

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

Patience R. Singleton,)	
Challenger)	Administrative Hearing
)	No. 14-005
v.)	
)	Re: Challenge to the Nominating
Robert Bettmann,)	Petition of Robert Bettmann,
Respondent.)	Candidate for Advisory Neighborhood
)	Commissioner Single Member District 4A04

MEMORANDUM OPINION AND ORDER

INTRODUCTION

This matter came before the District of Columbia Board of Elections (“the Board”) on March 11, 2014. It is a challenge to the nominating petition of Robert Bettmann (“Mr. Bettmann”) for the office of Advisory Neighborhood Commissioner, Single Member District 4A04, (ANC 4A04) filed by Patience R. Singleton (“Ms. Singleton”) pursuant to D.C. CODE § 1-1001.08 (o)(1) (2013). The Complainant and the Respondent appeared *pro se*. Chairman Deborah K. Nichols presided over the hearing as a one member panel pursuant to D.C. CODE § 1-1001.05 (g).¹

¹ D.C. CODE § 1-1001.05(g) (2013) states in relevant part:

[T]he Board may hear any case brought before it under this subchapter [] by 1 member panels. An appeal from a decision of any such 1 member panel may be taken to either the full Board or to the District of Columbia Court of Appeals, at the option of any adversely affected party.

BACKGROUND

Mr. Bettmann submitted a Nominating Petition for the office of ANC 4A04 with 39 signatures on February 10, 2014. The minimum signature requirement is 25 registered qualified electors who are residents of the single-member district from which he seeks election pursuant to D.C. CODE § 1-309.06(d)(6)(C) (2013). The petition was posted for inspection on February 13, 2014 pursuant to D.C. CODE § 1-309.06(d)(6)(C) (2013) for a 5-working-day challenge period.²

Ms. Singleton, a duly registered voter in the District of Columbia, filed a challenge to the petition on February 20, 2014, in which she challenged 21 of the 39 signatures. Each signature was challenged on a specific ground or grounds as required by the Board's regulations. Specifically, Ms. Singleton challenged signatures on the grounds that: 1) the signatures on the petition were not made by the person whose signature it purports to be; 2) the signatories are not duly registered voters; 3) signatories, according to the Board's records, are not registered to vote at the address listed on the petition at the time the petition was signed; 4) signatories are not duly registered in the Single-Member District from which the candidate seeks appointment at the time the petition is signed; and 5) the petition did not include the printed or typed name of the signer where the signature is not sufficiently legible for identification.

Pursuant to Title 3 District of Columbia Municipal Regulation ("D.C.M.R.") §415.1, the Office of the General Counsel conducted a Pre-Hearing conference in this matter on Friday, February 28, 2014. The Challenger was represented by her husband, Ronald Roach, and the Candidate appeared *pro se*.

² D.C. CODE § 1-309.06(d)(6)(C) (2013) states in relevant part:

Within 21 days of the date that the Board makes the petitions available, persons interested in filling the vacancy shall submit a petition to the Board that contains the signatures of at least 25 registered qualified electors within the affected single-member district. The Board, after a 5-working-day challenge period, shall transmit a list of the names of persons who qualify for membership on the affected Advisory Neighborhood Commission.

The Registrar determined that 20 challenges were valid and one challenge was invalid—leaving Mr. Bettmann with 19 signatures, which is six (6) signatures below the number required for ballot access. Pursuant to D.C. CODE § 1-1001.08(o)(3),

For the purpose of verifying a signature on any petition filed pursuant to this section, the Board shall first determine if the address on the petition is the same as the address shown of the signer's voter registration record. If the address is different than the address which appears on the signer's registration record, the address shall be deemed valid if: [t]he signer's current address is within the single member district for an Advisory Neighborhood Commission election; and [t]he signer files a change of address form with the Board during the first 10 days of the period designated for resolving challenges to petitions.

The Registrar preliminarily determined Mr. Bettmann's petition contained six (6) signatures with an address that is different from the address which appears on the signer's registration record.

Pursuant to 3 D.C.M.R. § 1309.6, “[w]ithin three (3) working days of receipt of a challenge, the Board shall serve in person, by certified mail, or email a copy of the challenge upon the candidate.” Since the challenge was filed on Thursday, February 20, 2014, Mr. Bettmann should have received notice of the validly filed challenge no later than Tuesday, February 25, 2014. Unfortunately, the Board's notice sent by electronic mail on February 20, 2014 was not received by Mr. Bettmann until Thursday, February 27, 2014 due to a typographical error in the transcription of his email address.

Both parties received the Registrar's preliminary determination with respect to the challenge on February 27, 2014, and Ms. Singleton took issue with the Registrar's findings with respect to two signatories. Ms. Singleton explained that her research caused her to question whether two signatories were the same registrants on the voting roll, and she requested to examine their voter registration cards to compare the signatures on the nominating petition to the signatures on the signers' voter registration records. The signatories are: William Griffiths and Mark Farrell. Although the Registrar upheld the challenge with respect to both signatories, she

deemed both to be registered at an address other than the one each used on the nominating petition, and thus their signatures could be cured with a change of address form pursuant to D.C. CODE § 1-1001.08(o)(3). However, if the signatories are not in fact the registrants on the voter registry, they cannot submit a change of address to cure their signature.

During the prehearing conference, the parties raised a number of concerns. The parties were informed pursuant to 3 D.C.M.R. § 415.2 that the agreements made by the parties as to any of the matters considered would limit the issues for hearing to those issues not disposed of by admissions or agreements of counsel or parties. For the reasons stated below, the Board finds that Mr. Bettmann failed to secure 25 signatures of registered qualified electors who are residents of the single-member district from which he seeks election pursuant to D.C. CODE § 1-309.06(d)(6)(C) (2013).

