

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

James Harnett,)	
Challenger,)	Administrative
)	Order #24-004
)	
v.)	Re: Challenge to Nominating
)	Petition Submitted for
)	Ward 7 Member
Yolanda “Y” Fields,)	of the DC Council,
Candidate.)	Democratic Party

MEMORANDUM OPINION AND ORDER

Introduction

This matter came before the District of Columbia Board of Elections (“the Board”) on March 29, 2024. It is a challenge to the nominating petition submitted by Yolanda “Y” Fields (“the Candidate”) in support of her candidacy for the office of Ward 7 Member of the Council in the June 4, 2024 Democratic Primary Election (“the Primary Election”). The challenge was filed by James Harnett (“the Challenger”) pursuant to D.C. Official Code § 1-1001.08(o)(1). Chairman Gary Thompson and Board members Karyn Greenfield and J.C. Boggs presided over the hearing. The Board’s General Counsel, Terri Stroud, Registrar of Voters (“Registrar”), Marissa Corrente, and Attorney Advisor, LaKetha Walker, were present at the hearing. Both parties appeared *pro se*.

Background

On March 6, 2024, the Candidate submitted a nominating petition to appear on the ballot as a candidate in the Primary Election contest for the office of Ward 7 Member of the Council (“the Petition”). The minimum number of signatures required to obtain ballot access for this office is 250 signatures of District of Columbia voters who are duly registered in the same ward and party

as the candidate. The Petition contained 283 signatures. Pursuant to Title 3, District of Columbia Municipal Regulations (D.C.M.R.) § 1603.1, the Registrar accepted 283 signatures for review.

On March 9, 2024, the Petition was posted for public inspection for 10 days as required by law. On March 13, 2024, the Petition was challenged by James Harnett, a registered voter in the District of Columbia.

The Challenger filed challenges to a total of 69 signatures. Specifically, the signatures were challenged pursuant to Title 3 D.C.M.R. § 1607.1 of the Board's regulations on the following grounds: the signer was not registered; the signer's voter registration was designated as inactive on the voter roll at the time the petition was signed; the signer, according to the Board's records, was not registered to vote at the address listed on the petition at the time the petition was signed; the petition contains names of signers with missing addresses; the petition did not include the name of the signer where the signature was not sufficiently legible for identification; the petition contains incomplete circulator affidavits; the signature is a duplicate; and the signer was not registered to vote in the same party as the candidate at the time the petition is signed.

Registrar's Preliminary Determination

The Registrar's review of the challenge indicated that a total of 63 of the 69 signature challenges were valid. The Registrar found that ten challenges are valid because the signer is not registered to vote at the address listed on the petition at the time the petition was signed; eight challenges are valid because the signer was not registered at the time the petition was signed; two challenges are valid because the petition does not include the address of the signer; six challenges are valid because the petition does not include the name of the signer where the signature is not sufficiently legible for identification; ten challenges are valid because the signer's voter registration was designated as inactive on the voter roll at the time the petition was signed; one

challenge is valid because the signature appears to be a duplicate; eight challenges are valid because the signer was not registered to vote in the same party as the candidate at the time the petition was signed; and 18 challenges are valid because the date on the circulator affidavit predates the dates on which signers signed the petition.

Accordingly, the Registrar preliminarily determined the Petition contained 220 presumptively valid signatures, which is 30 signatures below the number required for ballot access.

March 27, 2024 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 the parties on March 27, 2024. In her findings report issued prior to the pre-hearing conference, the Registrar outlined her determinations with respect to the validity of each signature challenged and provided a key code explaining the notations she used to indicate the basis for upholding or denying each challenge.

The Challenger agreed with the Registrar's determinations. The Candidate, however, indicated that she wished to bring two issues before the Board. First, the Candidate wanted to discuss the Registrar's findings regarding the 18 challenges that were upheld because the date on the circulator affidavit predated the dates on which signers signed the petition. 15 of the 18 signatures invalidated were on sheets circulated by the Candidate and the remaining three were on sheets circulated by another circulator, Jamil Shoatz. The Candidate was informed that, while the circulator date defects might be waived upon a sufficient evidentiary showing at a hearing before the Board, that remedy alone would not resolve the 30-signature shortfall in her Petition. However, she stated that she wished to go before the Board and request that the Board credit her with all of the impacted signatures.

