

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

Alonzo Edmondson,
Complainant

,

v.

E. Gail Anderson Holness
Respondent.

Administrative Hearing
No. 12-02

Re: Challenge to Nominating
E. Gail Anderson Holness,
At-Large Member of the Council

MEMORANDUM OPINION AND ORDER

Introduction

This matter came before the Board of Elections and Ethics on January 31, 2012. It is a challenge to the Nominating Petition of E. Gail Anderson Holness (“Ms. Holness”) as a candidate for the office of At-Large Member of the Council filed by Alonzo Edmondson (“Mr. Edmondson”) pursuant to D.C. CODE § 1-1001.08(o)(1) (2011). Chairman Deborah K. Nichols and Board members Devarieste Curry and Stephen I. Danzansky presided over the hearing. The Complainant appeared for the hearing *pro se* pursuant to tit. 3 D.C. Mun. Regs. § 403.1., and the Respondent was represented by counsel pursuant to tit. 3 D.C. Mun. Regs. § 402.2(d).

Background

On January 3, 2012, Ms. Holness submitted a Nominating Petition for the office of At-Large Member of the Council containing a total of three thousand and sixteen (3,016) signatures

On January 7, 2012, the petition was posted for inspection, pursuant to D.C. CODE § 1-1001.08(o)(1) (2011), for a 10-day challenge period.¹

On January 17, 2012, Edmondson filed a challenge to the petition in which he challenged one thousand four hundred and ninety (1,490) signatures. Each signature was challenged on a specific ground or grounds as required by the Board's regulations. Specifically, Edmondson challenged signatures on the following basis: the signer is not a duly registered voter; the signer, according to the Board's records, is not registered to vote at the address listed on the petition page, and has failed to file a change of address with the Board within ten days of the challenge; the signer is not registered to vote in the same party as the candidate at the time the petition is signed; the signature is not dated; and the circulator was not a duly registered voter at the time of signing. Additionally, the challenger alleged that in a vast number of the challenges, the signature on the petition was not made by the person whose signature it purports to be.

The Registrar of Voters ("Registrar") reviewed the challenges and concluded that eight hundred, ninety-nine (899) of the challenges to Holness' nominating petition were valid while five hundred, ninety-one (591) were invalid—leaving the Respondent with two thousand, one hundred, seventeen (2,117) signatures. The minimum number of signatures required for a candidate pursuing an At-Large seat is two thousand (2,000)

¹ D.C. CODE § 1-1001.08(o)(1) (2011) 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.

pursuant to D.C. CODE § 1-1001.08(i)(1) (2011). Accordingly, the Registrar concluded the Respondent had secured enough signatures on her nominating petition for ballot access.

During a pre-hearing held on January 24, 2012, Mr. Edmondson took exception with a particular circulator named Ernestine Brown. Ms. Brown signed her name on the petition sheets she circulated as Ernestine H. Brown, but she is listed as Ernestine G. Brown in the voter registry. By letter dated January 26, 2012, counsel for Respondent explained that the circulator's maiden name was Henderson, and Ms. Brown apparently signs all official correspondence with the first letter of her maiden name as her middle initial. The Registrar of Voters compared the signatures of Ernestine H. Brown on each nominating petition sheet with the signature of Ernestine G. Brown filed in the voter registry and concluded that the signatures were identical. Subsequently, Ms. Holness timely submitted two (2) change of address forms to cure defects in her nominating petition pursuant to D.C. CODE § 1-1001.08(o)(3)(B); accordingly, she raised her count to two thousand, one hundred, nineteen (2,119) signatures.

Analysis

The Complainant Bears the Burden of Proof.

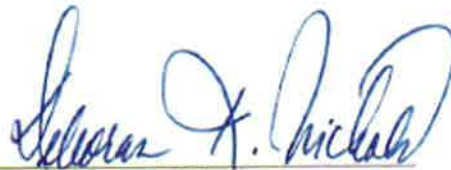
Pursuant to title 3 D.C.M.R. §424.1, "The party who asserts the claim bears the affirmative duty of establishing the truth of the assertion." In the instant matter, Mr. Edmondson asserts that he cannot be sure that Ms. Brown is the person who is registered because the middle initial is different from the one listed on the voter records. The signatures on each nominating petition sheet were identical to the signature filed in the voter registry but for the variant middle initial. Notwithstanding, Mr. Edmondson

asserts that the regulations do not provide for any variation. The Board notes that none of the regulations codified at tit. 3 D.C. Mun. Regs. § 1607 regarding the validity of signatures on a petition mandate such draconian measures as disallowing petition sheets because of the circulator's failure to use the same middle initial on the sheets as that on file in the vote registry. In fact, tit. 3 D.C. Mun. Regs. § 1607.2 merely mandates "[t]he signature on a petition shall be made by the person whose signature it purports to be and not by any other person." Mr. Edmondson has not met this burden of proof in light of the explanation for the variance proffered by Ms. Holness and the identical circulator signatures on the petition sheets in comparison to Ms. Brown's signature in the voting registry. Moreover, *assuming arguendo* that the Board felt the need to disallow the particular circulator's petition sheets, which accounted for one hundred, nineteen (119) signatures, Ms. Holness would still have the requisite number of valid signatures, (2,000) for ballot access by virtue of her submitted address changes. Based on the Board's findings and conclusions, it is hereby:

ORDERED that E. Gail Anderson Holness be **GRANTED**

Ballot Access in the April 3, 2012 Primary Election for the office of At-Large member of the District of Columbia Council.

February 3, 2012



Deborah K. Nichols
Chairman, Board of Elections and Ethics

Devarieste Curry
Member, Board of Elections and Ethics

Stephen I. Danzansky
Member, Board of Elections and Ethics