

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

In Re:	)	
	)	Administrative Order
Gottlieb Simon, Candidate	)	No. 24-030
	)	Appeal of Preliminary Determination
	)	

**MEMORANDUM OPINION AND ORDER**

This matter came before the District of Columbia Board of Elections (“the Board”) at a special meeting on August 19, 2024. It is an appeal from the Board’s Executive Director’s preliminary determination that Gottlieb Simon, candidate for the office of Advisory Neighborhood Commissioner (“ANC”) for Single Member District (“SMD”) 6D02 in the November 2024 General Election (“the General Election”), could not have his middle name appear on the ballot as Gottlieb “GoSimon” Simon. Board Member Karyn Greenfield presided over the hearing on the matter. The candidate appeared at the hearing. The Board’s General Counsel was also present.

**BACKGROUND**

On July 1, 2024, Candidate Simon submitted a Declaration of Candidacy form (“the Declaration”) in support of his candidacy for ANC for SMD 6D02 in the General Election.<sup>1</sup> That form contained a field for a candidate to enter their name and another field for the candidate to enter how their name should be printed on the ballot. With respect to the latter field, the following admonition appears: “[W]hen listing your name, the Board will not permit a candidate to specify

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<sup>1</sup> The Declaration must be filed by candidates seeking to have their names printed on the ballot. 3 DCMR § 601.1 *et seq.*

a modified form of their given name that confuses or misleads voters and is otherwise not legally acceptable. For example, James Smith could be Jim Smith but not Jim ‘The Best’ Smith.”<sup>2</sup>

On the Declaration, Candidate Simon entered “Gottlieb Simon” as his name and “Gottlieb (‘GoSimon’) Simon” as the name that should be printed on the ballot. Candidate Simon’s voter file shows that his name is Gottlieb Simon.

On August 12, 2024, the Board’s Executive Director issued a preliminary determination finding that Candidate Simon was eligible to run for the ANC SMD 6D02 seat.<sup>3</sup> Her determination also notified Candidate Simon that his name would appear on the ballot as “Gottlieb Simon,” thereby alerting him to the fact that the middle name (“GoSimon’”) would not appear on the ballot.

On August 14, 2024, Candidate Simon sent an email to the Board’s Office of General Counsel in which he requested a Board hearing with respect to the Executive Director’s preliminary determination.<sup>4</sup> He indicated in his hearing request that he wished to use a middle name on the ballot that differed slightly from the one he included on the Declaration in that he did not want his proposed middle name “GoSimon” to appear with parentheses around it. In his request, Candidate Simon stated:

I have found that my first name, which is often confused with my last name, is unfamiliar and difficult for some people to pronounce, spell correctly or even remember. Accordingly, I have followed the practice of using a contraction of my

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<sup>2</sup> Emphasis in original.

<sup>3</sup> 3 DCMR § 601.6 (providing that the Board’s Executive Director or her designee will, three days after the filing of a Declaration of Candidacy, issue a preliminary determination as to a candidate’s eligibility). The preliminary determination of eligibility set forth in the Board’s regulations goes to the candidate’s qualifications for office. *See* D.C. Code 1-1001.05(a)(14) (providing that the Board issue regulations necessary to determine that candidates meet the statutory qualifications for office). It does not concern the adequacy of the candidate’s nominating petition.

<sup>4</sup> Although his email requesting a Board hearing indicated that Candidate Simon sought inclusion on the ballot of a name that differed slightly from the ballot name that he had specified on the Declaration, Candidate Simon subsequently clarified that he was seeking to have the ballot printed with the ballot name that he had specified on the Declaration.

first name (Go) and my last name (Simon), i.e. GoSimon, as a nickname. I use it as my user name for many internet applications and for email services, including this one “gosimon@gmx” and “Gosimon@att.net,” which I have used for more than three decades.

Candidate Simon was duly notified that a hearing would be held on his appeal of the Executive Director’s preliminary determination on August 19, 2024.<sup>5</sup>

On the scheduled hearing date, Candidate Simon appeared and reiterated his opposition to the Executive Director’s preliminary determination with respect to the representation of his name on the 2024 General Election ballot. Candidate Simon characterized his proposed ballot name as a combination of his first and last name. He stated that, when he circulated his nominating petition, he told signers that he used the name “GoSimon” and that he had, when attending conferences, entered the name “GoSimon” on his name badge. He also stated that he believed that the name he was proposing would not be contrary to the Board’s regulations because it was a modified form of his given name, would not confuse voters, and was otherwise legal.

After hearing from Candidate Simon, Board Member Greenfield requested that the General Counsel make a recommendation as to whether to grant or deny Candidate Simon’s request. The General Counsel recommended that Candidate Simon’s request should be denied. In light of the record and the recommendation of the General Counsel, Board Member Greenfield ruled at the hearing that Candidate Simon’s name would appear on the ballot as “Gottlieb Simon.”

### **ANALYSIS**

The Board’s regulations state:

The Board may permit a candidate to specify a modified form of his or her given name or names on the ballot if the Board finds that the change shall not confuse or mislead the voters and is legally acceptable specify that a candidate’s name as it

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<sup>5</sup> 3 DCMR § 601.12 (providing that the Board shall hold a hearing on preliminary determination appeals within three days).

appears on the ballot must be the candidate's given name or names, or the initial letter of a given name, if any, and his or her surname or a name that conforms to such names.

