

2019 IL App (1st) 190372-U

No. 1-19-0372

Order filed on March 19, 2019.

Second Division

NOTICE: This order was filed under Illinois Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

CHRISTOPHER S. HODGES,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	No. 2019 COEL 000023
)	
MUNICIPAL OFFICERS ELECTORAL BOARD OF)	
THE VILLAGE OF BURNHAM, SCOTT F. UHLER,)	
LUS CHAVEZ, and JOHN CAP, Jr., in Their Individual)	The Honorable
Capacities as Members, and DIANE POWELL, Objector,)	James Carroll,
)	Judge Presiding.
Defendants-Appellees.)	

JUSTICE LAVIN delivered the judgment of the court.
Presiding Justice Mason and Justice Hyman concurred in the judgment.

ORDER

¶ 1 *Held:* The evidence was sufficient to invalidate the candidate’s nomination papers on the basis that he engaged in fraudulent circulator activity. We affirm.

¶ 2 Christopher S. Hodges appeals from the circuit court’s order confirming the decision of the Municipal Officers Electoral Board of the Village of Burnham (Board), invalidating his nomination papers and striking his name from the ballot as an independent candidate for election

to the office of Trustee for the Village of Burnham located in Cook County, to be held at the general election on April 2, 2019. We affirm.

¶ 3 BACKGROUND

¶ 4 Briefly stated, Hodges filed his nomination papers, which consisted of 16 pages of petition signature sheets, each signed by him as the circulator to certify that they were made in his presence and were genuine. Diane Powell filed a verified objector's petition, alleging that Hodges' nomination papers included forged signatures, as well as signatures of individuals who had signed the papers multiples times or who were not registered voters in the Village of Burnham. Powell asserted the nomination papers circulated by Hodges demonstrated that he had engaged in a pattern of fraud, false swearing and total disregard for the requirements of the Illinois Election Code (Code) (10 ILCS 5/7-10 (West 2018)) such that all pages of signatures included therein should be invalidated.

¶ 5 The Board, comprised of Chair Scott F. Uhler, and members Lus Chavez and John Cap, Jr., ordered the Cook County Clerk's Office (Clerk's Office) to conduct an examination of the voter registration records. The petition summary report indicated that 34 signatures were required for placement on the ballot, that Hodges obtained 182 signatures and that 105 of those signatures were invalid because the signer was either not the proper person, not a registered voter in the Village of Burnham or not located there. In addition, the report showed that 60 of the 105 invalid signatures were contained within 5 consecutive pages (pages 5 through 9) of the 16 pages of signature sheets.

¶ 6 On February 1, 2019, the Board conducted a hearing at which Hodges testified that he personally obtained and witnessed every signature in his nomination papers by going door to door. He offered no testimony or explanation, however, regarding the 5 consecutive pages of

invalid signatures. Powell presented the affidavits of 23 purported signers of Hodges' petition, 20 of which were admitted into evidence, wherein the affiants stated either that they did not in fact sign Hodges' petition or that he was not the circulator of the petition they signed. In response, Hodges contested the "formulaic nature of the affidavits, but he never substantively refuted any of the affiant[s'] statements."

¶ 7 Three days later, the Board issued its decision, declaring Hodges' nomination papers invalid and striking his name from the ballot because it found an "unmistakable pattern of fraud, false swearing, and disregard for the mandatory requirements of the Election Code." In reaching its decision, the Board initially found it "extremely troubling *** that the entirety of 5 consecutive signature pages in the middle of the sixteen pages submitted—a total of 60 signatures—were invalidated." It also found Hodges' testimony that he went door to door to obtain every signature "too improbable and not to be believed" because signature pages 5 through 9 did not evince a door to door collection method. Specifically, those pages listed addresses from multiple streets and did not include "a single consecutively listed address on the same street." Furthermore, the Board examined the signatures on those pages and noted that "the signatures appear to be written in the hand of just a few people." Last, the Board noted that the 20 affidavits, while not as compelling as the signatures themselves, further supported the conclusion that Hodges had engaged in fraudulent circulator activity.

¶ 8 Following the Board's decision, Hodges filed a petition for judicial review. The circuit court affirmed the Board's decision on February 27, 2019, and Hodges appealed.

¶ 9 ANALYSIS

¶ 10 On appeal, Hodges asserts that the Board's decision was erroneous because there was insufficient evidence that he engaged in a pattern of fraud, false swearing and total disregard for the mandatory requirements of the Code. We disagree.

¶ 11 As this appeal arises from the circuit court's review of an electoral board's decision made pursuant to the Code, we review the decision of the board, not the court. *Crossman v. Board of Election Commissioners of the City of Chicago*, 2012 IL App (1st) 120291, ¶ 9. In reviewing the Board's decision, we are presented with a mixed question of fact and law, which we review under the clearly erroneous standard of review. *Id.*; *Solomon v. Scholefield*, 2015 IL App (1st) 150685, ¶ 15. A decision is clearly erroneous when the entire record leaves us with the definite and firm conviction that a mistake has been made. *Cinkus v. Village of Stickney Municipal Officers Electoral Board*, 228 Ill. 2d 200, 211 (2008).

¶ 12 Section 7-10 of the Code mandates that each page of signatures in a nominating petition must include a circulator statement certifying that the signatures included therein were signed in his presence and are genuine. 10 ILCS 5/7-10 (West 2018); *Crossman*, 2012 IL App (1st) 120291, ¶ 11. Thus, signatures collected in violation of those requirements are invalid. *Crossman*, 2012 IL App (1st) 120291, ¶ 11. Moreover, when the signature sheets of a nominating petition submitted by a circulator evince a pattern of fraud, false swearing and total disregard for the requirements of the Code, the sheets circulated by that individual should be stricken in their entirety. *Id.*; *Solomon*, 2015 IL App (1st) 150685, ¶ 29.

¶ 13 The record in this case shows that Hodges signed each page of signatures as the circulator to certify that they were made in his presence and were genuine, and that 105 of the 182 signatures included therein were invalidated by the Clerk's Office. As set forth above, the Board determined that Hodges had engaged in a pattern of fraud because it found his testimony that he

went door to door to obtain every signature unbelievable and that the signatures on pages 5 through 9 appeared “to be written in the hand of just a few people.”

¶ 14 Here, the Board was in the best position to assess Hodges’ credibility and determine the weight to be given to his testimony and, as such, we will not substitute our judgment for that of the Board in this case. See *Crossman*, 2012 IL App (1st) 120291, ¶ 14 (stating, “[d]eterminations as to the weight of the evidence and the credibility of the witnesses are uniquely within the province of the Board, and this court will not substitute its judgment for that of the Board on such matters”). Accordingly, we conclude that the Board’s decision that Hodges had engaged in a pattern of fraud is not clearly erroneous.

¶ 15 **CONCLUSION**

¶ 16 For the reasons stated, we affirm the circuit court’s judgment.

¶ 17 Affirmed.