

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

Trezell Ragas,)	
Challenger)	Administrative
)	Order #24-007
)	
v.)	Re: Challenge to Nominating
)	Petition Submitted for
)	U.S. Senate,
Wendy Hamilton,)	Democratic Party Nomination
Candidate.)	

MEMORANDUM OPINION AND ORDER

Introduction

This matter came before the District of Columbia Board of Elections (“the Board”) on April 5, 2024. It is a challenge to the nominating petition submitted by Wendy Hamilton (“the Candidate”) in support of her candidacy for the office of U.S. Senator in the June 4, 2024 Democratic Party Primary Election (“the Primary Election”). The challenge was filed by Trezell Ragas pursuant to D.C. Official Code § 1-1001.08(o)(1). Chairman Gary Thompson and Board member J.C. Boggs presided over the hearing. The Board’s General Counsel, Terri Stroud, Registrar of Voters (“Registrar”), Marissa Corrente, and Attorney Advisor, Jorge Quintana, were present at the hearing. James Abely, Esq. represented the Challenger while the Candidate appeared *pro se*. Jonathan Scriven, a member of the Candidate’s campaign, also appeared and offered certain arguments on her behalf.

Background

On January 12, 2024, the Candidate submitted a Declaration of Candidacy form for the purpose of pursuing the Democratic Party nomination for the office of U.S. Senator. As a

prerequisite to having her name printed on the ballot in the Primary Election, the Candidate was required by law to file with the Board a nominating petition that had valid signatures from 2,000 “duly registered” members in the same party as the Candidate.¹

Also on January 12, 2024, the Candidate received the nominating Petition forms that she was to use to gather signatures. The Petition forms included blank fields for duly registered voters to print their names and addresses and to sign and date their entries, instructions to the circulator, and a circulator’s affidavit.

The circulator’s instructions outline what should be done if a signer’s registered address in the District differs from the one listed on the petition. If a signature is challenged due to this mismatch, the signer must update their address within 10 days of the candidate receiving notice of the challenge. If a change of address form is not timely filed, the signature will not be counted.²

On March 6, 2024, the Candidate submitted her Petition sheets. Together, the sheets contained 2,595 signatures. Given that the Petition contained on its face more than the 2,000 minimum number of signatures required, the Registrar accepted the Petition.³

On March 9, 2024, the Petition was posted for 10 days as required by law. During that 10-day period, D.C. voters could inspect the Petition to see if the signatures on it met all

¹ See D.C. Official Code § 1-123(d)(2) (subjecting U.S. Senate candidates to the same ballot access requirements as are applied to Delegate (see D.C. Official Code § 1-1001.08(i)(1)(B)) and 3 D.C.M.R. § 1603.1. To qualify as valid, the signatures must satisfy several signature validity requirements. Those requirements are spelled out in the Board’s regulations (see 3 D.C.M.R. 1607.1) and some of them are discussed *infra*.

² The language on the Petition reads: At the time this petition is signed, each signer must be registered to vote at the address listed on the petition page. If the signer is registered at a District address other than the one listed on the petition, and their signature is challenged on that basis, the signer must file a change of address within ten (10) days after the date the candidate receives notice that a challenge has been filed to the nominating petition or the signature will not be counted. (Emphasis in original.)

³ See 3 D.C.M.R. § 1603.1 (providing that facially numerically sufficient petition shall be accepted).

signature validity requirements and file challenges to signatures on the Petition that they believe should not be counted as valid.⁴ On March 18, 2024, the Petition was challenged by Trezell Ragas, a registered voter in the District of Columbia.⁵

Ragas filed challenges to a total of 1,119 signatures. A cursory review of the challenge would have revealed that 246 of the alleged signature defects were for the reason that the voter's address on the Petition did not match the voter's address in the Board's files.⁶ The submission of the challenge triggered a review by the Registrar of the signatures that Ms. Ragas claimed were invalid.

On March 18, 2024, the Board's Office of General Counsel ("OGC") notified the Candidate of the challenge and advised the parties that a pre-hearing conference would be convened in the matter on April 2, 2024. The notice also explained that signature defects based on a mismatch between the address for the voter on the Petition and the address in the Board's files could be cured if the voter updated their address with the Board "**within ten days after the date that [the Candidate] receive[d] this notice of the challenge.**" (Emphasis in the original.)⁷

⁴ D.C. Official Code §1-1001.08(o).

⁵ A timely challenge to the Candidate's Petition was also filed by James Harnett, another D.C. voter. Prior to the hearing in the instant matter, the Board had ordered that the Candidate be denied ballot access in the same contest at issue here as a result of Mr. Harnett's challenge. See *Harnett v. Hamilton*, BOE Case No. 24-006 (issued April 5, 2024).

