

STATE OFFICERS ELECTORAL BOARD
Special Board Meeting
Tuesday, August 17, 2010

MINUTES

PRESENT:

Bryan A. Schneider, Chairman
Wanda L. Rednour, Vice Chairman
Patrick A. Brady, Member
John R. Keith, Member
William M. McGuffage, Member
Albert S. Porter, Member
Jesse R. Smart, Member
Robert J. Walters, Member

ALSO PRESENT:

Daniel W. White, Executive Director
Rupert Borgsmiller, Assistant Executive Director
Steve Sandvoss, General Counsel
Amy Calvin, Administrative Specialist II

The special meeting of the State Officers Electoral Board was called to order via videoconference means at 9:15 a.m. with seven Members present. Chairman Schneider and Members Keith, McGuffage, Porter and Smart were present in the Chicago office and Member Walters was present in the Springfield office. Vice Chairman Rednour was connected via teleconference. Member Brady joined the meeting at 9:20 a.m. in Chicago.

The minutes from the July 6 and 19 meetings were presented with revisions as noted. Member Smart moved to approve the minutes as presented. Member Porter seconded the motion which passed by roll call vote of 8-0.

The Chairman presented the objections to new party and independent candidate petitions for the November 2, 2010 General Election. He indicated the following cases would be considered at the August 27 meeting because they were not ready for disposition today: *Sherman v. Martin*, 10SOEBGE565; *Heffernan v. Libertarian slate*, 10SOEBGE567; *Nekic/Heffernan v. Dabney*, 10SOEBGE569; *Heffernan/Necik v. Constitution slate*, 10SOEBGE570; *Webb v. Rice*, 10SOEBGE107; *Dunaway/White v. Dabney*, 10SOEBGE507; and *Heffernan v. Martin*, 10SOEBGE513.

The General Counsel presented *Birkner v. Falconer*, 10SOEBGE104 and summarized the case. The hearing officer recommended the objection be sustained and the General Counsel concurred. No one was present on behalf of the objector or the candidate. Member Smart moved to accept the recommendation of the hearing officer and General Counsel and the candidate's name not be printed on the ballot. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *Milleville v. McKerrow*, 10SOEBGE105 and reviewed the case. The hearing officer recommended the objection be sustained due to a lack of sufficient number of signatures and also recommended that the objection to the mis-designation of new party be waived as the objector failed to submit any authority supporting his assertion that the misnaming of the party or the office somehow renders the entire petition invalid. The General Counsel concurred with the recommendation. Attorney John Fogarty was present on behalf of the objector and he concurred with

the recommendation of the hearing officer. No one was present on behalf of the candidate. Member Smart moved to accept the recommendation of the hearing officer and General Counsel. Vice Chairman Rednour seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *Slover v. Carter*, 10SOEBGE106 and *Slover v. Carter*, 10SOEBGE509 and summarized the matters. The hearing officer recommended the motion to dismiss be denied and sustain the objection based on an insufficient amount of valid signatures and the General Counsel concurred. No one was present on behalf of the objector and candidate Carter was present. Mr. Carter stated he did not agree with the hearing officer recommendation and felt he was a viable candidate. Member Porter moved to accept the recommendation of the hearing officer and General Counsel. Member Smart seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *Seryce v. Moore*, 10SOEBGE502; *Heffernan v. Moore*, 10SOEBGE518; and *Sherman v. Moore*, 10SOEBGE556 and summarized the cases. The hearing officer recommended the objections be sustained based on the candidate's failure to submit the minimum required amount of signatures and based on the deficiencies alleged as to the petition format, the circulator's statement, and the heading. Furthermore, the hearing officer dismissed the candidate's motion to strike as being legally deficient and that the objector's motion for summary judgment should be sustained. The General Counsel concurred with the recommendations of the hearing officer. No one was present on behalf of objector Seryce, attorney John Fogarty was present on behalf of objector Heffernan and attorney Andrew Finko was present on behalf of objector Moore. Candidate Moore was present as well. Mr. Fogarty and Mr. Finko both concurred with the recommendations and Candidate Moore indicated he should be able to remain on the ballot. Member Smart moved to accept the recommendation of the hearing officer and General Counsel and sustain the objections. Member Brady seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *Tegeler Jr./Gauntt v. Marks*, 10SOEBGE503 and summarized the case. The hearing officer recommended the objection be sustained due to a lack of valid signatures and the General Counsel concurred. Attorney Andrew Raucci was present on behalf of the objectors and he concurred with the recommendation of the hearing officer. No one was present on behalf of the candidate. Member Smart moved to accept the recommendation of the hearing officer and General Counsel and sustain the objection. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *Dunaway/White v. Pedersen*, 10SOEBGE504; *Heffernan v. Pedersen*, 10SOEBGE514 & 515; *Heffernan v. Pedersen*, 10SOEBGE519, 520, 521 & 522; *Sherman v. Pedersen*, 10SOEBGE554 & 555; and *Sherman v. Pedersen*, 10SOEBGE557, 558, 559, 560, 561, 562 & 563 and summarized the matters. The hearing officer recommended the objections be sustained due to a lack of valid minimum number of signatures and the lack of a statement of candidacy and receipt for filing a statement of economic interest on the constitutional officers petitions. The General

