

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

Trezell Ragas,)	
Challenger)	Administrative
)	Order #24-008
)	
v.)	Re: Challenge to Nominating
)	Petition Submitted for
)	Ankit Jain
Ankit Jain,)	
Candidate)	

MEMORANDUM OPINION AND ORDER

Introduction

This matter came before the District of Columbia Board of Elections (“the Board”) on April 5, 2024. It is a challenge to the nominating petition submitted by Ankit Jain (“the Candidate”) in support of his candidacy for the office of U.S. Senator in the June 4, 2024, Democratic Party Primary Election (“the Primary Election”). The challenge was filed by Trezell Ragas (“the Challenger”) pursuant to D.C. Official Code § 1-1001.08 (o)(1). Chairman Gary Thompson and Board member J.C. Boggs presided over the hearing. The Board’s General Counsel, Terri Stroud, Registrar of Voters (“Registrar”), Marissa Corrente, and Attorney Advisor LaKetha Walker from the Board’s Office of General Counsel were present at the hearing. The Candidate appeared *pro se* and the Challenger appeared with counsel, James Abely.

Background

On March 6, 2024, the Candidate submitted a nominating petition to appear on the ballot as a candidate in the Democratic Party Primary Election contest for the office of U.S. Senator (“the Petition”). The minimum number of signatures required to obtain ballot access for this office is 2,000 signatures of District of Columbia voters who are duly registered voters in the same political

party as the candidate. The Petition contained 3,201 signatures. Given that the Petition contained, on its face, more than the 2,000 minimum number of signatures required, the Board’s Registrar accepted the Petition.¹

On March 9, 2024, the Petition was posted for public inspection for 10 days as required by law. During those 10 days, D.C. voters could inspect the Petition to see if the signatures on it met all signature requirements and file challenges to signatures on the Petition that they believed should not be counted as valid.² On March 18, 2024, the Petition was challenged by Trezell Ragas, a registered voter in the District of Columbia.

Challenger Ragas filed challenges to 1,556 of the 3,201 signatures submitted, enumerated by line and page number on individual “challenge sheets” filed for each petition page.³ The individual challenge sheets were accompanied by a four-page narrative titled “Averments of Defects in a Nominating Petition filed by Ankit Jain for the Office of United States Senator (“the Narrative”).” In this narrative, the Challenger alleged that “[a]ll of the invalid signatures [on the Petition] added together total, 1462” and that “[the Petition] contains ... 1,774 valid signatures.” The Challenger also indicated in the Narrative that she was “challeng[ing] each and every petition circulated by Ashish Vinod Kanswal (“Circulator Kanswal”)” and requested that each petition associated with that circulator “be struck given the clear forgery contained in [lines 6 – 10 of

¹ See 3 D.C.M.R. § 1603.1 (providing that facially numerically sufficient petition shall be accepted).

² D.C. Official Code § 1-1001.08(o).

³ Specifically, the signatures were challenged pursuant to Title 3 D.C.M.R. §§ 1603 and 1607.1 of the Board’s regulations on the following grounds: the signer was not registered; 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 petition contains names of signers with missing addresses; the signature is not dated; the petition does not include the name of the signer where the signature is not sufficiently legible for identification; the petition contains incomplete circulator affidavits; the signature is a duplicate; and the signer was not registered to vote in the same party as the candidate at the time the petition is signed.

Petition sheet 278].” The Narrative also generally challenged duplicate signatures on the Petition, signatures on the Petition that appeared to be signed via a digital method, and signatures on Petition sheets where the date in the circulator affidavit predated the dates voters provided when they signed the Petition.

The submission of the challenge triggered a review by the Registrar of the signatures that the Challenger claimed were invalid.

On March 19, 2024, the Board’s Office of General Counsel (“OGC”) notified the Candidate of the challenge and advised the parties that a pre-hearing conference would be convened on the matter on April 2, 2024. The notice made clear that only those issues raised at the pre-hearing conference would be preserved for Board review.

The Registrar’s Initial Report

On April 1, 2024, the Registrar issued her report on her review of the challenges. In her report, the Registrar indicated that she had determined that 813 signatures on the Petition were invalid.⁴ Accordingly, the Registrar determined the number of valid signatures on the Petition was 2,388 - 388 signatures above the number needed for ballot access.

