

**BEFORE THE DEKALB COUNTY ELECTORAL BOARD
DEKALB COUNTY, ILLINOIS**

| | | |
|---------------------------------|---|------------|
| JUDD WEBER, an individual |) | |
| Petitioner-Objector, |) | |
| |) | |
| Vs. |) | 24-DK-EB-1 |
| |) | |
| JUSTIN W. GIFFORD an individual |) | |
| Respondent-Candidate. |) | |

DECISION

This cause comes to be heard for final decision by the DeKalb County Electoral Board, upon the Objector’s Petition filed by Judd R. Weber, in regard to Respondent-Candidate, Justin W. Gifford. It must initially be explained that Judd R. Weber’s objections against Novicki (No. 24-DK-EB-02) and Johns (No. 24-DK-EB-03) were withdrawn at the opening of the hearing. Thus no ruling is necessitated in those cases.

After giving call to the DeKalb County Electoral Board as required by law and giving notice to the Petitioner-Objector and Respondent-Candidate, those required to appear and comprise the Electoral Board were present and consisted of Chairman Tasha Sims, DeKalb County Clerk & Recorder; Lori Grubbs, DeKalb County Circuit Court Clerk, and; Assistant State’s Attorney David Berault, designated by Riley Oncken, the DeKalb County State’s Attorney. Also appearing was Petitioner-Objector Judd R. Weber. Respondent-Candidate Justin W. Gifford, was also in attendance and represented in the hearing by counsel William Hotopp.

Pursuant to 10 ILCS 5/10-9(2), the DeKalb County Electoral Board (the “Board”) is granted proper jurisdiction to hear this matter. The hearing was convened in the Dekalb County Courthouse, 3rd floor jury room on December 3, 2024 at 9:00 a.m.

I. Procedural Background:

1. Respondent-Candidate Justin W. Gifford filed a Statement of Candidacy, Loyalty Oath, Code of Fair Campaign Practices and ten (10) Petition signature sheets for the office of Sandwich Fire Protection District.
2. Petitioner-Objector Judd R. Weber filed an Objector’s Petition (hereinafter “Petition” or “Objection”) with the Sandwich Fire Protection District on November 25, 2024, which was thereafter forwarded to the DeKalb County Clerk.
3. Petitioner-Objector Judd R. Weber resides within the Sandwich Fire Protection District, which is within DeKalb County and no objection was levied as to his standing. As such, Objector has standing to raise a verified objection to this Electoral Board.

4. The DeKalb County Electoral Board is charged with review of an Objector's protest of a candidate's nominating papers. This Board has an obligation to review the objections and issue rulings that comport with our duty to avoid unduly technical interpretations that impede the public policy favoring open, free and competitive elections.
5. Four (4) pictures of Petition signature sheets were attached as exhibits to the Objection.
6. The Objector's Petition raised multiple issues in written form, as follows:

"Good afternoon, the following are my objections to the following candidates.
Justin W Gifford

*While waiting at the FD for the copies of candidates to be copied by Fire Trustee Fish, I noticed when the packet was removed from the folder for Candidate Justin W Gifford it was secured by only a paperclip, not securely bound as instructed with staples. Pictures attached.

Page 1

- Numbers of voters not filled in.
- Line 4 does not show in Dekalb or Lasalle as a registered voter.
- Line 5 Registered voter not correct address.
- Line 7 Last name only, unable to verify if registered voter.

Page 2

- Number of voters not filled in.
- Date of election not filled in.
- Line 3 Not a registered name in the voter data base.
- Line 9 Does not show in Dekalb or Lasalle as a registered voter.
- Line 10 Does not show in Dekalb or Lasalle as a registered voter.
- Line 5 Double signature Austin Smith appears on William Novicki Petition.

Page 3

- Number of voters not filled in.

Page 4

- Number of voters not filled in

Page 5-10

- Different format for the Candidate Petition form filled out by Matthew E Weismeiller. and Roger Peterson."

