

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

Sondra Phillips-Gilbert,
Complainant,

v.

Necothia “Nikki” Bowens,
Respondent.

Administrative Hearing
No. 12-007

Re: Challenge to the Nominating Petition of
Necothia “Nikki” Bowens,
Candidate for Advisory Neighborhood
Commissioner Single Member District 6A07

MEMORANDUM OPINION AND ORDER

Introduction

This matter came before the District of Columbia Board of Elections (“the Board”) on September 5, 2012. It is a challenge to the nominating petition of Necothia “Nikki” Bowens (“Ms. Bowens”) for the office of Advisory Neighborhood Commissioner, (ANC) Single Member District 6A07 filed by Sondra Phillips-Gilbert (“Ms. Phillips-Gilbert”) pursuant to D.C. CODE § 1-1001.08 (o)(1) (2011). Both parties appeared at the hearing *pro se*. Chairman Deborah K. Nichols and Board members Devarieste Curry and Stephen I. Danzansky presided over the hearing.

Background

On August 2, 2012, Ms. Bowens submitted a Nominating Petition for the office of ANC 6A07 with twenty-eight (28) signatures. On August 11, 2012 the petition was posted for inspection, pursuant to D.C. CODE §1-1001.08(o)(1)(2006), for a full 10-day challenge period.¹

¹ D.C. CODE § 1-1001.08(o)(1) (2006) states in relevant part:

On August 17, 2012, Ms. Phillips-Gilbert filed a challenge to the petition in which she challenged nine (9) of the twenty-eight (28) signatures. Each signature was challenged on a specific ground or grounds as required by the Board's regulations.

A pre-hearing on this matter was scheduled for Monday, August 27 at 11:00 a.m. at the Board's offices. At the pre-hearing, the Registrar of Voters ("Registrar") gave her preliminary report concerning the challenge. The Registrar's review of the challenges referencing the Municipal Regulations concluded that eight (8) of the challenges to Ms. Bowens' nominating petition were valid – leaving the candidate with twenty (20) signatures. The minimum requirement of signatures for this office is twenty-five (25), pursuant to D.C. Code §1-309.05(b)(1)(b) (2011). Accordingly, the Registrar concluded that the Candidate did not secure enough signatures on her nominating petition for ballot access.

With respect to one of the challenges, Ms. Bowens pointed out that the signatory on line 3 of page 1 was actually Letia Butler registered at the address given on the petition, but she signed using her nickname. Ms. Bowens brought an un-notarized statement from the signatory attesting to this assertion, which all parties were privy to examining; however, the statement was not entered into the record because it was an unsworn statement. The Registrar preliminarily denied the challenge of that signature based upon a review of the voter records and the striking similarities in handwriting notwithstanding the use of a nickname. This determination left the nominating petition

The Board is authorized to accept any nominating petition for a candidate for any office as bona fide with respect to the qualifications of the signatures thereto if the original or facsimile thereof has been posted in a suitable public place for a 10-day period beginning on the third day after the filing deadline for nominating petitions for the office. Any registered qualified elector may within the 10-day period challenge the validity of any petition by written statement signed by the challenger and filed with the Board and specifying concisely the alleged defects in the petition.

with twenty-one (21) valid signatures—four (4) less than the minimum requirement of signatures for ballot access.

Additionally, The Registrar noted that the nominating petition contained four challenges of signatories alleged not to be duly registered voters that she was able to find at an alternate address in the Board's voter registry. Consequently, these challenges were upheld based upon 3 D.C.M.R. 1607.5 (b) where 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. However, the parties were made aware of the candidate's opportunity to cure such defects by submitting change of address forms to reflect the signatories' new addresses pursuant to D.C. CODE § 1-1001.08(o)(3).² Subsequently, on Monday August 27, 2012, Ms. Bowens submitted four (4) change of address applications that were accepted and processed by the Registrar of Voters. The Registrar also forwarded the change of address applications to Ms. Phillips-Gilbert for her review. Ms. Phillips-Gilbert took issue with the proceedings and decided to pursue the matter before the Board.

All parties were notified that a hearing before the Board was scheduled for Wednesday, September 5, 2012 at 12:00 p.m. Ms. Phillips-Gilbert took issue with the candidate's ability to cure the defect of being registered at a different address than the one listed on the petition. The General Counsel informed her of D.C. CODE § 1-1001.08(o)(3) that allows candidates to update the signatories' registration information under these circumstances.

² An address different than the address appearing on the signer's registration record shall be deemed valid if the signer's current address is within the single member district, and the signer files a change of address form with the Board during the first 10 days of the period designated for resolving challenges to petitions.

Ms. Phillips-Gilbert also took issue with two signatories in particular who signed their names differently than how they appear on the voter registry. Ms. Letia Butler signed her first name as “Tia,” which Ms. Bowens explained was her shortened nickname. Ms. Stephanie Butler signed her name as Ms. Stephanie Butler Taylor. Ms. Bowens testified that the signatories are in fact sisters living at the same address, and that Ms. Stephanie Butler Taylor appended her married surname on the nominating petition as opposed to her maiden name. The Board proscribed that signatories should always sign nominating petitions as they did on their registrations to ensure that they are in fact who they claim to be. However, in light of the explanations of the candidate under oath, coupled with the striking similarities of the signatures on the petition, the Board has no reason to doubt that the signatories are in fact who they say they are.

With the issues resolved, and the addition of four valid change of address applications that were properly received and processed by the Registrar, Ms. Bowens has the requisite number of twenty-five (25) signatures for ballot access.

In view of the evidence presented, the Board finds that the challenge is insufficient to remove the candidate’s name from the ballot. Therefore, the Board denies the challenge as specified herein.

ORDERED that candidate Necothia “Nikki” Bowens is granted ballot access to appear on the ballot in the forthcoming election for ANC-SMD 6A07.

September 6, 2012
Date


Ms. Deborah K. Nichols
Chairman,
Board of Elections