

STATE OFFICERS ELECTORAL BOARD
Thursday, January 12, 2012

MINUTES

PRESENT: William M. McGuffage, Chairman
Jesse R. Smart, Vice Chairman
Harold D. Byers, Member
Betty J. Coffrin, Member
Ernest L. Gowen, Member
Judith C. Rice, Member
Bryan A. Schneider, Member
Charles W. Scholz, Member

ALSO PRESENT: Rupert Borgsmiller, Executive Director
Jim Tenuto, Assistant Executive Director
Steve Sandvoss, General Counsel
Darlene Gervase, Administrative Assistant II

The meeting convened at 10:05 a.m. with eight Members present in Chicago. The Springfield office was connected via videoconference.

Chairman McGuffage began the electoral board meeting by consolidating *Kopko v. Navarro*, 11 SOEBGP101, and *Bruch/Marshall v. Navarro*, 11SOEBGP104 as these objections were based on the same issues of fact and law. John Fogarty was present on behalf of Bruch and Marshall; Joan Mannix was present on behalf of Joseph Navarro; and the objector Anita Kopko was present. The General Counsel summarized the objections which alleged that the candidate failed to file a statement of economic interests with the Secretary of State within the time frame required by the Election Code and indicated that the hearing officer recommended the objection be sustained and that the candidate not be certified to the ballot. He concurred with the recommendation and also recommended that the candidate's motion to strike be denied. Ms. Kopko agreed with the recommendation of the hearing officer and General Counsel. Mr. Fogarty noted for the record that each of the parties entered into stipulations of fact in order to get the case decided. He noted that his stipulation was different than Ms. Kopko's stipulation with the candidate. Ms. Mannix discussed the issue with the statement of economic interest filing, and argued there was substantial compliance because the statement was filed with the petitions and later filed with the Secretary of State. After lengthy discussion on different court cases, Vice Chairman Smart moved to accept the recommendation of the hearing officer and the General Counsel and not certify the candidate to the ballot. Member Gowen seconded the motion which passed by roll call vote of 5-3 with Members Byers, Rice and Chairman McGuffage voting in the negative.

Chairman McGuffage presented *Hayward v. Frazer*, 11SOEBGP105. Michael Kasper was present on behalf of the objector. Kent Gray was present on behalf of the candidate. The General Counsel discussed the objection which alleged the candidate had

an insufficient number of valid signatures. Following a records examination it was determined there was 1,064 valid signatures which is 64 more than the required 1,000 and the hearing officer recommended that the objection be overruled and that the candidate be certified to the ballot for the office for which he seeks. The General Counsel concurred with that recommendation. Vice Chairman Smart moved to accept the recommendation of the hearing officer and the General Counsel. Member Byers seconded the motion which passed by roll call vote of 8-0.

Chairman McGuffage presented *Jenkins v. McGlynn*, 11SOEBGP106. Kenneth Blan was present on behalf of the objector. The General Counsel summarized the objection which alleged the statement of candidacy was deficient because it did not fully identify the office for which the candidate seeks and did not indicate that the candidate was seeking nomination for the office as opposed to election. It was further alleged that the sheets were not identical and a page was inserted for nomination that was for a different vacancy, and the petitions were improper because there was no designation that the voters knew that the candidate was seeking nomination as opposed to election. The General Counsel stated that other than striking the signatures on the one sheet that was a signature sheet for a different candidate the hearing officer recommended that the objection be overruled and he concurred with that recommendation. Member Rice moved to accept the hearing officer and General Counsel's recommendation. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

Chairman McGuffage noted that the hearing officer's report was not yet available in the matter of *McSweeney v. Gaffney*, 11SOEBGP502.

Chairman McGuffage presented *Harris v. Mahon*, 11SOEBGP505. James Nally was present on behalf of the objector. The General Counsel discussed the objection which alleged that the candidate had an insufficient number of signatures. A records examination was completed and after counting the number of sustained objections, the hearing officer concluded that the candidate still had 1,419 valid signatures which was 419 more than the minimum requirement. The hearing officer recommended the objection be dismissed and the candidate certified to the ballot for the office which she seeks and the General Counsel concurred with the recommendation. Vice Chairman Smart moved to accept the recommendation of the hearing officer and General Counsel that the candidate be certified to the ballot. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

Chairman McGuffage noted two objections related to candidate Alston: *Harris v. Alston*, 11SOEBGP506, and *Montgomery/Williams v. Alston*, 11SOEBGP518. The objector Lisa Harris was present. Andrew Finko was present on behalf of the objector. Michael Dorf was the attorney for the candidate but was not present. The General Counsel discussed *Montgomery/Williams v. Alston* first noting the basis of the objection was the candidate submitted an insufficient number of valid signatures. The records examination found 977 valid signatures remained which was 23 less than the required number of 1,000.

The hearing officer recommended the objection be sustained and the candidate not be certified to the ballot and the General Counsel concurred with this recommendation. Vice Chairman Smart moved to accept the recommendation of the hearing officer and General Counsel that the candidate not be certified to the ballot for lack of sufficient signatures. Member Byers seconded the motion which passed by roll call vote of 8-0.