7. Evidence.

- a. Petitioner-Objector presented a packet of ten (10) Petitions for Nomination, a Statement of Candidacy, a Code of Fair Campaign Practices and Loyalty Oath, which were placed into evidence without objection. Each of these were argued to have been submitted by Respondent-Candidate as his filings for the office of Sandwich Fire Protection District Trustee. Petitioner-Objector also provided four (4) color photographs depicting these documents at the counter of the Sandwich Fire Protection District, where they were submitted for filing.
 - b. The parties agreed to witness Chief Deputy of Elections, Jessica Piecko from the DeKalb County Clerk and Recorder's Office, being in attendance to review the names, address and signatures of the names listed in his Objection as invalid. During her testimony she reviewed the lists of voter names as well as the computerized election records to present signatures for comparison as well as correct addresses. She did so under oath.
8. Upon the start of the hearing, Petitioner-Objector provided the Objection he filed as well as the additional packet of signed Petitions as were described in 7(a) above. He initially withdrew his objection to the Sheet 2, Line 5 double signature objection, which was then removed from arguments. He also withdrew his objection to sheet 1, signature 4. He then argued each of the remaining above issues from his written Objection and provided no additional evidence besides the photographs and documents themselves. Petitioner-Objector argued that strict compliance with the election laws was proper and mandated a finding in his favor.
- a. In regard to the missing number of voters being inserted on each petition, it was Petitioner-Objector's argument that strict compliance necessitated the inclusion of this number within each petition. He argued that the State of Illinois 2025 Candidates Guide ("Candidates Guide") was made available to candidates and is also posted at the Illinois Board of Elections' website, and that it provided what must be included on a petition. The Candidate's Guide itself states that at least 25 voters from within the district were necessary for the filing of such petitions. This fact was agreed to by witness Matt Weismiller, who briefly offered the same under oath during the hearing.
 - b. In regard to the different format of petitions being used for sheets 1-4 and 5-10, Petitioner-Objector argued that the Petitions were prescribed by the Candidates Guide, which specified on page 60 that SBE Form P-4-2 was to be utilized. He argued that it was necessary to comply with the form listed in the Candidates Guide, because that is what the State of Illinois has provided to candidates.
 - c. Petitioner-Objector showed in the photographs that the entire packet of petitions as described above was submitted to the Sandwich Fire Protection District bound only by a paperclip. He argued that the failure to bind the sheets using a staple invalidated the petitions because the Candidates Guide states that paperclips are unacceptable.

- d. In regard to the missing date of the election on sheet 2, Petitioner-Objector argued that this missing information was necessary on the Petitions and pursuant to law was to be listed on each Petition.
 - e. In regard to sheet 2, lines 9 & 10, Petitioner-Objector argued that each of the names was not of a registered voter in either the DeKalb or LaSalle County databases and that this would render their signatures invalid for use in these petitions.
 - f. In regard to sheet 1, line 7, Petitioner-Objector argued that the printed name was not showing a first name, and though it was the same address and last name as signature number 6, it was not verifiable who the signer was. He noted that the use of quotation marks for Street Address, City and County was not an issue to him. (Essentially, it was understood that the quotes were denoting the same address as line number 6).
 - g. In regard to sheet 1, line 5 and sheet 2, line 3, Petitioner-Objector argued that the address as listed was not correct for the person named, and so they would have to be stricken.
9. Counsel for Respondent-Candidate did not call any witnesses, but instead addressed each of the arguments made by Petitioner-Objector in turn.
- a. Counsel generally argued that under *King v. Ill. State Bd. of Elections*, 2024 IL App (1st) 240256-U, there was only a necessity for substantial compliance in preparing the petitions at issue, and that the strict compliance argued by Petitioner-Objector was an incorrect standard. It appears such would directly apply to objections 8 (a) and (d) above.
 - b. He explained that in response to 9(b), it was Petitioner-Objector's position that the Candidate's Guide as not itself the law, but rather a guide. Instead, the petitions had to be done in accordance with 70 ILCS 705/4a and that in looking to that statute, there is no defect as to the form of the petition.
 - c. In response to 9(c), it was argued that under *Bendell v. Education Officers Electoral Board*, 338 Ill. App. 3d 458 (1st Dist. 2003), it was acceptable to utilize a paperclip to bind the documents as long as they were being held together, though if it were a great deal of paper, it might have been necessary to use a staple. Since this packet was of small quantity, a paperclip was able to bind the documents as needed for filing.
 - d. In response to 8(e) and (g) above, Counsel argued that there was no proof being shown that the persons listed were not staying temporarily at another address at the time of signing the petitions than at the time of registering. He compared domicile versus residence and discussed the issue of someone in the military being stationed at another location than where they lived permanently.
 - e. Counsel further argued that as Petitioner-Objector withdrew his objections against Novicki and Johns (24-DK-EB02 & 24-DK-EB03) with some of the same forms of errors being argued at this time against Gifford, that there was no merit in those issues being abandoned in respect to some but not

