

STATE OFFICERS ELECTORAL BOARD  
Special Meeting  
Wednesday, January 20, 2016

MINUTES

PRESENT: Charles W. Scholz, Chairman  
Ernest L. Gowen, Vice Chairman  
William J. Cadigan, Member  
Andrew K. Carruthers, Member  
Betty J. Coffrin, Member  
Casandra B. Watson, Member

ABSENT: John R. Keith, Member  
William M. McGuffage, Member

ALSO PRESENT: Steven S. Sandvoss, Executive Director  
James Tenuto, Assistant Executive Director  
Kenneth R. Menzel, General Counsel  
Amy L. Calvin, Administrative Assistant II

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The special meeting of the State Officers Electoral Board was called to order via videoconference at 10:36 a.m. with six Members present. Chairman Scholz, Vice Chairman Gowen, and Members Cadigan, Carruthers and Coffrin were present in Chicago and Member Watson present via teleconference. Members Keith and McGuffage were absent and Chairman Scholz and Member Watson held their proxies respectively.

Vice Chairman Gowen moved to approve the minutes from the January 7 meeting. Member Carruthers seconded the motion which passed unanimously.

Chairman Scholz called the cases and accepted appearance for the following objections to presidential candidate nominating petitions for the March 15, 2016 General Primary Election:

- a. *Joyce v. Cruz*, 16SOEBGP526;
- b. *Graham v. Cruz*, 16SOEBGP527;
- c. *Graham v. Rubio*, 16SOEBGP528;
- d. *Hendon & Shaw v. Cohen*, 16SOEBGP529;
- e. *Hendon & Shaw v. O'Malley*, 16SOEBGP530;
- f. *Hendon & Shaw v. Sanders*, 16SOEBGP531;
- g. *Hendon & Shaw v. De La Fuente*, 16SOEBGP532;
- h. *Davis v. Clinton*, 16SOEBGP533.

The General Counsel presented the Rules of Procedure for the State Officers Electoral Board and noted the only changes were to the dates of the proceedings. Member Cadigan moved to approve the Rules of Procedure as presented. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel referred to his memo requesting authorization of the appointment of hearing officers for the above noted objections and indicated that Barbara Goodman, Philip Krasny and Jim Tenuto have been selected to serve. Member Coffrin moved to authorize the appointment of said hearing officers. Vice Chairman Gowen seconded the motion which passed

by roll call vote of 8-0. The General Counsel indicated that the parties would now meet with their respective hearing officers for their case management conferences.

The Board considered and disposed of the following objections to established political party candidate nominating petitions for the March 15, 2016 General Primary Election.

*Ochs & Ochs v. Curtis*, 15SOEBGP104. The General Counsel indicated that attorney John Fogarty, who was present on behalf of the objector, withdrew the objection. The General Counsel recommended no further action in this matter.

*Hernandez v. Jones*, 15SOEBGP106. The General Counsel summarized the matter and concurred with the hearing officer recommendation that the objection be sustained and the candidate's name not appear on the general primary ballot. He further recommended the matter be referred to the State Attorney's office for further investigation. John Fogarty was present on behalf of the objection and Arthur Jones was present pro se. Mr. Fogarty agreed with the recommendation of the hearing officer and General Counsel. Mr. Jones explained that there was never any intent to commit fraud nor would he do anything illegal. Member Cadigan moved to adopt the recommendation of the hearing officer and General Counsel that the objection be sustained and the candidate's name not be certified to the general primary ballot. Member Carruthers seconded the motion which passed by roll call vote of 8-0. The Board felt that Mr. Jones did not willfully and intentionally commit fraud and therefore no further action was taken.

*Brown & Welter v. McGroarty*, 15SOEBGP107. The General Counsel summarized the matter and concurred with the hearing officer recommendation that the objection be sustained and the candidate's name not appear on the general primary ballot. Mr. Fogarty was present on behalf of the objector and agreed with the recommendation. No one appeared for the candidate. Member Cadigan moved to adopt the recommendation of the hearing officer and General Counsel that the objection be sustained and the candidate's name not be certified to the general primary ballot. Member Carruthers seconded the motion which passed by roll call vote of 8-0.

*Cook v. Haida*, 15SOEBGP108; *Cook v. Baricevic*, 15SOEBGP109 and *Cook v. LeChien*, 15SOEBGP110. The General Counsel suggested these cases be considered together because they all contained the same operative facts and issues regarding circuit court judge vacancies for the 20<sup>th</sup> judicial district. He explained that each of the three candidates was a sitting judge whose term expires in December 2016. Rather than seeking retention in office by the usual means, each candidate submitted a resignation effective the last day of their current term, so as to create a vacancy to be filled by election. Judge Haida filed to run for the Baricevic vacancy, Judge Baricevic filed to run for the Haida vacancy and Judge LeChien filed to run for the LeChien vacancy. The objection asserts that sitting judges may only win further term in office by the judicial retention route and do not have the option to resign and seek election through the conventional primary and general election route.

