

STATE OFFICERS ELECTORAL BOARD
Meeting Via Videoconference
Thursday, December 17, 2009

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 9:40 a.m. Chairman Schneider and Members Brady, Keith, McGuffage, Porter and Smart were present in the Chicago office and Member Walters present in Godfrey at Lewis and Clark College. Vice Chairman Rednour was present via teleconference.

The General Counsel presented *Hamos v. Mayers*, 09SOEBGP501. Mike Kreloff was present on behalf of the objector and Mr. Mayers was not present nor anyone present on his behalf. The General Counsel indicated this case was a challenge to Richard B. Mayers, Green Party nomination for office of Congressman in the 10th Congressional District. The minimum number of signatures required was 23, the candidate submitted 31 and 9 of those were objected to. After a records exam was conducted it was determined that the candidate had 26 valid signatures which was 3 above the necessary 23. The hearing officer recommended the objection be overruled and the General Counsel concurred with the recommendation. Mr. Kreloff also accepted the recommendation. Member Brady moved to accept the recommendation of the hearing officer and General Counsel and overrule the objection. Member Keith seconded the motion which passed by roll call vote of 7-1 with Member Walters voting in the negative.

The General Counsel presented *Bartholomae v. Castillo*, 09SOEBGP506 and it was agreed to hear this case later in the meeting when Mr. Nally could be present after his court hearing.

The State Board of Elections indicated no further action was necessary in *True v. Zadek*, 09SOEBGP511 because the Board had already accepted the withdrawal from the candidate rendering the objection moot.

The General Counsel presented *Reeves v. McQuillan*, 09SOEBGP513. Donald Potts was present on behalf of John Reeves and Bob McQuillan was present pro se. The General Counsel stated this was a challenge to candidate Bob McQuillan who is seeking the Republican nomination for the office of State Representative in the 50th District. The minimum number of signatures required was no less than 500 and the candidate submitted 609 signatures of which 169 were objected to. A records examination was conducted and an evidentiary hearing in which the candidate submitted affidavits to rehabilitate signatures. A Motion to Strike was also filed alleging the SBE failed to comply with its notice requirements. After considering the affidavits and the results of the records exam, the hearing officer determined the candidate had 497 valid signatures and that the additional supplemental affidavits were not timely filed and recommended they not be considered. The General Counsel concurred with the recommendation of the hearing officer and verified that notice was timely sent out. Mr. Potts agreed with the recommendation of the hearing officer and Mr. McQuillan disagreed with the recommendation and stated he was being denied valid ballot access and that he should have been granted an extension on the 48 hour time limit to verify the signatures in question. Mr. Potts noted that Mr. McQuillan had nearly one month to collect the affidavits but waited until the last minute to do so. The General Counsel indicated that his recommendation still remained the same. After discussion, Member Keith moved to adopt the recommendation of the hearing officer and General Counsel and deny the motion to strike in both counts and sustain the objection. Vice Chairman Rednour seconded the motion which failed by roll call vote of 3-4-1 with Members McGuffage, Porter, Smart and Walters voting in the negative and Member Brady abstaining. Member Smart moved to deny the recommendation of the hearing officer and allow the candidate to be on the ballot. Member Porter seconded the motion which failed by roll call vote of 4-3-1 with Member Keith, Vice Chairman Rednour and Chairman Schneider voting in the negative and Member Brady abstaining.

The General Counsel presented *Pituc v. Mayers*, 09SOEBGP515 and it was agreed to hear the case later in the meeting when all parties could be present.

The General Counsel presented *Dunaway v. Scanlan*, 09SOEBGP518. James Nally was present on behalf of the objector neither the candidate or anyone representing the candidate. This was a challenge to the candidacy of Ed Scanlan who is seeking the Democratic nomination for office of Governor of Illinois. The minimum number of signatures required is 5,000 and the maximum is 10,000. The candidate submitted 10,446 signatures but only the first 10,000 were considered for validity and the number of signatures objected to were 6,566. After an evidentiary hearing it was found that the Rule 9 Motion had been timely filed and some of the signatures were rehabilitated. However, the results of the records examination determined that at best 4,924 signatures were valid which was still 76 below the statutory minimum. The hearing officer recommended the objection be sustained and the General Counsel concurred. Mr. Nally also concurred. Member Brady 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 Chairman indicated no further action was necessary in *Dortch v. Walls, III*, 09SOEBGP516 because the State Board of Elections had already accepted the withdrawal from the candidate rendering the objection moot. The General Counsel confirmed that a candidate withdrawal is irrevocable.

