

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

Anthony Green,)
Complainant)
)
)
v.)
)
)
Darrell Gaston,)
Respondent.)

Administrative Hearing
No. 14-11

Re: Nominating Petition
Challenge for the office of
Advisory Neighborhood
Commissioner 8B02

MEMORANDUM OPINION AND ORDER

I. Introduction

This matter came before the District of Columbia Board of Elections (“the Board”) on August 28, 2014 pursuant to a challenge filed by Anthony Green (“Mr. Green”) to the nominating petition submitted by Darrell Gaston (“Mr. Gaston”) in support of his candidacy for the office of Advisory Neighborhood Commissioner (“ANC”) for Single-Member District (“SMD”) 8B02. Messrs. Green and Gaston appeared *pro se*. Chairman Deborah K. Nichols presided over the hearing as a one-member panel pursuant to D.C. Code § 1-1001.05 (g).¹

II. Statement of Facts

On August 6, 2014, Mr. Gaston timely submitted a nominating petition in support of his candidacy for the office of the ANC Commissioner for SMD 8B02 (“the Petition”). The Petition contained a total of 38 signatures. The minimum signature requirement for this office is 25

¹ D.C. Code § 1-0001.05(g) (2013) states in relevant part:

[T]he Board may hear any case brought before it under this subchapter [...] by 1 member panels. An appeal from a decision of any 1 member panel may be taken to either the full Board or to the District of Columbia Court of Appeals, at the option of any adversely affected party.

signatures of duly registered voters who reside in the same SMD from which the candidate seeks election pursuant to D.C. Code § 1-309.05(b)(1)(B) (2013).

On August 16, 2014, Mr. Green, a duly registered voter in the District of Columbia, timely filed a challenge to the Petition in which he alleged that 30 of the 38 signatures were invalid. Each signature was challenged on a specific ground or grounds as required by the Board's regulations. Specifically, Mr. Green challenged signatures on the grounds that: (1) the signer is not a duly registered voter; (2) 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; (3) the signer is not duly registered in the SMD from which the candidate seeks election at the time the petition was signed; (4) the petition does not contain the printed or typed name of the signer where the signature is not sufficiently legible for identification; and (5) the signature on the petition shall be made by the person whose signature it purports to be, and not by any other person.

Pursuant to Title 3 District of Columbia Municipal Regulation ("DCMR") §415.1, the Board's Office of the General Counsel conducted a pre-hearing conference in this matter on Wednesday, August 20, 2014. Messrs. Green and Gaston appeared *pro se*. During the pre-hearing conference, Karen Brooks, the Registrar of Voters ("the Registrar") rendered a preliminary determination report which indicated that 21 of the 30 challenges were valid, leaving the Petition with 17 signatures, which is eight (8) signatures below the minimum number required for ballot access. During the prehearing conference, Mr. Green withdrew a challenge to one signature (Seantrice Middleton (pg. 2, line 14)), which increased Mr. Gaston's count to 18 valid signatures.

Pursuant to D.C. Official Code § 1-1001.08(o)(3),

[“f]or the purpose of verifying a signature on any petition filed pursuant to this section, the Board shall first determine if the address on the petition is the same as the address shown on the signer's voter registration record. If the address is different than the address which appears on the signer's registration record, the address shall be deemed valid if: [t]he signer's current address is within the single member district for an Advisory Neighborhood Commission election; and [t]he signer files a change of address form with the Board during the first 10 days of the period designated for resolving challenges to petitions.

The Registrar’s preliminary determination also indicated that the Petition contained three (3) signatures with addresses that are different than the addresses which appear on the signers’ registration records. Mr. Gaston was given until the close of business (4:45 p.m.) on Tuesday, August 26, 2014, to provide change of address forms for, and thereby cure, the affected signatures. Mr. Gaston timely submitted two change of address forms. The Registrar validated the two address changes, and gave Mr. Gaston credit for one signature that had initially been determined to be invalid, bringing the total number of valid signatures on the Petition to 20.

Mr. Gaston took issue with the Registrar’s findings with respect to 10 signatures that were challenged on the grounds that they were not made by the person whose signature it purports to be pursuant to 3 DCMR §1607.1(i). These signatures were purported to belong to Eugene Robertson (page 2, line 2), Floretta Carpenter (page 1, line 16), Robert Walker (page 1, line 12), Jerome Sherod (page 1, line 13), Lequacious Wiggins (page 2, line 12), Kimberly Watson (page 2, line 17), Eloise Simmons, (page 2, line 19), Tyree Thomas (page 1, line 7), Dayton Williams (page 1, line 19), and Shanay Turner (page 2, line 18). Mr. Gaston offered to present signed, notarized statements from the 10 signatories that they did, in fact sign the Petition.

The Registrar of Voters received five (5) affidavits from Mr. Gaston; they were from Eugene Robertson, Floretta Carpenter, Lequacious Wiggins, Kimberly Watson, and Eloise Simmons. **III.**

Discussion

Mr. Green reviewed the five (5) affidavits from Mr. Gatson and took issue with four (4) of them, stating that, in his opinion, the signatures on the affidavits for the four (4) do not match the ones on the Petition. Upon reviewing the challenge, the Board has determined that all five (5) of the signatures supported by affidavits were likely made by the persons whose signatures they purport to be.

IV. Conclusion

Accordingly, the Board finds that the Petition contains 25 valid signatures, the minimum required in order to allow Mr. Gaston to appear on the ballot. Therefore, it is hereby, **ORDERED** that the candidate, Mr. Gaston, be granted ballot access as a candidate for the office of ANC Commissioner in SMD 8B02 in the November 4, 2014 General Election.

September 5, 2014
Date



Deborah K. Nichols, Esq.
Chairman,
Board of Elections