

**BEFORE THE WILL COUNTY OFFICERS ELECTORAL BOARD FOR THE  
HEARING AND PASSING UPON OBJECTIONS TO THE NOMINATION PAPERS  
FOR A REPUBLICAN CANDIDATE FOR THE OFFICE OF WILL COUNTY BOARD  
MEMBER DISTRICT 1, WILL COUNTY, ILLINOIS**

|                                     |   |         |
|-------------------------------------|---|---------|
| DIANE VAN ORT and ELIZABETH PEARCE, | ) |         |
| Petitioners-Objectors,              | ) |         |
| v.                                  | ) | No 20-4 |
|                                     | ) |         |
| AMENA J. "AMY" PEREZ,               | ) |         |
| Respondent- Candidate.              | ) |         |

**DECISION AND ORDER**

The Will County Officers Electoral Board, Chairperson Lauren Staley Ferry, County Clerk of Will County, Illinois, Andrea Chasteen, Circuit Clerk of Will County, Illinois and James W. Glasgow, State's Attorney of Will County, Illinois through his designee, Assistant State's Attorney Mary Tatroe, convened on August 31, 2020 at 9:00 a.m. Objectors were present by counsel Ed Mullin. The Candidate Amena Perez was present with counsels Bryan Kopman and Richard Kavanagh. The Board adopted hearing rules unanimously which governed the hearing. The matter was called for hearing in open session.

**MOTION TO DISMISS**

Prior to calling the case for hearing on the merits the Board inquired if either party had any preliminary motions. The Candidate filed motion to dismiss alleging the filing of the objection was required to be made within 5 days after the candidate had to file her nominating papers. Arguments were heard. The motion was taken under advisement to be decided with the decision on the objection.

**THE OBJECTION**

There were two objections to the nominating papers.

- A. Candidate's Statement of Candidacy states that she is seeking a full term rather than a 2-year unexpired term, failing to properly state the office for which she is running in violation of 10 ILCS 5/7-10.
- B. Candidate's Statement of Candidacy requests that she be placed on the ballot for the March 17, 2020 Primary Election rather than for the November 3, 2020 General Election. ... As such, Candidate's Statement of Candidacy fails as a matter of law because it requests that she be placed on the wrong election ballot in violation of 10 ILCS 5/7-10.

## THE HEARING

The matter was called for hearing. The nominating papers of candidate Amena J. "Amy" Perez were considered by the Electoral Board. Arguments of the parties were heard. The Board recessed until 3:00 p.m. to vote on the motion and objection. At the 3:00 p.m. reconvening the same parties were present except Attorney Ed Mullin was excused but his client Objector \_\_\_\_\_ was present.

## APPLICABLE STATUTORY PROVISIONS

10 ILCS 5/10-8

10 ILCS 5/7-10

10 ILCS 5/7-61

## FINDINGS

The Board finds that pursuant to the requirements of state statute, certified mail notices were sent by the Chairman of the Board to each of the Board members, the Candidate and the Objector within the time and in the manner required by statute giving notice of the time and place of the convening of the Board for August 31, 2020 at 9:00 a.m. at the Will County Courthouse for hearing upon the objection. Additionally, within the time required by law, notice of the call was placed for service with the Will County Sheriff for service upon each of the members of the Board, the Objector and the Candidate giving notice of the time and place of the convening of the Board for hearing upon the objection. The documents evidencing compliance with the notice requirements of the statute were filed with the Board. The Board hereby finds that it has been legally constituted according to the laws of the State of Illinois, has complied with the requirements of the Open Meetings Act and has jurisdiction over the parties and the subject matter. The matter was heard on all objections on August 31, 2020, wherein the hearing was held.

The Board further finds that:

As to the MOTION TO DISMISS THE OBJECTION, the Board finds that a fair reading of the 10 ILCS 5/10-8 provisions that states nominating papers are deemed valid unless an objection is made "within 5 business days after the last day for filing the certificate of nomination or nominating papers or petition for a public question..." refers to the last date allowed to file any such filing and not any one particular filing. If the Candidate's reading of the statutory provision was correct, a concerned voter would have to check with the Election Authority almost every day between the date a primary outcome is certified and the last day for filing the certificate of nomination or nominating papers or petition for a public question to determine if any candidates have withdrawn from the election and had any successors duly nominated by the appropriate entity to fill that vacated spot. This would place an unconscionable burden on voters that may be concerned with proper procedures being followed in filling vacated candidacies. A fair reading of this provision would be that a concerned voter could determine from a one time check after the filing period ended with an election authority if any candidates

have withdrawn and been replaced on the ballot and then have 5 days to study the filings, draft any potential objections and file them. This reading was upheld by the Fifth District Appellate Court in *Wisnasky-Bettorf v. Pierce*, 403 Ill.App.3d 1080, 934 N.E. 2d 623, 343 Ill.Dec. 299 (5<sup>th</sup> 2010) The Fifth District decision in *Wisnasky-Bettorf* was overtuned by the Illinois Supreme Court on other reasons. However the Illinois Supreme Court that reviewed the decision never overruled the Fifth District on its interpretation of when the last date for filing objections must occur when a candidate withdraws after a primary win and a successor is appointed prior to printing the ballot for a general election. *Wisnasky-Bettorf v. Pierce*, 212 IL 111253(2012) The Motion to Dismiss the Objection is denied.