all candidates. It was felt that this should be considered in assessing Petitioner-Objector's credibility as well.

10. With agreement of the parties, Chief Deputy of Elections, Jessica Piecko from the DeKalb County Clerk and Recorder's Office, was called as a witness by the Electoral Board and asked to make certain inquiries from the voter records of DeKalb, LaSalle and Kendall counties. Upon examination, she provided the following:
 - a. The signature for sheet 1, number 5 is of a Jon Kolka and while the petition lists his address as 2902 Ernest Drive, Sandwich, Kendall, he actually lives at 1016 Dearborn Trail in Sandwich, and had registered there in 2018.
 - b. The signature for sheet 1, number 7, lists a signature and last name of Gilbert, with no first name shown. The person above is a Rita Gilbert at 15560 S. Memory Ln, Sandwich, DeKalb County. In reviewing the voter rolls, the other person at this address was listed as Joseph Gilbert. In comparing the signatures from the voting records to the petition, each party agreed that they were a match and that the subject signature was of Joseph Gilbert though he was missing his first name in the "Voter's Printed Name" section.
 - c. The signature for sheet 2, number 3 was of a Mandy Denny, listing 223 East 4th St., Sandwich, DeKalb County as her address. However, the voter database shows that Mandy Denny actually resides at 1112 S. Wells St., Sandwich, DeKalb County.
 - d. The signature for sheet 2, number 9 shows a Cindy Schele at 1714 Holiday Dr., Sandwich Lasalle County. The voter database shows this as being the correct address for this person.
 - e. The signature for sheet 2, number 10 shows a Brian Schele at 1714 Holiday Dr., Sandwich Lasalle County. The voter database shows this as being the correct address for this person.

II. Factual Findings:

In accordance with such testimony and evidence, the Electoral Board makes the following findings of fact:

1. The signature for petition sheet 1, number 5 contains the incorrect address for registered voter John Kolka.
2. The signature for petition sheet 1, number 7 is the signature of Joseph Gilbert and the printed name is of the same person. Further, the Petition under examination specifically states that the inclusion of a person's printed name is "optional". It states "VOTER'S PRINTED NAME (optional)".
3. The signature for petition sheet 2, number 3 contains the wrong address for registered voter Mandy Denny.