Chairman McGuffage then presented *Harris v. Alston* indicating there were two separate binder checks, two separate hearing officers and the binder checks came to different conclusions. However, since in the first case *Montgomery/Williams v. Alston* the Board voted to remove candidate Alston which would make this matter moot. After an inquiry from Member Rice, the General Counsel noted that these two cases were not consolidated because there were different facts and in some cases different signatures were challenged and the signatures that were challenged in both objections were done so on different bases in some cases. He then stated that a Board decision was appropriate considering the different facts could result in a different ruling should the matter go up on appeal. Vice Chairman Smart moved to accept the hearing officer's recommendation. Member Byers seconded the motion which passed by roll call vote of 8-0.

Chairman McGuffage presented *Mason v. Graham, Jr.*, 11SOEBGP509. The candidate Clifton Graham was representing himself but was not present. Michael Kasper was present on behalf of the objector. Mr. Kasper moved to default. The General Counsel indicated that the hearing officer's recommendation was to overrule the objection based on having insufficient number of valid signatures and he concurred with that recommendation. Member Byers moved to accept the hearing officer's and General Counsel's recommendation that the candidate remain on the ballot. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

Chairman McGuffage presented the *Meroni v. Howland*, 11SOEBGP512; *Meroni v. Rowe*, 11SOEBGP513; *Meroni v. McSweeney*, 11SOEBGP 514; *Meroni v. Duffy*, 11SOEBGP515; *Meroni v. Gaffney*, 11SOEBGP 517, and indicated these would be consolidated. Stephen Boulton was present representing the objector in all cases. The General Counsel indicated the basis of these objections was that the candidates nomination papers are insufficient because they failed to demonstrate or otherwise prove that the candidate meets the constitutional requirements of office because the candidates' nomination papers did not include proof of United States citizenship. Dispositive motions were filed in all but the *Meroni v. Rowe* case. The hearing officer recommended the objections be overruled as there was no express or implied requirement that the candidate provide a copy of a birth certificate or any other proof of U.S. citizenship. She further recommended the motions to strike and dismiss be granted as to all except the Rowe case and in the Rowe case the objection be overruled for the reasons contained in her recommendation. The General Counsel concurred with the hearing officer in all five cases. Vice Chairman Smart moved that in all of the cases the Board not listen to the testimony because there is no basis for the claim that birth certificates need to be submitted and

moved to accept the recommendation of the hearing officer and General Counsel to dismiss the objections without argument. Mr. Boulton said that while they don't contest the findings of the hearing officer they do believe there is a constitutional issue present, but it was for the courts to decide. Member Byers seconded the motion which passed by roll call vote of 8-0.

Chairman McGuffage noted that the hearing officer's report was not yet available in matters of *Woods v. Maurice*, 11SOEBGP510, and *Montgomery/Williams v. Letke*, 11SOEBGP520.

Chairman McGuffage presented *Montgomery/Williams v. Miller*, 11SOEBGP516. The General Counsel stated the basis for the objection was the candidate submitted an insufficient number of signatures. As a result of the records examination, it was determined the candidate was 61 signatures above the necessary 1,000. The candidate was able to rehabilitate 21 signatures which put the candidate approximately 82 signatures above. The hearing officer rejected the allegation of a pattern of fraud as that was not properly pled. The General Counsel concurred with the recommendation of the hearing officer with the exception of one circulator which would disqualify the three sheets circulated by that circulator because of the fact that the circulator acknowledged that they did not witness the signatures. That however would only subtract an additional 44 signatures which would mean the candidate would still be above the statutory minimum and the objection would be overruled. Andrew Finko, representing the objectors, disagreed with some of the factual determinations of the hearing officer regarding the admissibility of certain affidavits and requested the Board to reconsider the pattern of fraud. He further requested that the matter be remanded back to the hearing officer to consider the fraud allegations related to a particular circulator. James Nally was present on behalf of the candidate and argued that the objection was that the candidate did not have enough valid signatures and after a records examination it appeared that the candidate does have enough valid signatures. There was no allegation in the original objectors' petition of any pattern of fraud. After further discussion, Member Rice moved to accept the hearing officer's recommendation and General Counsel's recommendation. Member Scholz seconded the motion which passed by roll call vote of 8-0.

The General Counsel noted the three matters not ready for disposition today will be ready for the Board meeting on January 17.

The General Counsel presented a candidate withdrawal in the matter of *Moore v. McCann*, 11SOEBGP102 and two objections that were withdrawn: *Johnson v. Gregorie*, 11SOEBGP508, and *Johnson v. Wortham*, 11SOEBGP511. Member Byers moved to accept the withdrawal of these two objections. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

Chairman McGuffage presented his motion to reconsider the Board decision in

Zurek v. Saviano, 11SOEBGP501. Chairman McGuffage moved to reconsider the final order and amend the decision as follows: To adopt the recommendation of the hearing officer, with the exception that we make no finding of a pattern of fraud on the part of the four circulators referred to in Part I of the Analysis of the Hearing Officer contained in his recommendation; and make no finding that the affiliations of candidate Saviano was to any political party other than a local political party within the village of Franklin Park. Vice Chairman Smart seconded the motion which passed by roll call vote of 8-0.

Vice Chairman Smart moved to recess as the State Officers Electoral Board and reconvene as the State Board of Elections. Member Byers seconded the motion. The meeting recessed at 11:20 p.m.

Respectfully submitted,

Rebecca L. Glazier, Asst. to Executive Director
(prepared for Darlene Gervase)



Rupert T. Borgsmiller, Executive Director