

STATE BOARD OF ELECTIONS

STATE OF ILLINOIS

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EXECUTIVE DIRECTOR
Rupert T. Borgsmiller

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

AGENDA

STATE BOARD OF ELECTIONS
SPECIAL BOARD MEETING
Sitting as the Duly Authorized
State Officers Electoral Board

Monday, March 12, 2012
2:00 p.m.

2329 S. MacArthur Blvd.
Springfield, Illinois
and via videoconference
James R. Thompson Center – Suite 14-100
Chicago, Illinois

Call State Board of Elections to order.

1. Recess the State Board of Elections and convene as the State Officers Electoral Board.
2. Consideration of remanded decision in *Schaefflein and Brezinski v. Cunningham* 12SOEBGP525, pursuant to Court order in *Cunningham v. State Officers Electoral Board*, 12-0529.
3. Recess the State Officers Electoral Board until a date to be determined.
4. Reconvene as the State Board of Elections.
5. Complaints following closed preliminary hearing;
 - a) *McCoy v. Bennett*, 12CD011;
 - b) *Brown v. Johnson*, 12CD012;
 - c) *Motzny v. Andolino*, 12CD013;
6. Other business.
7. Adjourn until Monday, March 19, 2012 at 10:30 a.m. or until call of the Chairman, whichever occurs first.

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

JOHN A. "JACK" CUNNINGHAM,)	
)	
Petitioner-Appellee,)	
)	
v.)	
)	
HENRY SCHAEFLEIN AND EDMUND BREZINSKI,)	
)	
Respondents-Appellants, and)	No. 12-0529
)	
STATE OFFICERS ELECTORAL BOARD, AND ITS)	
MEMBERS, WILLIAM M. MCGUFFAGE, CHAIRMAN,)	
JESSE R. SMART, HAROLD D. BYERS, BETTY)	
COFFRIN, BRYAN H. SCHNEIDER, CHARLES W.)	
SCHOLZ, ERNEST L. GOWEN, JUDITH C. RICE,)	
MEMBERS, ILLINOIS STATE BOARD OF)	
ELECTIONS,)	
)	
Respondents.)	

ORDER

ON THE COURT'S OWN MOTION, IT IS ORDERED THAT this matter is remanded to the State Officers Electoral Board (Board) to consider on an expedited basis the failure of circulators Charles Leslie and Lawrence Weed to personally appear before a notary when swearing some of their petition sheets. The hearing officer determined that the evidence before the Board "clearly established a violation of the Election Code's requirement that a circulator appear before a notary" when swearing his petition sheet, see 10 ILCS 5/7-10 (West 2008); *Bowe v. Chicago Electoral Board*, 79 Ill. 2d 469, 470 (1980), but found that the Board could not reach the issue in light of this court's decision in *Delay v. Board of Election Commissioners of City of Chicago*, 312

12-0529

Ill. App. 3d 206 (2000). The Board did not reach the issue and rendered judgment on an alternative basis.

We conclude that evidence of Leslie's and Weed's failure to personally appear before a notary was properly before the Board. *Delay* establishes that when "evidence beyond specific objections" is introduced during the proceedings, that evidence must at least bear on some "general objection that the candidate was called upon to answer" in the objector's petition. 312 Ill. App. 3d at 209; see also *Fortas v. Dixon*, 122 Ill. App. 3d 697 (1984); *Huskey v. Municipal Officers Electoral Board*, 156 Ill. App. 3d 201 (1987); *Canter v. Cook County Officers Electoral Board*, 170 Ill. App. 3d 364 (1988). In this case, evidence of instances of Leslie's and Weed's failure to appear before the notary was elicited as part of the inquiry into the objectors' contention that the candidate failed to gather the minimum number of signatures to appear on the primary ballot. We direct the Board to consider the failure of Leslie and Weed to personally appear before a notary and to render a decision as to which petition sheets are rendered invalid and how any invalidation of petition sheets affects the total number of valid signatures collected.

IT IS FURTHER ORDERED THAT the order of the circuit court of Cook County entered February 21, 2012 is stayed in all respects. This Court's order of February 24, 2012, which denied the appellants' emergency motion to stay the circuit court's order of February 21, 2012, is hereby vacated. **IT IS FURTHER ORDERED THAT** this Court shall retain jurisdiction over the matter pending the decision of the Board.

*The board shall render its decision
Or ~~order~~ before MARCH 13, 2012*

ORDER ENTERED

MAR 07 2012

APPELLATE COURT, FIRST DISTRICT

JUSTICE

JUSTICE

JUSTICE

James R. Egan
Joseph A. Kuehn
M. J. McBeauld