

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS AND ETHICS**

William Lepsch

Complainant,

v.

Brittany Kademian

Respondent.

Administrative Hearing
No. 10-016

Re: Challenge to Nomination Petition

MEMORANDUM OPINION AND ORDER

This matter came before the Board of Elections and Ethics on Thursday, September 30, 2010, and involved a challenge to the candidacy of Brittany Kademian to appear on the ballot in the November 2, 2010 General Election for the Office of Advisory Neighborhood Commissioner Single Member District 1B07. The Challenge was brought by William Lepsch. Both the Challenger and the Candidate appeared pro se.

Pursuant to D.C. CODE § 1-1001.05(g) the Board heard the case by a one (1) member panel. Board member Charles Lowery presided over the hearing.

According to the evidence presented to the Board, candidate Kademian submitted a nominating petition containing fifty-two (52) signatures. The minimum signature requirement to qualify for the ballot for this office is twenty-five (25) signatures of qualified electors who live in the single-member district pursuant to D.C. CODE § 1-309.04(b)(1)(B). Challenger Lepsch filed a total of forty-seven (47) challenges to signatures on the nominating petition. As required by the Board's regulations, Challenger Lepsch alleged the signatures were defective because: the signer was not

registered to vote at address listed on petition at time signed (3 D.C.M.R. § 1607.5(b)); the signer is not duly registered in the single-member district from which the candidate seeks election at the time the petition is signed (3 D.C.M.R. § 1607.5 (f)); the petition does not include the printed or typed name of the signer where the signature is not sufficiently legible for identification (3 D.C.M.R. ' 1607.5 (h)); and the signer is not a duly registered voter (3 D.C.M.R. § 1607.5(c)).

The review of the challenge conducted by the Registrar of Voters indicated that twenty-eight (28) of the challenges were found to be valid. This decreased the number of valid signatures obtained by Candidate Kademian to twenty-four (24) registered qualified electors, which is one below the minimum number required for ballot access. Pursuant to D.C. CODE § 1-1001.08 (o)(3), an address different than the address appearing on the signer's registration record shall be deemed valid if the signer's current address is within the single member district, and the signer files a change of address form with the Board during the first 10 days of the period designated for resolving challenges to petitions. Consequently, the candidate may gather change of address forms from signatories challenged on the basis that the signer is not registered to vote at the address listed on the petition at the time the petition was signed. *See* 3 D.C.M.R. § 1607.5 (b). Ms. Kademian availed herself of this opportunity and produced a change of address form for two signatories Ran Bolton (p.2 ln. 1) and Patricia Zarate (p. 3 ln. 6) thereby raising the number of valid signatures from twenty-four (24) to twenty-six (26). Mr. Lepsch alerted the Board that one of the change of address cards was not dated, but there is no provision to disallow a change of address form on the basis of an omitted date.

Finally, Mr. Lepsch had a concern about testimony given during the pre-hearing


conference by Ms. Kademian regarding the circumstances of collecting one particular signature. During the pre-hearing conference, Mr. Lepsch's proxy enquired about the authenticity of a particular signature on a petition sheet. Ms. Kademian assured him that it was a valid signature and anecdotally offered that she personally witnessed the signature. This exchange raised concern for Mr. Lepsch because she did not sign as the circulator, and he surmised that something was amiss with her representation or alternatively, with the circulator affidavit on that petition sheet. During the hearing, Ms. Kademian clarified that she accompanied her circulator to secure all of the signatures on her nominating petition. Although the circulator was not present at the hearing, the Board noted that Mr. Lepsch's proxy never raised the contention as an issue in dispute, and the affidavit sufficed as evidence.

With the addition of Ran Bolton (p.2 ln. 1) and Patricia Zarate (p. 3 ln. 6), Ms. Kademian has the twenty-six (26) signatures for ballot access. Accordingly, the challenge fails to provide an adequate legal basis upon which to reduce the number of valid signatures obtained by Candidate Kademian below the legal minimum requirement.

In view of the evidence presented, the Board finds that the challenge is insufficient to remove the candidate's name from the ballot. Therefore, the Board denies the challenge as specified herein.

ORDERED that candidate Brittany Kademian is granted access to appear on the ballot in the November 2, 2010 General Election for the Office of Advisory Neighborhood Commissioner Single Member District 1B07.

October 1, 2010
Date


Mr. Charles R. Lowery, Jr.
Board Member,
Board of Elections and Ethics