

Larson v Wesa
15 SOEB GP 513

Candidate: Lisa M. Wesa

Office: State Representative, 77th District

Party: Republican

Objector: Mary Lou Larson

Attorneys For Objector: Michael Kasper/Kevin M. Morpew

Attorney For Candidate: No appearance

Number of Signatures Required: 500

Number of Signatures Submitted: 972

Number of Signatures Objected to: 542

Basis of Objection: 1. The Candidate's nomination papers contain an insufficient number of valid signatures. Various objections were made against the petition signers including "Signer's Signature Not Genuine," "Signer Not Registered at Address Shown," "Signer Resides Outside of the District," "Signer's Address Missing or Incomplete," "Signer Signed Petition More than Once" and "Signer Signed Petition of Another Established Party Candidate." Several circulator objections were also made against the petition. 2. The Candidate's Statement of Candidacy is invalid because the Candidate is not a resident of 239 Mill Road, Addison, Illinois, the address listed on her Statement of Candidacy. Because the Statement of Candidacy is false and invalid the Candidate's nomination papers are invalid in their entirety.

Dispositive Motions: None

Binder Check Necessary: Yes

Hearing Officer: Michael Tecson

Hearing Officer Findings and Recommendations: A records examination commenced and was completed on December 23, 2015. The examiners ruled on objections to 542 signatures. 469 objections were sustained leaving 503 valid signatures, which is 3 signatures more than the required minimum number of 500 signatures. Neither party filed a Rule 9 Motion.

A second objection petition was filed against the Candidate by Objector Anthony Airdo (*Airdo v. Wesa*, 15 SOEB GP 515) that similarly alleged that the Candidate's Statement of Candidacy was false in that the Candidate failed to reside at the Mill Road address. In addition, Objector Airdo argued that the Candidate failed to satisfy the two year residency requirement prior to filing her

nomination papers. As both Objector Larson and Objector Airdo asserted similar objections regarding the Candidate's Statement of Candidacy, the matters were consolidated and an evidentiary hearing was held January 4, 2016.

At the hearing, both Objectors submitted evidence related to the Candidate's residence address. Objector Airdo presented a Certification from Robert T. Saar, Executive Director of the DuPage County Election Commission relating to the Candidate. The Certification contains voter information regarding the Candidate including an active registration address of 208 E. Lake Street, Apt. 12, Addison, IL. The date of registration is listed as November 23, 2015. Objector Airdo also submitted voter documents from the McHenry County Clerk that indicate that the Candidate's last known address was in Huntley, IL, which is not located within the 77th Representative District. Objector Larson introduced a signed, notarized affidavit in which she states that, upon her personal knowledge and after diligent inquiry, no person named Lisa M. Wesa currently resides at or lives at 239 N. Mill Road, Addison, IL, no person named Lisa M. Wesa has resided or lived at the N. Mill Road address at any point since September 1, 2015 and no evidence has been found that anyone named Lisa M. Wesa has resided or lived at the N. Mill Road address.

The evidence submitted by Objector Airdo demonstrates that the Candidate registered at the E. Lake Street address on November 23, 2015 and seven days later, on November 30, 2015, the Candidate signed her Statement of Candidacy attesting to the N. Mill address. Objector Larson's affidavit further established that the Candidate does not reside at the N. Mill address. Accordingly, the Candidate's Statement of Candidacy is deficient in that it does not accurately set out the address of the candidate as required by Section 8-8 of the Election Code.

Based on the foregoing, the Hearing Officer recommends that (1) the objection to the Candidate's nomination papers be sustained and (2) Candidate's name not be certified for the ballot as candidate for the Republican Party for the office of Representative in the General Assembly for the 77th Representative District for the State of Illinois.

Recommendation of the General Counsel: The General Counsel concurs in the Hearing Officer's recommendation.

As an informational note to the State Officers Electoral Board, the Candidate faxed to the State Board of Elections a signed and notarized Withdrawal of Candidacy form in which she stated her desire to withdraw her nomination papers as Republican Party candidate for the Office of State Representative for the 77th District and requested that her name not be printed on the ballot for the Primary Election. The Withdrawal of Candidacy Form was sent to the Candidate at her request. While this Withdrawal of Candidacy indicates that the Candidate does not intend to pursue her candidacy or respond to the objections asserted in both cases, the Board is unable to process her withdrawal because the Board has not yet received the original signed document.

