

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

Sandra Seegars,)	
Challenger)	Administrative
)	Order #20-005
)	
v.)	Re: Nominating Petition
)	Challenge for the Office of
)	Ward 8 Member of the
Frederick Hill III,)	Council
Candidate.)	

MEMORANDUM OPINION AND ORDER

Introduction

This matter came before the District of Columbia Board of Elections (“the Board”) on April 1, 2020. It is a challenge to the nominating petition of Frederick Hill III (“Mr. Hill”) for the office of Ward 8 Member of the Council, filed by Sandra Seegars (“Ms. Seegars”) pursuant to D.C. Code § 1-1001.08(o)(1) (2001 Ed.). Both Ms. Seegars and Mr. Hill appeared *pro se*. Chairman D. Michael Bennett and Board members Michael Gill and Karyn Greenfield presided over the hearing.

Background

On March 4, 2020, Mr. Hill submitted a nominating petition to appear on the ballot as a candidate in the June 2, 2020 Democratic Primary Election contest for the office of Ward 8 Member of the Council (“the Petition”). The minimum requirement to obtain ballot access for this office is 250 signatures of District voters who are duly registered Democrats in the District of Columbia.¹ Mr. Hill’s Petition contained a total of 283 signatures. Pursuant to Title 3, District

¹ Title 3 D.C.M.R. § 1603.2(a).

of Columbia Municipal Regulations (D.C.M.R.) § 1603.1, Karen F. Brooks, the Board of Elections' Registrar of Voters ("the Registrar"), accepted all 283 signatures for review.

On March 7, 2020, the Petition was posted for public inspection for 10 days, as required by law. On March 15, 2020, the Petition was challenged by Ms. Seegars, a registered voter in the District of Columbia. On March 16, 2020, Office of the General Counsel ("OGC") Staff Attorney Rudy McGann ("Mr. McGann") sent Mr. Hill an email informing him that Ms. Seegars had filed a challenge to the Petition in accordance with Title 3 D.C.M.R. § 1606.3.

Ms. Seegars filed challenges to a total of 144 signatures pursuant to Title 3 D.C.M.R. § 1607.1 of the Board's regulations on the following grounds: the signer is not a duly registered voter; the signer's voter registration was designated as inactive on the voter roll at the time the petition was signed; the signer, according to the Board's records, is not registered to vote at the address listed on the petition at the time the petition was signed; the signature is not dated; the petition does not include the address of the signer; the petition does not include the name of the signer where the signature is not sufficiently legible for identification; the circulator of the petition failed to complete all required information in the circulator's affidavit; the signer is not a registered voter in the ward or Single Member District from which the candidate seeks nomination at the time the petition was signed; and the signer is not registered to vote in the same party as the candidate at the time the petition is signed.

Registrar's Preliminary Determination

The Registrar reviewed the challenge to determine the sufficiency of the challenged signatures. The Registrar's initial review indicated that a total of 116 of the 144 signature challenges were valid. The review further indicated that the remaining 28 challenges were

invalid. Accordingly, the Registrar preliminarily determined that the petition contained 167 signatures, 83 signatures below the number required for ballot access.

March 26, 2020 Pre-Hearing Conference

Pursuant to Title 3 D.C.M.R. § 415.1, the OGC convened a pre-hearing teleconference with both parties present on Thursday, March 26, 2020. The day before, on March 25, 2020, both parties received a copy of the Registrar's preliminary determination about the validity of the challenges. As a threshold matter, Mr. Hill took issue with receiving notice of the Registrar's preliminary determination report only a day before the conference. Mr. McGann informed Mr. Hill that, although the Board makes every effort to provide candidates with notice of the Registrar's preliminary determination prior to pre-hearing conferences, it is under no legal mandate to do so. Mr. Hill also requested an extension of the 10-day period under D.C. Code § 1-1001.08(o)(3) to cure addresses with respect to the 41 signatures on the Petition that were invalidated on the grounds that the signer was not registered to vote at the address listed on the petition at the time the petition was signed. The request for the extension was made in light of the ongoing public health emergency related to the Novel Coronavirus ("COVID-19").²

Ms. Seegars agreed with the Registrar's report.³ She also noted for the record that even if Mr. Hill cured all 41 signatures rejected on change of address grounds, thereby bringing his number of presumptively valid remaining signatures to 208, he would still be 42 signatures below the number required for ballot access.

