DISTRICT OF COLUMBIA
BOARD OF ELECTIONS

Betty Murray,	)	
Challenger	)	Administrative
	)	Order #22-026
	)	
v.	)	Re: Challenge to Nominating
	)	Petition Submitted for the
	)	Office of Advisory
Markus Batchelor,	)	Neighborhood Commissioner
Candidate.	)	Single Member District 8C06

MEMORANDUM OPINION AND ORDER

Introduction

This matter came before the District of Columbia Board of Elections ("the Board") on September 9, 2022. It is a challenge to the nominating petition of Markus Batchelor in support of his candidacy for the office of Advisory Neighborhood Commissioner ("ANC"), Single Member District ("SMD") 8C06 in the November 8, 2022 General Election ("the General Election"). The challenge was filed by Betty Murray pursuant to D.C. Official Code § 1-1001.08(o)(1). Chairman Gary Thompson and Board members Michael Gill and Karyn Greenfield presided over the hearing. Both parties appeared *pro se*.

Background

On July 20, 2022, Mr. Batchelor picked up from the Board's offices a nominating petition to appear on the ballot as a candidate in the General Election contest for the ANC nomination for SMD 8C06 ("the Petition").

On August 10, 2022, Mr. Batchelor submitted his Petition. The minimum number of signatures required to obtain ballot access for this office is 25 signatures of District voters who are duly registered in the same SMD as the candidate. 3 D.C.M.R. § 1603.7. The Petition contained

thirty-nine (39) signatures. Pursuant to Title 3, District of Columbia Municipal Regulations (D.C.M.R.) § 1603.1, the Board of Elections' Registrar of Voters ("the Registrar"), accepted all thirty-nine (39) signatures for review.

On August 13, 2022, the Petition was posted for public inspection for 10 days, as required by law.

On August 22, 2022, the Petition was challenged by Ms. Murray, a registered voter in the District of Columbia. Ms. Murray filed challenges to a total of sixteen (16) signatures. She asserted, pursuant to Title 3 D.C.M.R. § 1607.1 of the Board's regulations, signature defects on the following grounds: (1) the signer's voter registration was designated as inactive on the voter roll at the time the petition was signed; (2) 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; (3) the signature is a duplicate; (4) the petition does not include the name of the signer where the signature is not sufficiently legible for identification; (5) the signature is not made by the person whose signature it purports to be; (6) the circulator of the petition sheet was not a qualified petition circulator at the time the petition was signed; and (7) the signer is not registered voter in the ward or Single-Member District from which the candidate seeks nomination at the time the petition is signed.[1]

Registrar's Preliminary Determination

On September 1, 2022, the Registrar issued her report of her review of Ms. Murray's challenge. The Registrar concluded that five (5) of the sixteen (16) challenges were valid:

[1] Ms. Murray also challenged signatures on the grounds that the signer is not registered to vote in the same party as the candidate, but this is only a valid challenge for a partisan position during a primary election.

- One (1) is valid because the signer is not registered to vote; and
- Four (4) are valid because the signature is not made by the person whose signature it purports to be.

The Registrar therefore preliminarily concluded that the candidate's nominating petition had thirty-four (34) valid signatures, nine (9) signatures above the number required for ballot access.[2]

September 7, 2022 Pre-Hearing Conference

Pursuant to title 3 D.C.M.R. § 415.1, the Office of the General Counsel convened a pre-hearing conference with both parties on Tuesday, September 7, 2022.[3] At the prehearing conference, the Registrar outlined her determinations with respect to the validity of each signature challenged.[4]

Ms. Murray then advised that she wished to withdraw her challenge. Counsel for the Board reminded her that a link to the form for withdrawing a challenge had been emailed to Ms. Murray. Counsel stated that she would resend that link as soon as the prehearing was concluded and noted that, if not withdrawn, the matter would be included on the agenda for the next Board meeting on challenge matters. Accordingly, on September 7, 2022, the withdrawal form link was sent to Ms. Murray for the second time.

[2] The email which forwarded the Registrar's reports explained that, if after reviewing the reports, either party could withdraw his/her challenge or candidacy as the case might be. The forwarding email included links to the respective withdrawal forms.

[3] The prehearing conference was initially scheduled for September 2, 2022. Due to Ms. Murray's health situation, the Board's counsel agreed to reschedule the conference and granted Ms. Murray the extraordinary relief of continuing the conference until the next hearing date of September 7, 2022.

[4] Prior to convening, the Registrar's written report, her mark-up of the challenge with codes for her findings, and a key code explaining the notations she used to indicate the basis for upholding or denying each challenge had been provided to the parties.

September 9, 2022 Board Hearing

The morning of the Board meeting, Ms. Murray was emailed the link to the challenge withdrawal form for the third time. At the hearing, the Registrar placed on the record her finding as to the Petition's numerical sufficiency. Ms. Murray reiterated that she intended to withdraw her challenge.

Subsequently, the Board announced that it would recess the hearing matters, meet in executive session to discuss them, and then reconvene on the record. When the Board reconvened, it announced that, given the need to resolve timely petition challenge matters and the lack of a challenge withdrawal form from Ms. Murray, it was denying her challenge. Accordingly, the Board accepted the Registrar's findings, unanimously found that the Petition was sufficient, and granted Mr. Batchelor ballot access.

Discussion

As noted above, Ms. Murray has, on at least three (3) occasions, been provided with a link to the form for withdrawing a petition. She has also twice advised that she would submit that form and withdraw her challenge to Mr. Batchelor's Petition. As of the filing of this Order, Ms. Murray has not followed through and submitted her challenge withdrawal form.

By law, the Board must resolve petition challenges in twenty (20) days from the date on which the challenge was filed (in this case, August 22, 2022). D.C. Code § 1-1001.08(o). Adhering to this statutory timeframe is vital to the ability to prepare the ballot in time to meet the deadline for mailing ballots to overseas voters. For these reasons, we must act, absent a withdrawal by either party, on any pending challenge.

Ms. Murray did not pursue her challenge and did not contest the Registrar's findings. She, therefore, essentially conceded that she had failed to assert the necessary number of valid challenges to render Mr. Batchelor's Petition numerically insufficient.

Conclusion

The Registrar correctly concluded that the challenge to Mr. Batchelor's nominating Petition contained only five (5) valid challenges; thereby leaving the Petition with thirty-four (34) valid signatures, nine (9) above the minimum needed for ballot access.

ORDERED that Markus Batchelor is **GRANTED** ballot access for the office of ANC SMD 8C06.

Date: September 9, 2022

Gary Thompson
Chairman
Board of Elections