The hearing officer ultimately recommended a finding that the State Constitution permits sitting judges the option of either seeking retention in office under Article VI Section 12(d), or resigning and seeking election by submitting petitions to run for election under Section 12(a), and that the candidates' statements of candidacy substantially comply with the requirements of Section 7-10 of the Election Code. The General Counsel concurred with the hearing officer recommendation that the Motion to Dismiss be denied, the objections be overruled and the candidates' names be

certified to the general primary ballot. Aaron Weishaar was present on behalf of the objector and Michael Kasper was present on behalf of the candidates. Mr. Weishaar did not concur with the recommendation and explained his interpretation of the statute regarding judicial retention. Mr. Kasper indicated he agreed with the recommendation of the hearing officer and General Counsel in the three matters. Discussion ensued amongst the parties and the Board regarding sitting judges running for election and the provisions of Illinois Constitution. Member Watson moved to accept the recommendation of the hearing officer and General Counsel that the objections be overruled and the names of the three candidates certified to the primary election ballot. Vice Chairman Scholz seconded the motion which failed by roll call vote of 4-4. Members Cadigan, Carruthers, Coffrin and Vice Chairman Gowen voted in the negative. The General Counsel explained that the three candidates will remain on the ballot unless a judicial review is filed and a judge determines the outcome. Member Cadigan moved to refer the three matters to the Attorney General's office to seek an opinion to determine if the Illinois Constitution does provide an option for elected judges to opt out of the retention system and run for election in the manner that these candidates have chosen. Member Carruthers seconded the motion which passed by roll call vote of 6-2. Members McGuffage (by proxy) and Watson voted in the negative.

*Krucek v. Urlacher*, 15SOEBGP504. The General Counsel said he concurred with the recommendation of the hearing officer that the Motion to Strike and Dismiss be granted in part and denied in part, that the objection be overruled and the candidate's name be certified to the primary election ballot. Burt Odelson was present on behalf of the candidate and concurred with the recommendation. No one appeared for the objector. Member Cadigan moved to accept the recommendation of the hearing officer and General Counsel. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

*Simpson v. Aguirre*, 15SOEBGP508. The General Counsel reviewed the matter and said that a records examination and Rule 9 hearing were conducted and it was found that the candidate only had 455 valid signatures remaining, which was 45 less than the required amount. He concurred with the hearing officer recommendation that the objection be sustained and the name of the candidate not be certified to the primary election ballot. Kevin Morphew was present on behalf of the objector and asked that the recommendation be adopted. Wladimiro Aguirre was present pro se and respectfully asked the Board to reconsider his placement on the ballot. Member Cadigan moved to accept the recommendation of the hearing officer and General Counsel. Vice Chairman Gowen seconded the motion which passed by roll call vote of 8-0.

*Simpson v. Jackson*, 15SOEBGP509. The General Counsel indicated he concurred with the recommendation of the hearing officer that the objection be sustained and the name of the candidate not be certified to the primary election ballot. Kevin Morphew was present on behalf of the objector and asked that the recommendation be adopted. No one was present for the candidate. Member Carruthers moved to accept the recommendation of the hearing officer and General Counsel. Vice Chairman Gowen seconded the motion which passed by roll call vote of 8-0.

*Eck v. Reick*, 15SOEBGP512. The General Counsel reviewed the matter and said that a records examination and Rule 9 hearing were conducted with handwriting experts provided by both parties. In light of the evidence produced in the Rule 9 hearing, the hearing officer did not find that the testimony of the objector's handwriting expert should be given sufficient weight as to invalidate the 54 printed name signatures which had been found valid during the records

examination. The General Counsel concurred with the recommendation of the hearing officer that the objection be overruled and the candidate's name be certified to the primary election ballot. James Nally was present on behalf of the objector and John Fogarty was present on behalf of the candidate. Mr. Nally did not agree with the recommendation and offered his rebuttal. Mr. Fogarty indicated that the hearing officer was correct in his findings and made his points in support of the outcome. After discussion, Member Cadigan moved to accept the recommendation of the hearing officer and General Counsel. Member Carruthers seconded the motion which passed by roll call vote of 6-2. Members McGuffage (by proxy) and Watson voted in the negative.

*Stieper v. Urlacher*, 15SOEBGP514. The General Counsel reviewed the matter and said that a records examination and Rule 9 hearing were conducted. At the conclusion of the Rule 9 hearing the candidate had 48 signatures above the statutory minimum. The General Counsel concurred with the hearing officer recommendation that the objection be overruled and the candidate's name be certified to the primary election ballot. Richard Means was present on behalf of the objector and Burt Odelson was present on behalf of the candidate. Mr. Means indicated he filed many exceptions to the hearing officer's report and also certified voter registration records that were ruled inadmissible. Mr. Odelson concurred with the hearing officer recommendation and noted that Mr. Means submitted this evidence after the 5:00 p.m. deadline. Vice Chairman Gowen moved to accept the recommendation of the hearing officer and General Counsel. Member Carruthers seconded the motion which passed by roll call vote of 8-0.

*Palacio v. Bailey*, 15SOEBGP518. The General Counsel reviewed the matter and indicated that the results of the records examination left the candidate with 157 signatures below the statutory minimum required. He concurred with the hearing officer recommendation that the objection be sustained and the name of the candidate not be certified to the primary election ballot. No one was present for either party. Member Carruthers moved to accept the recommendation of the hearing officer and General Counsel. Vice Chairman Gowen seconded the motion which passed by roll call vote of 8-0.

Discussion was had regarding a possible special meeting on February 11 or 12 to consider the objections to presidential candidate nominating petitions.

With there being no further business before the State Officers Electoral Board, Member Coffrin moved to recess until February 17, 2016 at 10:30 a.m. in Chicago or until call of the Chairman, whichever occurs first. Member Cadigan seconded the motion which passed unanimously. The meeting recessed at 1:15 p.m.

Respectfully submitted,

  
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Amy L. Calvin, Administrative Assistant II

  
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Steven S. Sandvoss, Executive Director