DISCUSSION

The United States Supreme Court has long recognized that states and localities have a responsibility to protect the integrity and reliability of the election process, and has generally accorded them latitude in establishing rules and procedures toward that end. “[T]here must be a substantial regulation of elections if they are to be fair and honest and if some sort of order is to accompany the democratic processes.” *Buckley v. American Constitutional Law Foundation, Inc.*, 525 U.S. 182, 187 (1999). Accordingly, the District of Columbia has established a nominating petition process that requires prospective candidates to demonstrate a modicum of support from a specific number of qualified electors as a condition precedent to ballot access.

CHALLENGER'S ISSUES FOR REVIEW

Ms. Singleton took issue with the Registrar's determination with respect to William Griffiths. Upon review of the signature of William Griffiths on Robert Bettman's petition and that on the registration form, Ms. Singleton asserts that there's no similarity between the two. Additionally, Ms. Singleton asserted real estate records from the District of Columbia Office of Tax and Revenue indicate that William K. Griffiths (not William F. Griffiths) along with Jessica Schubel became the owners of their home at 1316 Sheridan Street, NW on August 5, 2013. Ms. Singleton believes the William Griffiths listed on Mr. Bettman's petition is not the William F. Griffiths on the voter registration records. According to the most recent D.C. voter list, William F. Griffiths is the only William Griffiths listed as a registered D.C. voter. Ms. Singleton asserts that the challenge status of the William Griffiths listed on Mr. Bettman's petition should be accordingly changed from a potential address change to not registered. Mr. Bettmann did not submit a change of address form for Mr. Griffiths, nor did he submit any evidence to refute Ms. Singleton's findings. Accordingly, the Board hereby accepts Ms. Singleton's challenge that William K. Griffiths is not a registered voter.

Mr. Bettmann submitted two change of address forms by the deadline, which was extended until Tuesday, March 4 due to the government shutdown on Monday March 3 for inclement weather. One change of address was for Veronica Harrington, and the other one was for Mark Farrell. With respect to Mr. Farrell, the signatory's name is Francis Mark Farrell, and his signature is similar to that registered on the Board's rolls. Ms. Singleton conceded both signatures, and that brought Mr. Bettmann's total to 21 signatures.

CANDIDATE'S ISSUES FOR REVIEW

Mr. Bettmann initially took issue with the timeliness of the challenge because the challenge period commenced on Thursday, February 13, 2014, while the challenge was filed on February 20, 2014. Mr. Bettmann was alerted to the fact that Monday, February 17, 2014 was President's Day—thereby making Thursday, February 20, 2014 the fifth working day of the challenge period pursuant to D.C. CODE § 1-309.06(d)(6)(C). During the hearing Mr. Bettmann conceded that President's Day was in fact on February 17, 2014.

Mr. Bettmann also took issue with the timeliness of his notice of the challenge lodged against his candidacy. Mr. Bettmann received notice of his challenge two days later than the regulations provide, and he asserted the entire challenge should be dismissed due to his lack of sufficient notice. Mr. Bettmann was provided with a list of qualified electors when he picked up nominating petitions—thereby giving him notice of the status of each signatory on his nominating petition before he submitted his petition for the challenge period. Candidates are implored to verify the signatures on their nominating petitions prior to submitting them to the challenge period process. Moreover, Mr. Bettmann was afforded an extra day to garner change of addresses due to the closure of the District of Columbia Government for inclement weather. Mr. Bettmann was informed that the Board lacks discretion to extend the time for submitting change of address forms pursuant to D.C. CODE § 1-1001.08(o)(3).

Mr. Bettmann offered a signed declaration and a voter identification card from a signatory that was challenged as not registered. Mr. Cliff Murray attested that he signed the nominating petition with his nickname as opposed to his first name "Terrance" that is registered on the Board's records. Mr. Bettmann submitted a sworn declaration under the penalty of perjury as supporting documentary evidence to explain the circumstances of such a variant name.

The Board credited this submission, which brought Mr. Bettmann's signature total to 22 signatures.

Mr. Bettmann took issue with all signatories found by the Registrar to live outside of single-member district 4A04, because he did not have time to verify whether the south side of Rittenhouse Street, N.W. was outside of his single-member district. He did not feel comfortable conceding those particular signatories were in an adjacent single-member district notwithstanding their absence on the list of qualified electors provided to him when he picked up his nominating petition for circulation. Mr. Bettmann did not provide any evidence to overturn the Registrar's determination.

Mr. Bettmann reserved his right to determine the circumstances as to why Ms. Sarah Katt, Keith Britt, and Bob Hoffman are not registered as determined by the Registrar. He likened those situations to Mr. Terrance "Clif" Murray, and reasoned that there could be similar circumstances why they were not listed on the rolls provided to him. Mr. Bettmann did not provide any evidence to overturn the Registrar's determination.

Mr. Bettmann also inquired why a voter with inactive status could not be cured. Mr. Rick Wright is an inactive voter on the Board's records. Pursuant to D.C. CODE § 1-1001.07(j)(6)(B), "[t]he voter registrations of individuals whose registrations are designated as inactive on the voter roll, pursuant to paragraph (2) of this subsection: [s]hall not be counted as valid in the verification of signatures pursuant to §§ 1-1001.08(o). . ."

CONCLUSION

Mr. Bettmann secured 22 valid signatures, which is below the 25 signatures required for ballot access. It is hereby:

ORDERED that candidate Robert Bettmann is denied ballot access for the office of ANC-SMD 4A04.

March 12, 2014
Date



Deborah K. Nichols
Chairman,
Board of Elections

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing order was sent electronically to Patience Singleton and Robert Bettmann on this day, March 12, 2013.



RUDOLPH McGANN