

STATE OFFICERS ELECTORAL BOARD
Regular Meeting
Monday, July 11, 2016

MINUTES

PRESENT: Charles W. Scholz, Chairman
Ernest L. Gowen, Vice Chairman
William J. Cadigan, Member
Betty J. Coffrin, Member
John R. Keith, Member
William M. McGuffage, Member

ABSENT: Andrew K. Carruthers, Member
Casandra B. Watson, Member

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

The meeting convened at 10:30 a.m. via videoconference with six Members present. Chairman Scholz, Vice Chairman Gowen and Members Coffrin and Keith were present in Springfield and Members Cadigan and McGuffage were present in Chicago. Members Carruthers and Watson were absent and Members Cadigan and McGuffage held their proxies respectively.

Member Keith moved to approved the minutes from the July 11 meeting, striking the words "for the" before the first attorney's name in 16SOEBGE100 and 101. Vice Chairman Gowen seconded the motion which passed by roll call vote of 8-0.

Chairman Scholz called the cases and accepted appearances for the following objections to independent and new party candidate nominating petitions for the November 8, 2016 General Election:

- a. *Koehn v. Silver*, 16SOEBGE102 - Michael Kasper was present on behalf of the objector and no one present for the candidate;
- b. *Brown & Welbers v. Schreiner*, 16SOEBGE103 – John Fogarty was present on behalf of the objectors and no one was present for the candidate;
- c. *Bigger v. Fluckiger & Koppie*, 16SOEBGE104 – John Fogarty was present on behalf of the objectors and no one was present for the candidate;
- d. *Bigger v. Conklin*, 16SOEBGE105– John Fogarty was present on behalf of the objectors and no one was present for the candidate;
- e. *Wicklund v. Gill*, 16SOEBGE106 – Mark Wicklund was present as the objector and Sam Cahnman was present for the candidate;
- f. *Swift & Patrick v. Harner*, 16SOEBGE107 - John Fogarty was present on behalf of the objectors and no one was present for the candidate;
- g. *Patrick & Swift v. Schluter*, 16SOEBGE108 - John Fogarty was present on behalf of the objectors and Scott Schluter was present as the candidate;
- h. *Stocks v. Gill*, 16SOEBGE109 – John Fogarty was present on behalf of the objectors and Sam Cahnman was present for the candidate;

- i. *Sherman v. Soltysik & Walker*, 16SOEBGE504 – Rob Sherman was present as the objector and no one was present for the candidate;
- j. *Sherman v. Vann*, 16SOEBGE505 – Rob Sherman was present as the objector and Dr. Mary Vann was present as the candidate;
- k. *Sherman v. Fluckiger & Koppie*, 16SOEBGE506 – Rob Sherman was present as the objector and no one was present for the candidate;
- l. *Sherman v. Conklin*, 16SOEBGE507 – Rob Sherman was present as the objector and no one was present for the candidate;
- m. *Weber v. Harsy*, 16SOEBGE508 – Michael Kasper was present on behalf of the objector and Bubby Harsy was present as the candidate.

The General Counsel presented the proposed Rules of Procedure for the State Officers Electoral Board and indicated they were substantively identical to the ones used in the last round of objections. He noted that a clarification was made relating to the service of documents in the Rule 8 section, stating that all materials must be provided to opposing counsel. The dates in the motion schedule and subpoena deadlines were updated as well. Member Coffrin moved to adopt the Rules of Procedure as presented. Member Cadigan seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented his memo to appoint David Herman and Jim Tenuto to serve as hearing officers for the above named objections. Member Keith moved to appoint the hearing officers as recommended. Member Cadigan seconded the motion which passed by roll call vote of 8-0.

