

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

Steven Motley,
Complainant,

v.

Jacqueline Manning,
Respondent.

Administrative Hearing
No. 14-002

Re: Challenge to the Nominating
Petition of Jacqueline Manning,
Candidate for Ward 5 Member of the
District of Columbia Council

MEMORANDUM OPINION AND ORDER

Introduction

This matter came before the District of Columbia Board of Elections (“the Board”) on January 27, 2014 pursuant to a challenge filed by Steven Motley (“Mr. Motley”) to the nominating petition of Jacqueline Manning (“Ms. Manning”), candidate for the office of Ward 5 Member of the District of Columbia Council pursuant to D.C. CODE § 1-1001.08 (o)(1) (2012 repl.). Mr. Motley and Ms. Manning appeared *pro se*. Chairman Deborah K. Nichols presided over the hearing as a one-member panel pursuant to D.C. CODE § 1-1001.05 (g).¹

¹ D.C. CODE § 1-1001.05(g) (2012 repl.) states in relevant part:

[T]he Board may hear any case brought before it under this subchapter [] by 1 member panels. An appeal from a decision of any such 1 member panel may be taken to either the full Board or to the District of Columbia Court of Appeals, at the option of any adversely affected party.

Background

On December 31, 2013, Ms. Manning submitted a nominating petition to appear on the ballot as a candidate in the April 1, 2014 Primary Election for the office of Ward 5 Member of the District of Columbia Council. Ms. Manning submitted a total of 385 signatures. She made an initial submission of twenty (20) sheets containing 300 signatures and a supplemental submission of seven (7) sheets containing 85 signatures. On January 4, 2014, the petition was posted for inspection, pursuant to D.C. CODE §1-1001.08(o)(1) (2012 repl.), for a 10-day challenge period.²

On January 13, 2014, Mr. Motley filed a challenge to the petition in which he challenged 188 signatures. Each signature was challenged on a specific ground or grounds as required by the Board's regulations.

A pre-hearing conference concerning this matter was scheduled for Friday, January 17, 2014 at the Board's offices. At the pre-hearing conference, the Registrar of Voters ("the Registrar") gave her preliminary report concerning the challenge. The Registrar's review of the challenges, which referenced pertinent sections of the D.C. Municipal Regulations, concluded that 56 of the challenges to Ms. Manning's nominating petition were valid, which left the candidate with 329 signatures. Additionally, Ms. Manning submitted two Change of Address forms pursuant to D.C. CODE §1-1001.08(o)(3)(B) (2012 Repl.) in order to cure two challenges that were preliminarily

² D.C. CODE § 1-1001.08(o)(1) (2012 repl.) states in relevant part:

The Board is authorized to accept any nominating petition for a candidate for any office as bona fide with respect to the qualifications of the signatures thereto if the original or facsimile thereof has been posted in a suitable public place for a 10-day period beginning on the third day after the filing deadline for nominating petitions for the office. 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.

upheld by the Registrar. Accordingly, the Registrar concluded that Ms. Manning's nominating petition contained 331 valid signatures of qualified electors. As the minimum number of signatures required for the office sought is 250, pursuant to D.C. CODE §1-1001.08(i)(2)(A) (2012 repl.), the Registrar concluded that Ms. Manning had enough signatures on her nominating petition to achieve ballot access.

Analysis

Pursuant to 3 D.C.M.R. §424.1, "[t]he party who asserts the claim bears the affirmative duty of establishing the truth of the assertion." Therefore, Mr. Motley had to successfully challenge the Registrar's preliminary determination with respect to at least 82 signatures in order to prevail on his challenge. Mr. Motley raised three issues before the Board: 1) he challenged an individual signature on the nominating petition; 2) he claimed the Board failed to provide him with seven supplemental petition pages during the challenge period, and; 3) he claimed to witness the Registrar engaging in inappropriate decorum with Ms. Manning which, in his opinion, was indicative of bias. The Board considered each of Mr. Motley's claims and, for the reasons discussed below, decided to uphold the Registrar's preliminary determination and deny the challenge to Ms. Manning's nominating petition.

Mr. Motley took issue with the Registrar's preliminary determination that the signature that appeared on line nine of page seven of Ms. Manning's nominating petition, that of a Ms. Willodean Quattlebaum, was valid. Mr. Motley alleged that Ms. Quattlebaum's signature on the nominating petition deviated from that which was on file with the Board because the "Q" in her last name was materially different. Moreover, Mr. Motley asserted that Ms. Quattlebaum currently resides in North Carolina. While Mr.