4. The signatures on petition sheet 2, lines 9 and 10 are of Cindy and Brian Schele, who are registered voters at the addresses provided on the petition sheet at issue.
5. Being that there was no argument made otherwise, the thirteen (13) pages of the petition and accompanying documents were secured with a paperclip when submitted to the Sandwich Fire Protection District.
6. That the petitions numbered 1, 2, 3 and 4 are the Petition for Nomination Fire Protection District forms listed as SBE Form P-4-2 in the Candidate's Guide and have upon them the statutory citations of 10 ILCS 5/10-3.1, 10-5.1 [,] 70 ILCS 705/4. 70 ILCS 705/4a regarding Fire Protection Districts is not listed.
7. That petitions numbered 5, 6, 7, 8, 9 and 10 are Independent Candidate Petitions listed as SBE No. P-3, with the statutory citations on top for 10 ILCS 5/10-3, 10-4, 10-5.1. 70 ILCS 705/4a regarding Fire Protection Districts is not listed.
8. Both forms SBE Form P-4-2 and SBE No. P-3 have locations on the top of the form to enter the same information such as, office sought, county, candidate name, candidate address, and the election for which a vote will be held (in this case April 1, 2025). The only notable difference is that the Form SBE No. P-4-2 is the only one to contain the language, "We, the undersigned being _____(number of signatories or 5% or more) of the voters residing within the district..." in the introduction.
9. That petition sheets 5, 6, 7, 8, 9 and 10 contain a total of 51 signatures.
10. That petition sheet 2 is missing entry of a date where the election date is to be inserted.
11. That petition sheets 1, 2, 3 and 4 do not have the blank filled in where the form states "We, the undersigned being _____(number of signatories or 5% or more) of the voters residing within the district..."
12. That the petition sheets counted together contain a total number of 82 signatures, which the parties have agreed to as being the correct tabulation.
13. That the number of signatures a candidate for Sandwich Fire Protection District Trustee must obtain is 25.

III. Decision of the Majority of the Electoral Board:

It is the duty of the Electoral Board to determine if the objections raised by the Petitioner-Objector can be sustained, and if so, whether that would warrant the removal of the Respondent-Candidate from the ballot for the position of Sandwich Fire Protection District Trustee.

"[B]allot access is a substantial right and not lightly to be denied" *Reyes v. Bloomington Township Electoral Board*, 265 Ill. App. 3d 69 (1994). The Courts should tread lightly when looking at the election code's language and restricting the voter's rights in nominating a candidate of their own choice. *Lucas v. Lakin*, 175 Ill. 2d 166, 176 (1997).

“The primary purpose of all election laws is to ensure fair and honest elections. (Citation omitted) The policy of this state is to provide candidates for public office with access to the ballots and, thus, to allow the citizens a vote.” *Carlasare v. Will County Officers Electoral Board*, 2012 IL App (3d) 120699, ¶ 19. “Access to a position on the ballot is a substantial right which should not be lightly denied.” *Sullivan v. County Officers Electoral Board*, 225 Ill. App. 3d 691, 693 (2nd Dist. 1992). These are the laws that provide overall guidance to approaching an objection as to one’s name being on the ballot. It is a matter that should not be taken lightly.

In this matter there are multiple objections made, some with more detrimental effect than others. As such, we will move through each objection in turn, and start with those which could outright eliminate Respondent-Candidate ability to be placed on the ballot if they were to be sustained.

1. That a paperclip is an unacceptable method to bind the Respondent-Candidate’s filing with the Sandwich Fire Protection District.

The Election Code for Illinois sets forth what must be in a petition and how it must be filed. The controlling statute for submission of petitions is 10 ILCS 5/10-4 . It states as follows:

“All petitions for nomination under this Article 10 [10 ILCS 5/10-1 et seq.] for candidates for public office in this State, shall in addition to other requirements provided by law, be as follows...Such sheets, before being presented to the electoral board or filed with the proper officer of the electoral district or division of the state or municipality, as the case may be, **shall be neatly fastened together in book form, by placing the sheets in a pile and fastening them together at one edge in a secure and suitable manner**, and the sheets shall then be numbered consecutively. The sheets shall not be fastened by pasting them together end to end, so as to form a continuous strip or roll...” See 10 ILCS 5/10-4

Thus, the statute itself only calls for the sheets to be “neatly fastened together...in a suitable manner”. There is no mention of a staple, binder clip, paperclip or other method. As such, it would appear that the fastening of sheets together is itself mandatory – but the means by which to do so are less clear. Yet, Petitioner-Objector believes that this mandatory fastening is to be done as laid out by the “Candidate’s Guide”, which directs how to run for an office in Illinois. When looking to the Candidate’s Guide, we find the following language on page 19:

