

**DISTRICT OF COLUMBIA  
BOARD OF ELECTIONS**

Lorraine Stanislaus,	)	
Challenger	)	Administrative
	)	Order #20-017
	)	
v.	)	Re: Challenge to Nominating
	)	Petition Submitted for the
	)	Office of Advisory
Regina Pixley,	)	Neighborhood Commissioner
Candidate.	)	for Single Member District
	)	8C04

**MEMORANDUM OPINION AND ORDER**

**Introduction**

This matter came before the District of Columbia Board of Elections (“the Board”) on August 31, 2020. It is a challenge to the nominating petition submitted by Regina Pixley (“Ms. Pixley”) in support of her candidacy for the office of Advisory Neighborhood Commissioner for Single Member District 8C04 filed by Lorraine Stanislaus (“Ms. Stanislaus”) pursuant to D.C. Code § 1-1001.08 (o)(1) (2001 Ed.). Ms. Pixley was represented by Mr. Aristotle Theresa, Esq., and Ms. Stanislaus appeared *pro se*. Chairman D. Michael Bennett and Board member Michael Gill presided over the hearing.

**Background**

On July 2, 2020, Regina Pixley submitted a nominating petition to appear on the ballot as a candidate in the November 3, 2020 General Election contest for the office of Advisory Neighborhood Commissioner (ANC) for Single Member District (SMD) 8C04 (“the Petition”). The minimum requirement to obtain ballot access for this office is ten signatures of District voters who are duly registered in the same SMD. The Petition contained a total of 22 signatures. Pursuant

to title 3, District of Columbia Municipal Regulations (D.C.M.R.) § 1603.1, Karen F. Brooks, the Board of Elections' Registrar of Voters ("the Registrar"), accepted all 22 signatures for review.

On August 8, 2020, the Petition was posted for public inspection for 10 days, as required by law. On August 14, 2020, Ms. Stanislaus, a registered voter in the District of Columbia, filed a challenge to the Petition.

Ms. Stanislaus filed challenges to a total of 16 signatures pursuant to title 3 D.C.M.R. § 1607.1 of the Board's regulations on the following grounds: the signature is not dated; the petition does not include the name of the signer where the signature is not sufficiently legible for identification; and the petition does not include the address of the signer.

#### **Registrar's Preliminary Determination**

The Registrar reviewed the challenge to determine the validity of the challenged signatures. The Registrar's review indicated that a total of 14 of the 16 signature challenges were valid. Specifically, the Registrar found that 3 signatures belong to signers who were not registered voters; 9 signatures were invalidated because they were not dated; 1 signature is missing an address; and 1 signature did not include the name of the signer where the signature was not sufficiently legible for identification. Accordingly, the Registrar preliminarily determined the Petition contained 8 presumptively valid signatures, which is 2 signatures below the number required for ballot access.

#### **August 21, 2020 Pre-Hearing Conference**

Pursuant to title 3 D.C.M.R. § 415.1, the Office of the General Counsel convened a prehearing conference with both parties on Friday, August 21, 2020. The parties appeared *pro se*. At the beginning of the conference, each party stated their name and address. In response to a question from Ms. Pixley, Ms. Stanislaus explained that she had included her work address on the challenge paperwork.

Ms. Pixley described the facts and circumstances under which she collected petition signatures. She stated that she obtained all the petition signatures at a residential facility for seniors. Due to the COVID-19 public health emergency, she was at least six feet away from signatories when they signed the petition. Some of the individuals who signed did not write down a date after completing their signatures, and she did not prompt them to do so because she was not close enough to them to see they had omitted the signature as they signed. She described the omission of the dates as an “honest mistake.” She requested that the Board credit her with the undated signatures. Ms. Pixley specifically pointed to the first page of her petition signatures, where multiple signatures were dated on July 1, and stated that she hoped the Board would accept that other undated signatures on the same page had also been signed on July 1.

Ms. Stanislaus noted that the candidate had an obligation to review the petition signatures prior to submitting them to the Board. Ms. Stanislaus also referred to two signatures she had challenged, but where the challenge form did not indicate the correct location of these signatures on the original Petition. The Registrar clarified where the signatures were located on the original Petition and confirmed she had assessed the validity of these challenged signatures.

