

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

Sandra Seegars, Challenger)	Administrative Hearing No. 14-08
)	
v.)	Re: Nominating Petition Challenge for the Ward 8 Member of the State Board of Education
)	
Tierra Jolly, Candidate.)	

MEMORANDUM OPINION AND ORDER

INTRODUCTION

This matter came before the District of Columbia Board of Elections (“the Board”) on May 12, 2014. It is a challenge to the nominating petition of Tierra Jolly (“Ms. Jolly”) for the office of Ward 8 Member of the State Board of Education, filed by Sandra Seegars (“Ms. Seegars”) pursuant to D.C. Code § 1-1001.08 (o)(1) (2013). The Ms Seegars appeared *pro se*, accompanied by Sandra Williams, assistant challenger, and the Respondent was represented by Dara Linderbaum, Esq., of Sandler, Reiff, Young and Lamb PC. 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 § 1-0001.05(g) (2013) 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 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

Ms. Jolly submitted a nominating petition for the office of the Ward 8 Member of the State Board of Education with 347 signatures on April 17, 2014. The minimum signature requirement for that office is 200 registered qualified electors who are residents of the same ward from which the candidate seeks election pursuant to D.C. CODE §1-1001.08(n), 3 District of Columbia Municipal Regulations (“D.C.M.R.”) §1603.6 (2014).

Ms. Seegars, a duly registered voter in the District of Columbia, filed a challenge to the petition on April 28, 2014 in which she challenged 201 of the 347 signatures. Each signature was challenged on a specific ground, or grounds, as required by the Board’s regulations. Specifically, Ms. Seegars challenged signatures on the grounds that: (1) the signer is not a duly registered voter; (2) the signer, according to the Board’s records, is not registered to vote at the address listed on the petition at the time the petition was signed; (3) the petition does not include the address of the signer; (4) the signer is not duly registered in the ward from which the candidate seeks election at the time the petition was signed; (5) the petition does not contain the printed or typed name of the signer where the signature is not sufficiently legible for identification; and (6) the signature on the petition was not made by the person whose signature it purports to be.

Pursuant to 3 D.C.M.R. §415.1, the Office of the General Counsel conducted a pre-hearing conference in this matter on Wednesday, May 7, 2014. Ms. Seegars appeared *pro se*, accompanied by Sandra Williams. Ms. Jolly was represented by Ms. Linderbaum.

The Registrar determined that 139 challenges were valid and 62 challenges were invalid, leaving Ms. Jolly with 208 signatures, which is 8 signatures over the minimum required for ballot access. Within the 139 valid challenges, the Registrar also determined that Ms. Jolly’s petition contained 72 signatures with an address different from the address which appears on the

signer's registration record. Pursuant to D.C. CODE §1-1001.08(o)(3)², Ms. Jolly had until the close of business (4:45pm) Thursday, May 8, 2014, to cure the petitions containing signatures with an address different from the address which appears on the signer's registration record. Ms. Jolly submitted two change-of-address forms on the day of the pre-hearing conference, bringing her total to 210 valid signatures, but she did not cure any of the remaining signatures by filing change-of-address forms by the May 8, 2014 deadline.

Both parties received the Registrar's preliminary determination with respect to the challenge on May 7, 2014. The parties were informed pursuant to 3 D.C.M.R. §415.2 that any proceeding before the Board would be limited to those issues raised during the pre-hearing conference but not disposed of by admissions or agreements of counsel or parties. During the pre-hearing conference, the parties raised a number of unresolved concerns that are hereby recited for the record. For the reasons stated below, the Board finds that Ms. Jolly secured the minimum number of signatures required for ballot access pursuant to 3 D.C.M.R. §1603.6.

DISCUSSION

The United States Supreme Court has long recognized that states and localities have a responsibility to protect the integrity and reliability of the election process, and has generally accorded them latitude in establishing rules and procedures toward that end. "[T]here must be substantial regulation of elections if they are to be fair and honest and if some sort of order is to accompany the democratic processes." *Buckley v. American Constitutional Law Foundation, Inc.*, 525 U.S. 182, 187(1999). Accordingly, the District of Columbia has established a

² D.C. CODE § 1-1001.08(o)(3) provides that "[f]or the purpose of verifying a signature on any petition filed pursuant to this section, the Board shall first determine if the address on the petition is the same as the address shown of the signer's voter registration record. If the address is different than the address which appears on the signer's registration record, the address shall be deemed valid if: [t]he signer's current address is within the school district for a school board election; and [t]he signer files a change of address form with the Board during the first 10 days of the period designated for resolving challenges to petitions.

nominating petition process that requires prospective candidates to demonstrate a modicum of support from a specific number of qualified electors as a condition precedent to ballot access.

