

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS AND ETHICS**

Ronald Collins,
Challenger,

v.

Tom Heinemann,
Candidate.


Administrative Hearing
No. 04-021

Re: Nominating Petition
Challenge

MEMORANDUM OPINION AND ORDER


This matter came before the Board of Elections and Ethics (Board) on Friday July 30, 2004, and involved a challenge to the candidacy of Tom Heinemann, candidate for the office of Ward Six Member of the Democratic State Committee. The challenge was brought by Ronald Collins, a registered voter in the District of Columbia. Board members Dr. Lenora Cole and Charles R. Lowery, Jr. presided over the matter. Both the Challenger and Candidate appeared *pro se* at the hearing.

According to the evidence presented to the Board, Candidate Heinemann submitted a nominating petition containing a total of 132 signatures. The minimum signature requirement to qualify for the ballot for this office is 100 signatures of duly registered voters residing in Ward 6, who are members of the Democratic Party. Challenger Collins filed a total of 26 challenges to signatures on the nominating petition, and challenged page 5 of the petition alleging that the circulator's affidavit was not dated. As required by the Board's regulations, Challenger Collins specified the alleged defects pursuant to D.C. Mun. Regs. Tit. 3, § 1609.2 (2003). Specifically, the Challenger alleged that signatories were not registered to vote at the address listed on the petition pursuant to




D.C. Mun. Regs. Tit. 3, § 1607.5(b); that signatories were not duly registered voters pursuant to D.C. Mun. Regs. Tit. 3, § 1607.5(c); and that signatories were not registered to vote in the same party as the candidate pursuant to D.C. Mun. Regs. Tit. 3, § 1607.5(e).

The review of the challenge conducted by the Registrar of Voters indicated that 20 of the challenges were valid. This decreased the number of valid signatures obtained by Candidate Heinemann to 112 registered qualified electors, which exceeds the minimum number required for ballot access. The Registrar left the challenge to the circulator's affidavit unresolved deferring to the Board's discretion to determine whether this omission constituted a "formal error."



The Board has previously addressed the issue of an omission of the date on a nominating petition. *Mosley v. Bd. of Elections of D.C.*, 283 A.2d 210 (D.C. 1971). In *Mosley*, the petitioners appealed a Board of Elections and Ethics decision that denied petitioners' challenge to the nominating petition of Anita F. Allen, candidate for the at-large seat on the Board of Education. *Id.* The Court noted that the omission of the date of initiation from the front page of Allen's petitions did not obstruct or pollute the nominating process in any way, nor did it do "substantive harm to any other candidate." *Id.* at 211. Hence, the Court held that the omission of the date on the nominating petitions was merely "formal error" which may be waived at the discretion of the Board. *Id.*




Similarly, in the present case, Challenger Collins has not alleged that the nominating process was obstructed or polluted in any way, nor that any substantive harm has come to any other candidate due to the omission of the date on the nominating

petition. Furthermore, Candidate Heinemann stated during the hearing that he personally collected and witnessed all the signatures, and that there were no errors other than the missing date on the affidavit.

In view of the evidence presented, and pursuant to the Board's authority under D.C. Mun. Regs. Tit. 3, § 1608.5(c) (2003) to waive the omission of the date, the Board finds that the challenge is insufficient to remove the Candidate's name from the ballot. Therefore, in accordance with the preliminary determination of the Registrar of Voters, the Board denies the challenge as specified herein. Accordingly it is hereby

ORDERED that Candidate Heinemann be granted access to the ballot in the September 14, 2004 Primary Election as a candidate for Ward Six Member of the Democratic State Committee.

August 20, 2004


Lenora Cole, Ph.D.
Member, Board of Elections and Ethics

Charles R. Lowery, Jr.
Member, Board of Elections and Ethics

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing order was hand-delivered this 20th day of August, 2004 to Ronald Collins 301 G Street, S.W., #609, Washington DC and Tom Heinemann, 719 3rd Street, S.W., Washington D.C.20024.

Rudolph McGann
Rudolph McGann