

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

Kathy Henderson,)	
Challenger)	Administrative
)	Order #20-015
)	
v.)	Re: Nominating Petition
)	Challenge for the Office of
)	Advisory Neighborhood
Bernice Blacknell,)	Commissioner for SMD 5D04
Candidate)	

MEMORANDUM OPINION AND ORDER

Introduction

This matter came before the District of Columbia Board of Elections (“the Board”) on September 2, 2020. It is a challenge to the nominating petition submitted by Bernice Blacknell (“Ms. Blacknell”) in support of her candidacy for the Office of Advisory Neighborhood Commissioner for Single Member District 5D04, filed by Kathy Henderson (“Ms. Henderson”) pursuant to D.C. Code § 1-1001.08(o)(1) (2001 Ed.). Ms. Henderson and Ms. Blacknell appeared *pro se*. Chairman D. Michael Bennett, Board members Michael Gill and Karyn Greenfield presided over the hearing.

Background

On July 20, 2020, Ms. Blacknell submitted a nominating petition to appear on the ballot as a candidate in the November 3, 2020 General Election contest for the office of Advisory Neighborhood Commissioner (ANC) for Single Member District (SMD) 5D04. The minimum requirement to obtain ballot access for this office is 10 signatures of District of Columbia voters who are duly registered in the same SMD as the Candidate. Ms. Blacknell’s petition contained 21

signatures. Pursuant to 3 D.C.M.R. § 1603.1, Karen F. Brooks (“Ms. Brooks”), the Board of Elections’ Registrar of Voters (“the Registrar”), accepted 21 signatures for review.

On August 8, 2020, the Petition was posted for public inspection for 10 days as required by D.C. Official Code § 1-1001.08(o)(1). On August 17, 2020, the Petition was challenged by Ms. Henderson, a registered voter in the District of Columbia. On August 19, 2020, Office of the General Counsel (“OGC”) Staff Attorney Terrica Jennings (“Ms. Jennings”) sent Ms. Blacknell an email informing her that Ms. Henderson had filed a challenge to her Petition.

Ms. Henderson filed challenges to 14 signatures on the Petition, enumerated by line and page number on individual “challenge sheets” filed for each petition page. The signatures were challenged pursuant to 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; the petition does not include the name of the signer where the signature is legible; the circulator of the petition failed to complete all required information in the circulator’s affidavit; and the signature is not made by the person whose signature it purports to be.

Registrar’s Preliminary Determination

After the Registrar’s initial review, it was determined that nine of the 14 challenges were valid. The Registrar’s preliminary determination was that five signature challenges were valid because the signers were not registered to vote at the address listed on the petition at the time the petition was signed; two signature challenges were valid because the signers were not registered; and two signatures were valid because the circulator failed to complete all required information in the circulator’s affidavit. This left Ms. Blacknell’s nominating petition with 12 valid signatures.

September 1, 2020 Pre-Hearing Conference

Pursuant to Title 3 D.C.M.R. § 415.1, the OGC convened a pre-hearing conference (teleconference) on Tuesday, September 1, 2020. Ms. Henderson and Ms. Blacknell appeared *pro se*. At the start of the hearing, the Registrar read her preliminary report into the record, and informed the parties that Ms. Blacknell qualified for ballot access because her nominating petition contained 12 valid signatures, two signatures over the number required for ballot access. Mr. Blacknell did not object to the Registrar's preliminary determination.

Ms. Henderson objected to the Registrar's preliminary determination, and alleged that there were several fraudulent signatures on the Petition. Ms. Henderson specifically raised concerns about the following signatures: lines 4 and 10 on page 1 and lines 1 and 2 on page 2. She also raised concerns about the address associated with line 4 on page 1.

DeAnna Smith ("Ms. Smith"), Assistant Registrar, informed Ms. Henderson that she would recheck the validity of each signature, which she did during the course of the hearing. Ms. Henderson requested a copy of each signature challenged so that she could compare the signature on file with the Board to the Signature on the Petition. She also requested proof of address for the signature on line 4 of page 1. Ms. Henderson informed Ms. Jennings that once she received the documents from Smith she would decide whether or not she would appear before the Board to appeal the Registrar's findings.

Ms. Henderson never followed up with Ms. Jennings concerning her decision to appear before the Board. However, both parties had been previously been informed that if they were unable to come to a mutual agreement at the pre-hearing conference, they had the option to appear before the Board, on September 2, 2020.

September 2, 2020 Board Hearing

At the hearing on September 2, 2020, Ms. Henderson and Ms. Blacknell appeared *pro se*. At the start of the hearing, the Registrar presented the Board with her preliminary determination that Ms. Blacknell qualified for ballot access, because her Petition contained 12 valid signatures, two more than the number required for ballot access. Ms. Blacknell did not object to the registrar's Preliminary report.

Ms. Henderson again reiterated her previous challenges to the signatures located on page 1 (lines 4 and 10) and page 2 (lines 1-2). She also raised concerns about the address associated with line 4 on page. The Registrar informed the Board that the signatures, as well as the address had been verified as valid by her. She also informed the Board that Ms. Smith rechecked the signatures in real-time during the pre-hearing conference. As a result, Ms. Henderson's challenges remained unsubstantiated. Ms. Henderson brought up additional signature challenges, however the Registrar pointed out that those issues were not raised during the pre-hearing conference, so the Board did not consider them.

Terri Stroud ("Ms. Stroud"), General Counsel, recommended that the Board grant Ms. Blacknell ballot access in the contest for the Office of Advisory Neighborhood Commissioner for Single Member District 5D04. The Board unanimously accepted Ms. Stroud's recommendation, and Ms. Blacknell was granted ballot access.

Discussion

During the pre-hearing conference, Ms. Henderson argued that the following signatures should not have been deemed valid by the Registrar: page 1 (lines 4 and 10) and page 2 (lines 1-2). She also contended that the address associated with line 4 on page 1 was invalid. During the pre-hearing conference, Ms. Smith checked the validity of each signature listed above, as well as

the addressed that was challenged by Ms. Henderson. She used the agency's voter registration system to conduct the analysis, and informed Ms. Henderson in real time that the signature and the address were valid. Immediately following the pre-hearing conference, Ms. Smith sent Ms. Henderson electronic copies of all the challenged signatures, along with the proof of address for the signature on line 4 of page 1.

When Ms. Henderson appeared before the Board, she again reiterated her concerns about signatures listed above. However, she provided no proof, evidence, or articulable facts to substantiate her objections to the challenges deemed invalid by the Registrar. As a result, the Registrar's preliminary determination remained unchanged. The Registrar again reaffirmed her position that Ms. Blacknell qualified for ballot access because she had 12 valid signatures on her Petition, two more than required for ballot access.

Conclusion

For the reasons indicated above, it is hereby:

ORDERED that candidate Bernice Blacknell is granted ballot access for the Office of Advisory Neighborhood Commissioner for Single Member District 5D04, in the November 3, 2020 General Election.

Date: September 4, 2020



D. Michael Bennett
Chairman
Board of Elections