The Board returned to *Bartholomae v. Castillo*, 09SOEBGP506. James Nally was present on behalf of the objector and neither the candidate nor anyone on his behalf was present. This was a challenge to the validity of signatures submitted by Michael Castillo who is running as a Democrat for Lieutenant Governor. The minimum number of signatures required was 5,000 and 8,000 were submitted of which 4,297 were objected to. There was also an allegation of a pagination error and a motion to strike was recommended to be granted. After a records examination was conducted it was determined the candidate had 351 valid signatures over the statutory minimum and the hearing officer recommend the objection be overruled. The General Counsel concurred. With no further discussion

Member Keith moved to grant the motion to strike relative to the pagination issue and overrule the objection. Member Brady seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *Rosenzweig v. Hebda*, 09SOEBGP521. Mike Kreloff was present on behalf of the objector and John Countryman was present on behalf of the candidate. The objection was a challenge to the candidacy of Cynthia Hebda who is a Republican candidate for State Representative in the 59th district. It is alleged that the candidate, by signing the petition of a democratic candidate, renders her candidacy as a candidate of the Republican party invalid based on the holding in Cullerton case. The candidate filed a motion to strike the interpretation of Cullerton and arguing the Election Code does not mandate the removal of a candidate from the ballot simply by signing the petition of a different political party. Furthermore, the candidate argues that a 'qualified primary elector' is determined by what ballot they choose at the election, not the party of another candidate's petition that was signed. Ms. Hebda insisted that because she is a member of the Republican party and took a Republican ballot in the 2008 election the challenge should be denied and that the Cullerton decision was not applicable to her case. The hearing officer recommended the objection be sustained because the signing of the petition for the Democratic party established Ms. Hebda's party affiliation and rendered her candidacy as a Republican invalid. The General Counsel indicated he did not concur with the recommendation of the hearing officer and feels the objection should be overruled because of his interpretation of the Cullerton decision which was a narrow decision and it applied to the party status of a particular candidate based on what ballot that candidate or person chose at the next preceding election. Ms. Hebda's status as a qualified primary elector of the Republican party was established by applying the Cullerton decision until the next primary election which is 2010. The General Counsel also noted that in 7-10 it seems the intent was to allow the situation that occurred with this case, where a person could sign for one party and choose another party's ballot. Mr. Kreloff gave his interpretation of the Cullerton decision and indicated that there was statutory language that states that a qualified primary elector of a party may not sign petitions for or be a candidate in the primary of more than one party. Furthermore, Mr. Kreloff feels that Cullerton establishes these limits and that Ms. Hebda cannot switch back to Republican after

singing a Democratic petition. He also noted that the candidate could have struck her name from the Democratic candidate's petition she signed but chose not to do anything to disaffiliate herself from the Democratic party. Mr. Countryman indicated that facts in the Cullerton case were not the same as in this case and concurred with the General Counsel's recommendation. He further stated that the penalty for Ms. Hebda signing the Democratic petition would be for someone to challenge her signature on that candidate's petition and should not prevent her from being on the ballot in her own party. After discussion, Mr. Countryman asked the Board to overrule the objection.

The Board took a short recess at 10:45 a.m. due to a technical difficulty with the videoconference equipment and resumed the meeting at 11:00 a.m.

Mr. Kreloff reiterated his interpretation and stated that Ms. Hebda made her choice and the result of her actions should bar her from the ballot. After further discussion, Member Brady moved to accept the recommendation of the General Counsel, reject the recommendation of the hearing officer for the reasons stated by the General Counsel, overrule the objection and order that the candidate's name appear on the ballot. Member Smart seconded the motion which passed by roll call vote of 7-1 with Member Keith voting in the negative.