CHALLENGER'S ISSUES FOR REVIEW

Ms. Seegars took issue with the Registrar's determination with respect to twenty (20) signatures. The first issue Ms. Seegars raised was with respect to Ashley Brody (Pg. 1 line 3), because the name does not appear on the same line as the signature, and therefore the petition does not contain the printed name of the signer. Ms. Seegars stated that if there is a separate number for each person, then a correct signature must be beside the printed name of the signer, not on a different line of the form. Ms. Jolly's attorney pointed out that it is clear from the form the person to whom the signature belongs. Pursuant to 3 D.C.M.R. §1606.4, the Board may waive any formal error on a nominating petition.³ Counsel for Ms. Jolly asserted during the hearing that the Registrar, and by extension the Board, can determine that the signature belongs to a duly registered voter. The Board will not disallow the signature due to the signatory appending her signature to the wrong line.

Ms. Seegars' other issues are: Anthony Garner (Pg. 2, line 1), because the address lacks an apartment number and quadrant; Monekia General (Pg. 4, line 10), because the signer signed with a last name different from the one on the voter registration card; Marshalle Lee (Pg. 6, line 10), because the address lacks an apartment number; Leslie Young (Pg. 7, line 3), because the address lacks a quadrant direction; Nakeya Pee (Pg. 8, line 4), because of alleged forgery;

³ 3 D.C.M.R. § 1606.4 states in relevant part:

In the event Board staff discovers a fatal defect either on the face of a petition or pursuant to a record search concerning a specific allegation or challenge, the Board may, on its own motion, declare any signature(s) invalid, notwithstanding the defect was not alleged or challenged; alternatively, the Board, in its discretion, may waive any formal error.

Brenda Beckham (Pg. 8, line 16) because of alleged forgery, and the address does not list whether it is a street or road nor quadrant; F.D. Ellenburg (Pg. 8, line 17) because the address lacks a quadrant, and signatures don't appear to match; Alease Luckey (pg. 9, line 20) because the address does not list whether it is a street or road; Arnethia Segcars (Pg. 10, line 1) because the signature on the petition does not appear to match the signature on record; Tarshia Brooks (Pg. 10, line 3) because the signature on the petition does not appear to match the signature on record; Lajaun Massie (Pg. 10, line 5) because the signature on the petition does not appear to match the signature on record; Jonette Mabin (Pg. 10, line 14) because the signature on the petition does not appear to match the signature on record; Alphonso Crawford (Pg. 11, line 14) because address lacks an apartment number; Deborah Gibson (Pg. 12, line 3) because signature is illegible; Aisha Jones (Pg. 12, line 9) because the address lacks an apartment number; Yolanda Ghoulston (Pg. 12, line 12) because the signature on the petition does not appear to match the signature on record, though Ms. Jolly pointed out that the "l's" and "y's" are consistent with a high loop; Cynethia Wright (Pg. 12, line 13) because the signature on the petition does not appear to match the signature on record, though Ms. Jolly pointed out that the "e's" are similar and the signer only signs five letters; Torace Johnson (Pg. 14, line 7) because the signature on the petition does not appear to match the signature on record; Rufaro Jenkins (Pg. 17, line 14) because the signature on the petition does not appear to match the signature on record, though Ms. Jolly pointed out that the loops, r's, f's and j's match.

Ms. Jolly, by and through her legal counsel, noted for the record that there is nothing in the D.C. Code that requires a signer to list an apartment number or a quadrant in order to write a complete address, especially if there is only one apartment building with the specific name in the District of Columbia. Ms. Jolly also pointed out that for Deborah Gibson (pg. 12, line 3), even if

the signature is illegible, the printed name is clear from the record, and therefore, does not qualify to be challenged.

With respect to the signatures challenged as incomplete due to the lack of a quadrant directional, apartment number, and/or street or road identification, the Board agrees with Ms. Jolly that the signatures are of duly registered voters that should not be disenfranchised due to an omission where the Registrar could determine the signatories' identities. The address requirement is used to identify whether the signatory is a duly registered voter, and the omissions did not hamper the Registrar's determination because she was able to locate each signatory in the voter registry. The Board deems these omissions as formal errors and hereby waives them. Therefore, the following signatures are deemed valid and the Registrar's preliminary determination is upheld: Anthony Garner (Pg. 2, line 1), Marshalle Lee (Pg. 6, line 10), Leslie Young (Pg. 7, line 3), Alease Luckey (pg. 9, line 20), Alphonso Crawford (Pg. 11, line 14), and Aisha Jones (Pg. 12, line 9).