### **Candidate’s Post Hearing Memorandum for Ballot Petition Challenge**

On August 24, 2020, Ms. Pixley’s retained counsel, Mr. Aristotle Theresa, filed a Post-Hearing Memorandum for Ballot Petition Challenge (the “Post-Hearing Memorandum”) with the Board. In the Post-Hearing Memorandum, Mr. Theresa asserted that the Board lacked jurisdiction over the matter because the challenge was not properly filed in accordance with 3 DCMR § 1606.2, which provides, in part, that challenges must be filed in person at the Board by registered qualified electors. Mr. Theresa asserted that Ms. Stanislaus did not file the challenge in person at Board headquarters and that she provided her work address instead of her residence address on her

challenge forms. The Post-Hearing Memorandum thus asserted that Ms. Stanislaus did not certify that she was a qualified elector prior to the August 21 pre-hearing conference, and thus it should not have been held. Ms. Pixley moved for the hearing to be vacated, and for DCBOE to neither rule for or against Ms. Pixley in this matter, but to simply allow Ms. Pixley to remain on the ballot as no challenge to the Petition had been properly filed within the 10-day challenge period.

### **August 31, 2020 Board Hearing**

On August 31, 2020, Ms. Pixley appeared with her attorney, Mr. Theresa. Ms. Stanislaus appeared *pro se*. Mr. Theresa presented an argument he had previously raised in the Post-Hearing Response Memorandum concerning whether the challenge had been properly filed. The General Counsel asked Ms. Stanislaus whether she was, in fact, a qualified elector, and Ms. Stanislaus confirmed that she was and is a qualified elector. She stated her address on the record. The Registrar testified that Ms. Stanislaus did file the challenge in person. The Registrar also stated that she checked the voter registration records on the day Ms. Stanislaus filed the challenge and determined that she is a registered qualified elector. The General Counsel recommended to the Board that jurisdiction had been established and so the matter should move forward. The Board voted to accept the General Counsel's recommendation. In later testimony, Mr. Theresa cited title 3 D.C.M.R. §5202.4, which states that a member of the Board should not attempt to influence any decision of the District government that is not within the Board's purview, and that it was not within the Board's purview to correct the defect to Ms. Stanislaus's challenge concerning her address.

In a later portion of testimony, the Registrar presented the Board with her preliminary determination of the challenges. Mr. Theresa noted that the matter was a technicality or formal error, and requested that the Board provide relief. Ms. Pixley explained the circumstances under

which she had collected the petition, and the challenge of confirming the signers had completed all information including the date for their signature while maintaining social distance due to the COVID-19 public health emergency. Ms. Pixley also described her interactions with the Board and the timeline of proceedings prior to the Board hearing.

Ms. Stanislaus spoke last, and raised an issue of whether Ms. Pixley had properly witnessed the signatures if she was six feet away from the signers as they completed the Petition. Mr. Theresa objected. There was an attempt to clarify whether Ms. Stanislaus was referring to Ms. Pixley's exchanges with the Board staff, or her exchanges with signers of the Petitioner. Ms. Stanislaus stated they could move on.

### **Discussion**

As a preliminary matter, the Board found that it had jurisdiction over the challenge. It credited the Registrar of Voters' testimony that she had determined on August 14, 2020, the date the challenge was filed, that Ms. Stanislaus was indeed a resident of, and an eligible voter in, the District of Columbia. Therefore, Ms. Stanislaus's use of her work address on her challenge was not relevant to this determination, as the Board's voter registration records confirmed Ms. Stanislaus's status as a qualified elector. In addition, the Board's General Counsel, Terri Stroud, conveyed to the parties that the cite Mr. Theresa referred to, 3 D.C.M.R. §5202.4, was not a DCBOE regulation, but rather a regulation governing the Board of Ethics and Government Accountability.

Next, the Board considered Ms. Pixley's request that the Board credit her with the nine undated signatures. In reviewing petition challenges, the Board may, in its discretion, waive any formal error to a petition signature. Title 3 D.C.M.R. §1606.4. The Registrar had determined that nine signatures were invalidated because they were not dated, and that there were no other issues

with these signatures. The Board finds it appropriate to waive the formal error of these undated signatures. The Board credits Ms. Pixley's testimony regarding the facts and circumstances under which she obtained petition signatures. The Board grants Ms. Pixley's request that it waive the error with respect to omission of the dates for all nine of the signatures affected by this error.

**Conclusion**

As a result of this challenge, the Board finds that the Petition contains 17 valid signatures - 7 signatures over the number required for ballot access. It is hereby:

**ORDERED** that candidate Regina Pixley is granted ballot access in the contest for the office of Advisory Neighborhood Commissioner for SMD 8C04 in the November 3, 2020 General Election. This written order supports the Board's oral ruling issued at the August 31, 2020 hearing.

Date: 9/4/2020



D. Michael Bennett  
Chairman  
Board of Elections