The General Counsel presented *Pituc v. Mayers*, 09SOEBGP515. Andrew Finko was present on behalf of the objector and neither the candidate nor anyone on his behalf was present. The objection was against the signatures on the petition of Richard Mayers who is a Green party candidate for congressman for the 10th Congressional District. A records exam was conducted and it was determined the candidate was 2 signatures short of the minimum number 23 required. A challenge was also made to the qualifications and eligibility to be a member of the Green party. The hearing officer rejected the challenge to his qualifications and membership of the Green party but recommended the objection be sustained due to lack of valid signatures. The General Counsel concurred. Mr. Finko also accepted the hearing officer's findings. Member Smart moved to accept the recommendation of the hearing officer and General Counsel and sustain the objection. Member Porter seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *Cattron v. Kairis*, 09SOEBGP523. Michael Kasper was present on behalf of the objector and Andrew Finko was present on behalf of the candidate. This was a challenge to the validity of signature on the petition of Daniel J. Kairis who is running for congressman in the 14th Congressional District as a Green party candidate. After a records exam was conducted it was determined the number of valid signatures was 5 above the minimum number of required signatures which was 39. The hearing examiner recommended the objection be overruled and the General Counsel concurred. Both Mr. Kasper and Mr. Finko accepted the recommendation. Member Keith moved to adopt the recommendation of the hearing officer and General Counsel and overrule the objection. Member Smart seconded the motion which passed by roll call vote of 7-0-1 with Member Brady abstaining.

The General Counsel presented *Wagner v. Barnes*, 09SOEBGP524. Mike Kasper was present on behalf of the objector and neither the candidate nor anyone on his behalf was present. The General Counsel informed the Board that the candidate attempted to submit a withdrawal via e-mail but was told he would have to submit a written notarized statement of withdrawal and that had not been received. This was an objection to the candidacy of Terrell Barnes who is running as a Democratic candidate for State Central Committeeman in the 6th Congressional District. The minimum number of signatures was 100 and the candidate submitted 253 of which 152 were challenged. After a records exam was conducted it was determined that only 145 signatures were valid. The objector requested a Rule 9 hearing to present evidence of a pattern of fraud. The hearing officer recommended the objection be sustained because he felt that the signatures on pages 9 through 17 should be stricken because the objector did submit sufficient evidence to establish a pattern of fraud and those sheets be disregarded and that the number of valid signatures was below the statutory minimum. The General Counsel concurred and also suggested that pages 9 through 17 be referred to the DuPage County State's Attorney's office for review. Mr. Kasper disagreed with the General Counsel concerning the pages in question and then asked the Board to adopt the hearing examiner's recommendation. Member Keith moved to concur with the recommendation of the hearing officer and General Counsel and sustain the objection for the reasons stated and strike the candidate's name

from the ballot. Member Porter seconded the motion which passed by roll call vote of 8-0. Member Keith moved to refer the matter to the State's Attorney's offices in DuPage and Sangamon Counties so they may determine if they have jurisdiction or if they wish to proceed if they do have jurisdiction on the issues of forgery and other matters as set forth in the recommendations of the General Counsel and the hearing officer. Member Brady seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *Reidy v. Pilmer*, 09SOEBGP528. Richard Veenstra was present on behalf of the objector and John Countryman was present on behalf of the candidate. This was a challenge to the candidate Robert P. "Bob" Pilmer who is a Republican candidate for the office of Resident Judge, 16th Judicial Circuit, Kendall County, Additional Judgeship A. The objector alleges the candidate subsequent to circulating the nominating petitions altered the heading of the petition by filling in a blank on two of the pages, inserting the word "Kendall" following the words "resident circuit court judge." Following the hearing it was determined that 11 pages contained the blank line during circulation but when filed with the State Board of Elections, the word "Kendall" had been inserted after the petition had been circulated. The candidate filed a motion to strike alleging the objection misnamed the candidate, the objection raised challenges to an insufficient number of signatures and that it only related to specifically two signature pages and argued that no voter confusion resulted from the omitted word because it was elsewhere in the heading. The hearing officer recommended that filling in the blank following circulation was a nonmaterial alteration and was not a pattern of fraud or amount to voter confusion and that even if pages at issue were stricken the candidate would still have a sufficient number of valid signatures. He recommended the objection be overruled and the motion to strike be denied. The General Counsel concurred. Mr. Veenstra thanked Mr. Herman for his time in resolving the matter. Mr. Countryman commended Mr. Herman as well and agreed with the recommendation of the hearing officer. Member Keith moved to adopt the recommendation of the hearing officer and General Counsel and deny the motion to strike, overrule the objection and permit the candidate's name to remain on the ballot. Member Smart seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *Else v. Moy*, 09SOEBGP529. Mary Dickson was present on behalf of the objector and neither the candidate nor his attorney were present. This was a challenge to Kenneth Moy who is a Republican candidate for 2nd District Appellate Court Judge, vacancy of the Honorable Callum. The minimum number of signatures was no less than 1,535 and the candidate submitted 2,803 signatures of which 980 were objected to. The basis was that 442 signatures were not qualified voters of the Republican party but were qualified voters of the Democratic party and, therefore, are not valid signatures. The candidate filed a motion to strike claiming the 442 allegedly Democrat voters were not prohibited from signing the petition and also objected to certain categories of signature challenges. The results of the records exam indicated that the candidate had 2,347 valid signatures which was 812 more than the statutory minimum. The hearing officer rejected the objector's contention that the Cullerton decision required the disqualification of the 442 petition signers and also recommended that part of the motion to strike be granted as well as the allegation of the bad address contained in the recap sheet. The hearing officer recommended the objection be overruled based on the results of the records examination and the General Counsel concurred. Ms. Dickson felt this was another Cullerton case and indicated that to be a qualified voter you must live at the residence you are registered and affiliated with the party of the candidate whose petition you sign. Furthermore, she noted that those 442 signers were affiliated with the Democratic party but couldn't verify exactly when they voted. Member Keith moved that the motion to strike be denied in part and granted in part and the objection be overruled as recommended by the hearing officer and General Counsel. Member Porter seconded the motion which passed by roll call vote of 8-0.

