

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

Alonzo Edmonson,
Complainant,

v.

Calvin Gurley,
Respondent.

Administrative Hearing
No. 10-007

Re: Challenge to Nominating
Petition of Calvin Gurley,
Candidate, Chairman of the
Council of the District of Columbia

MEMORANDUM OPINION AND ORDER

Introduction

This matter came before the District of Columbia Board of Elections and Ethics (“the Board”) on August 2, 2010. It is a challenge to the nominating petition of Calvin Gurley as a candidate for the office of Chairman of the Council of the District of Columbia filed by Alonzo Edmonson pursuant to D.C. CODE § 1-1001.08(o)(1) (2006). Board member Charles R. Lowery, Jr. presided over the hearing.

Background

On July 7, 2010, Calvin Gurley submitted a nominating petition for the office of Chairman of the Council of the District of Columbia containing a total of 2,197 signatures. On July 10, 2010, the petition was posted for inspection, pursuant to D.C. CODE § 1-1001.08(o)(1) (2006), for a 10-day challenge period.¹

¹ D.C. CODE § 1-1001.08(o)(1) (2006) 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.

On July 19, 2010, Alonzo Edmonson filed a challenge to the nominating petition in which he challenged 345 of the 2,197 signatures. Each signature was challenged on a specific ground or grounds as required by the Board's regulations. Mr. Edmonson declared his address as 720 Hobart Place, N.W., Washington, DC 20001. Before beginning review of the challenged signatures, the Registrar of Voters ("Registrar") confirmed that Mr. Edmonson was a registered voter and that the address that Mr. Edmonson provided on the challenge forms matched Mr. Edmonson's address on the Board's records. The Registrar's review of the challenges concluded that 309 of the challenges to Mr. Gurley's nominating petition were valid, while 36 were invalid—leaving Mr. Gurley with 1,888 signatures. The minimum requirement of signatures for this office is 2,000 pursuant to D.C. CODE § 1-1001.08 (i)(1) (2006). Accordingly, the Registrar concluded that Mr. Gurley did not secure enough signatures on the nominating petition for ballot access.

On July 22, 2010, Mr. Gurley filed a challenge to Mr. Edmonson's voter registration, pursuant to D.C. Official Code § 1-1001.07 (e)(5) and tit. 3, sec. 521 of the D.C. Municipal Regulations. Resolution of this separate matter is pending.

The Board held a hearing on Mr. Edmonson's challenge on Monday, August 2, 2010. Mr. Gurley's arguments, in summary, are two-fold: (1) The Board did not properly accept the challenge filed by Mr. Edmonson because he is not a "registered qualified elector;" and (2) the Registrar's preliminary determination is incorrect. The Board now issues its Order reflecting its determination that Mr. Edmonson's challenge to Mr. Gurley's nominating petition was properly accepted. Further, because Mr. Gurley

could not find specific error with the Registrar's findings, the Board is compelled to adopt the Registrar's findings and thereby uphold Mr. Edmonson's challenge.

Analysis

I. Mr. Edmonson's challenge was properly accepted because he is a "registered qualified elector."

Pursuant to D.C. Official Code § 1-1001.08 (o)(1), "*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." Emphasis added. See also, 3 D.C.M.R. § 1609.2. As defined in the Board's regulations, a registered qualified elector is "a registered voter who resides at the address listed on the Board's records." 3 D.C.M.R. § 500.11.

Here, Mr. Edmonson satisfies the Board's requirements to be a "registered qualified elector." Mr. Edmonson filed his challenge forms listing his address as 720 Hobart Place, N.W. Immediately after receipt of the challenge forms, the Registrar confirmed that Mr. Edmonson was a registered voter and that the address listed on the challenge form matched the address listed on the Board's records. Because Mr. Edmonson is a registered voter, and his address on the challenge forms matched the Board's records, the challenge was properly accepted.

Further, pursuant to the Board's regulations, the challenge was properly accepted because, on its face, it "alleg[ed] defects in the petition form which, if valid, would render the prospective candidate ineligible." 3 D.C.M.R. § 1609.4. Here, Mr. Edmonson challenged 345 of the 2,197 signatures. If accepted as valid challenges on their face, those challenges would have rendered Mr. Gurley as an ineligible candidate because he

would have only had 1,852 signatures – 148 signatures below the requirement for ballot access. Thus, the challenge was properly accepted.

Importantly, during the hearing, both Mr. Gurley and Mr. Edmonson introduced evidence in support of their respective positions regarding the validity of the residence of Mr. Edmonson at 720 Hobart Place, N.W. See Candidate's Exhibits 1-6; Challenger's Exhibits 1-8. Although 3 D.C.M.R. § 1609.2 states that only a registered qualified elector may challenge a nominating petition, once the Board accepts a challenge, and thereafter reviews the challenged signatures and finds a deficiency in the nominating petition, any subsequent challenge to the challenger's registration status is considered entirely separate and apart from the challenge to the nominating petition. Here, Mr. Edmonson's challenge was accepted as valid on its face pursuant to §1609.4, and thus investigation into the validity of Mr. Edmonson's registration is more properly limited to a challenge to voter registration, the proceeding that Mr. Gurley filed in the Board's office on July 22, 2010. Pursuant to D.C. Official Code § 1-1001.07 (e)(5) and Title 3, sec. 521 of the D.C. Municipal Regulations, the Registrar shall make a determination with respect to this type of challenge, and any aggrieved party may then appeal such determination to the Board, pursuant to 3 D.C.M.R. § 521.9.

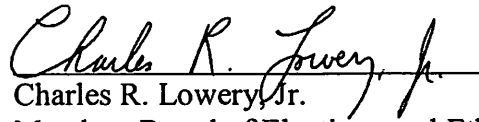
II. The Respondent failed to present evidence rebutting the Registrar's preliminary determination upholding the challenge.

Lastly, Mr. Gurley summarily contests the Registrar's findings with respect to the validity of the challenges. Despite Mr. Gurley's blanket argument, Mr. Gurley did not find specific error with the Registrar's findings, admitting that even if he did submit address change forms for those signers who were eligible, he would still not cure enough signatures to obtain ballot access.

Conclusion

The Board hereby affirms the determination of the Registrar with respect to the Mr. Edmonson's challenge. Based on the Board's findings and conclusions, it is hereby **ORDERED** that the challenge to the nominating petition of Calvin Gurley, candidate for the office of Chairman of the Council of the District of Columbia, is upheld. It is **FURTHER ORDERED** that Calvin Gurley be denied ballot access in the September 14, 2010 Primary Election as a Democratic candidate for the office of Chairman of the Council of the District of Columbia.

August 2, 2010


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