Airdo v Wesa
15 SOEB GP 515

Candidate: Lisa M. Wesa

Office: State Representative, 77th District

Party: Republican

Objector: Anthony Airdo

Attorney For Objector: Richard K. Means

Attorney For Candidate: No appearance

Number of Signatures Required: 500

Number of Signatures Submitted: 972

Number of Signatures Objected to:

Basis of Objection: The Candidate's Statement of Candidacy is invalid because the Candidate is not a resident of 239 Mill Road, Addison, Illinois, the address listed on her Statement of Candidacy and because the Candidate has not resided at the Mill Road address for two years as required for the office sought. Because the Statement of Candidacy is false and invalid the Candidate's nomination papers are invalid in their entirety.

Dispositive Motions: None

Binder Check Necessary: No

Hearing Officer: Michael Tecson

Hearing Officer Findings and Recommendations: A related objection petition was filed against the Candidate by Objector Mary Lou Larson (*Larson v. Wesa*, 15 SOEB GP 513) that similarly alleged that the Candidate's Statement of Candidacy was false in that the Candidate failed to reside at the Mill Road address. In addition, Objector Larson argued that the Candidate's nomination papers contained less than the 500 valid signatures required for the office sought. As both Objector Airdo and Objector Larson asserted similar objections regarding the Candidate's Statement of Candidacy, the matters were consolidated and an evidentiary hearing was held January 4, 2016.

At the hearing, both Objectors submitted evidence related to the Candidate's residence address. Objector Airdo presented a Certification from Robert T. Saar, Executive Director of the DuPage County Election Commission relating to the Candidate. The Certification contains voter information regarding the Candidate including an active registration address of 208 E. Lake Street, Apt. 12, Addison, IL. The date of registration is listed as November 23, 2015. Objector Airdo

also submitted voter documents from the McHenry County Clerk that indicate that the Candidate's last known address was in Huntley, IL, which is not located within the 77th Representative District. Objector Larson introduced a signed, notarized affidavit in which she states that, upon her personal knowledge and after diligent inquiry, no person named Lisa M. Wesa currently resides at or lives at 239 N. Mill Road, Addison, IL, no person named Lisa M. Wesa has resided or lived at the N. Mill Road address at any point since September 1, 2015 and no evidence has been found that anyone named Lisa M. Wesa has resided or lived at the N. Mill Road address.

The evidence submitted by Objector Airdo demonstrates that the Candidate registered at the E. Lake Street address on November 23, 2015 and seven days later, on November 30, 2015, the Candidate signed her Statement of Candidacy attesting to the N. Mill address. Objector Larson's affidavit further established that the Candidate does not reside at the N. Mill address. Accordingly, the Candidate's Statement of Candidacy is deficient in that it does not accurately set out the address of the candidate as required by Section 8-8 of the Election Code.

Objector Airdo also asserted that the Candidate's Statement of Candidacy is invalid because the Candidate did not satisfy the two year residency requirement in the 77th District prior to filing her nomination papers; however, the Hearing Officer did not consider that issue because the Candidate's false statement of residence in her Statement of Candidacy is sufficient to invalidate her nomination papers in their entirety.

Based on the foregoing, the Hearing Officer recommends that (1) the objection to the Candidate's nomination papers be sustained and (2) Candidate's name not be certified for the ballot as candidate for the Republican Party for the office of Representative in the General Assembly for the 77th Representative District for the State of Illinois.

Recommendation of the General Counsel: The General Counsel concurs in the Hearing Officer's recommendation.

As an informational note to the State Officers Electoral Board, the Candidate faxed to the State Board of Elections a signed and notarized Withdrawal of Candidacy form in which she stated her desire to withdraw her nomination papers as Republican Party candidate for the Office of State Representative for the 77th District and requested that her name not be printed on the ballot for the Primary Election. The Withdrawal of Candidacy Form was sent to the Candidate at her request. While this Withdrawal of Candidacy indicates that the Candidate does not intend to pursue her candidacy or respond to the objections asserted in both cases, the Board is unable to process her withdrawal because the Board has not yet received the original signed document.