The General Counsel presented *Barnes, Hendon v. Turner*, 09SOEBGP531. Neither the objectors nor anyone on their behalf were present and Mike Kasper was present on behalf of the candidate. The challenge was against Arthur L. Turner who is a Democratic candidate for Lieutenant Governor and the validity of the signatures on the petition. The minimum number of signatures required was 5,000 and 9,960 were submitted of which 6,607 were objected to. The results of the records exam showed 5,677 valid signatures which was 677 above the statutory minimum. The objector filed a Rule 9 motion challenging 1,496 of the rulings but the hearing officer rejected the

motion because evidence was not submitted. The candidate filed 29 affidavits to rehabilitate signatures but the hearing officer did not rule on those due to the results of the records exam. The hearing officer recommended the objection be overruled and the General Counsel concurred. Mr. Kasper had no comments for the Board. Member Keith moved to accept the recommendation of the hearing officer and General Counsel to grant the candidate's motion to strike and overrule the objection. Member Brady seconded the motion which passed by roll call vote of 8-0.

The Chairman asked if there was any other business and General Counsel Sandvoss indicated he would like to take a few minutes to speak on behalf of the staff. Mr. Sandvoss noted all of the hard work and dedication by the agency staff during the objection process performed in a very short time period, specifically praising his staff members, Bernadette Harrington and Mark Greben. Also, kudos to Ken Menzel, who spent two weeks in Springfield assisting him with main records exam. Mr. Sandvoss thanked them tremendously and indicated he would not have been able to finish the process without their assistance. Furthermore, he noted specific staff members from Springfield who assisted with the records exams: Jeff Berry; Rupert Borgsmiller; Bruce Brown; Kim Brown; Amy Calvin; Erica Christell; Cris Cray; Brent Davis; Amy Evans; Jane Gasperin; Becky Glazier; Dave Grubb; Michael Heap; Jason Hinds; Cheryl Hobson; Jason Kilhoffer; Terra Lamb; John Levin; Brian Matthews; Mike Montney; Gary Nerone; Tom Newman; Clayton Nicholson; Erick Pitchford; Mickey Reinders; Jamye Sims; Carol Skaggs; Sharon Steward; Kay Walker; Linda Went; and Brian Zilm. Also, Mr. Sandvoss recognized the following staff members from the Chicago office who also assisted with the records exams: Anne Barnes; Tara Cachur; Tom Cloonan; Monique Franklin; Rick Fulle; Darlene Gervase; Tia Jefferson; Clinton Jenkins; Darcell McAllister; Andy Nauman; and Rose Rodriguez. Mr. Sandvoss also recognized former employee Pat Freeman who performed the data entry and number crunching during the process and recommended hiring her back temporarily during the next objection process. The Executive Director also added General Counsel Steve Sandvoss to the list of employees recognized for their hard work. Chairman Schneider, on behalf of the entire Board, thanked all of the staff for their hard work.

With there being no further business before the State Officers Electoral Board Member Keith moved to recess until January 19, 2010 at 10:30 a.m., or until call of the Chairman whichever occurs first. Member Brady seconded the motion which passed unanimously. The meeting recessed at 11:55 a.m.

Respectfully submitted,

Amy Calvin, Administrative Specialist II

Daniel W. White, Executive Director