

**DISTRICT OF COLUMBIA  
BOARD OF ELECTIONS**

|                 |   |                             |
|-----------------|---|-----------------------------|
| Robin McKinney, | ) |                             |
| Challenger      | ) | Administrative              |
|                 | ) | Order #20-023               |
|                 | ) |                             |
| v.              | ) | Re: Challenge to Nominating |
|                 | ) | Petition Submitted for the  |
|                 | ) | Office of Advisory          |
| Isaac Smith,    | ) | Neighborhood Commissioner   |
| Candidate.      | ) | for Single Member District  |
|                 | ) | 8A06                        |

**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 Isaac Smith (“Mr. Smith”) in support of his candidacy for the office of Advisory Neighborhood Commissioner for Single Member District 8A06 filed by Robin McKinney (“Ms. McKinney”) pursuant to D.C. Code § 1-1001.08 (o)(1) (2001 Ed.). The parties did not appear, and the matter proceeded *ex parte*. Chairman D. Michael Bennett and Board members Michael Gill and Karyn Greenfield presided over the hearing.

**Background**

On July 28, 2020, Mr. Smith 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) 8A06 (“the Petition”). The minimum requirement to obtain ballot access for this office is ten signatures of District voters who are duly registered in the same SMD. The Petition contained thirty signatures. Pursuant to

title 3, District of Columbia Municipal Regulations (D.C.M.R.) § 1603.1, Karen F. Brooks, the Board of Elections' Registrar of Voters ("the Registrar"), accepted all thirty signatures for review.

On August 8, 2020, the Petition was posted for public inspection for 10 days, as required by law. On August 17, 2020, Ms. McKinney, a registered voter in the District of Columbia, filed a challenge to the Petition.

Ms. McKinney filed challenges to 28 signatures pursuant to title 3 D.C.M.R. § 1607.1 of the Board's regulations. She asserted the following grounds; 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 not sufficiently legible for identification; and the signature is not made by the person whose signature it purports to be.

#### **Registrar's Preliminary Determination**

The Registrar reviewed the challenge to determine the validity of the challenged signatures. The Registrar's review indicated that eight of the challenges were valid. She found that three of the challenges were valid because the signature is not dated. She found one challenge was valid because the petition does not include the name of the signer where the signature is not sufficiently legible. She determined one challenge was valid because the signer was not registered at the time the petition was signed. She determined one challenge was valid because the signer's voter registration was designated inactive on the voter roll at the time the petition was signed. She determined one challenge was valid due to a missing address. She determined one challenge was valid because the signature was not made by the person whose signature it purports to be. The Registrar preliminarily determined the Petition contained 22 presumptively valid signatures, which meets the minimum requirement for ballot access.

### **August 31, 2020 Pre-Hearing Conference**

Pursuant to title 3 D.C.M.R. § 415.1, the Office of the General Counsel (“OGC”) convened a prehearing conference with on Monday, August 31, 2020. Mr. Smith appeared *pro se*. Ms. McKinney did not appear. Ms. McKinney had been provided with notice of the pre-hearing conference on August 20, 2020. A paralegal with the Office of the General Counsel reached Ms. McKinney by phone several minutes after the prehearing conference began to inquire whether she intended to participate. Ms. McKinney stated her intention to withdraw her challenge. An attorney with the Office of the General Counsel offered Mr. Smith an opportunity to say anything for the record that he may want to raise with the Board in the event of a public hearing, and Mr. Smith declined. The prehearing conference was concluded.

### **September 2, 2020 Board Hearing**

On September 2, 2020, the Board included this matter on its agenda for public hearing. Though Ms. McKinney had stated by telephone her intention to withdraw her challenge, she did not submit a signed form to formally execute this. The parties did not appear. An attorney with the Office of the General Counsel testified that the parties had been properly notified of the Board hearing. The Board voted to proceed *ex parte*. The Registrar presented the Board with her preliminary determination of the challenges.

### **Discussion**

The Board has received limited evidence or testimony in connection with this matter, apart from the Registrar’s preliminary report. Title 3 D.C.M.R. § 1606.4 states that, after the receipt of a properly filed challenge, the Board’s staff shall search the Board’s registration records to prepare a recommendation to the Board as to the validity of the challenge. Title 3 D.C.M.R. § 1606.5 states that the Board shall consider any evidence submitted, including but not limited to,

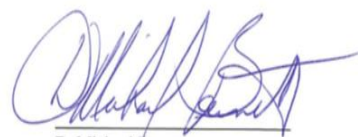
documentary evidence, affidavits, and oral testimony. In this case, the Registrar provided documentary evidence to support her findings, which the parties have not disputed. The Board therefore accepts the Registrar's report as the basis for its determination regarding Ms. McKinney's challenge.

**Conclusion**

As a result of this challenge, the Board finds that the Petition contains 22 valid signatures, which meets the requirements for ballot access. It is hereby:

**ORDERED** that candidate Isaac Smith is granted ballot access in the contest for the office of Advisory Neighborhood Commissioner for the Single Member District 8A06 in the November 3, 2020 General Election.

Date: 9/4/2020



D. Michael Bennett  
Chairman  
Board of Elections