Schmidt v Moeller
15 SOEB GP 516

Candidate: Anna Moeller

Office: State Representative, 43rd District

Party: Democratic

Objector: Julie Schmidt

Attorney For Objector: Jeffrey Meyer

Attorney For Candidate: Michael Kasper

Number of Signatures Required: 500

Number of Signatures Submitted:

Number of Signatures Objected to:

Basis of Objection: The Candidate's Statement of Candidacy violated Section 8-8 of the Election Code because she signed the petition of a Republican Party candidate and then signed her own Statement of Candidacy as a Democratic Party candidate; therefore, the Candidate's nomination papers are invalid in their entirety.

Dispositive Motions: Candidate's Motion for Summary Judgment, Objector's Response to Candidate's Motion for Summary Judgment, Candidate's Reply to Objector's Response

Binder Check Necessary: No

Hearing Officer: Michael Tecson

Hearing Officer Findings and Recommendations: Following a hearing on the matter, it was determined that the Candidate signed her own petition sheets in support of her own nomination as a Democratic Party candidate for the office of Representative for the 43rd District on September 5, 2015. Subsequently to her signing her own petition, the Candidate signed a petition sheet for a Republican Party candidate seeking nomination for the office of Kane County Recorder on September 26, 2015. The Candidate then filed her nomination papers with the State Board of Elections, which included her signed Statement of Candidacy attesting to the fact that she is a qualified primary voter of the Democratic Party, on November 23, 2015. The timing of the signatures and sequence of events were undisputed and conceded to by both parties and were supported by affidavits submitted by the Candidate.

Relying on case law, the Hearing Officer found that when voters signed the nomination petitions of more than one political party, the signature appearing on the petition first signed is valid and all subsequent signatures appearing on the nominating petitions of other parties are invalid. *Watkins v. Burke*, 122 Ill.App.3d 499, 502 (1st Dist. 1984). In the instant matter, the Candidate signed her own Democratic petition first, then signed the Republican candidate's petition; therefore, the Candidate's signature on her own petition is valid and the subsequent signature is invalid and should be stricken.

Regarding the issue of whether Section 8-8 requires the removal of the Candidate from the Democratic primary ballot because the Candidate first signed her own Democratic petition, then signed a Republican petition and finally signed her own Statement of Candidacy declaring that she is a primary elector for the Democratic Party, the Hearing Officer found that the sequence of events distinguishes the instant matter from previous cases that have addressed party-switching. In *Rosenzweig v. Ill. State Bd. of Elections*, 409 Ill.App.3d 176 (1st Dist. 2011), the candidate's first act of political affiliation within one election cycle was to sign a Democratic candidate's petition, thereby aligning herself with the Democratic Party. The candidate then sought to run as a Republican candidate but was removed from the ballot based on her first signing a Democratic petition. Here, the Candidate's first act of political alignment for the current election cycle was to sign her own Democratic petition, thereby initially aligning herself with the same established party for which she is now seeking nomination. The Candidate's intervening signature on a Republican candidate's petition is invalid under *Watkins* but does not invalidate the Candidate's own petition. Similarly, *In re Objection of Mita Jani*, which was offered in support of the Objector's position, is notably different because the electoral board did not consider evidence related to the candidate's prior signatures on petition sheets.

Accordingly, because the Candidate has not violated Section 8-8 of the Election Code by impermissibly signing a nominating petition for a candidate from one established political party and then running as a candidate for another established political party in the same election cycle, the Hearing Officer recommends that the Board (1) grant the Candidate's Motion for Summary Judgment, (2) overrule the objection in its entirety, and (3) order that the Candidate's name be certified for the ballot as Democratic Party candidate for the office of Representative in the General Assembly for the 43rd Legislative District.

Recommendation of the General Counsel: The General Counsel concurs in the Hearing Officer's recommendation.