

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

Tiffany Brown,)	
Challenger)	Administrative
)	Order #20-009
)	
v.)	Re: Nominating Petition
)	Challenge for the Office of
)	Advisory Neighborhood
David Brooks II,)	Commissioner for SMD 7B02
Candidate)	

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 David Brooks, II (“Mr. Brooks”) in support of his candidacy for the Office of Advisory Neighborhood Commissioner for Single Member District 7B02, filed by Tiffany Brown (“Ms. Brown”) pursuant to D.C. Code § 1-1001.08(o)(1) (2001 Ed.). Mr. Brooks and Ms. Brown appeared *pro se*. Chairman D. Michael Bennett and Board member Michael Gill presided over the hearing.

Background

On August 5, 2020, Mr. Brooks submitted a nominating petition to appear on the ballot as a candidate in the November 3, 2020 General Election, for the office of Advisory Neighborhood Commissioner (ANC) for the Single Member District (SMD) 7B02. The minimum requirement to obtain ballot access for this office is ten signatures of District of Columbia voters, who are duly registered in the same SMD as the Candidate. Mr. Brooks’ Petition contained 17 signatures. Pursuant to Title 3, District of Columbia Municipal Regulations (D.C.M.R.) § 1603.1, Karen F. Brooks (“Ms. Brooks”), the Board of Elections’ Registrar of Voters (“the Registrar”), accepted 13

signatures for review; four signatures were rejected because there were not timely filed with the Board.

On August 8, 2020, the Petition was posted for public inspection for ten days, as required by D.C. Official Code § 1-1001.08(o)(1). On August 10, 2020, the Petition was challenged by Ms. Brown, a registered voter in the District of Columbia. On August 12, 2020, Office of the General Counsel (“OGC”) Staff Attorney Terrica Jennings (“Ms. Jennings”) sent Mr. Brooks an email informing him that Ms. Brown challenged several signatures on his Petition.

Ms. Brown filed challenges to five of the 13 timely submitted signatures, enumerated by line and page number on individual “challenge sheets” filed for each Petition page. The signatures were challenged pursuant to Title 3 D.C.M.R. § 1607.1 of the Board’s regulations on the following grounds: the signer’s voter registration was designated as inactive on the voter roll at the time the Petition was signed; 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; and the Petition does not include the name of the signer where the signature is not sufficiently legible for identification.

Registrar’s Preliminary Determination

After the Registrar’s initial review, it was determined that all five challenges filed by Ms. Brown were valid. Two of the challenges were valid because the signer was not registered to vote at the address listed on the Petition at the time the Petition was signed, two were valid because the signer was designated as inactive on the voter roll at the time the petition was signed, and one was valid because the signature and the printed name were illegible. This left Mr. Brooks’ nominating Petition with eight signatures, two signatures below the number required for ballot access.

On August 18, 2020, the Registrar of Voters received four change of address forms from Mr. Brooks. After evaluating them, Mr. Brooks was credited with one signature that had previously

been determined to be invalid. This left Mr. Brooks' nominating Petition with nine signatures, one signature below the number required for ballot access.

August 21, 2020 Pre-Hearing Conference

Pursuant to Title 3 D.C.M.R. § 415.1, the OGC convened a telephonic pre-hearing conference on Friday, August 21, 2020. Ms. Brown and Mr. Brooks appeared *pro se*. The Registrar read her preliminary report into the record, and informed both parties that Mr. Brown had nine signatures, one signature below the number required for ballot access. Ms. Brown agreed with the Registrar's finding. However, Mr. Brooks objected to the preliminary report, and the Registrar's determination that he only had nine valid signatures.