“The petition signature sheets must be neatly fastened together in book form at one edge in a secure and suitable manner (**paperclips, clipboards, etc., are not secure ways to fasten petitions and those bound in this manner will not be accepted by the State Board of Elections**).” See Candidate’s Gide at file:///C:/djberault/Downloads/2025canguide_638688310947779446.pdf

According to Petitioner-Objector, this requirement as found in the guide, and not in the statute itself, is to be strictly complied with. This Election Board disagrees with strict compliance arising out of a Candidate's Guide alone. This is for a couple reasons. First, the language of that document explicitly states paperclips will "not be accepted by *the State Board of Elections*" as opposed to other election offices. Yet, more importantly is that case law has established that paperclips are indeed acceptable in certain situations, including the one we are handling presently.

Bendell v. Education Officers Electoral Board, 338 Ill. App. 3d 458 (1st Dist. 2003) is a case directly on point -

"Defendants have filed the instant appeal raising a single issue: (1) whether section 10-4 of the Illinois Election Code requiring that nominating petitions shall be neatly fastened together in book form in a secure and suitable manner is satisfied through the doctrine of substantial compliance when the candidate uses a paper clip to secure those documents." *Bendell v. Education Officers Electoral Board*, 338 Ill. App. 3d 458, 460 (1st Dist. 2003).

Bendell then moved forward with the following analysis:

"Section 10-4 states that the sheets are to be secured and fastened into "book form." That section does not explain what is meant by "book form." However, it is universally known that a book is a collection of written sheets fastened together along one edge and usually trimmed at the other edges to form a single series of uniform leaves. (Webster's Third New International Dictionary). And as Mr. Delort stated during the hearing before the Board, "there are a lot of definitions of binding." We conclude that plaintiffs nominating papers were in "book form," and, therefore, in strict compliance with the Code. Plaintiffs nominating papers were fastened together along one edge by a large paper clip and formed a single series of uniform leaves. The uncontroverted evidence is that they were securely fastened because a member of the Board was unable to pull them apart without removing the paper clip. **Obviously, if the record established that the nominating papers were not securely fastened or if they had consisted of 500 pages, for example, and were held together by a single, large paper clip, our decision would be different.** However, given the fact that there were only 6 to 8 pages which could not be separated without removing the paper clip, and given the fact that this particular binding did not interfere with preserving the integrity of the petitions and the election process generally, plaintiffs nominating petitions strictly complied with section 10-4." *Id.* at 463-64. (Emphasis added).

As such, the *Bendell* case establishes that the use of a paperclip for a small number of papers, 6 to 8 in that case, was proper and met the statutory requirement. In the present case, there has been no evidence submitted that while a paperclip was able to hold 8

pages in that case, it was unable to handle the 13 pages held by this case's paperclip. Thus, it would not be proper for us to assume such without basis. Therefore, in accordance with the above law, this objection is overruled and the petitions will not be stricken under this theory.

2. The Petition Sheets Must be Identical pursuant to the Candidate's Guide & Contain the number of signatures.

In regard to these issues, the Petitioner-Objector hinges his argument on the contents of the Candidates Guide, which was made available to candidates and posted at the Illinois Board of Elections' website. The objection is essentially that because of the different format of petition sheets 1-4 and 5-10, that the form used on sheets 5-10 are invalid. He argues that the Candidates Guide specified (on page 60) that SBE Form P-4-2 was to be utilized and it had a link to the form. Yet, the form that was used for sheets 5-10 were of a different sort. In his view, it was necessary to utilize only the form listed in the Candidates Guide, because that is what the State of Illinois has provided to candidates.

However, when looking to the forms used in both cases, they contain the same information that is called for in running for the position of Fire Protection District trustee. The Fire Protection District Act provides for the election of its Trustees, and the form of Petition that must be used. 70 ILCS 705/4a requires the following:

“the form of the petition shall be as follows:

NOMINATING PETITIONS

To the Secretary of the Board of Trustees of (name of fire protection district):

We, the undersigned, being _____(number of signatories or 5% or more) of the voters residing within the district, hereby petition that (name of candidate) who resides at (address of candidate) in this district shall be a candidate for the office of (office) of the Board of Trustees (full-term or vacancy) to be voted for at the election to be held (date of election)....” See 70 ILCS 705/4a.

