

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

Will Cobb,
Candidate.

Administrative Hearing
No. 06-001

Re: Appeal of Preliminary
Determination of Ineligibility

MEMORANDUM OPINION AND ORDER

This matter came before the Board of Elections and Ethics (Board) on Monday, July 17, 2006, and involved an appeal of the Registrar's Preliminary Determination of Ineligibility for the candidacy of Will Cobb, candidate for the Office of Ward Six Member of the District of Columbia Council.

Chairman Wilma A. Lewis and Board member Charles R. Lowery, Jr. presided over the matter. The appeal was brought by Will Cobb, the prospective candidate, pursuant to D.C. Mun. Regs. Ch. 3 §603.1. The Candidate appeared *pro se* at the hearing.

According to the evidence presented, Candidate Cobb's Campaign Manager submitted a nominating petition to the Board containing a total of 547 signatures of presumptively registered voters after the 5:00 p.m. deadline on July 5, 2006.¹ On July 12, 2006, the Registrar of Voters wrote Mr. Cobb informing him of her determination of ineligibility to appear as a candidate due to an untimely filing. This appeal followed.

¹ The nominating petition was time-stamped at 6:11 p.m. However, Mr. Cobb stated that his Campaign Manager arrived at the Board's offices at 5:45 p.m. and was consulting with Board employees regarding the timeliness of the filing until 6:11 p.m. when the petition was stamped. In any event, there is no dispute that the Campaign Manager arrived at the Board's offices after the 5:00 deadline for submitting the nominating petition.

Pursuant to D.C. CODE §§1-1001.8 (i)(1)(A) and (q):

Each individual in a primary election for candidate for the office of Delegate, Mayor, Chairman of the Council, or at-large member of the Council shall be nominated for any such office by a petition: (A) Filed with the Board not later than 69 days before the date of such primary election . . . Any petition required to be filed under this subchapter by a particular date must be filed no later than 5:00 p.m. on such date.

Accordingly, Mr. Cobb was required to file his petition by 5:00 p.m. on July 5, 2006—69 days before the September 12, 2006 primary election.

Mr. Cobb contends that the applicable law and regulations give the Board the discretion to find that the untimeliness was the result of excusable neglect, which he asserts was the case here. As support for his position, Mr. Cobb relies upon 3 DCMR § 401.7, which is a regulation promulgated by the Board granting the Board discretion to excuse untimely submissions within the context of hearings held by the Board.

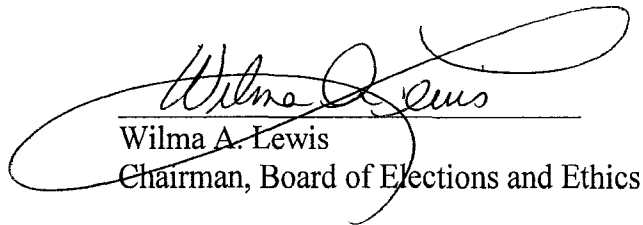
The instant case does not present an option to excuse Mr. Cobb's late submission because the D.C. Code does not provide the Board with any discretion for allowances of excusable neglect in the context of petition submissions. The Board is statutorily bound to reject all untimely petition submissions. D.C. CODE §§1-1001.8 (i)(1)(A) and (q). Strict adherence to the rule of law ensures a fair playing field where every candidate has the same amount of time for circulation.

In view of the evidence presented, the Board finds that the Registrar's preliminary determination is correct because the Board lacks the authority to accept a nominating petition that is untimely filed.

In accordance with the preliminary determination of the Registrar of Voters, the Board upholds the denial of ballot access to Mr. Cobb. Accordingly it is hereby

ORDERED that Candidate Cobb be denied access to the ballot in the September 12, 2006 Primary Election as a candidate for Ward Six Councilmember.

July 28, 2006



Wilma A. Lewis
Chairman, Board of Elections and Ethics

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