3 D.C.M.R. § 1203.2. In interpreting that regulation, the Board has noted that the term "name" should be given its plain and ordinary meaning. The D.C. Court of Appeals has opined on the meaning of the term "name":

A person's "name" consists of one or more Christian or given names and one surname or family name. It is the distinctive characterization in words by which one is known and distinguished from others, and description, or abbreviation, is not the equivalent of a "name."<sup>[6]</sup>

In other words, the regulation, when given its plain and ordinary meaning, requires that candidates be identified on the ballot with only their actual name or a name that conforms to their actual name and that they not be identified with descriptive words that are not or do not conform to their given name.

It is beyond dispute that Candidate Simon's name is not Gottlieb "GoSimon" Simon. Indeed, "GoSimon" is not even generally recognized as a name for a person. Therefore, the request of the candidate to include in his ballot name a descriptive and/or made-up middle name is simply contrary to the Board's regulation. That regulation, the Board has stated, serves the valid election administration interests of the Board such as ensuring that voters are able to identify the candidate and that the ballot is not used as a billboard for political advertising.<sup>7</sup> Therefore, the Board has waived its regulation and allowed candidates to use a name other than their actual name where the candidate has long been known to use a name that differs from their given name and that name

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<sup>6</sup> *Gore v. Newsome*, 614 A.2d 40, 43 (D.C. 1992) (citing BLACK'S LAW DICTIONARY 1023 (6th ed. 1990)). While the definition of the term "name" excludes abbreviations, the Board's regulation expressly allows the use of an initial that conforms to a given name.

<sup>7</sup> See *In re: Rodney Grant*, BOE Case No. 24-003 (March 19, 2024) at p. 5 and cases cited therein.

does not convey or constitute a campaign slogan. For example, where a candidate demonstrated that he had long been known as “Scott Thach” and had not since childhood used his actual name “James Otis Thach,” the Board approved use of the ballot name “Scott Thach.”<sup>8</sup> In *Thach* and other cases, the Board has allowed a first or middle name of a candidate to be added to or changed on the ballot to a term that is recognizable as a personal name.

In this case, Candidate Simon has offered no evidence that he is known in the community as Gottlieb “GoSimon” Simon.<sup>9</sup> While he relies on his use of “GoSimon” as his user name for many internet applications and for email services as a basis for designating as his middle name on the ballot “GoSimon,” user names are typically private and it is common knowledge that an email address is not a reflection of the addressee’s actual name. Indeed, user names and email addresses are often intended, for security reasons, to be made-up names. For that reason and insofar as the term “GoSimon” is not generally recognized as the name of a person, the middle name “GoSimon” would tend, I believe, to cause voter confusion.

Moreover, many candidates have email addresses that constitute campaign slogans. Accordingly, if the Board were to conclude that email address names can be included on the ballot in lieu of the candidate’s actual name, the ballot would most certainly become a platform for political advertising. That is arguably the case here where “GoSimon” has connotations of a campaign slogan.

Candidate Simon also suggests that the fact that his last name may be mistaken for his first name justifies use of Gottlieb “GoSimon” Simon as his ballot name. Given, however, that the

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<sup>8</sup> *In re: James Otis Thach*, BOE Case No. 24-015 (August 15, 2024).

<sup>9</sup> As the proponent of the request, Candidate Simon bears the burden of proving his claim. 3 D.C.M.R. § 424.1.

ballot name he seeks continues to use the last name “Simon,” it is unclear how that ballot name remedies the alleged confusion.

Contrary to Candidate Simon’s claim, I do not view his proposed ballot name as permissible under the regulations. “GoSimon” is not merely a modified form of his given name as contemplated by the Board’s regulation. Rather “GoSimon” changes his given name. Further, the use of the name “GoSimon” is likely to confuse voters. Finally, the respective proposed given name is not otherwise legal because it is contrary to the legal precedent against use of the ballot as a platform for campaigning. The use of the middle name “GoSimon” therefore is permissible only if the Board decides to waive its regulations. The Board has a legitimate interest in strictly enforcing its regulation and in preventing the ballot from being used to espouse campaign slogans and the like and in a manner that tends to confuse voters. Granting Candidate Simon’s request and placing on the ballot the name Gottlieb “GoSimon” Simon would be contrary to those interests. Therefore, I decline to waive the Board’s regulations to allow Mr. Simon to use the middle name “GoSimon.”<sup>10</sup>

### **CONCLUSION**

For these reasons, it is hereby

**ORDERED** that the Executive Director’s preliminary determination that Candidate Simon’s name appear on the ballot as “Gottlieb Simon” in the 2024 General Election is

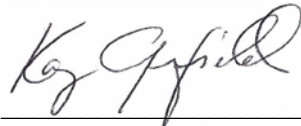
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<sup>10</sup> During the hearing, the Board’s General Counsel pointed out that Candidate Simon’s request to use a middle name that varied from the name he had included in his Declaration was untimely as the deadline for filing that form had passed. While it is unnecessary to reach the timeliness of Candidate Simon’s request to use a ballot name that omits the parentheses that surrounded his middle name on his Declaration because the above reasoning applies to either variation of Candidate Simon’s middle name, Candidate Simon has not offered any good cause for disregarding the deadline for advising the Board’s Registrar of Voters of the name that the candidate wishes to have placed on the ballot.

**AFFIRMED.** Subject to any successful petition challenge that might be filed, the name to be printed on the ballot for Candidate Simon shall be “Gottlieb Simon.”

I issue this written order today, which is consistent with my oral ruling rendered on August 19, 2024.

Dated: August 20, 2024



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Karyn Greenfield  
Member, D.C. Board of Elections