

STATE OFFICERS ELECTORAL BOARD

Friday, June 11, 2010

MINUTES

PRESENT: Wanda L. Rednour, Vice Chairman (Springfield)
Patrick A. Brady, Member (arrived at 9:08 a.m.)
John R. Keith, Member
Albert S. Porter, Member
William M. McGuffage, Member
Jesse R. Smart, Member
Robert J. Walters, Member

ABSENT: Bryan A. Schneider, Chairman

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

In Chairman Schneider's absence, Vice Chairman Rednour called the meeting of the State Officers Electoral Board to order at 10:51 a.m. Members Brady, Keith, Porter, McGuffage, Smart and Walters were present in Chicago; Vice Chairman Rednour was present in Springfield and Member Smart held the Chairman's proxy.

Director White apologized for the close quarters, but no other shared conference rooms were available. He asked everyone to say their names and speak clearly for the benefit of a new court reporter.

The first order of business was to consider the minutes of the May 3rd meeting. With the word "proposed" inserted before the words "Rules of Procedure" in the first line of page 2, Member Keith moved to adopt the minutes as changed. Member Brady seconded the motion which passed unanimously by eight ayes in unison.

General Counsel Sandvoss presented the matter of *Pollard v. Warner*, 10 SOEB GE 10 and noted that Attorney John Fogarty was present for the objector and Attorney Michael Kasper for the candidate. He said an objection was timely filed to the nominating papers of John Warner, a Democratic candidate for the 102nd District for State Representative. The basis of the objection was that petitions were circulated prior to the appointment of the candidate to fill the vacancy in nomination by the Representative Committee and the Resolution was not filed within 60 days of the General Primary Election. A Motion to Dismiss and for Summary Judgment was filed by the Candidate and Objector filed a Response to Motion to Dismiss and for Summary Judgment. Mr. Sandvoss concurred with the recommendation of the hearing officer to dismiss the objection that the April 7 and April 16 Resolutions were filed outside the 60 days in violation of Section 8-17; the objection that the Candidate failed to comply with Section 8-17 should be sustained; and the motion to strike be denied; and the Candidate's name not be placed on the ballot in the General Election. Both parties presented their arguments to the Board. After discussion, Member Smart moved to accept the Recommendations of the Hearing Officer and General Counsel and the name of John Warner not be certified to the ballot and Member Walters seconded the motion. The Motion failed by 4-4 vote with Members Keith, McGuffage, Porter and Vice Chairman Rednour voting no.

An objection, 10 SOEB GE 101, filed by Roger Marquardt to the nominating papers of Victoria Grizzoffi, a Democratic candidate for State Representative from the 89th District was timely filed Mr. Sandvoss said. Objections included: nominating papers were circulated, signed and notarized prior to the 89th Representative District's appointment to fill the vacancy; the resolution to fill the vacancy in nomination showed the candidate was appointed on April 12, and the resolution was filed April 13th; three of the pages were not notarized and three other pages were allegedly signed and notarized on April 30th, several days after the petition were filed with the SBE; the resolution was not filed within 60 days of the General Primary election; a "slating committee" does not legally exist; the headings on each petition sheet are not uniform; and if the petition sheets are defective the total number of valid signatures would be below the statutory minimum. The Candidate filed a Motion to Strike and Dismiss. The General Counsel agreed in part and disagreed in part with the Hearing Officer's recommendations. He agreed that the failure to file the Resolution within 60 days of the Primary election should be overruled and the corresponding Motion to Strike be granted. He disagreed with the second objection because he believes the Resolution and papers filed by the candidate dated April 12th is dispositive of the issue of compliance with 8-17 and recommended this objection be sustained and the corresponding Motion to Strike be denied. In conclusion, for the reasons stated above, Mr. Sandvoss did not concur with the recommendation to overrule the objection that the circulation of the nominating petitions occurred prior to the Candidate being designated by the Representative

Committee. This objection should be sustained and the corresponding Motion to Strike be denied. Further that he concurred with the remaining two recommendations; 1) to overrule the objection to the reference of "slating committee" and 2) the recommendation to overrule the objection to the uniformity of the petition heading. Attorney John Fogarty, Jr., was present for the Objector and Attorneys Michael Kasper and Courtney Nottage were present for the candidate. Messrs. Fogarty and Nottage pled their case to the Board. After consideration and discussion, Member Porter moved that the Candidate's name be certified to the ballot. The motion was seconded by Member McGuffage and failed 3-5 with members Brady, Keith, Smart, Walters & Schneider voting No. Member Brady moved to accept the recommendation of the General Counsel to concur in part and more specific that the petitions were circulated prior to proper time; the nomination did not occur in the proper time frame; the petitions are not uniform and the candidate will not appear on the ballot. Member Smart seconded the motion. The motion failed 4-4 with Members Keith, McGuffage, Porter, and Vice Chairman Rednour voting no.