With respect to the signatures challenged as alleged forgeries, Ms. Seegars bears the burden of proving that the signatures on the petition were not made by the persons whose signatures they purport to be. 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." Ms. Seegars relied upon perceived discrepancies between the signatures appended to the nominating petition and those in the voter registry. Although Ms. Seegars testified to being unable to locate one of the signatories, she did not provide any evidence to refute the sworn affidavits submitted to Ms. Jolly by two signatories, Jonette Mabin (Pg. 10, line 14) and Hazel Mosby (Pg. 10, line 2). Moreover, Ms. Jolly submitted affidavits from the circulators of nominating petition sheets containing the signatures of Angela Cherry (Pg. 5, line 18), Nakeya Pee (Pg. 8, line 4), Arnethia

Segcars (Pg. 10, line 1), Hazel Mosby (Pg. 10, line 2), Tarshia Brooks (Pg. 10, line 3), Precious Thomas (Pg. 10, line 7), Donte McCray (Pg. 10, line 13), Jonette Mabin (Pg. 10, line 14), Tayla Porter (Pg. 10, line 16), Robert Lewis (Pg. 10, line 19), Cynethia Wright (Pg. 12, line 13), Tasha Bland (Pg. 12, line 17), and Rufaro Jenkins (Pg. 17, line 14). The Board hereby credits the affidavits of the signatories and the circulators, and deems the associated signatures valid in the absence of any evidence to rebut the presumption of validity.

With respect to the signature challenged on the ground that the surname on the petition is different than that in the Board's records, Monekia General (Pg. 4, line 10), the Registrar noted that a Monekia McFadden was listed at the address provided on the voter registry, and surmised that Ms. General used her married name as opposed to her maiden name as evidenced by the matching signatures and address. The Board hereby upholds the Registrar's determination and credits Ms. Jolly with the signature. The Board will not disenfranchise a voter who has failed to inform the Board of their marital status and resulting name change where the Registrar can determine that the signatory is a duly registered voter.

CANDIDATE'S ISSUES FOR REVIEW

Ms. Jolly, through and by her representative, took issue with ten signatures that Ms. Seegars challenged and that the Registrar preliminarily upheld as materially different and not the signature made by the person whose signature it purports to be pursuant to 3 D.C.M.R. §1607.1 (i), or not a duly registered voter. The signatures that Ms. Jolly contests are Angela Cherry (Pg. 5, line 18) because the address of the signer matches the address in the voter registration record; Andre Holman (Pg. 8, line 3) because the signer is a registered voter and the candidate presented his voter ID number; Hazel Mosby (Pg. 10, line 2) because the signatures do match; Precious Thomas (Pg. 10, line 7) because the signatures do match; Donte McCray (Pg. 10, line 13)

because the signatures do match; Tayla Porter (Pg. 10, line 16) because the signature on the petition matches the one on record; Robert Lewis (Pg. 10, line 19) because the signatures do match and his address is complete; Tasha Bland (Pg. 12, line 17) because the signatures do match because both have a “bottom scrawl” and similar “a’s”; and John Smith (Pg. 12, line 19) because the signatures match. In addition to the issues with the signatures, the candidate challenges the validity of Ms. Seegars’ challenge because she put her address instead of Ms. Jolly’s address in the place where the address of the candidate belongs (Pg. 1).

With respect to the aforementioned signatories challenged as materially different and not the signature made by the person whose signature it purports to be, the Board credits the affidavit of the aforementioned signatory Hazel Mosby (Pg. 10 line 2), and the affidavits of the circulators who attest to personally circulating the nominating petition and procuring the signatures.⁴ Consequently, Ms. Jolly’s signature total increased from 210 to 216.

With respect to Angela Cherry (Pg. 5, line 18), Ms. Jolly asserted that the signatory’s address matched the voter registry, and the Registrar conceded that Ms. Cherry did in fact list her registered address on the nominating petition. As a result, Ms. Jolly’s signature total increased from 216 to 217.

With respect to Ms. Seegars’ appending her address in place of the candidate’s address on the challenge form, the Board hereby waives the formal error.

⁴ The signatures that the Registrar rejected as invalid that are deemed valid by the Board as result of the submission of affidavits are: Hazel Mosby (Pg. 10, line 2), Precious Thomas (Pg. 10, line 7), Donte McCray (Pg. 10, line 13), Tayla Porter (Pg. 10, line 16), Robert Lewis (Pg. 10, line 19), and Tasha Bland (Pg. 12, line 17). The remaining signatures were already credited to Ms. Jolly’s signature total.

CONCLUSION

Ms. Jolly secured 217 valid signatures, 17 over the minimum required to appear on the ballot. Accordingly, it is hereby:

ORDERED that the candidate, Ms. Tierra Jolly, is granted ballot access in the election for the office of Ward 8 Member of the State Board of Education.

May 19, 2014
Date

A handwritten signature in cursive script, reading "Deborah K. Nichols", written over a horizontal line.

Deborah K. Nichols, Esq
Chairman,
Board of Elections