

CITY OF MONMOUTH, ILLINOIS OFFICERS ELECTORAL BOARD

Objections of: RODNEY L. DAVIES and)
ALBERT G. ALGREN)
)
To the Nomination Papers of:)
JUSTIN D. LIPES,) No. 2020-EB-2
)
Candidate for the office of)
Mayor for the City of Monmouth, IL)

FINDINGS AND DECISION

The duly constituted Electoral Board (the "Board"), consisting of the following members, Blaise Rogers, Michael McKee and Susan Trevor, Chairperson, organized by law in response to a Call/Notice issued by the Electoral Board, for the purpose of hearing and passing upon the objection ("Objection") of RODNEY L. DAVIES and ALBERT G. ALGREN to the nomination papers ("Nomination Papers") of JUSTIN D. LIPES, candidate for the office of Mayor of the City of Monmouth, Illinois ("Candidate"), having convened on January 18, 2021 at 3:00 o'clock p.m., in the City Council Chambers, City Hall, Monmouth, Illinois; and having heard and determined the Objection to the Nomination Papers in the above-entitled matter finds that:

1. Objection to the Nomination Papers of the Candidate herein were duly and timely filed.
2. The said Electoral Board has been legally constituted according to the laws of the State of Illinois.
3. A Call/Notice to the hearing on said Objection was duly issued by the Electoral Board and served upon the members of the Electoral Board, the Objector and the Candidate, by certified mail, return receipt requested.
4. A public hearing was held on the Objection commencing and concluding on January 18, 2021.
5. The following persons, among others, were present at such hearing: the members of the Electoral Board, the Objectors, RODNEY L. DAVIES and ALBERT G. ALGREN, pro se, and the Candidate, JUSTIN D. LIPES, with his attorney, ELISA NELSON.

6. That the Electoral Board ordered and conducted an examination of the records, in accordance with the laws of Illinois and the rules of the Board.
7. That the following items were entered into evidence and made a part of the permanent record:
 - a. Exhibits 1-6; 8-17 – from the Objectors, RODNEY L. DAVIES and ALGERT G. ALGREN
 - b. Exhibits A-D & G – from the Candidate, JUSTIN D. LIPES, .
8. The Electoral Board heard testimony from JOE CLARK, LAURA ARMSTRONG, TREVOR DAVIES, CAROLYN BUTLER, MALINDA LIPES, and JUSTIN LIPES.
9. The Objector presented his case in chief and the Candidate presented his case in chief, and each side was provided the ability to cross examine the other.
10. The Electoral Board also conducted all examination and review that they deemed warranted.
11. The Electoral Board has considered all evidence and arguments tendered by the parties.
12. The Electoral Board has reviewed the case of MAKSYM v. BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO, 242 Ill.2d 303, 950 N.E.2d 1051, 351 Ill.Dec. 223 (Ill. 2011), which addresses the issue of the objection in this case, which is essentially did the Candidate, JUSTIN D. LIPES “reside in” the City of Monmouth for a period of time that would allow him to have his name appear on the ballot for Mayor for the City of Monmouth.
13. The Electoral Board is mindful of the body of case law in this State that “construe election statutes in favor of ballot access, not denial.” See McCaskill v. Mun. Officers Electoral Bd. for the City of Harvey, 2019 IL App (1st) 190190, at ¶ 15. Thus, this Electoral Board will cast all doubts in favor of the Candidate.
14. The Electoral Board finds that the Objectors have not met their burden by a preponderance of the evidence that the Candidate did not reside in the City of Monmouth. The Board does note that it is difficult to prove a negative, however, it heard no evidence that the Candidate was not residing at 1439 East 3rd Ave.,

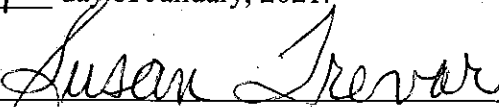
Monmouth, Illinois for the requisite one year period preceding the election on April 6, 2021.

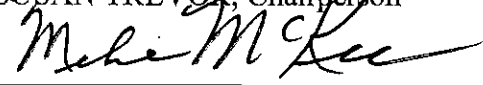
15. 65 ILCS 5/3.1-10-5(a) requires in order for a person to appear on the ballot for City office, that that person must be a “qualified elector of the municipality AND [that person] has resided in the municipality for at least one year next preceding the election...” EMPHASIS ADDED.
16. It is clear that the Candidate is a qualified elector in the City as he has been registered to vote in the City of Monmouth since February, 2020.
17. The Electoral Board then turned to the issue of whether the Candidate resides in the City of Monmouth and has done so for more than a year preceding the April 6, 2021 consolidated election.
18. To establish residency, the Candidate must show “(1) physical presence and (2) an intent to remain in that place as a permanent home.”
19. While the Objector did present evidence that the power and water were not turned on to the Candidate’s residence at 1439 East 3rd Ave., Monmouth, IL until late October and/or early November, 2020, that alone is not dispositive on the issue of whether the Candidate was residing at said address, which is in the City of Monmouth.
20. The Candidate testified that he took possession of the home in late February, 2020 and that he commenced remodeling the home and even stayed there without utilities utilizing battery and generator products. There was no evidence to contradict the Candidate’s claim that he was in fact residing in the home after February, 2020 and before his deployment in June, 2020.
21. The more troubling issue for the Electoral Board is the second element needed to establish residency, that being “the intent to remain in that place as a permanent home.” Id. The Board is cognizant of the fact that if the Candidate was denied access to the ballot or even if he is allowed access and loses in the election, that he may no longer choose to make 1439 East 3rd Ave., Monmouth, IL, however, such conjecture is purely speculation at this point.
22. The Candidate’s wife testified that she and the Candidate searched for a home in the City of Monmouth so that he could run for Mayor.

23. The Candidate has taken the steps to change his register voter status to 1439 East 3rd Ave., Monmouth, IL 61462; received his personal mail at said address and changed his driver's license to said address.
24. The Candidate testified that he has moved clothing, tools, furniture, and performed remodeling on the 1439 East 3rd Ave. residence.
25. Additionally, the Candidate testified that he intended to make 1439 East 3rd Ave., Monmouth, IL 61462 his permanent residence.
26. While some of these steps/events have taken place after April 6, 2020, the Electoral Board is giving all deference to the Candidate, as the burden was on the Objector to prove a lack of residence.
27. The Electoral Board finds that the Objectors failed to meet their burden as to striking the Candidates nomination papers and finds that the nomination papers of JUSTIN D. LIPES to be satisfactory such that JUSTIN D. LIPES' name shall appear on the April 6, 2021 consolidated election ballot.

IT IS THEREFORE ORDERED , the Objection of RODNEY L. DAVIES and ALBERT G. ALGREN to the Nomination Papers of JUSTIN D. LIPES, candidate for Mayor to the City of Monmouth is hereby OVERRULED therefore JUSTIN D. LIPES' name shall appear on the April 6, 2021 consolidated election ballot as an Independent for the office Mayor for the City of Monmouth.

Dated: Monmouth, Illinois, this 19th day of January, 2021.


SUSAN TREVOR, Chairperson


MIKE MCKEE, Board Member


BLAISE ROGERS, Board Member

NOTICE: Pursuant to Section 10-10.1 of the Election Code (10 ILCS 5/10-10.1) a party aggrieved of this decision and seeking judicial review of this decision must file a petition for judicial review with the Clerk of the Circuit Court of Warren County within five (5) days after the decision of the Electoral Board.