Although *Kvernes v. Schorfheide*, 10 SOEB GE102, was not yet ripe for decision, the Board reviewed the issuance of *subpoenas*. Lengthy discussion was had among the Board and several questions had been asked to both Andrew Finko, attorney for the objector and Michael Kasper, attorney for the candidate. Member Keith moved to reconsider the vote on the approved subpoena and not act upon that request until the Board receives copies of the proposed subpoena from Attorney Finko and a written response from Attorney Kasper as to specificity in the requested subpoenas and the Board will rule upon the issuance of each requested subpoena based upon those submissions without further oral argument. Member McGuffage seconded the motion which failed 4-4 with Members Brady; Smart, Walters & Chairman Schneider voting no. Member Brady moved that the subpoena request be submitted to the Board with specificity as to which documents and which people are to be subpoenaed, as well as Mr. Kasper's response for the Board's consideration. Member Smart seconded the motion which passed unanimously.

The General Counsel presented *Fowler v. Campbell*, 10 SOEB GE103. Mr. Campbell is a Republican candidate for State Representative from the 118th District. The objection was timely filed. He said that several objections were raised, but a binder check was conducted by staff and determined that the Candidate submitted 427 valid signatures; the minimum number required is 500. Neither party submitted a Rule 9 Motion. Attorney Michael Kasper was present for the objector and Attorney John Fogarty, Jr. for the candidate. Both parties agreed with the findings of the binder check. Member Smart moved to sustain the objection as the candidate has not submitted the minimum number of signatures and the candidate be stricken from the ballot. Member Brady seconded the motion which passed unanimously.

General Counsel Sandvoss presented *Jenkins v. Wojcik* 10 SOEB GE 500 adding that Adam Wojcik is a Republican candidate for State Senator from the 19th district. The objection was timely filed and claimed the petitions contained an insufficient number of valid signatures for a variety of reasons: there is no statement that the signatures were gathered during the permissible circulation period; the Legislative District committee lacked authority to appoint a candidate and did not file a Certificate of Organization; and the vacancy was not filled timely as required by the Election Code. The Candidate filed a Motion to Strike and Dismiss and the Objector filed a response. A binder check was necessary. Attorney Courtney Nottage was present for the objector and Burton Odelson for the candidate. Mr. Sandvoss concurred that the objection should be overruled. He disagreed that Section 10-4 is limited only to new political parties but since the objector failed to submit any evidence, he concurred that this part of the objection be dismissed. As to the Motion to Strike, the only issues left to be decided are: Paragraph 2 should be dismissed; Paragraph 3 should be dismissed as to specificity of the objection; and the remainder of paragraphs 3 and 4 be granted based on the Hearing officer's recommendation. Paragraph 5 should be dismissed and paragraph 7 be dismissed. Both sides presented their pleadings to the Board. After discussion by the Board, Member Brady moved to accept the recommendation of the General Counsel and certify the candidate to the ballot. Member Smart seconded the motion which failed with Members Keith, McGuffage, Porter and Vice Chairman Rednour voting no. Member Keith moved and Member McGuffage seconded a motion to sustain the objection as to lack of affirmation statement that signatures were gathered within 75 days and the candidate not appear on the ballot. The motion failed with Members Brady, Smart, Walters, and Chairman Schneider voting in the negative.

There being nothing further before the Board, Member Keith moved and Member Porter seconded a motion to recess the State Board of Elections to Tuesday, July 6th, at a time to be confirmed by the Chairman or the call of the Chair, whichever occurs first. The motion passed by 8 ayes in unison. The Board adjourned at 1:12 p.m.

DATED: June 16, 2010

Respectfully submitted,

Daniel W. White, Executive Director

Darlene Gervase, Administrative Assistant II