

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

James Harnett,)	
Challenger)	Administrative
)	Order #22-010
)	
v.)	Re: Challenge to Nominating
)	Petition Submitted for the
)	Office of At-Large Member
Leniqua'dominique Jenkins)	of the Council
Candidate.)	

MEMORANDUM OPINION AND ORDER

Introduction

This matter came before the District of Columbia Board of Elections (“the Board”) on April 22, 2022. It is a challenge to the nominating petition submitted by Leniqua'dominique Jenkins (“Ms. Jenkins”) in support of her candidacy for the office of At-Large Member of the Council of the District of Columbia (“At-Large Member of the Council”) in the June 21, 2022 Democratic Primary Election (“the Primary Election”). The challenge was filed by James Harnett (“Mr. Harnett”) pursuant to D.C. Official Code § 1-1001.08 (o)(1) (2001 Ed.). Chairman Gary Thompson and Board members Michael Gill and Karyn Greenfield presided over the hearing. Both parties appeared *pro se*.

Background

On March 23, 2022, Ms. Jenkins submitted a nominating petition to appear on the ballot as a candidate in the Primary Election contest for the nomination for the office of At-Large Member of the Council (“the Petition”). The minimum number of signatures required to obtain ballot access for this office is 2,000 signatures of District voters who are duly registered voters in

the same party as the candidate. The Petition contained a total of 2,049 signatures. Pursuant to Title 3, District of Columbia Municipal Regulations (D.C.M.R.) § 1603.1, Karen F. Brooks, the Board of Elections' Registrar of Voters ("the Registrar"), accepted all 2,049 signatures for review.

On March 26, 2022, the Petition was posted for public inspection for 10 days, as required by law. On April 4, 2022, the Petition was challenged by Mr. Harnett, a registered voter in the District of Columbia.

Mr. Harnett filed challenges to a total of 183 signatures individually and on the grounds that the circulator of the petition failed to complete all required information in the circulator's affidavit, pursuant to Title 3 D.C.M.R. § 1607.1 of the Board's regulations.

Registrar's Preliminary Determination

The Registrar's review indicated that all 183 of the signature challenges were valid. Specifically, the Registrar found that all 183 signature challenges were valid where the circulator failed to complete all information in the circulator affidavit. This leaves the candidate's nominating petition with 1,866 signatures, which is 134 signatures below the number required for ballot access. Accordingly, the Registrar preliminarily determined the Petition contained 1,866 presumptively valid signatures.

April 19, 2022 Pre-Hearing Conference

Pursuant to Title 3 D.C.M.R. § 415.1, the Office of the General Counsel ("OGC") convened a pre-hearing conference with both parties on Tuesday, April 19, 2022. In her findings report issued prior to the pre-hearing conference, the Registrar noted that the number of valid challenges did not leave Ms. Jenkins with the requisite number of signatures to qualify for ballot access. The Registrar also provided a Nominating Petition Challenge Information Sheet outlining

her determinations with respect to the validity of each signature challenged, as well as a key code explaining the notations she used to indicate the basis for upholding or denying each challenge.

Just prior to the pre-hearing conference, Ms. Jenkins submitted additional documentation purporting to cure all of the circulator defects in her petition that were identified by Mr. Harnett. The documents included five affidavits representing 21 petition pages (only two of which were notarized) from all of her circulators attesting to the clerical errors on their respective circulator affidavits, and that they were the sole circulators of specific sheets, which they listed. Most of the circulators acknowledged responsibility for multiple pages, and three took pictures showing their individual affidavits.

During the pre-hearing conference, Ms. Jenkins asked the Registrar and Board to conduct another review and consider the supplemental documentation. She and her campaign manager, Ms. De Andra Judge argued that they went to great lengths to cure all of the circulator defects identified by Mr. Harnett, and believed that Grosso et al., v. Brown, Administrative Hearing 12-011A (September 13, 2012) (“Grosso”) supported their request to be granted ballot access.

Further Registrar Review

After the pre-hearing conference, the Registrar conducted an additional review of the challenge, along with the supplemental documentation, but did not credit the Petition with any additional signatures. The Registrar informed Ms. Jenkins that it was up to the Board to determine whether to credit the supplemental documentation she submitted.

April 22, 2022 Board Hearing

During the Board hearing, Ms. Jenkins restated her claims that she had “cured” enough circulator affidavits to be granted ballot access. In support of her position, both she and Ms. Judge cited Grosso. In that case, candidate Michael A. Brown was running for the Democratic At-Large

Member of the Council seat during the 2012 General Election. Multiple people filed challenges to his petition, including then fellow candidate David Grosso. The challenges raised in that matter included, among other things, incomplete dates on circulator affidavits, and the Board exercised its discretion to waive formal error with respect to these defects. During the hearing, Ms. Jenkins asked the Board to rule in accordance with Grosso, and waive the date-related defects in the circulator affidavits on the Petition sheets she submitted. In response, Mr. Harnett asked the Board to uphold the Registrar's findings and deny Ms. Jenkins ballot access.

Discussion

The Petition in this matter contains numerous sheets with either no circulator affidavit or incomplete circulator affidavits. As was noted in Grosso, the Board has a history of ruling that a failure to include a date in a circulator affidavit was fatal to inclusion of the associated petition sheet, unless evidence in the form of sworn testimony was presented that could establish and confirm the date of signing. (Id. 14). In Grosso, however, the Board was presented with a situation where dates were included, but the year was omitted. The Board expressed that, in such instances, it had generally considered such omission to be harmless error, since the Board only distributes nominating petitions to candidates in the year in which the election is held.

In the instant case, Ms. Jenkins' petition defects go beyond missing simply the year in which petition circulation occurred. Instead, the Petition is replete with page after page of missing or incomplete circulator affidavits. No witnesses appeared on Ms. Jenkins' behalf to provide sworn testimony about their experiences as her petition circulators. Moreover, of the five supplemental circulator affidavits submitted, only two were notarized, and neither of these notarized affidavits attests as to the actual dates the circulator affidavits were completed. The Board finds that the documentation Ms. Jenkins submitted is insufficient to persuade it to waive the petition defects in

this matter as formal error. Accordingly, the Board finds that the Petition does not have the requisite number of signatures for ballot access.

Conclusion

For the reasons indicated above, it is hereby

ORDERED that challenge to the nominating petition of Leniqua'dominique Jenkins for the office of At-Large Member of the Council is hereby **GRANTED**, and that Ms. Jenkins is therefore **DENIED** ballot access.

The Board issues this written order today, which is consistent with its oral ruling rendered on April 22, 2022.

Date: April 25, 2022



Gary Thompson
Chairman
Board of Elections