The essential elements thus appear to be

- Name of candidate
- Address of candidate
- Office (Board of Trustees)
- Full term or Vacancy
- Date of Election

As we noted in our findings of fact, we have determined that:

- Petition sheets 1, 2, 3 and 4 are the Petition for Nomination Fire Protection District forms listed as SBE Form P-4-2 in the Candidate's Guide and have upon them the statutory citations of 10 ILCS 5/10-3.1, 10-5.1 [,] 70 ILCS 705/4. 70 ILCS 705/4a regarding Fire Protection Districts is not listed.

- Petition sheets 5, 6, 7, 8, 9 and 10 are Independent Candidate Petitions listed as SBE No. P-3, with the statutory citations on top for 10 ILCS 5/10-3, 10-4, 10-5.1. 70 ILCS 705/4a regarding Fire Protection Districts is not listed.
- Both forms SBE Form P-4-2 and SBE No. P-3 have locations on the top of the form to enter the same information such as office sought, county, candidate name, candidate address, and the election for which a vote will be held (in this case April 1, 2025). The only notable difference is that the Form SBE No. P-4-2 is the only one to contain the language, “We, the undersigned being _____(number of signatories or 5% or more) of the voters residing within the district...” in the introduction.

Thus, we have found that all of the information necessitated by ILCS 705/4a is on each ballot, *with the exception of*, “We, the undersigned being _____(number of signatories or 5% or more) of the voters residing within the district...” in the introduction of petitions sheets 5, 6, 7, 8, 9 and 10. Thus, beyond the lack of this particular sentence – the information within the petitions is all in strict compliance, whether necessary or not, with what the statute and the Candidate’s Guide call for inclusion of by looking at the prescribed form.¹

Interestingly, during the hearing the parties were asked as to the importance of this language, and what it was actually calling for. Was it seeking the number of signatures needed overall – being 25? Was it seeking the number that was actually gathered in the end, which in this case is 82? Or did it call for the input of 10, as there were 10 signature slots per page. It was unexplored by everyone in attendance and there was no clear consensus as to what it was indeed seeking. It makes no sense to say 25, the total number needed for this particular office, because that is not the number of signatures gathered by this candidate. Additionally, it would not likely be 82 because that number of total signatures is not known until the petitions are no longer being circulated. Lastly, inserting 10 would be duplicative of the 10 numbered lines containing actual signatures, and would have no interaction with the 5% that could apply in some elections. Essentially, the inclusion of this language appears to be creating a point of unnecessary confusion that would frustrate the ends that it would seek to achieve. It is of no purpose.

It was also noted in the hearing that Petitioner-Objector objected to petition sheets 1, 2, 3 & 4) because they lacked a number being inserted in the line stating, “We, the undersigned being _____(number of signatories or 5% or more) of the voters residing within the district...” However, he did not specifically object to that number missing from sheets 5 to 10, and did not raise this sentence in particular as being the basis for objection to those “different format” sheets.

That being said, we have found no caselaw directly on the issue of this particular sentence’s meaning, or the result of it (or the number to be inserted within) missing from

¹ Yet, on page 10 of the Candidate Guide itself, it only states that the “heading of the nomination petition pages must include information relative to the election, the candidate, the office, political party (when applicable), and the candidate’s place of residence. Thus, it does not itself directly call for the subject sentence.

a petition. Nor was an argument made that the lack of this information would cause fraud, confusion or mistaken impressions in the minds of voters and signatories. Thus, when considering this sentence as strictly necessary, and of such import as to result in the striking of 51 signatures – it does not appear proper when seeking to protect the ability of the voters to choose the candidate that they wish. (Of course, even if these 51 signatures were stricken, there would remain 31 signatures when only 25 are necessary, and we do not mean to imply otherwise at this point). This Board will not choose to effectuate such an overly technical and unsubstantiated ruling, and disenfranchise voters, without the legal mandate directing us to operate in that manner.