Second, the Candidate wanted to discuss the Registrar's findings concerning certain signatures that were collected from residents at 599 50th Street N.E. The Registrar had determined that nine of the 17 signatures collected from residents who utilized this address were invalid. Four of these signatures were among those invalidated due to the pre-dated circulator affidavits, and the five remaining signatures were invalidated for other reasons, including inactive voter status and affiliation with a party other than the Candidate's. Despite being informed that the five signatures that were invalidated on grounds other than a defective circulator affidavit could not be cured, the Candidate made comments that indicated that she thought these signatures could be cured with change of address forms and wanted to proceed with a hearing before the Board to plead her case in this regard.

As the Candidate's remarks implicated no more than 23 signatures – the 18 invalidated due to pre-dated circulator affidavits and the five related to 599 50th Street N.E. that were invalidated for other incurable defects - and her Petition was 30 signatures short, the Candidate was advised that, even accepting her position, she still would not have attained the 250 signatures required for ballot access. The Candidate stated that she desired to bring her issues to the Board for review nevertheless.

As the parties were not able to resolve the matter, the case was set for a Board hearing on March 29, 2024. The Candidate and Challenger were duly notified of the hearing during the pre-hearing conference and by electronic mail transmission on March 27, 2024.

March 29, 2024 Board Hearing

At the hearing, the Registrar presented her findings and Ms. Walker testified regarding the pre-hearing conference. The Candidate urged the Board to credit her with the 23 signatures she referenced at the pre-hearing conference. First, the Candidate admitted that she did inadvertently

pre-date the circulator affidavits on the three petition sheets that she circulated, but testified that she personally witnessed the 15 signatures on those sheets. The Candidate further testified that circulator Jamil Shoatz made the same pre-dating error, but that she believed that he personally witnessed the three signatures attributed to him.

The Candidate also testified that she attempted to distribute change of address forms to residents at 599 50th Street N.E., in an effort to cure signatures from the residents that had been deemed invalid, but that she had no ability to ensure that the forms were completed and returned to the Board so that the signatures could be cured.

In response to the Candidate's testimony, the Challenger stated that he accepted the findings of the Registrar and that he did not think that the Board should credit to the Candidate any of the signatures invalidated due to the pre-dated circulator affidavits. He argued that to credit any such signatures to the Candidate would be contrary to the spirit of the Board's ruling in "In Re: Phillip Newland, Candidate", Administrative Order # 2023-006, (issued February 8, 2023). The Challenger also stated that, during the prehearing conference, the Candidate admitted that she did not adequately read the instructions governing the petition circulation process. He concluded by noting that, even after crediting the Candidate with the signatures that were invalidated due to the invalid circulator affidavit, the Candidate would still remain short of the minimum number of signatures required for ballot access.

Discussion

D.C. Official Code § 1-1001.08(b)(3) provides that each nominating petition shall contain "an affidavit, made under penalty of perjury, in a form to be determined by the Board and signed by the circulator of that petition which shall state that the circulator is a qualified petition circulator and has ... [p]ersonally circulated the petition [and] [p]ersonally witnessed each

person sign the petition[.] In *Newland*, the matter referenced by the Challenger, we noted that we have consistently “stressed the importance of the statute’s circulator requirement to the integrity of the process and the validity of petitions.” Yet we saw fit in that matter to excuse a defect in the date in the circulator affidavit where the circulator testified under oath to witnessing, in person and within the period for petition circulation, the Petition’s signatures.

In the instant case, the Circulator, while acknowledging her error with respect to pre-dating the circulator affidavits on the petition sheets she circulated, testified that she did, in fact, personally witness the 15 signatures on those sheets. The Board finds the Circulator’s testimony to be credible and thus credits her petition with the 15 signatures that were invalidated. As circulator Shoatz did not appear at the hearing before the matter was closed and thus did not testify as to the circumstances surrounding the signatures he collected, we have no basis upon which to disturb the Registrar’s finding with respect to those signatures.

Contrary to the Circulator’s belief, the five signatures related to 599 50th Street N.E. that were invalidated on grounds other than a pre-dated circulator affidavit did not suffer from defects that could be cured through the timely filing of change of address forms. Rather, these signatures were invalidated due to defects that could not be cured at all. Accordingly, these five signatures cannot be credited to the Candidate.

Conclusion

Based upon the Registrar’s findings and the restoration of 15 signatures to the Candidate, the Petition now contains 235 valid signatures. The minimum number of signatures required for ballot access for the office sought is 250. Therefore, the Petition has 15 signatures below the minimum required for ballot access. Accordingly, it is hereby:

ORDERED that the challenge to the nominating petition submitted by Yolanda “Y” Fields in support of her candidacy for the office of Ward 7 Member of the Council in the Primary Election is **UPHELD**.

Date: March 29, 2024



Gary Thompson
Chairman
Board of Elections