

**DISTRICT OF COLUMBIA  
BOARD OF ELECTIONS AND ETHICS**

Lynn French,

Complainant,

v.

Oralia Puente, *et al.*

Respondents.

Administrative Hearing

No. 08-05

Re: Challenge to Nominating  
Petition of Oralia Puente, *et al.*  
Ward 1 Member of the  
Democratic State Committee

**MEMORANDUM OPINION AND ORDER**

**Introduction**

This matter came before the Board of Elections and Ethics on July 23, 2008. It is a challenge to the Nominating Petition of the Obama 4 Unity Beats McCain slate of Oralia Puente, Ian Martinez, E. Gail Anderson Holness, and Jason Berry as candidates for the office of Ward 1 Member of the Democratic State Committee filed by Lynn French pursuant to D.C. CODE § 1-1001.08(o)(1) (2006). Chairman Errol R. Arthur and Board members Dr. Lenora Cole and Charles R. Lowery, Jr. presided over the hearing. The Complainant, Lynn French, ("French") was represented by counsel, Mr. Stanley Mayes, and the Respondent, Oralia Puente, appeared *pro se* but was accompanied by Ms. Tamela Gordon.

**Background**

On June 10, 2008, Oralia Puente, Ian Martinez, E. Gail Anderson Holness, and Jason Berry ("The Candidates") submitted a Nominating Petition for the office of Ward One Member of Democratic State Committee containing nine (9) petition sheets. Thereafter, the Candidates submitted two supplemental filings each containing two (2)

additional petition sheets on June 27 and July 1. The nominating petition and supplements contained a total of 158 signatures. On July 5, 2008, the petition was posted for inspection, pursuant to D.C. CODE § 1-1001.08(o)(1) (2006), for a 10-day challenge period.<sup>1</sup>

On July 14, 2008, the Complainant filed a challenge to the petition in which she challenged 80 of the 158 signatures. Each signature was challenged on a specific ground or grounds as required by the Board's regulations. Specifically, the Complainant challenged signatures on the following bases: 1) 3 D.C.M.R. § 1704.7(b) Signers of the petition were not registered to vote at the address listed on the petition; 2) 3 D.C.M.R. § 1704.7(c) Signers of the petition were not registered to vote; 3) 3 D.C.M.R. § 1704.7(e) Signers of the petition were not registered to vote in the same party as the candidate; 4) 3 D.C.M.R. § 1704.7(f) Signers of the petition were not registered to vote in the same ward as the candidate 5) 3 D.C.M.R. § 1704.7(g) Signers of the petition did not list their full address; and 6) 3 D.C.M.R. § 1704.7(h) Signatures and printed names appearing on the petition sheets were illegible.

The review of these challenges by the Registrar of Voters ("Registrar") concluded that fifty-seven (57) of the challenges to the Respondents' nominating petition were valid while twenty-three (23) were invalid—leaving the Respondents with one hundred and

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<sup>1</sup> 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 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.

one (101) signatures. Any candidate seeking this office is required to submit a minimum of one hundred (100) signatures pursuant to D.C. CODE § 1-1001.08(a)(2) (2006). Accordingly, the Registrar concluded that the Respondents had secured enough signatures on their nominating petition for ballot access.

During the hearing on July 23, the Complainant, through counsel, disputed the Registrar's findings with respect to the denied challenges in three distinct categories. Specifically, the Registrar denied challenges to petition signatures in the following categories: 1) where signatories were in fact duly registered voters; 2) to alleged ineligible signatures where the signatory's name could be discerned, and the signatures on the petition matched the signatures of the signatory's voter registration card; and 3) to challenges that referenced the incorrect line number when lodged. The Board affirmed the decision of the Registrar and found that each of these categorical challenges failed to specify concisely the alleged defects in the petition as required by D.C. CODE § 1-1001.08(o)(1) (2006), and it rejected these challenges for the reasons stated herein.

