

Anderson, Holley, Hickman, Cintron, and Baker v. Trump
24 SOEB GP 517

Candidate: Donald J. Trump

Office: President

Party: Republican

Objectors: Steven Daniel Anderson, Charles J. Holley, Jack L. Hickman, Ralph E. Cintron, and Darryl P. Baker

Attorneys for Objectors: Caryn C. Lederer, Matthew J. Piers, Margaret E. Truesdale, Justin Tresnowski, Ronald Fein, and Ed Mullen

Attorneys for Candidate: Adam Merrill, Scott E. Gessler, Nicholas J. Nelson

Number of Signatures Required: N/A

Number of Signatures Submitted: N/A

Number of Signatures Objected to: N/A

Basis of Objection: Candidate’s Statement of Candidacy contains a false swearing in violation of Election Code Section 7-10, 10 ILCS 5/7-10, that Candidate is qualified for the office sought because candidate is disqualified from the office of President of the United States by the provisions of Section 3 of the 14th Amendment to the U.S. Constitution (“Section 3”). Section 3 provides:

No person shall be a Senator or Representative in Congress, or elector of the President and Vice-President, or hold any office, civil or military, under the United States or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof...

U.S. Const. amend. XIV, § 3. Objectors ask the Board to reach the merits of their objection petition, citing *Anderson v. Griswold*, 2023 WL 8770111 (Colo. Dec. 19, 2023), and *In Re: Challenges to Primary Nomination Petition of Donald J. Trump, Republican Candidate for President of the United States* (Dec 28, 2023) (“Maine Sec. of State Ruling”).

Specifically, Objectors rely on the following as the bases of their allegation that Candidate’s Statement of Candidacy contains a false swearing of his qualifications under Section 3:

- (1) Candidate swore an oath to support the U.S. Constitution and *Worthy v. Barrett*, 63 N.C. 199 (1869), provides that the oath to support the Constitution is the test, and by swearing the oath for his first term as President of the U.S., Candidate falls within the scope of Section 3;
- (2) The events of January 6, 2021 (“January 6th”) constitute an insurrection or rebellion under Section 3, citing impeachment proceedings against Candidate, 167 Cong. Rec. S729, Congressional classification of January 6th participants as insurrectionists, Pub. L. No. 117-32, as well as the Colorado and New Mexico courts’ analyses of similar Section 3 disqualification allegations, *Anderson*, *supra*, and *State ex rel. White v. Griffin*, 2022 WL 4295619;
- (3) Candidate engaged in the events of January 6 as “engage” is defined by *United States v. Powell*, 27 F. Cas. 605 (C.C.D.N.C. 1871), *Worthy v. Barrett*, *supra*, and *The Reconstruction Acts*, 12 U.S. Op. Att’y Gen. 141 (1867), as well as the modern definition found in *Anderson*.

Dispositive Motions: Candidate’s Motion to Dismiss Objectors’ Petition filed January 19, 2024. Candidate moves to dismiss the entirety of Objectors’ petition on 5 bases which, he alleges, prove Objectors’ petition lacks legal and factual merit.

- (1) Candidate argues Illinois law does not authorize the State Officers Electoral Board (“SOEB”) to resolve the complex factual issues of federal law presented in this matter. Candidate relies primarily on the plain language of Sections 7-9, 7-11, and 7-14.1 of the Election Code to argue Illinois law grants substantial deference to political parties to nominate Presidential candidates, and *Delgado v. Bd. Of Election Comm’rs*, 224 Ill. 2d 482 (2007), read together with *Goodman v. Ward*, 241 Ill.2d 398 (2011), limit the authority of electoral boards such that the SOEB does not have jurisdiction to rule on the matter.
- (2) Second, Candidate argues the matter is a political question properly decided by Congress and the electoral process – not courts or administrative agencies. Candidate cites *Rucho v. Common Cause*, 1398 S. Ct. 2484 (2019), for his argument that political questions are beyond courts’ and electoral boards’ jurisdiction and are entrusted to one of the political branches. Additionally, Candidate argues this matter is a non-justiciable issue under *Baker v. Carr*, 369 US 186, 217 (1962), because Objectors are requesting the SOEB take up the same matter (disqualification of Candidate under Section 3) that the U.S. Senate declined following receipt of the Articles of Impeachment from the U.S. House of Representatives, an action prohibited by the theory of non-justiciability articulated in *Baker*.
- (3) Third, Candidate argues disqualification under Section 3 is a question that can only be addressed by procedures prescribed by Congress and outside the purview of the SOEB. Candidate cites *In re Griffin*, 11 F Cas 7 (C.C.D. Va. 1969), for his contention that Section 3 requires Congressional legislation to be effective. Candidate argues Congress considered, but declined, to revive Section 3 enforcement procedures and the record, Congressional and judicial, remains silent on the subject of enforcement.
- (4) Fourth, in the alternative that the SOEB were to consider Section 3, it does not apply to Candidate’s qualifications as Section 3 bars holding office, not running for office; was intentionally drafted not to apply to the office of President; and drafted to protect the

Presidency by ensuring members of the Electoral College are loyal to the U.S. Candidate relies on the plain language of Section 3 and historical practice in furtherance thereof.

- (5) Candidate seeks dismissal because Objectors have not alleged Candidate engaged in insurrection, and facts alleged by Objectors cannot establish such as, per Candidate and citing 18 U.S.C. 2383, and *United States v. Greathouse*, 2 F. Cas. 18 (C.C.N.D. Cal. 1863), insurrection as contemplated in Section 3 requires action akin to levying war.

Objectors' Response to Candidate's Motion to Dismiss Objectors' Petition filed January 23, 2024. In their Response to Candidate's Motion to Dismiss, Objectors argues the application of proper legal standards to the well-pled facts in Objectors' petition requires denial of Candidate's Motion.