Next was consideration of objection to candidate nominating petitions for resolutions to fill vacancies in nomination for the November 8, 2016 General Election. The General Counsel presented *Hanson v. Smodilla*, 16SOEBGE100 and reviewed the basis for the objection. The record exam sustained objections to 1,198 of the 1,693 lines objected to, leaving 1,271 valid signatures, which is 271 above the minimum signature requirement of 1,000. A motion to strike and dismiss certain signatures was filed as well as a motion to strike the objector's Rule 8 motion. He concurred with the hearing officer's recommendation to grant both motions and overrule the objection. Mike Kasper was present on behalf of the objector and no one was present for the candidate. Mr. Kasper indicated he did not raise any objection to the recommendation. Member Cadigan moved to accept the recommendation of the hearing officer and General Counsel to overrule the objection and certify the candidate to the General Election ballot. Member Coffrin seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *Corneils & Frasz v. Burd*, 16SOEBGE101 and indicated the basis was very similar to the previous objection. A records exam was conducted which sustained 52 objections, leaving 611 valid signatures which is 111 above the required minimum number of 500 signatures. He concurred with the hearing officer's recommendation to overrule the objection and grant the motion to dismiss because the Election Code does not prohibit a person to sign a different party petition after voting in the opposite party in the general primary election. John Fogarty was present on behalf of the objector and said he did not agree with the recommendation. He felt it was not correct for a person to participate in more than one political party's nomination process and referred to section 7-44 of the Election Code. He asked the board to consider the objector's view of the law and not accept the recommendation of the hearing officer. Mike Kasper was present for the candidate and indicated that there was a previous rule prohibiting this behavior within a two year period. That was found to be unconstitutional and the General Assembly has not adopted a new rule. He concurred with the recommendation and asked

that the board adopt the same. Discussion ensued regarding the statute and party switching. Member McGuffage moved to overrule the objection and certify the candidate to the General Election ballot. Member Keith seconded the motion which passed by roll call vote of 5-3 with Members Cadigan, Carruthers and Coffrin voting in the negative.

The General Counsel presented *Walker v. McGraw, Jr.*, 16SOEBGE500 and reviewed the objection. A records examination was conducted which sustained 102 objections, leaving 528 valid signatures, which is 20 signatures less than the required minimum number of 548 signatures. He concurred with the hearing officer's recommendation that the objection be sustained and the candidate's name not appear on the General Election ballot. Mike Kasper was present on behalf of the objector and agreed with the recommendation. No one was present for the candidate. Member Keith moved to sustain the objection and not certify the candidate to the General Election ballot. Member Cadigan seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *Imhoff v. Evans*, 16SOEBGE501 and summarized the matter. A records exam was conducted which sustained 352 objections, leaving 414 valid signatures, which is 86 signatures less than the required minimum number of 500 signatures. The candidate requested a motion to continue and extend time, which was denied due to untimely filing of Rule 9 material. The General Counsel concurred with the hearing officer's recommendation to sustain the objection and the candidate's name not appear on the ballot for the General Election. Mike Kasper was present for the objector and agreed with the recommendation. He also indicated that he would waive the objection regarding the meeting location, and since the non-notarization of the petition sheet is evident on the face of the document, he felt that could be dealt with at this time. Richard Evans was present pro se and said he was not sure if one of the petition pages was not notarized and that he did not have that information in front of him at the moment. Mr. Menzel indicated that the original petition is an official part of the record should a judicial review occur. Mr. Kasper added that the candidate does not have enough signatures and did not submit enough evidence to rehabilitate the signatures within the timeframe permitted by the rules. Mr. Evans said he thought the objector made mistakes on the line by line review and he was able to rehabilitate some signatures that were not accepted by the hearing officer. He asked that the affidavits be accepted as evidence and that he be certified to the ballot. After discussion, Member Keith moved to adopt the recommendation of the hearing officer and the General Counsel; the waiver of the objection regarding the meeting of the Representative District Committee for the 43rd District; adopt the General Counsel consideration of the petition sheet, page 87, not being notarized as stated on the record; sustain the objection and that the candidate's name not appear on the General Election ballot. Vice Chairman Gowen seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *Danforth v. Mazeski*, 16SOEBGE502 and reviewed the objection. It alleges that the inappropriate entity purported to fill the vacancy in nomination, that the entity failed to specify the date of its action as required, and that the entity met outside the boundaries of the 26th Legislative District contrary to statute. The vacancy in nomination for state senate is filled by the legislative committee; however, the documentation submitted with the candidate's petition, refers to the entity as the "26th State Senate Central Committee" or the "26th District State Central Committee." The certificate of organization for the legislative committee stated that it met on April 29, 2016 in the city of Palatine, which does not include within its corporate limits any territory within the 26th District. The hearing officer found that the people who comprise the legislative committee were the ones who took the actions to select the candidate and that the activity took place on the date indicated on the certificate and resolution