### Analysis

#### The Signatory is Registered in Another Ward

The Complainant contends that the signatories challenged on the basis of not being a duly registered voter pursuant to 3 D.C.M.R. § 1704.7 (c) should be allowed if it is later discovered after the statutorily prescribed challenge period that the signatory was in fact duly registered but not registered in the ward from which the candidates seek election pursuant to 3 D.C.M.R. §1704.7 (f). The Complainant contends that she was unable to utilize the computer database registry due to overcrowding during the challenge period. Rather she utilized a printed copy of the ward-specific registry. Consequently, if

a signatory on the petition sheet was not listed in the ward-specific registry, she incorrectly challenged the signatory as not being a duly registered voter instead of correctly challenging the signatory as not being duly registered from Ward 1. Her decision to make use of the limited Ward 1 registry instead of waiting until she could access the Board's complete database registry was to her detriment.

The Board can only address those alleged defects in a nominating petition that are timely challenged by a complainant pursuant to the statutorily mandated administrative procedure for challenging, *see Davis v. District of Columbia Board of Elections and Ethics*, 596 A2d 992 (D.C. App. 1991) In the instant case, the challenger failed to correctly cite the relevant violation—that the signatory was not registered to vote in the same ward as the candidate. The challenger invoked 3 D.C.M.R. § 1704.7(c) (not a duly registered voter), where the concise defect is actually 3 D.C.M.R. § 1704.7(f) (not duly registered in the ward). By statute, the Complainant had ten (10) days to lodge a challenge,<sup>2</sup> and the Board is without discretion to grant her leave to amend her challenge at this point. Moreover, to do so would be fundamentally unfair to the candidates who were not properly noticed of the new violation. Because the Board lacks jurisdiction to hear additional violations raised after the challenge period, the Board does not reach the merits of the Complainant's new claims.

#### **Illegible Signatures Results in Missed Defects**

The Complainant also contends that certain signatures were illegible—thereby preventing her from even looking the signatures up in the registry to determine any

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<sup>2</sup> See D.C. Code § 1-1001.08(o)(1) *supra* note 2.

further defects.<sup>3</sup> The signatures highlighted by the Complainant during the hearing were those of voters not registered in the Democratic Party. The Complainant did not raise 3 D.C.M.R. § 1704.7(e) (not registered in the same party) with respect to these signatures, and although the signatures and printed names on these lines are admittedly difficult to ascertain, the address is rather clear. Again, had the Complainant availed herself of the computerized database, she would have been able to discern the signatories' party status by looking up their address. As stated previously the Board cannot permit the challenger to now assert the signatories are not registered within the party because the statutory time for lodging challenges has lapsed.

**Inadvertent Listing of Line and Page Number**

The Complainant challenged signatures on lines 8, 9, and 10 on sheet number 5 of 9. The Registrar denied the challenges because the incorrect signatory's name was listed on each line. During the hearing, Counsel on behalf of the Complainant asserted that the Complainant inadvertently noted the wrong signature lines in her challenge, and that she intended to challenge lines 7, 8 and 9 rather than lines 8, 9, and 10. D.C. CODE § 1-1001.08(o)(1) requires that all challenges must concisely specify the alleged defects in the petition within a designated ten-day period. Because the Complainant failed to do so with respect to the claimed "intended challenge," the Board upheld the Registrar's determination to reject the challenge.

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<sup>3</sup> Mr. Mayes raised two examples of this occurrence: page 6 of 9 and page 8 and 9.

In sum, the Board affirmed the decision of the Registrar of Voters. Based on the Board's findings and conclusions, it is hereby:

**ORDERED** that the Complainant's challenge is denied, and that it is **FURTHER ORDERED** that Oralía Puente, Ian Martínez, E. Gail Anderson Holness, and Jason Berry be granted ballot access in the Congressional and Council Primary Election for the Office of Ward 1 Member of the Democratic State Committee.

July 24, 2008.



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Errol R Arthur  
Chairman, Board of Elections and Ethics

Dr. Lenora Cole  
Member, Board of Elections and Ethics

Charles R. Lowery, Jr.  
Member, Board of Elections and Ethics