The Registrar also noted in her report that the Challenge did not fully appear on “its face to be based on a good faith review of each signature.” *See* 3 DCMR § 1606.2(d).⁵ She indicated

⁴ Specifically, the Registrar determined that 201 signatures were invalid because the signer was not a registered voter; 40 signatures were invalid because the signer was designated as inactive in the Board’s file; 324 signatures were invalid because the signer was not registered to vote at the address for the jurisdiction; three signatures were invalid because they were duplicates; eight signatures were invalid because the date was missing; 13 signatures were invalid because the address was missing for the signer; 101 signatures were invalid because they were found to be illegible; one signature was invalid because the circulator affidavit was not complete; 12 signatures were invalid because they did not match with the Board’s file; and 110 signatures were invalid because the signers were not registered in the Democratic Party.

⁵ 3 DCMR § 1606.2(d) provides that “[a] challenge to the validity of the signatures on the petition is properly filed if ... [i]t appears on its face to be based on a good faith review of each signature and circulator affidavit. An absence of good faith may be determined where the Board’s preliminary review of the challenge indicates that the defect(s) alleged for a substantial number of signatures and/or circulator affidavits could not reasonably be found to apply to such signatures and/or circulator affidavits.”

that “[t]here were multiple challenge sheets that alleged defect(s) for a substantial number of signatures that were not reasonably found to apply to such signatures, and provided the following examples:

- On sheet 342 of the Petition, ten lines were challenged. The last eight lines that were challenged on the grounds that the signer was not a registered voter were actually blank.
- On sheet 322 of the Petition, all ten signatures were challenged either as 1607.1(f) (illegible) or 1607.1(a), (i), (n) (inactive, signature not matching, wrong party respectively), yet none of these defects applied to any of those signatures.

The Registrar noted that, “[d]ue to this finding, all [challenge] sheets that exhibited this pattern could have been dismissed from the review process,” but that even including the questionable challenges in the review would “not bring the candidate below the threshold for ballot access.”

April 2, 2024 Pre-Hearing Conference

The Challenger, the Challenger’s counsel, James Abely, Esq., the Candidate, and members of the Candidate’s campaign, Zemzem Lemma and Alexandria Lenk, were present at the pre-hearing conference. The Registrar summarized her findings that the Petition contained 2,388 valid signatures - 388 signatures above the number needed for ballot access.

The Challenger again raised the issue of forgery and fraud in connection with Petition sheets circulated by Circulator Kanswal. Just prior to the prehearing conference, the Challenger shared a document through which she contested the Registrar’s initial findings on Petition sheets 276, 277, and 291, all of which had been circulated by Circulator Kanswal. These three sheets contained a universe of 30 signatures. The Challenger highlighted two signatures on lines two and eight of Petition sheet 276 that she had determined were attributed to voters who were, in fact, deceased. Based on this determination, the Challenger asserted - for the first time - that not only should the Petition sheets circulated by Circulator Kanswal be stricken, but also that the entire Petition should be stricken. In support of this assertion, the Challenger cited *Williams v. District*

of Columbia Bd. Of Elections and Ethics, 804 A.2d 316 (2002), a case in which the D.C. Court of Appeals affirmed the Board's decision to deny ballot access to Mayoral candidate Anthony Williams on the grounds that he did not have enough valid signatures to achieve ballot access. The Challenger asserted that *Williams* stood for the proposition that an entire petition could be invalidated upon a finding of circulator fraud.

Finally, Challenger Ragas asked for an additional review of the following items:

- All the findings on the sheets circulated by Ashish Vinod Kanswal;
- All the findings on the sheets that contained a signature that appeared to be signed via a digital method; and
- All the findings related to circulator affidavits that predated any voters' signatures.

The Challenger was informed that the deadline for challenging the Petition had passed and that she therefore could not assert any new claims against the Petition. In response, Challenger Ragas posited that her assertions in the Narrative gave her the ability to call for a review of the items indicated even if a corresponding line item challenge wasn't included.

