THOMPSON: Thank you, that's a good point. I forgot that as well that there's really two steps to this. One, the BOE accepting the petitions and counting the numbers.

And, as mentioned before, with respect
to Mr. Gurley's petitions, the BOE does not get
behind the signatures themselves and verify that
each one is a valid registered voter and so on
and so forth.

And the members of the public can
still issue such a challenge.

And so, you may be back but, for now,
we've got these two determinations -- appeals
from determinations that the BOE has made.

And I think at this point, unless
anybody suggests otherwise, I would ask that the
Board go into executive session to discuss the
two matters. And then come back probably in
about 20 minutes and state our decision on the
record, followed by a written determination.

MR. GILL: Second.

MR. THOMPSON: All right, all in favor
of proceeding to executive session?

(CHORUS OF AYES)

MR. THOMPSON: Okay, yes, Mr.

Douglass, Mr. Gurley, if you're still -- if you
want to hang around, that's fine, or you can dial
back in in about, you know, say, 15 minutes and we'll -- you'll probably hear us issue our ruling verbally.

But, for now, I think we're going to -- I think we actually remove people from the meeting, is that right?

MS. PEMBROOK: Yes, they'll be removed or put in a waiting room.

MR. THOMPSON: Okay. All right, so, let's proceed with that and go into executive session.

(Whereon, the above-entitled matter went off the record at 9:39 a.m. and resumed at 9:49 a.m.)

MR. THOMPSON: All right, it looks like everybody is back here.

Is the court reporter back on the record?

COURT REPORTER: Yes.

MR. THOMPSON: Okay, thank you.

Welcome back, Mr. Gurley and Mr. Douglass, others. We're back from our executive
session.

And we've reached our two determinations. We're going to start with Mr. Douglass.

There's some -- there is precedent in past cases of waiving the specific defect of the petition lacking the circulator -- lacking a date. So, we're going to follow that precedent having heard your testimony, Mr. Douglass.

And I would so move with the Board that we grant your appeal.

Is there a second?

MS. GREENFIELD: I second.

MR. GILL: Second, I was probably on mute.

MR. THOMPSON: Yes.

All right, so, all in favor?

(CHORUS OF AYES)

MR. THOMPSON: Okay.

Turning then, to Mr. Gurley's appeal.

We'll obviously apply the same precedent and cure the defects regarding the missing dates.
But to our knowledge, there's no precedent with respect to the other missing information pertaining to addresses and, more importantly, missing signatures and incomplete affidavits which are really important to the process and are well explained in the guidelines.

So, with that, I would move that we respectfully decline the appeal by Mr. Gurley.

MS. GREENFIELD: Second.

MR. THOMPSON: All in favor?

(CHORUS OF AYES)

MR. THOMPSON: I can't hear Mike. But okay, well, and there will be two written rulings to set forth the reasons for our determinations.

And, with that, I think we can adjourn. Do we have any other business, Ms. Pembrook or anybody else?

MS. PEMBROOK: I don't believe there's anything else.

MR. THOMPSON: Okay, well, it's Friday. Hope everybody has a good day and a fine
weekend.

And with that, I move we adjourn.

MS. GREENFIELD: And I second it.

MR. THOMPSON: Okay, all in favor of adjourning?

(CHORUS OF AYES)

MR. THOMPSON: Okay, thank you so much.

(Whereupon, the above-entitled matter went off the record at 9:52 a.m.)
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This is to certify that the foregoing transcript

In the matter of: Board Meeting

Before: DC BOE

Date: 08-19-22

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate complete record of the proceedings.

[Signature]

Court Reporter