⁶ In addition, the signatures and circulator affidavits were challenged pursuant to Title 3 D.C.M.R. §§ 1603 and 1607.1 of the Board's regulations on the following grounds: the signer is not a D.C. 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; the signature is a duplicate of a valid signature; the signature is not dated; the signer's address is omitted; the signer's name is omitted and 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 circulator of the petition failed to complete all required information in the circulator's affidavit (noting a date misalignment between the circulator's affidavit and the voter's signature); the signature is not made by the person whose signature it purports to be; and the signer is not registered to vote in the same party as the candidate at the time the petition is signed.

⁷ The notice incorrectly stated that the last day of the 10-day period was April 1, 2024.

The notice further stated the parties would receive the Registrar's determination as to the challenges "[p]rior to the pre-hearing conference[.]" On March 20, 2024, the Candidate was advised by OGC that the last day for submitting address cures was March 28, 2024. Finally, the notice made clear that only those issues raised at the pre-hearing conference would be preserved for Board review.

After the deadline for submitting address cures, the Candidate sent an email to OGC and the Registrar claiming that her ability to make progress on getting address updates was hampered because she did not have the Registrar's report. At the time the email was sent, however, the pre-hearing conference had yet to take place and therefore, as per the notice of such conference, the Candidate should not have expected to have been provided with that report. In light of the fact that the deadline for submitting address cures had passed, OGC responded to the email by advising the Candidate that she should provide the names of the voters who she believed would have filed change of address forms so that the existence of such possible changes could be checked prior to the pre-hearing conference. The Candidate did not provide any names.

Registrar's Preliminary Determination

On April 2, 2024, the Registrar issued her report on her review of the challenges. In her report, the Registrar found that 725 of the 1,119 signature challenges were valid. Accordingly, the Registrar preliminarily determined the petition contained 1,870 presumptively valid signatures which is 130 signatures below the number needed for ballot access. Notably, for purposes of this discussion, 246 challenges to signatures were upheld because the signer was not registered to vote at the address listed on the Petition.

April 2-3, 2024 Pre-Hearing Conference

Challenger Hamilton, her counsel, James Abely, Esq., the Candidate, and members of the candidate's campaign were present at the pre-hearing conference. A representative of the Registrar's office summarized the Registrar's finding that the Petition was 130 signatures short of the number needed for ballot access. The OGC attorney presiding over the proceeding then asked the Candidate how she expected to address the shortfall in her Petition of the number of signatures needed for ballot access. The Candidate noted that she had reached out to many Petition signers in an effort to obtain address cures, but that she did not know whether the voters had submitted change of address forms. The OGC attorney explained that the Candidate needed to provide the Registrar with the names of those voters so that she could look into whether a change of address form had been timely submitted. The Candidate indicated that she could provide that information promptly. The Candidate strenuously objected to being required to address the Registrar's report for the reason that it had been sent to the parties a few hours prior to the pre-hearing conference. Given these circumstances and as the Candidate was new to the ballot access process, the pre-hearing conference was briefly continued to the following morning so that the Candidate could identify voters who might have submitted address updates and address challenges she believed were improperly accepted by the Registrar.⁸

At the continued pre-hearing conference, interim submissions made by the Candidate were briefly noted. The Candidate acknowledged that, in those submissions, she had not identified a sufficient number of possible address cures and possible invalid challenges to remedy the 130 signature shortfall in her Petition's signatures. She stated, however, that she

⁸ During the continued proceeding, the Registrar advised the parties that she was completing her review of the possible address cures and other issues the challenges alleged by the Candidate and that she would be issuing a revised report that took into account all those concerns.

still wished to appear before the Board. The presiding OGC attorney asked the Candidate to explain what she wished to present to the Board.

The Candidate raised a concern that, with respect to situations where she had provided a Petition signer a change of address form, she asked whether she had any recourse if the signer did not update their address.⁹ She was advised that the submission of change of address forms by voters was voluntary. Along this line and continuing a point she had made the prior day, the Candidate stated that she felt that the requirement that voters include an address on the Petition that matched the address in the Board's voter files was unnecessary given that the signers at issue had names that matched the name of a registered voter. The presiding OGC attorney explained that because no personal identifying information such as date of birth or social security numbers were requested from voters signing a Petition, the inclusion of an address served to ensure that the name of a signer was indeed for a particular registered voter as opposed to another individual having the same name as that registered voter. Moreover, the Candidate was advised that the requirements regarding address cures was mandated by law and that any change to that law would be within the authority of the D.C. Council.

As the Candidate was unwilling to withdraw her candidacy even though she admitted that she lacked a sufficient number petition signatures, the only procedural option to close the case would be a Board ruling with respect to her ballot access. The Candidate and the Challenger were duly notified of the date and time for that hearing.