Counsel concurred and also recommended that the petitions in question be dismissed for the candidate's failure to withdraw from incompatible offices as required by the Election Code. Attorney Michael Dorf was present on behalf of objectors Dunaway and White, attorney John Fogarty was present on behalf of objector Heffernan and attorney Andrew Finko was present on behalf of objector Sherman and all concurred with the recommendation of the hearing officer. No one was present for candidate Pederson. Member Smart moved to accept the recommendation of the hearing officer and General Counsel and sustain the objections and also strike the name for failure to withdraw from incompatible offices. Member Brady seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *Dunaway/White v. Horton*, 10SOEBGE505 and *Heffernan v. Horton*, 10SOEBGE517 and summarized the cases. The hearing officer recommended the objections be sustained due to a lack of sufficient number of signatures and also two of the petition sheets appear to have been signed by the same person and that those sheets be submitted to appropriate law enforcement for review and action if necessary. The General Counsel concurred. Attorney Michael Dorf was present on behalf of objectors Dunaway and White and attorney John Fogarty was present on behalf of objector Heffernan. They both concurred with the recommendation. No one was present on behalf of candidate Horton. Member Keith moved to concur with the recommendation of the General Counsel and hearing officer and remove the candidate's name from the ballot for the reasons stated in the objections. Member Brady seconded the motion which passed by roll call vote of 8-0. As to the sheets that were submitted with the hearing officers recommendation, Member Keith moved to refer the matter to the Attorney General and the State's Attorneys of the counties of Madison, St. Clair, and Cook for review in accordance with the recommendations of the hearing officer. Member Brady seconded the motion which passed by roll call vote of 8-0.

Next were *Dunaway/White v. Boyd Jr*, 10SOEBGE506 and *Heffernan/Nekic v. Boyd Jr*, 10SOEBGE568 and the General Counsel reviewed the objections. The hearing officer recommended the objections be sustained based on the candidate failing to file the requisite number of signatures to appear on the ballot. The General Counsel concurred with the recommendation hearing officer in case 10SOEBGE506 and added that based on the recommendation in 10SOEBGE506 it would render the objection number 10SOEBGE568 moot. Attorney Michael Dorf was present on behalf of objectors Dunaway and White and attorney John Fogarty was present on behalf of objector Heffernan. Candidate Boyd was present in addition to attorney Randy Crumpton was present on behalf of candidate Boyd. It was noted that substantially more than 50% of the signatures checked were sustained. Mr. Dorf concurred with the recommendation of the hearing officer and also stated that at the time of the suspension of the records examination the objector's success rate was 86.7%. He also noted they did not waive the remainder of their objections because the hearing examiner suspended the examination under Rule 9 and gave the candidate 48 hours to provide evidence sufficient to restart the examination and the hearing officer did not find whatever filings the candidate made to be