As to OBJECTION "A" CONCERNING THE TERM OF OFFICE, the Board finds no confusion to any potential voter from a failure to mark the box entitled "office" as a two year unexpired term. There is only one vacant County Board District 1 position for the November 3, 2020 General election and it is for a two year term. This objection is denied.

As To OBJECTION "B" CONCERNING THE LANGUAGE IN THE STATEMENT OF CANDIDACY, the Board finds the candidate followed the statutory language provided by the legislature for her Statement of Candidacy. Unfortunately the legislature did not provide an alternative form for a statement of candidacy in 10 ILCS 5/7-10 for a situation when a candidate is appointed post primary to fill a vacated position on the ballot. It would be unjust to remove a candidate from the ballot for using the statutory language. Furthermore, Illinois law follows a line of reasoning in election cases that a candidate's entire nominating papers shall be read together by an Electoral Board in determining the propriety of placing a candidate's name on the ballot. In this case accompanying the Statement of Candidacy were a Resolution to Fill a Vacancy in Nomination; Notice of Appointment to Fill a Vacancy in Nomination and a Certificate of Will County Board District 1 Committee Organization. Both the Resolution to Fill a Vacancy in Nomination and the Notice of Appointment to Fill a Vacancy in Nomination referred to nomination for County Board District 1 for the November 3, 2020 General Election Ballot. There is no confusion as to what position Amena J. "Amy" Perez is seeking election to. This objection is denied.

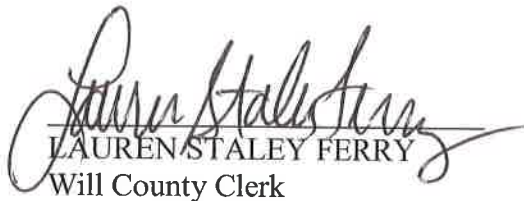
The Board also takes into consideration that Illinois Law favors ballot access. Accordingly, the Objector's Petition filed August 26, 2020 is denied in its entirety.

ORDER

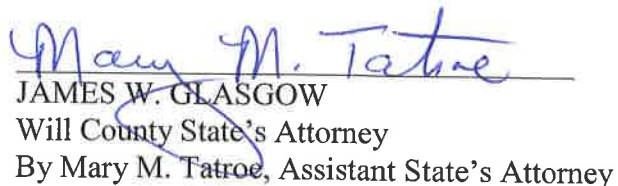
The Board orders that the objection to the nominating papers of Amena J. "Amy" Perez is hereby overruled and denied. The County Clerk is ordered to print her name upon the ballot. The parties are informed that if they feel aggrieved by the decision of the Board they may seek judicial review of this decision by filing within 5 days of this decision a petition with the clerk of the circuit court along with a proof of service to all parties.

The Board serves a written copy of this order in open session on the Parties present.

**APPROVED AND ADOPTED THIS 31<sup>st</sup> DAY OF August, 2020.**

  
LAUREN STALEY FERRY  
Will County Clerk

  
ANDREA LYNN CHASTEEN  
Will County Circuit Clerk

  
JAMES W. GLASGOW  
Will County State's Attorney  
By Mary M. Tatroe, Assistant State's Attorney

IN THE MATTER OF:

OBJECTORS PETITION OF DIANE VAN ORT AND ELIZABETH PEARCE  
OBJECTION TO THE NOMINATION PAPERS OF AMENA J. "AMY"  
PEREZ, CANDIDATE FOR THE NOMINATION OF THE REPUBLICAN  
PARTY TO THE OFFICE OF WILL COUNTY BOARD MEMBER DISTRICT  
1.

**CALL OF WILL COUNTY OFFICERS ELECTORAL BOARD**

This call is hereby directed to Honorable Lauren Staley Ferry, County Clerk of Will County, Illinois; Honorable James Glasgow, State's Attorney of Will County, Illinois; Honorable Andrea Lynn Chasteen, Circuit Clerk of Will County, Illinois, Diane Van Ort and Elizabeth Pearce, individuals who filed the Objector's Petition herein; and Amena J. "Amy" Perez, the candidate whose petitions are objected to:

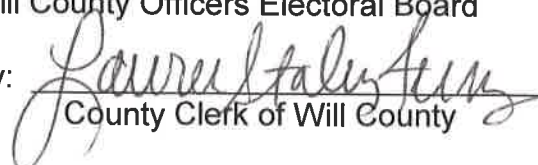
Please be advised that the Will County Officers Electoral Board is required to meet and hear and pass upon the aforesaid Objection to Amena J. "Amy" Perez as a candidate for the nomination of the Republican Party to the office of Will County Board Member District 1, which said hearing is set for Monday, August 31, 2020 at 9 a.m. at the Will County Courthouse, 14 W. Jefferson St., Joliet in Courtroom #100 at which time the said County Officers Electoral Board will consider:

1. Adopt rules that will govern these proceedings.
2. The question of whether or not said Electoral Board has jurisdiction under Illinois law to hear said Objector's Petition.
3. The question as to whether or not the Nomination papers of Amena J. "Amy" Perez as a candidate for the nomination of the Republican Party to the office of Will County Board Member District 1 are in proper form and whether or not the petition on file is valid and whether the objections thereto should be sustained.

at which said place and time you and any other interested person shall be present.

Will County Officers Electoral Board

By:

  
County Clerk of Will County

DATED: August 27, 2020