

# STATE OFFICERS ELECTORAL BOARD MEETING

Monday, June 9, 2008

## MINUTES

PRESENT: Albert S. Porter, Chairman  
Bryan A. Schneider, Vice Chairman  
Patrick A. Brady, Member  
John R. Keith, Member  
William M. McGuffage, Member  
Jesse R. Smart, Member

VIA TELEPHONE: Wanda L. Rednour, Member

ABSENT: Robert J. Walters, Member

ALSO PRESENT: Daniel W. White, Executive Director  
Steve Sandvoss, General Counsel  
Darlene Gervase, Administrative Specialist II

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The proceedings commenced at 10:33 a.m. with six members present. Mr. Walters was absent and Mr. Brady arrived at 10:37 a.m. Member Smart held Mr. Walters' proxy.

The General Counsel indicated that four cases were not ripe for disposition and asked the Board to set a date to hear these cases prior to the next regularly scheduled meeting on July 21<sup>st</sup>. He said that the Board may want to meet at an earlier time to give the parties a chance to take decisions to the circuit court and give county clerks time to have the candidates certified, print ballots and prepare for the election. By motion of the Chairman, July 8<sup>th</sup> was unanimously agreed as the date to meet and hear *Gronewold v. Shrier*, 08SOEBGE100; *Gooch v. Garling*, 08SOEBGE503; *Karmel v. Shabo*, 08SOEBGE504; and *Schultz v. Sugrue*, 08SOEBGE505 via videoconference call.

The matter of *Doyle v. Dennis*, 08SOEB101 was continued to later in the morning to accommodate Mr. Michael Kasper who was present in the Board's office on another matter.

Mr. Sandvoss called the *Guenthle v. Hill*, 08SOEB500 case and recognized Mr. James Nally for the Objector and Messrs. Scott K. Summers and Andrew Finko for the candidate. He indicated that the hearing officer's recommendation was to deny the Candidate's Motion to Dismiss, to sustain the objection and not print the name of Candidate Robert Hill on the ballot. The General Counsel agrees, but added that the portion of the reply brief challenging the qualification of the candidate on the basis of him requesting a ballot of a different political party at the preceding primary election, should be stricken as having not been properly pled in the original objection. He further recommended that the hearing officer's recommendation be adopted by the Board, the Objection be sustained and the candidate's name should not appear on the ballot. Mr. Nally agreed that the hearing officer's recommendation should be adopted because the Green Party is an established political party and has

certain mandatory responsibilities in filling vacancies in nomination. In the case of the 14<sup>th</sup> Congressional District race, no one ran as a candidate of the Green Party in the primary election. The resolution was signed by two people who were not county chairmen and the only person that was a county chair and eligible to vote abstained; therefore under the case of *Carnell v. Madison County*, if the mandatory provisions of the Election Code dealing with filling vacancies in nomination are not complied with, any action taken by the managing committee is void. Mr. Finko argued that the hearing officer did not find any evidence of fraud in the nominating process. He also argued that the intent of the Green Party was to nominate Robert Hill as evidenced by the nominating papers and as such, the party has greater leeway to appoint nonpublic office positions that are accountable only to the party rather than the public at large. He said that the vote taken by the committee was properly weighted and that proper nominating papers were filed proving the intent of the Green Party, and therefore the Board should honor that nomination. Mr. Finko concluded by arguing that the objector did not meet his burden of proof. After questions were directed to both parties and discussion was had by the Board, Member Smart moved to accept the recommendation of the hearing officer and general counsel to sustain the objection and the name of Robert Hill not be certified to the ballot for the 14<sup>th</sup> Congressional District race for the Green Party. Member Keith asked Member Smart for clarification that where the general counsel's recommendation is in conflict with that of the hearing officer, if his motion would adopt the General Counsel's recommendation. Member Smart answered yes and Member Keith said where it's a conflict, I would second that. The motion passed 8-0 by roll call vote.

The General Counsel summarized *Maurice Dole v. Troy Dennis*, 08SOEBGE101 and indicated that the basis of the objection was that the resolution of the managing committee was not properly executed, proper notice was not given, that the persons that were entitled to attend did not attend, and proper procedures for conducting the meeting were not followed. The objection also alleged that the resolution was not timely filed with the SBE. The hearing officer recommended the Motion to Dismiss be denied but that the objection be sustained as to the allegation that the meeting was not properly conducted, and the name of Troy Dennis not be printed on the ballot for Congressman from the 17<sup>th</sup> District for the Green Party. Mr. Michael Kasper was present for the objector and said that this case was substantially similar to the case already heard and the fact pattern was virtually identical. He adopted the arguments of Mr. Nally and offered to answer any questions. Messrs. Summers and Finko were present for the candidate and Mr. Finko said that the objector did not meet his burden of proof and that there was no evidence of fraud. Mr. Summers added that the Green Party has not had autonomy extended to them and there was no evidence that the proceedings of the managing committee were tainted, as everyone who attended the meeting was the appropriate party to attend and there was nothing done that was contrary to case law. Mr. Sandvoss's recommendation was to accept the finding of the hearing officer that the managing committee consisted of an unauthorized person and to sustain the objection. Member Smart moved to adopt the recommendation of the hearing officer and general counsel and to not certify the name of Troy Dennis to the ballot. Member McGuffage seconded the motion which passed unanimously by roll call vote.