sufficient to restart the records examination. No additional hearing was held either on the general Rule 9 rehabilitation or on the remaining claims in the objectors' petition. Mr. Fogarty indicated that he was not waiving their objections. Mr. Crumpton did not agree with the suspension of the records examination and that the candidate did file an Objection to the Processes and Records Examination. Candidate Boyd addressed the Board and felt his name should not be removed from the ballot and that he has followed the statutes and submitted the required amount of signatures. Discussion ensued among the Board concerning the Rule 9 filing and a brief recess was taken to allow time for everyone to receive a copy of the Order of Objection Processes and Records Examination that was submitted by candidate's counsel to the hearing officer following the suspension of the records exam. The General Counsel indicated that he still concurred with the recommendation of the hearing officer. Member Keith moved that the candidate's name not placed on the ballot based upon the lack of valid signature; and that the other objections raised both in 506 and 568 be found moot by the Board, not having been waived by any objector, but being found moot by the Board so this matter can be concluded with a final order. Member Brady seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented and reviewed *Dunaway/White v. Officer*, 10SOEBGE508, *Heffernan v. Officer*, 10SOEBGE516 and *Sherman v. Officer*, 10SOEBGE564. The hearing officer recommended the records examination be terminated after the candidate failed to present any documentation or evidence that would warrant the resumption of the exam and sustain the objection due to lack of minimum number of signatures required. Furthermore, case numbers 516 and 564 would be rendered moot because the candidate failed to challenge staff rulings invalidating his nominating petitions. The General Counsel concurred with the hearing officer recommendations in all cases. Attorney Michael Dorf was present on behalf of objectors Dunaway and White, attorney John Fogarty was present on behalf of objector Heffernan and attorney Andrew Finko was present on behalf of objector Sherman and they all concurred with the recommendation of the hearing officer in all matters. No one was present on behalf of candidate Officer. Member Keith moved to accept the recommendation of the General Counsel and hearing officer and find that it lacks sufficient and appropriate signatures based upon the suspended records examination and that all other issues having not been waived by the parties in all three cases be found to be moot and that the candidate's name not appear on the ballot, noting for the record that the candidate did not submit any evidence in an attempt to rehabilitate any of the signatures that were stricken here in the examination. Member Brady seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *McLain v. Hendrickson*, 10SOEBGE510 and summarized the case. The hearing officer recommended the candidate's motion to strike be denied and the objection be sustained due to the lack of valid number of signatures. The General Counsel also concurred with this recommendation. Attorney John Fogarty was present on behalf of objector McLain and candidate Hendrickson was also present. Mr. Fogarty concurred with the recommendation of the hearing officer

and noted that he waived all other objections submitted by the Objector. Mr. Hendrickson indicated he felt it was his constitutional his right to appear as a candidate on the ballot and asked the Board to overrule the objection. Member Keith moved to deny the motion to strike and sustain the objection due to lack of sufficient number of signatures and find that all other objections that were raised be waived and the candidate's name not appear on the ballot. Member Brady seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *Heffernan v. Estill*, 10SOEBGE512 and *Sherman v. Estill*, 10SOEBGE566 and summarized the matters. The hearing officer recommended the objections be sustained due to a lack of valid number of signatures and the General Counsel concurred. Attorney John Fogarty was present on behalf of objector Heffernan, attorney Andrew Finko was present on behalf of objector Sherman and no one was present on behalf of candidate Estill. Member Keith moved to accept the recommendation of the hearing officer and General Counsel and sustain the objection for lack of sufficient signatures find that the other issue raised be denied and that the candidate's name not appear on the ballot. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

Members Smart and Keith noted how smoothly the meeting proceeded and thanked everyone involved for a job well done.

With there being no further business before the State Officers Electoral Board Member Keith moved to recess until 9:00 a.m. on August 27, 2010 or until call of the Chairman, whichever occurs first. Member Smart seconded the motion which passed unanimously. The meeting recessed at 10:55 a.m.

Respectfully submitted,

Amy Calvin, Administrative Specialist II

Daniel W. White, Executive Director