For his part, the Candidate requested that the Challenge be dismissed in its entirety as it appeared to have been made in bad faith in accordance with 3 DCMR § 1606.2(d). He stated that there was no evidence that signatures on Petition sheets circulated by Circulator Kanswal were forged. He also noted that the Board had ruled numerous times that digital signatures are valid as long as they match a voter's signature on the voter file and are witnessed by a circulator who also signs the circulator's affidavit.

As the parties could not resolve the matter, the case was set for a Board hearing on April 5, 2024. The Candidate and Challenger were duly notified of the hearing during the pre-hearing conference and by email on April 2, 2024.

The Registrar's Revised Report

On April 4, 2024, the Registrar issued a revised report. This report reflected a re-examination of the 30 signatures on the three Petition sheets highlighted by the Challenger at the pre-hearing conference. Based on the re-examination of the signatures on these three sheets, the Registrar determined that: 1) 19 of the 30 signatures had already been invalidated based on the challenge sheets filed by the Challenger; 2) six of the 30 signatures had not been challenged in the challenge sheets filed by the Challenger, and thus could not be reconsidered; and 3) five of the 30 signatures were, in fact, invalid and should not have been credited to the Candidate. Thus, the revised report indicated that the Petition actually contained 2,383 presumptively valid signatures – 383 signatures above the number needed for ballot access.

April 5, 2024 Board Hearing

The Challenger, Mr. Abely, the Candidate, and members of the Candidate's campaign were present at the hearing. The Registrar summarized her finding that the Petition was 383 signatures above the number needed for ballot access. Attorney Advisor Walker testified regarding the pre-hearing conference.

As he had done for the first time during the pre-hearing conference, Mr. Abely asserted that the entirety of the Petition should be thrown out based upon the alleged fraud committed by Circulator Kanswal. In support of this assertion, Mr. Abely presented Dr. Roy Fenoff, a handwriting expert, to testify regarding his examination of several Petition sheets circulated by Circulator Kanswal. Dr. Fenoff testified that his review of both the voter signatures on four Petition sheets circulated by Circulator Kanswal and the signatures in the circulator's affidavits on these Petition sheets led him to conclude that several voter signatures on these pages and the signatures in the circulator's affidavits for these pages were likely made by the same hand. Mr. Abely argued

that the Candidate should not be allowed to benefit from the fraudulent activity of his “agent,” Circulator Kanswal, - activity, he asserted, the Candidate must have been aware of. Accordingly, he urged the Board to exercise its authority to throw out the Petition based upon Circulator Kanswal’s alleged fraudulent activity.

The Candidate again argued that the Challenge should be discarded in its entirety as it was not made in good faith in accordance with 3 DCMR § 1606.2(d). He also presented testimony from three representatives of his campaign to testify concerning their circulation activity and/or their observations thereof. Harris Rothman, a circulator, testified that he circulated Petition sheets for approximately three days and he did not witness fraud on the part of any other circulators for the campaign during this timeframe. Alexandria Lenk, Field Director for the campaign, testified that she also circulated petition sheets. She further testified that she was responsible for educating circulators on assigned locations and the circulation process. She stated that Circulator Kanswal was already collecting signatures on behalf of the campaign by the time she came on board, and that he abruptly ended his affiliation with the campaign approximately two weeks before the circulation period ended. Zemzem Lemma, Deputy Field Director for the campaign, testified that she was responsible for training circulators. She further testified that she had assisted with circulating petition sheets, that she had witnessed other volunteers as they collected signatures, and that she did not see any other circulators committing fraud in the signature collection process.

The Candidate argued that the Challenger had not met her burden, under 3 D.C.M.R. §424.1⁶, to “establish the truth of the assertion” she was making, namely, that Circulator Kanswal’s had engaged in fraudulent activity with respect to the signatures on the Petition sheets he circulated. He cited the Board’s opinion in *Henderson v. Ryan* (BOE Order #22-021, issued

⁶ 3 D.C.M.R. §424.1 provides in relevant part that, “the party who asserts the claim generally bears the affirmative duty of establishing the truth of the assertion.”