As such, this objection is overruled and the subject petitions will not be stricken based upon the inclusion of the subject sentence or the failure to insert the nebulous number of persons who signed (or were to sign) the petition(s).

3. The lack of an address with signatory's names necessities it being stricken.

As was highlighted above, we have determined after review of the voter rolls that the signature for petition sheet 1, number 5 contains the incorrect address for registered voter John Kolka and the signature for petition sheet 2, number 3 contains the wrong address for registered voter Mandy Denny. While it was argued by Respondent-Candidate's counsel that this could be for hypothetical reasons, such as military service; there was no evidence submitted on this issue. Therefore, there is no means by which the Election board can make an assumption that overrules the factual finding and the explicitly incorrect information on the petitions themselves. Instead, we must determine the effect of this incorrect information.

Pursuant to *Greene v. Board of Election Comm'rs*, the prevailing law holds that “a person who signs a nominating petition must be registered to vote at the residence address set forth on the nominating petition.” *Greene v. Board of Election Comm'rs*, 112 Ill. App. 3d 862, 869. The Court went on to explain the importance of this as follows:

“We have read the provisions of the Election Code *in pari materia* and conclude that this requirement is in accordance with the legislature's intent. To hold otherwise would unnecessarily obfuscate the clear purpose of section 10 -- 4, which seeks to preserve the integrity of the election process by ensuring that signers of nominating petitions be duly registered voters in the political division in which they reside. To hold otherwise would also create an unending series of loopholes through which unscrupulous, would-be candidates could escape.” *Id.*

The *Greene* case is directly on point and has received nothing but positive treatment from courts across the State. As such, the signatures of John Kolka and Mandy Denny must be stricken from the Petitions. To that end, the objection as to these two names is sustained.

4. The remaining voters do not appear as registered voters and must be stricken

The next issue to address is that of the status of certain signatures as being made by registered voters in the district at issue. The objection to sheet 1, signature 4 was dropped during the hearing. This left the issue open for the signatures on petition sheet 2, lines 9 and 10, which are of Cindy and Brian Schele. After review of the voter rolls it was determined that they were indeed registered voters at the addresses provided on the petition at issue. As such, we overrule this objection and the names will remain on the petition.

5. The lack of the election date on a petition necessitates it being stricken

Unlike the number of persons that will, have or need to sign a petition – the date upon which the election is to be held was simple for Respondent-Candidate to ascertain. The petitions at issue were in regard to the election to be held on April 1, 2025 and this date was inserted on each petition, *with the exception of sheet 2*. Consider that sheet 2 contains 10 signatures total, one of which has already been determined to necessitate its striking. So, the end result of this objection could be the elimination of 9 more signatures.

In looking to 10 ILCS 5/10-4, there is no requirement to include the date of the election and this has resulted in cases such as *Wiggins v Rogers* analyzing the issue of an incorrect (as opposed to entirely missing) date being used as follows:

“As for the nominating petitions, we do not consider the entry of the incorrect date to be an attempt by the petitioner to bypass running in a primary election if necessary. Each of the nominating petitions indicated that the qualified voters signing them were petitioning that the petitioner's name "be placed upon the ballot as a candidate for nomination for the office of Mayor at the Consolidated Primary election." Thus, notwithstanding the inaccurate date entered, the petitions did specifically request that the petitioner's name be placed on the ballot in the consolidated primary election, the date of which was set by statute. Further, each petition went on to indicate that "if no primary election is required, the candidate's name will appear on the ballot at the Consolidated Election for election to said office and term." (Emphasis added.) This statement indicates that the petitions were submitted in compliance with the provisions of section 3.1-20-45 of the Municipal Code. See id.