The address where the meeting took place was within the 26th State Senate District although the resolution misstated the location as being in the city of Palatine. The hearing officer recommended that the candidate's motion to strike and dismiss, or in the alternative, motion for summary judgement should be granted, that the objection be overruled and the candidate's name be certified to the General Election ballot. The General Counsel concurred with the recommendation and explained that he leaned on the side of the candidate because the requirements have been met although the candidate's paperwork was poorly completed. He also noted that counsel for both parties did an excellent job presenting their respective positions. Burt Odelson was present on behalf of the objector and did not concur because the candidate only substantially complied with the rules. He said the mandates of the General Assembly should be upheld and strict compliance should be expected. He asked that the objection be sustained and the candidate not appear on the ballot. Ross Secler was present on behalf of the candidate and agreed with the recommendation. He indicated that the candidate did not try to bypass the normal nomination process and the underlying factual requirements were met. Lengthy discussion ensued about applicable case law, ballot access and interpretation of statute. Member McGuffage moved to accept the recommendation of the hearing officer and General Counsel to overrule the objection and certify the candidate to the General Election ballot. Chairman Scholz seconded the motion which passed by roll call vote of 5-3 with Members Cadigan, Carruthers and Keith voting in the negative.

The General Counsel presented *Shorten v. Coyne*, 16SOEBGE503 and summarized the objection. He said it alleges two of the same errors contained in the previous case. In this matter the entity filling the vacancy referred to itself as the "32nd Senate District Central Committee" and similarly did not explicitly state the date that the vote was taken. The resolution does state the date of the meeting was April 17, 2016. The objection also alleges that the language on the circulator's oath does not comply with Section 7-10 of the Election Code. The General Counsel concurred with the hearing officer's recommendation that the candidate's motion to strike and dismiss, or in the alternative, motion for summary judgement be granted, the objection overruled and the candidate's name certified to the General Election ballot. The General Counsel noted that portions of the petition referred to one county and other portions to another county. The hearing officer was of the opinion that the document considered as a whole contained the correct information, which other similar cases have found not to be fatal. Burt Odelson was present on behalf of the objector and asked that his arguments from the last case be incorporated into this matter. He pointed out that the statement of candidacy is incorrect, as well as the certificate of representative committee organization. Also the circulator's affidavit is missing language as prescribed by the General Assembly in Article 8 as to circulation. He asked to board to sustain the objection and not certify the candidate to the ballot. Ross Secler was present on behalf of the candidate and asked that his arguments from the last case be incorporated into this matter. He concurred with the recommendation and said the candidate has complied with the underlying requirements. Discussion ensued about the statutory requirements for the circulator's affidavit. Member McGuffage moved to accept the recommendation of the hearing officer and General Counsel to overrule the objection and certify the candidate to the General Election ballot. Member Coffrin seconded the motion which tied by roll call vote of 4-4. Vice Chairman Gowen and Members Cadigan, Carruthers and Keith voted in the negative. Based on the fact that the statement of candidacy stated the improper county, Vice Chairman Gowen moved to deny the recommendation of the hearing officer and sustain the objection. Member Keith seconded the motion and added to adopt the arguments from the previous case as to the substantial compliance issues that were adopted by both counsel, and the misstatement of the correct legislative district on the certificate of legislative or representative committee organization. The vote tied by roll call vote of 4-4. Chairman Scholz and Members Coffrin, McGuffage and Watson voted in the

negative. The General Counsel explained that the intractable 4-4 tie of the Board does not provide the five votes required to remove a candidate from the ballot. In the absence of that fifth vote, the candidate remains on the ballot unless judicial review is pursued and results differently.

With there being no further business before the State Officers Electoral Board, Member Keith moved to recess until Friday, August 26, 2016 at 10:30 a.m. or the call of the Chairman, whichever occurs first. Vice Chairman Gowen seconded the motion which passed unanimously. The meeting recessed at 12:50 p.m.

Respectfully submitted,



Amy L. Calvin, Administrative Assistant II



Steven S. Sandvoss, Executive Director