Motley presented no evidence to substantiate his claim that Ms. Quattlebaum no longer resides in the District, the Board did recognize a substantial difference between the unique way she signed her last name on her voter registration records and the way she signed the nominating petition. Although Ms. Manning raised the possibility of people's signatures changing as they grow older, the deviation was significant enough to raise concerns, particularly in light of the absence of corroborating testimony from the signatory. Accordingly, the Board upheld Mr. Motley's challenge to this particular signature and reduced Ms. Manning's signature total to 330 signatures.

Mr. Motley also asserted that he was not given an opportunity to challenge the signatures on the petition supplement that Ms. Manning filed because he only received the original nominating petition. Mr. Motley reasoned that he only had the opportunity to examine 300 signatures, and the Registrar preliminarily upheld 56 of his 188 challenges, leaving Ms. Manning with 244 signatures. Mr. Motley surmised that had he been privy to the remaining pages, he would have likely found more signatures to challenge, and he had reason to believe that the supplemental pages were replete with forgeries. He insisted that the Board make a cursory investigation in order to stave off wholesale fraud. During the hearing, the Board did examine the petitions, but found no basis to conclude the supplemental petition sheets were replete with forgeries.

In an effort to explain the Board's standard procedure for posting nominating petitions for the 10-day challenge period, the Registrar testified that individuals who are interested in reviewing nominating petitions may inspect paper copies of the petitions at no cost, or purchase a disc containing electronic copies of the petitions for a nominal fee. Mr. Motley availed himself of the free option, but insisted that he only received the initial

petition filing to inspect. The Registrar testified that the Board's standard procedure is to provide challengers with all the petitions sheets filed by candidates when requested. The Board, assuming *arguendo* that Mr. Motley did not receive the supplemental petition for inspection, surmised that those sheets – which contained a total of 85 signatures -- contained at least six valid signatures in the aggregate, which would enable Ms. Manning to qualify for ballot access. Moreover, the Board's findings during the cursory examination of the petition supplement did not comport with Mr. Motley's assertion of wholesale fraud, which militated in favor of the signatures on the petition supplement being *bona fide* with respect to the qualifications of the signatures. To hold otherwise in the absence of any evidence to support Mr. Motley's claims would violate the Board's directive to accept any nominating petition subjected to the challenge process as *bona fide* pursuant to D.C. CODE §1-1001.08(o)(1) (2012 Repl.).

Finally, Mr. Motley leveled a charge of inappropriate interaction between the Registrar and Ms. Manning. At the conclusion of the pre-hearing conference, Mr. Motley claimed that he witnessed the Registrar hugging Ms. Manning and giving her the “thumbs-up” sign, and he deemed this conduct to give the appearance of partiality. The Registrar testified that she shook Ms. Manning's hand but did not hug her,³ and Ms. Manning corroborated the Registrar's account.

The Board takes allegations of inappropriate conduct between its employees and members of the public very seriously. The Board strives to maintain impartiality, and any action that thwarts that goal is frowned upon. In this instance, the Board credits the

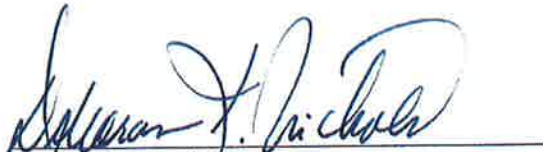
³ According to the Registrar, the only thing that she surmised could be misconstrued as a hug occurred at a moment when several persons were trying to pass through a narrow pathway in the Board's offices, and Ms. Manning had to come closer to the Registrar to allow the other person access.

testimony of the Registrar and Ms. Manning, but recognizes that there could be an honest misinterpretation of events that transpired.

In conclusion, Mr. Motley has failed to establish that Ms. Manning failed to secure the requisite 250 signatures of qualified electors who are in the same political party as the candidate pursuant to D.C. CODE § 1-1001.08 (i)(2) (2012 Repl.). Accordingly, it is hereby

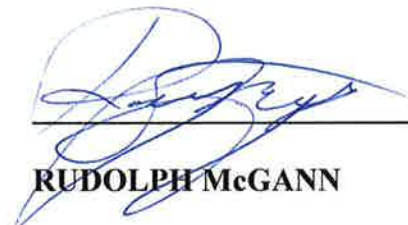
ORDERED that Jacqueline Manning be **GRANTED ballot access** in the April 1, 2014 Primary Election for the office of Ward 5 Member of the District of Columbia Council.

January 31, 2014


Deborah K. Nichols, Esq.
Chairman
Board of Elections

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing order was sent electronically to Steven Motley and Jacqueline Manning on this day, January 31 2014.



RUDOLPH McGANN