Further, we find incredible the statement by the Board in its written decision that, because the date of April 2, 2019, was included in the petitioner's nomination paperwork, "the City Clerk acting as local election official is left to guess" or "read the mind of the [petitioner] as to what his actual intentions are as it pertains to the correct election date." The city clerk should know the dates of the consolidated election and the consolidated primary election, which are provided for in the

Election Code. See 10 ILCS 5/2A-1.1(b) (West 2016). Further, the city clerk should be aware of the requirements, as discussed above, as to when a primary election is necessary for a particular office. It was no doubt fully evident to the city clerk that the petitioner was seeking to run for mayor in the 2019 election to fill that office. If it was statutorily necessary for a primary election to occur for that office, the petitioner's name should have been placed on the primary ballot. If no primary election was necessary, his name should have been placed on the ballot for the general election.” *Wiggins v. Rogers*, 2019 IL App (1st) 190161, P20-P21

As such, that Court actually held that the purpose of the election date was more for the purpose of the receiving clerk and election officials than for the signers of the petition. They then went on to hold that, “even if [this was a violation of 10-4] ... we would find the inclusion of the date of the consolidated election instead of the date of the primary election to be a technical violation that had no effect on the guarantee of a free and honest election, and thus we would conclude that the nominating petitions substantially complied with the statute.” *Id.* As such, the wrong date was nothing but a technicality to the Court.

However, the problem with this reasoning is that 70 ILCS 705/4a *does* specify that the petition is to include, “to be voted for at the election to be held (date of election)” in its language. This is unlike the language in 10 ILCS 5/10-4, which was analyzed in *Wiggins*. This would at first blush create a need for evaluation of that holding and its application to the language of the statute specifically for Fire Protection Districts. Yet, the argument as to this issue is no longer of any necessary consequence as whether we were to strike these remaining 9 signatures is no longer of end effect, as it would still leave plenty of signatures to remain on the ballot at issue. Thus, the Election Board chooses not to endeavor upon an ‘unnecessary effect on the guarantee of a free and honest election’ simply for the sake of doing so.

Closing:

In regard to Fire Protection Districts, the parties agree as to the statutory requirement for signatures on their petitions. “Nominations for members of the board of trustees shall be made by a petition signed by at least 25 voters or 5% of the voters, whichever is less, residing within the district and shall be filed with the secretary of the board.” 70 ILCS 705/4a. As we have found (and the parties have agreed), that the originally filed petitions contained eighty-two (82) signatures, the Election Board would have to disqualify fifty-seven (57) of those signatures to disqualify Mr. Gifford from the ballot. However, the Electoral Board finds no basis to do so. Instead, the evidence submitted, and the findings of fact made, lead us to disqualify two (2) signatures from the subject petition. This leaves a remaining amount of eighty (80) signatures, which is well above the necessary amount to remain on the ballot.

In accordance with the above reasoning, candidate Justin W. Gifford shall appear on the ballot for the office of Sandwich Fire Protection District Trustee for the consolidated election occurring on April 1, 2025.

The DeKalb County Electoral Board gives notice that pursuant to 10 ILCS 5/10-10.1, a party may seek judicial review of this decision. The party seeking judicial review must file a petition with the Clerk of the DeKalb County Circuit Court and must serve a copy of the petition upon the electoral board and other parties to the proceeding by registered or certified mail within 5 days after service of the decision of the electoral board. See 10 ILCS 5/10-10.1.

Decision entered this day of December 6, 2024, in Sycamore, Illinois by

Vote: Aye/Nay

Aye



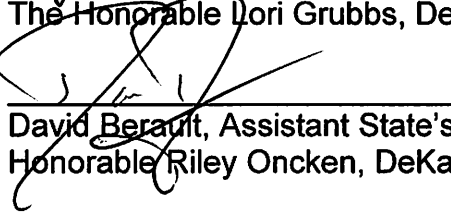
Chairman, The Honorable Tasha Sims, DeKalb County Clerk & Recorder

Aye



The Honorable Lori Grubbs, DeKalb County Circuit Court Clerk

Aye



David Beraut, Assistant State's Attorney designated on behalf of the Honorable Riley Oncken, DeKalb County State's Attorney