

STATE OF NEW YORK
NEW YORK STATE BOARD OF ELECTIONS

In the Matter of:

BARBARA N. TAYLOR,

Complainant,

HAVA Complaint No. 17-02

Amended Determination

-v-

THE NEW YORK CITY BOARD OF ELECTIONS,

Respondent.

Procedural Background

On December 15th, 2017, the New York State Board of Elections (hereinafter SBOE) received a written, sworn, signed, and notarized Complaint dated December 13, 2017 filed by Barbara Taylor (the "Complaint"). Subsequently, on January 8, 2018, SBOE received an amended Complaint. Generally, the Complaint alleges that the Complainant should have been recognized as an uncontested "write-in" candidate for the New York State Senate in District 18/25 in 2017. The Complainant alleges that the New York City Board of Elections (NYCBOE) failed to provide for a uniform and nondiscriminatory election, which resulted in her not being recognized as an uncontested write-in candidate.

The Complainant also alleges that she filed an action with the New York State Supreme Court, Kings County. She alleges that the Supreme Court improperly dismissed the matter because the Complainant believes that, as of right, she should be considered an "uncontested" write-in candidate for the Senate seat in question.

Further, Petitioner argues that ballot access is in the purview of Title III of HAVA because "suffrage" includes the right "to run for public office; and assurance the votes cast shall be counted."

Jurisdiction

Section 402 of the Help America Vote Act of 2002 requires New York State to create a state-based administrative complaint procedure to assure compliance with Title III of the Help America Vote Act of 2002 (hereinafter HAVA). Title III has three substantive sections: 1) voting system standards; 2) provisional voting and voting information requirements; and 3) computerized statewide voter registration list requirements and requirements for voters who register by mail. Nothing in Title III discusses the rights of candidates, nor the right to ballot access.

Determination

Neither Title III of HAVA nor the Election Law grants the SBOE authority to review determinations made by the judiciary, a separate branch of government. The appropriate remedy for a trial court holding is the appellate process.

As for the allegations against the NYCBOE, the Complaint has failed to allege a violation of Title III of HAVA. The allegations relate to whether NYCBOE should have recognized the Complainant as the Democratic Candidate for the State Senate. As noted above, nothing in Title III relates to ballot access.

For the reasons stated above, the Complaint is hereby dismissed.

William J. McCann, Jr.
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Dated: January 12, 2017