September 8, 2022) in support of this argument. He further argued that, since the Challenger had not met her burden, there was no basis upon which to throw out the Petition sheets Circulator Kanswal circulated, let alone the entire Petition.

Discussion

A preliminary issue before the Board is whether to heed the Candidate's request that the Challenge be dismissed in its entirety because it was not made in good faith in accordance with 3 DCMR § 1606.2(d). We acknowledge that the Registrar indicated that "[t]here were multiple challenge sheets that alleged defect(s) for a substantial number of signatures that were not reasonably found to apply to such signatures," that she provided two examples that demonstrated an apparent lack of good faith with respect to signatures alleged to be invalid, and that the Candidate referred to several more instances in his pleadings. However, we decline at this time to rule that the "absence of good faith" determined was so substantial in this instance as to merit the outright dismissal of the Challenge. Therefore, we will allow it to stand and will issue a ruling based on the Registrar's findings as well as the presentations made by the parties.

In response to the allegations of forgery and fraud in connection with the Petition sheets circulated by Circulator Kanswal, the Board does see fit to discard the 77 signatures collected by Circulator Kanswal that the Registrar had not already determined to be invalid.⁷ In so deciding, the Board primarily credits the expert testimony provided by Dr. Fenoff regarding the signatures on the four Petition sheets he reviewed that were circulated by Circulator Kanswal. Having reviewed the signatures at issue, we agree that there is a strong likelihood that the voter signatures on those four sheets and the signatures in the circulator's affidavits on the same were made by the same hand.

⁷ Circulator Kanswal circulated 14 Petition sheets that contained a total of 133 signatures. By the time of the hearing, the Registrar had determined that 56 of these 133 signatures were invalid.

In light of this, we find it appropriate to exercise our authority, recognized in *Williams*, to discard every signature attributed to Circulator Kanswal. As the court in *Williams* noted, “the circulator's role in gathering signatures for a nominating petition is critical to ensuring the integrity of the collection process.”⁸ The court further noted that “the presumption of validity of petition signatures depends heavily on the role of the circulator and on the truthfulness and completeness of the representations made in the circulator's affidavit.”⁹ Where it appears, as it does in this instance, that there is significant reason to doubt the truthfulness of the representations made in the circulator's affidavit, our duty to ensure the integrity of the collection process dictates that we discount any signatures tainted by the actions of the circulator at issue. Accordingly, we will not credit the Petition with any signatures collected by Circulator Kanswal.

We stop short, however, of throwing out the entire Petition. In rejecting the Challenger’s request that we do so, we note first that the Challenger did not make this request in any part of her Challenge, including the Narrative. Indeed, the Challenger stated therein that “[the Petition] contain[ed] ... 1,774 valid signatures.” This is inconsistent with the claim that the entire Petition should be deemed invalid, a claim that was made for the first time at the prehearing conference. Rather than claiming that the entire Petition should be invalidated, the Challenger only requested in the Narrative that “each and every petition circulated by [Circulator Kanswal] ... be struck [.]” That is exactly what we do here today.¹⁰

⁸ *Williams*, 804 A.2d at 318.

⁹ *Id.* at 319.

¹⁰ We note that the Board in *Williams* did not reject the entire Petition at issue. Instead, the Board only threw out the signatures associated with a few circulators with respect to whose petitions there had been “widespread obstruction and pollution of the nominating process.” As a result of the exclusion of the signatures collected by these circulators, the petition did not contain the minimum number of signatures required for ballot access.

Conclusion

Based upon the Registrar's findings and the discarding of the 77 signatures attributed to Circulator Kanswal that were not previously invalidated by the Registrar, the Petition contains 2,306 presumptively valid signatures – 306 signatures above the minimum number required for ballot access. Accordingly, it is hereby:

ORDERED that the challenge to the nominating petition submitted by Candidate Ankit Jain in support of his candidacy for the office of U.S. Senator in the June 4, 2024 Democratic Primary Election is **DENIED** and that Candidate Jain is granted ballot access in that contest for that office in the June 4, 2024 Democratic Party Primary Election.

The Board issues this written order today, which is consistent with our oral ruling announced at the hearing on April 5, 2024.

Date: April 6, 2024



Gary Thompson
Chairman
Board of Elections