Updated Registrar's Report

Following up on the Candidate's questions about some of the Registrar's findings, an updated report was issued on April 4, 2024. In the updated report, the Registrar slightly adjusted

⁹ Secondarily, the Candidate raised the concern that the Challenger had made the Challenge in bad faith as evidenced by the number of challenges the Registrar had found to be invalid.

her initial finding of 725 valid challenges downward to 714 valid challenges. The valid challenges included 232 signatures that were questioned by Ms. Ragas for address mismatch reasons.¹⁰

In her initial report, the Registrar found that the Petition was 130 signatures below what was needed. The updated report found the Petition to be 119 signatures short. As a result, the Candidate's Petition remained short of the number of signatures needed for ballot access.

April 5, 2024 Board Hearing

The Registrar attended the hearing and presented her final findings.¹¹ In light of the Registrar's finding that the Petition lacked the number of valid signatures needed for ballot access, the Board Chair asked the Candidate to speak first. Candidate Hamilton argued that an address match requirement should not be imposed with respect to city-wide offices where all signing registered voters were eligible to vote for the candidate regardless of their address. Apparently assuming that the address match requirement originated from the instruction in the Board's regulations at 3 D.C.M.R. §1603.1 that only the signatures of "qualified" voters would be counted, she contended that the term "qualified" should not be interpreted by the Board to impose an address match. She also alleged that, insofar as the address match requirement was unreasonable, imposing it presented due process concerns.¹²

¹¹ The OGC attorney who presided over the pre-hearing conferences also briefed the Board on the ballot access instructions that were provided to the Candidate and the Candidate's position during the pre-hearing conference.

¹² In addition, the candidate and Jonathan Scriven contended, referencing 3 D.C.R.M. §1606.2(d), that the challenge was made in bad faith and should therefore be dismissed. They supported their claim of bad faith with the argument that an excessive number of the challenges were deemed invalid by the Registrar. Counsel for the Challenger maintained that the Challenger was motivated by civic responsibility and acted in good faith. Moreover, it was argued that a significant portion of the challenges ruled invalid pertained to questions of legibility, which is inherently a subjective matter.

Following argument from the Challenger and Mr. Scriven, Mr. Abely urged the Board to affirm the Registrar's findings. He requested that the arguments made by James Harnett to the Candidate's Petition in a separate challenge be incorporated by reference.

After hearing from the parties, the Board Chair requested that the General Counsel make a recommendation to the Board. The General Counsel recommended that the Candidate be denied ballot access. Thereafter, the Board members present voted unanimously to deny the Candidate ballot access.

Discussion

The minimum number of signatures required to obtain ballot access for ballot access in the relevant race is 2,000 signatures of District voters who are duly registered voters and who are U.S. citizens and members of the Democratic Party. Because the Candidate's Petition, as conceded by the Candidate herself, is numerically insufficient, she is not entitled to have her name printed on the Primary Election ballot.

With respect to her claims regarding the requirement that Petition signer addresses match their addresses in the Board's files, the Candidate incorrectly suggests that the Board has some discretion to dispense with that requirement. Contrary to the Candidate's suggestion, the statute provides that candidates for U.S. Senate "shall be nominated ... by a petition ... [s]igned by at least 2,000 *registered qualified electors*["¹³ The statute further provides that "[t]he term "registered qualified elector" means a registered voter who resides at the address listed on the Board's records."¹⁴ Thus, the address match requirement is not, as the Candidate suggests, derived solely from the Board's regulations. That requirement is grounded in law that the Board

¹³ D.C. Official Code § 1-1001.08(i)(1)(B) (emphasis added) incorporated into D.C. Official Code § 1-123(d)(2).

¹⁴D.C. Official Code § 1-1001.02(19).

cannot ignore. Further, as noted by the Board’s General Counsel at the hearing, the statutory provision allowing address cures that are timely submitted in a 10-day window was enacted in legislation to address the very concerns raised by the Candidate. In light of that, there is no plausible argument that the legislature might have intended that the address match requirement be relaxed beyond the statutory 10-day address cure process.

The Board acknowledges the challenges involved in gathering 2,000 signatures from duly registered voters; however, this is a common obstacle encountered by all candidates seeking this office. Compliance with the signatory requirements is mandated by the D.C. Code. It would be more appropriate for the candidate to present her policy concerns to the City Council.¹⁵

Conclusion

As a result of this challenge, the Board finds that the Petition contains 1,881 valid signatures – 119 signatures below the number required for ballot access. It is hereby:

ORDERED that the challenge to the nominating petition of Wendy Hamilton for the U.S. Senate Democratic nomination in the Primary Election is **UPHELD** and that Candidate Hamilton be denied ballot access in the contest for U.S. Senator in the June 4, 2024 Democratic Party Primary Election.

The Board issues this written order today, which is consistent with our oral ruling announced at the hearing on April 5, 2024.

Date: April 6, 2024



Gary Thompson
Chairman
Board of Elections

¹⁵ With respect to the Candidate’s secondary claim that the Challenge was not made in good faith, we do not find that the challenger acted in bad faith. No evidence of maliciousness was introduced and although the proportion of challenges deemed invalid might seem substantial, it aligns with the rate of invalid challenges in other successful challenges.