

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

Anthony Green,
Complainant,

v.

Darrell Gaston,
Respondent.

Administrative Hearing
No. 12-009

Re: Challenge to the Nominating Petition of
Darrell Gaston,
Candidate for Advisory Neighborhood
Commissioner Single Member District 8B04

MEMORANDUM OPINION AND ORDER

Introduction

This matter came before the District of Columbia Board of Elections (“the Board”) on August 31, 2012. It is a challenge to the nominating petition of Darrell Gaston (“Mr. Gaston”) for the office of Advisory Neighborhood Commissioner, (ANC) Single Member District 8B04 filed by Anthony Green (“Mr. Green”) pursuant to D.C. CODE § 1-1001.08 (o)(1) (2011). Both parties appeared *pro se*. Chairman Deborah K. Nichols and Board member Stephen I. Danzansky presided over the hearing.

Background

On August 8, 2012, Mr. Gaston submitted a Nominating Petition for the office of ANC 8B04 with thirty (30) signatures. On August 11, 2012 the petition was posted for inspection, pursuant to D.C. CODE §1-1001.08(o)(1)(2006), for a full 10-day challenge period.¹

¹ D.C. CODE § 1-1001.08(o)(1) (2006) 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

On August 20, 2012, Mr. Green filed a challenge to the petition in which he challenged ten (10) of the thirty (30) signatures. Each signature was challenged on a specific ground or grounds as required by the Board's regulations.

A pre-hearing on this matter was scheduled for Monday, August 27 at 12:00 p.m. at the Board's offices. Mr. Green was not in attendance due to a typographical error in his notice, but he managed to arrive immediately after adjournment, and he was apprised of the Registrar's preliminary determination. At the pre-hearing, the Registrar of Voters ("Registrar") gave her preliminary report concerning the challenge. The Registrar's review of the challenges referencing the Municipal Regulations concluded that ten (10) of the challenges to Mr. Gaston's nominating petition were valid – leaving the candidate with twenty (20) signatures. The minimum requirement of signatures for this office is twenty-five (25), pursuant to D.C. Code §1-309.05(b)(1)(b) (2011). Accordingly, the Registrar concluded that the Candidate did not secure enough signatures on his nominating petition for ballot access. However, Mr. Gaston subsequently submitted five address changes and was credited with three by the Registrar because the remaining two signatories were not registered. Moreover, Mr. Gaston procured two notarized statements from signatories Deandre Howard and Marvin Winslow.

All parties were notified that a hearing before the Board was scheduled for Friday, August 31, 2012 at 10:30 a.m. Mr. Green took issue with the notarized statement of Mr. Marvin Winslow because the signature appended to the nominating petition did not remotely resemble Mr. Winslow's signature on the Board's records. Mr. Winslow

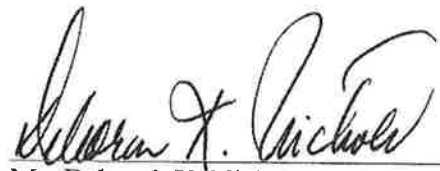
facsimile thereof has been posted in a suitable public place for a 10-day period beginning on the third day after the filing deadline for nominating petitions for the office. Any registered qualified elector may within the 10-day period challenge the validity of any petition by written statement signed by the challenger and filed with the Board and specifying concisely the alleged defects in the petition.

explained in the notarized statement that he sprained his wrist so that he was unable to sign appropriately. The Board however, concurred with Mr. Green's assessment and wanted to speak with Mr. Winslow regarding the circumstances surrounding such disparate signatures. The Board directed its staff to locate Mr. Winslow to no avail, and the Board is not inclined to accept the explanation given for such a variance in signatures between the nominating petition and the voting registry. The Board is vested with the responsibility to ensure prospective candidates procure the requisite amount of valid signatures. In the case of such a blatant variation in signatures without the signatory's sworn testimony subject to cross examination, the Board cannot blithely accept an un-interrogated explanation. Accordingly, the Board accepts the notarized statement of Deandre Howard and rejects the notarized statement of Marvin Winslow. Coupled with the three address changes properly submitted and processed by the Registrar of Voters, Mr. Gaston's nominating petition contains a total of twenty-four (24) valid signatures—one less than required for ballot access.

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

ORDERED that candidate Darrell Gaston is denied ballot access to appear on the ballot in the forthcoming election for ANC-SMD 8B04.

September 10, 2012
Date


Ms. Deborah K. Nichols
Chairman,
Board of Elections