

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

<u>Karen Lucas</u> ,)	
Challenger)	Administrative
)	Order #16-008
)	
v.)	Re: Nominating Petition
)	Challenge for the Office
)	Advisory Neighborhood
Kristal Knight,)	Commissioner Single Member
<u>Candidate.</u>)	District 8C01

MEMORANDUM OPINION AND ORDER

INTRODUCTION

This matter came before the District of Columbia Board of Elections (“the Board”) on September 1, 2016. It is a challenge to the nominating petition of Kristal Knight (“Ms. Knight”) for the office of Advisory Neighborhood Commissioner, Single Member District 8C01 filed by Karen Lucas (“Ms. Lucas”) pursuant to D.C. Code § 1-1001.08 (o)(1) (2001 Ed.). The Challenger was represented by Mr. Ari Theresa, Esq., and the Candidate appeared *pro se*. Chairman Michael Bennett and Board members Dionna Lewis and Michael Gill presided over the hearing.

BACKGROUND

Ms. Knight submitted a nominating petition for the office of Advisory Neighborhood Commissioner, Single Member District 8C01 on August 3, 2016. The nominating petition was posted for a 10-day challenge period on August 13, 2016, pursuant to D.C. CODE § 1-1001.08(o)(1); 3 D.C.M.R. § 1606.1. Ms. Lucas, a duly registered voter in the District of Columbia, challenged Ms. Knight’s nominating petition on August 19, 2016. Ms. Knight

electors who are residents of the single-member district from which she seeks election pursuant to D.C. CODE § 1-309.05(b)(1)(B). Ms. Lucas filed challenges to a total of 49 signatures enumerated by line and page number on individual challenge sheets for each nominating petition page.

Petition signatures were challenged pursuant to 3 D.C.M.R. §1607.1 of the Board's regulations on the following grounds: the signer is not a duly registered voter; 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, provided that an address on a petition which is different than the address which appears on the Board's records shall be deemed valid if the signer's current address is within boundary from which the candidate seeks nomination, and the signer files a change of address form with the Board during the first 10 days following the date on which a challenge to the nominating petition is filed; the signature is not dated; the petition does not include the name of the signer where the signature is not sufficiently legible for identification; the circulator of the petition sheet was not a qualified petition circulator at the time the petition was signed; the signature is not made by the person whose signature it purports to be, provided that registered voters who are unable to sign their names may make their marks in the space for signature. These marks shall not be counted as valid unless the persons witnessing the marks shall attach to the petition affidavits that they explained the contents of the petitions to the signatories and witnessed their marks; the signer is not a registered voter in the ward or Single-Member District from which the candidate seeks nomination at the time the petition was signed; and the signer is not registered to vote in the same party as the candidate at the time the petition is signed.

Pursuant to Title 3 District of Columbia Municipal Regulation §415.1, the Office of the General Counsel conducted a Pre-Hearing conference in this matter on Tuesday, August 23, 2016. Both the Challenger and the Candidate appeared pro se. The Registrar determined that 11 of the 49 challenges were valid leaving Ms. Knight with 38 signatures, which is 13 over the amount required for ballot access.

During the prehearing conference, the parties were able to hear the Registrar's determination regarding the signature challenges. The parties were informed pursuant to 3 D.C.M.R. § 415.2 that the agreements made by the parties as to any of the matters considered which limit the issues for hearing to those issues not disposed of by admissions or agreements of counsel or parties. Ms. Lucas challenged signatures saying that the petition circulator, Ms. Knight, did not properly secure signatures and the petition sheets should be discarded. Ms. Lucas was informed that she bears the burden of producing evidence to substantiate her claims with respect to her claims of forgery on the nominating petition. While the Registrar did agree that the signatures on page 1, lines 4 and 15; and page 3 line 2 and line 8 do not appear to be made by the person whose signature it purports to be, Ms. Lucas would have to substantiate her claim of nefarious activity on the part of the circulator, Ms. Knight, to disallow all signatures on the petition sheets.

CHALLENGER'S ISSUES FOR REVIEW

Before the Board, Ms. Lucas, by and through her legal counsel, raised signatures on page 1, lines 4 and 15; and page 3 line 2 and line 8 as forgeries collected by the candidate as a circulator. Mr. Theresa reasoned that if the Registrar concurred that those signatures are forgeries as denoted on her preliminary determination with the notation of "F," then the Board should disallow all signatures on those petition sheets as was done in the case of *Williams v. Board of Elections*, 804 A.2d 316 (D.C. 2002) where, "widespread obstruction and pollution of the nominating process as it pertains to nominating petition sheets circulated by the Bishops." *Id.* at 316.

CANDIDATE'S ISSUES FOR REVIEW

Ms. Knight took no issue with the Registrar's preliminary determination other than to assert that she personally circulated her nominating petition and collected all the signatures appended thereon.

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 a substantial regulation of elections if they are to be fair and honest and if some sort of order is to accompany the democratic process." *Buckley v. American Constitutional Law Foundation, Inc.*, 525 U.S. 182, 187 (1999). Accordingly, the District of Columbia has established a nominating petition process that require prospective candidates to demonstrate a modicum of support from a specific number of qualified electors as a condition precedent for ballot access.

Ms. Knight secured 38 valid signatures, which is 13 more than the required minimum for ballot access to this office. Ms. Lucas raised a valid concern with respect to the four signatures where the Registrar agreed that the signatures do not appear to be made by the person whose signature it purports to be and disallowed them; however, Ms. Lucas relied solely upon the signatures themselves as proof that the circulator, Ms. Knight, obstructed and polluted the petition process. The General Counsel for the Board, Mr. Ken McGhie queried Ms. Lucas as to how Ms. Knight could verify signatories' authenticity. Ms. Lucas suggested that she should request identification for verification, but Mr. McGhie explained that there is no such requirement in the nominating petition process. As aforementioned, the *Williams* case involved wholesale forgeries committed by the circulators themselves.

[T]he Board additionally had grave concerns about the veracity of circulator affidavits signed by the Bishops that accompanied their petitions. Those concerns were not allayed, moreover, when each of the Bishops, subpoenaed to answer questions about his or her role in the petition process, categorically refused to answer questions by asserting their Fifth Amendment privilege. The Board thus was unable, in its words, "to ascertain whether the [Bishop] circulators personally circulated petitions, or personally witnessed each person actually sign the petition," all as required by the election statute.

Williams at 318. The *Williams* case is inapposite to the instant case because Ms. Knight made herself available to testify and asserted on the record that she personally circulated the petition.

Ms. Knight's testimony was deemed credible in light of no contradictory evidence presented by Ms. Lucas. The Board does take issue with the Registrar's notation system denoting signatures that do not match those on the registry with a "F." This practice can besmirch the efforts of a circulator who may have innocently collected a bad signature without nefarious intent. Once an official from the Board characterizes a signature discrepancy as a forgery, negative connotations necessarily attach without an actual finding of nefarious behavior.

Going forward, the Registrar's office needs to utilize a different symbol to indicate a nominating petition signature does not match the signature on the voter registry.

CONCLUSION

Ms. Knight secured 38 valid signatures, which is 13 signatures above the 25 signatures required for ballot access. It is hereby:

ORDERED that candidate Kristal Knight is granted ballot access for the office of Advisory Neighborhood Commissioner, Single Member District 8C01

September 6, 2016
Date



D. Michael Bennett
Chairman,
Board of Elections