March 30, 2020 Response to the Registrar's Preliminary Determination

² See Centers for Disease Control and Prevention, <https://www.cdc.gov/> (last visited April 4, 2020).

³ The Registrar's review indicated that a total of 116 of the 144 challenges were valid. Specifically, the Registrar found that 41 signatures belong to signers who were not registered to vote at the address listed on the petition at the time the petition was signed, eight signatures belong to inactive voters, seven signatures were illegible, 28 signatures belong to individuals who are not registered, 29 signatures belong to individuals who are not registered Democrats, one signature was undated, one signature did not match the voter's signature as it appeared in the Board's voter's registry, and one signature belonged to an individual who was not a registered voter in the ward from which the candidate seeks nomination at the time the petition was signed.

On March 30, 2020, Mr. Hill sent an email response to the Registrar's preliminary determination in which he raised several concerns about how the Board processed both his candidacy and the challenge to the Petition. Specifically, Mr. Hill stated that he had been erroneously informed that he had qualified to appear on the June 2, 2020 Primary Election ballot as a candidate for the office of Ward 8 Member of the Council, that the Board did not notify him of Ms. Seegars' challenge until ten days after it was filed, and that the Board did not have a hearing or officially announce a decision on his ballot qualification as it pertains to Ms. Seegars challenge.

Mr. Hill's response discussed other matters, such as the Mayor's prohibition against door-to-door soliciting in light of COVID-19, and Ms. Seegars' Facebook posts concerning the Registrar's preliminary determination. However, it did not include any evidence to oppose or cure the signature challenges.

April 1, 2020 Board Hearing

On April 1, 2020, the Registrar presented the Board with her preliminary determination regarding the challenge to the Petition. Ms. Seegars did not object to the factual findings and recommendations of the Registrar's report. Mr. Hill objected to the Registrar's findings and reiterated the issues he raised during the tele-conference on March 26, 2020 and in his email correspondence on March 30, 2020. However, he did not provide any evidence to oppose or cure the signature challenges. The Board subsequently adopted the Registrar's report.

Discussion

As a preliminary matter, the Board must address Mr. Hill's contention that his name should appear on the Democratic Party ballot in the June 2, 2020 Primary Election, because he

was informed by the Registrar in writing that he qualified as an official candidate.⁴ While the incorrect letter was erroneously sent to Mr. Hill, that fact does not supersede the ballot access requirements outlined in the Board's governing statute and regulations, which require that a candidate must submit a minimum number of valid signatures to achieve ballot access. The Board also notes that the record reflects that Mr. Hill was informed of Ms. Seegars' challenge to the Petition the day after it was filed – not 10 days after, as was claimed.

The Registrar has determined that, as a result of Ms. Seegars' challenge, the Petition is left with 167 valid signatures, 83 signatures below the number required for ballot access. While the regulations are clear that the Board can consider any evidence in support of and in opposition to a challenge, Mr. Hill did not provide any articulable evidence to oppose or cure the signature challenges raised by Ms. Seegars. Therefore, the Board upholds the finding of the Registrar that Mr. Hill does not have enough signatures to qualify for ballot access.

Additionally, Mr. Hill requests to extend the period in which signatories who were not registered to vote at the address listed on the petition at the time they signed it may submit address changes in light of COVID-19. This request cannot be honored because the period is set by D.C. Code § 1-1001.08 (o)(3). Moreover, the number of signatures invalidated on that basis – 41 – is not sufficient to overcome the deficiency in the Petition.

Conclusion

Mr. Hill collected 167 valid signatures, which is 83 signatures below the number required for ballot access. It is hereby:

⁴ An *Official Candidate Letter* was erroneously sent to Mr. Hill on March 9, 2020. This letter stated that Mr. Hill had qualified to appear as a candidate in the Ward 8 Member of the Council contest in the June 2, 2020 Democratic Primary Election. Mr. Hill was supposed to receive a *Preliminarily Qualified Candidate Letter*, which would have informed him that the Petition would be subjected to challenge in accordance with Board rules and regulations regarding the ballot access process. However, Mr. Hill was notified that two individuals had challenged the Petition promptly after the respective challenges were filed.

ORDERED that candidate Frederick Hill III is denied ballot access in the contest for the office of Ward 8 Member of the Council in the June 2, 2020 Primary Election.

Date: April 6, 2020

A handwritten signature in blue ink, appearing to read "D. Michael Bennett", is written over a horizontal line.

D. Michael Bennett
Chairman