During the pre-hearing conference, Mr. Brooks acknowledged that he untimely filed the four signatures that were rejected by the Registrar. However, he argued that he did not have an opportunity to review the list of registered voters in the District of Columbia, until two hours prior to the close of the nominating petition period, which ended on August 5th, 2020. Mr. Brooks also stated that the unavailability of the list precluded him from knowing who was duly registered to vote in his neighborhood. Pursuant to D.C. Official Code § 1-1001.08(i)(3), the computation of the exact number of registered voters in the District, as well as the entire list of registered voters upon which the count was based, was posted in the Board of Elections' office on June 12, 2020, and was available for review until August 27, 2020, the end of the Petition challenge period. It should be noted that Advisory Neighborhood Commissioner candidates were eligible to pick up their petitions starting on June 26, 2020, and they all had access to the most current list of registered voters in the District.

At the end of the pre-hearing conference, Mr. Brooks again objected to the Registrar's finding, and informed all parties that he would be submitting a written response. He also requested to go before the Board on September 2, 2020.

August 29, 2020 Response to the Registrar's Preliminary Determination

On August 29, 2020, Mr. Brooks sent an email correspondence to the Registrar, Karen Brooks, requesting a recount of the number of signatures on his initial Petition. Mr. Brooks' position was that his Petition contained 18 signatures, as opposed to the 17 signatures noted by the Registrar in her preliminary report. The Registrar complied with Mr. Brooks' request, and subsequently determined that an administrative error had been made, when she failed to include a signature located on page 2, line 0 of his nominating petition. Mr. Brooks was credited with one additional signature. On August 30, 2020, the Registrar's preliminary report was amended, and emailed to both Mr. Brooks and Ms. Brown. Ms. Brown requested to be heard by the Board.

September 2, 2020 Board Hearing

On September 2, 2020, the Board remotely convened a Special Board Meeting, and both parties appeared pro se. At the start of the hearing, the Registrar presented the Board with her preliminary determination of the challenges. Ms. Brown requested clarification concerning how Mr. Brooks eventually achieved ballot access, when the Registrar stated during the pre-hearing conference that he did not have enough signatures for ballot access.

The Registrar explained that Mr. Brooks received credit for one challenged signature, on page 1, line 1 (Authur Scott) on his petition sheet. Additionally, she explained that Mr. Brooks received credit for one previously uncounted signature, on page 2, line 0 (Wayne Quigley) on his petition sheet. Ms. Brown acknowledged the fact that Mr. Brooks would now qualify for ballot access, based on the inclusion of Mr. Quigley's signature, but maintained her objection to him gaining ballot access. Ms. Brown's objection was unsubstantiated.

Terri Stroud ("Ms. Stroud"), General Counsel, made the recommendation that the Board grant Mr. Brooks ballot access, in the contest for the Office of Advisory Neighborhood

Commissioner for Single Member District 7B02. The Board unanimously accepted Ms. Stroud's recommendation, and Mr. Brooks was granted ballot access.

Discussion

As a preliminary matter, it should be noted that the Registrar of Voters is legally able to amend her preliminary report, regardless of whether that modification is based on an administrative error or the candidate's ability to cure a defect, by providing evidence to support the validity of a signature listed on a Petition.

In this matter, the Registrar amended her preliminary report because of an internal administrative error. Mr. Brooks submitted 18 signatures, but one signature was inadvertently missed because it was located in the "sample" area of the Petition sheet. More specifically, Wayne Quiqley, a voter in the same SMD as Mr. Brooks, wrote his name, address and signature in the "sample" section, on page 2, line 0 on the petition sheet. This is not a disqualifying factor, so the Registrar included Mr. Quiqley's signature in her count, after subsequently reviewing Mr. Brooks' nominating petition sheets. Therefore, the Registrar has determined that, as a result of Ms. Brown's challenge, Mr. Brooks' Petition has ten signatures, the number required for ballot access.

Conclusion

For the reasons indicated above, it is hereby:

ORDERED that candidate David Brooks, II is granted ballot access for the Office of Advisory Neighborhood Commissioner for Single Member District 7B02, in the November 3, 2020 General Election. This written order supports the Board's oral ruling issued at the August 31, 2020 hearing.

Date: September 3, 2020



D. Michael Bennett
Chairman
Board of Elections