Mr. Sandvoss called the case of *Krelloff v. Kalbfleisch*, 08SOEBGE501. Messrs Finko and Summers were present for the candidate and Michael Kasper was present on behalf of the Objector. Mr. Kasper stated that the fact pattern in this case was virtually identical to the prior two cases. He further stated that this case involved two counties, Cook and Lake. Lake County does not have a Green Party chairman. The only person who voted at the meeting of the managing committee was a township committeeman from Cook County (who was not authorized to do so), not the county chairman and for that reason the hearing examiner ruled that the nomination was invalid and Mr. Kasper concurred with that. Mr. Finko adopted the argument set forth in the previous two matters and added that the objector did not meet his burden of proof as there was no evidence that proper notice of the meeting was not given and he argued that the committeemen met and voted unanimously to nominate the candidate. He conceded that although there was some conflicting evidence regarding the conduct and proceedings of the meeting, it did not meet the burden of proof needed to invalidate the Resolution that was executed at the meeting. He added that the Green Party is being attacked by some objector who is not a member of the Green Party and there should be deference given to the actions of the Green Party and this nomination should be considered valid. Mr. Sandvoss recommended accepting the recommendation of the hearing officer on the basis that the meeting was not appropriately conducted and unauthorized persons participated in the meeting and requested a ballot of a different political party at the primary election executed the resolution. Member Smart moved and Member McGuffage seconded the motion to accept the recommendation of the Hearing Officer and General Counsel and to not certify the name of David Kalbfleisch to the ballot. The motion passed 8-0.

The General Counsel next called *Ferrito v. Abernathy*, 08SOEBGE502 and stated that this case was similar to the previous three objections but with an additional objection to the qualifications of the candidate as he filed nominating papers and signed a statement of candidacy as a candidate of a different political party for the preceding primary election. Matthew Flamm was present for the objector and asked leave to incorporate the arguments made by Mr. Nally and Mr. Kasper in the three previous cases as if he made them in this case. He added that the 8<sup>th</sup> Congressional district is 54% in Lake County and the person who purported to act as the county chair of Lake County was not an elected precinct committeeman. Mr. Finko, who was present for the respondent, stated that the objector did not meet his burden of proof as the candidate was qualified and he filed the necessary nominating papers. The Chairman asked for the General Counsel's recommendation. Mr. Sandvoss recommended sustaining the objection as to the issue of the candidate declaring himself as a primary elector of more than one established party. He was also in agreement with the hearing officer that the managing committee had the participation of an unauthorized person who constituted 1/3 of the vote. Further, the hearing officer's recommendation was that this person was improperly appointed and that voting by that person tainted the decision of the managing committee thereby rendering it invalid. The General Counsel stated that he concurred with the recommendation of the Hearing Officer that the objection should be sustained on the basis that the managing committee was improperly constituted and that the resulting Resolution was therefore invalid but he disagreed with the Hearing Officer as to the issue of the qualification of the candidate. The Chairman asked the General Counsel if it was necessary for the SOEB

to address the issue of the qualification of the candidate. Mr. Sandvoss replied that if the SOEB did not make a ruling on this issue and if this case were to go up on appeal, there would be the unresolved issue of the qualifications of the candidate that may be remanded back to the Board for a decision on that issue. Member Smart moved to accept the recommendation of the hearing officer and general counsel and to not certify the name of Ian Abernathy to the ballot for the Green Party. Member McGuffage seconded the motion which passed 7-1. Member Keith said that with the two issues being combined he voted no. Both counsel for the objector and candidate complimented the professionalism of Ken Menzel, the hearing officer.

Mr. Sandvoss called the last case, *Alexander v. Gray*, 08SOEBGE506. He noted that no one was present and suggested passing it until later in the meeting.

Vice Chairman Schneider moved to adopt the minutes of the April 21, 2008 meeting of the State Officers Electoral Board. Member Smart seconded the motion which passed unanimously.

At 11:38 a.m., Member Keith moved to recess as the State Officers Electoral Board until July 8, 2008 at 10:00 a.m. or the call of the Chairman whichever occurs first, indicating that as to 08SOEBGE506 the SOEB may need to reconvene later today. Vice Chairman Schneider seconded the motion which passed unanimously by 8 ayes in unison.

The State Officers Electoral Board reconvened at 11:58 a.m. with 7 members present to hear the matter of *Alexander v. Gray*, 08SOEBGE506. Member Smart held Member Walters' proxy.

Member Smart moved to accept the recommendation of the general counsel and his report as given to the SOEB in writing and in person. Mr. John Countryman stated the position of Mr. Odelson, attorney for the candidate, is that he concurs with the hearing officer's recommendation and the general counsel's report and asked the Board to adopt it. Michael Kasper stated that he was told by Courtney Nottage, attorney for the objector, that he had no objection to the recommendation of the Hearing Officer in this matter. Member Keith seconded Member Smart's motion and the motion passed unanimously by roll call vote.

There being no further business before the State Officers Electoral Board, Vice Chairman Schneider moved to recess until July 8, 2008 or the call of the chairman, whichever occurs first. Member Keith

State Officers Electoral Board Minutes

June 9, 2008

Page #5

seconded the motion which passed unanimously.

The meeting of the State Officers Electoral Board recessed at 12:01 Noon.

Dated: June 20, 2008

Respectfully submitted,

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Daniel W. White, Executive Director

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Darlene Gervase, Administrative Specialist II