- (1) First, Objectors argue Candidate's position that the SOEB has a clear mandate in the Election Code and from the Illinois Supreme Court to decide objections involving candidate qualifications. Objectors also cite *Harned v. Evanston Mun. Officers Electoral Bd.*, 2020 IL App (1st) 200314, and *Zurek v. Petersen*, 2015 IL App (1st) 150456, for their argument that *Goodman's* limitation on electoral board authority does not preclude an electoral board from determining whether a constitutional requirement was met, but precludes engaging in an analysis of a requirement's constitutionality.
- (2) Second, Objectors argue Candidate's definition of insurrection in his Motion contradicts previous admissions through counsel and the meaning of the term at the time the 14th Amendment was enacted. In support of their argument that the events of January 6th constitute an insurrection under Section 3, Objectors cite *Anderson*, historical and public usage of the term, and legal definitions of the term insurrection including *United States v. Powell's* definition of "engage" as providing any voluntary assistance for their argument Candidate engaged in an insurrection. (27 F. Cas. at 607).
- (3) Third, Objectors argue Candidate's interpretation of Section 3 excluding the Presidency or the President fails under the weight of their own support and logic. Objectors cite *Hassan v. Colorado*, 495 F. App'x 947 (10th Cir. 2012), holding the distinction between being ineligible to assume the office of President and a place on the ballot is false and in opposition of the state's interest protecting the integrity of the political process. Objectors argue the Presidency is an office under the U.S., citing to 25 references to the presidency within the U.S. Constitution and other, secondary sources. They further argue that the President of the United States and the presidential oath are, under the provisions of Section 3, based on the plain language of Section 3 and historical uses of the terms which encompass both the President and presidential oath.
- (4) Fourth, Objectors argue Candidate's invocation of the political question doctrine to the present matter is inconsistent with the narrow scope of the doctrine and Supreme Court precedent. Objectors argue Candidate misrepresents the cases relied on for his arguments, citing *Zivotofsky ex rel. Zivotofsky v. Clinton*, 566 U.S. 189 (2012), *Baker v. Carr*, *supra*, and *McPherson v. Blackner*, 146 U.S. 1 (1892).
- (5) Fifth, Objectors cite the Colorado Supreme Court's decision in *Anderson, supra*, for their contention that no portion of Section 3 requires specific enacting legislation; arguing that requiring such would be absurd.

Candidate's Reply in Support of Motion to Dismiss filed January 25, 2024. In his Reply, Candidate reasserts his argument that the SOEB lacks statutory authority to address the objection and argues the cases relied on by Objectors do not justify the expansion of the scope of electoral board authority that Objectors seek here. Second, the U.S. Constitution requires presidential qualification disputes to be decided elsewhere as they are political questions committed to other decision makers aside from courts or administrative agencies. Finally, Candidate reasserts his arguments that Section 3 does not apply to the office of President generally or Candidate specifically as he did not engage in an insurrection as contemplated by Section 3.

Objectors' Motion to Grant Objectors' Petition, or in the Alternative for Summary Judgment filed January 22, 2024. In their Motion to Grant or for Summary Judgment, Objectors argue the material facts asserted in their petition are supported by competent evidence, cannot be genuinely disputed and compel the conclusion that Candidate engaged in insurrection under Section 3 and, therefore, is ineligible for the office of President of the United States. In support of their Motion, Objectors offer the following facts:

- Candidate's oath to uphold the U.S. Constitution on January 20, 2017;
- Specific actions, they argue Candidate did, which constitute a scheme to overturn the government and prevent the peaceful transition of power, including, among others:
 - attempt to enlist government officials and others to illegally overturn the 2020 election,
 - urging supporters to amass at the U.S. Capitol,
 - called for a "wild" protest and his supporters, in turn, planned violence,
 - knew of plans to use violence to forcefully prevent Congress from certifying the 2020 election results;
- Argue that the events of January 6th were an insurrection.

Objectors cite SOEB Rule of Procedure 10(a)(1) that the legal standard is a preponderance of the relevant evidence, that the objection is true, and Candidate's petition is invalid. Objectors argue the allegations within their petition show there is no genuine issue of material fact therein, and they are entitled to judgment as a matter of law. Objectors argue:

- (1) SOEB is authorized and obligated under the plain language of Section 10-10 and *Goodman v. Ward, supra*, to hear and rule on this objection;
- (2) An evaluation of the qualifications of Section 3 are similar to an evaluation of the qualifications of Article II, Section 1, Clause 5, which the SOEB has previously evaluated and ruled on, specifically, whether a candidate was a natural born citizen;
- (3) *Anderson, supra*, is based on the same evidence and directs the outcome of this objection in favor of the Objectors;
- (4) The facts establish Candidate engaged in an insurrection, per insurrection as defined by *Anderson, supra*, and *State v. Griffin, supra*, as well as "engage" per definitions included in dictionaries, historical evidence, and case law.
- (5) Candidate engaged in rebellion as contemplated by Section 3, as defined by *Eastman v. Thompson*, 594 F.Supp.3d 1156 (C.D. Cal. 2022).
- (6) Candidate gave aid or comfort to the enemies of the U.S. as contemplated by Section 3, which encompasses domestic and foreign enemies, Objectors argue, by encouraging and counseling insurrectionists, deliberately failing to exercise his authority and responsibility

to quell the insurrection, praising the insurrectionists and promising or suggesting he would pardon them if reelected to the presidency.

- (7) Section 3 applies to the President, citing the plain language of Section 3, *Anderson, supra*, and Article II, Sections 1, 2, and 3 of the U.S. Constitution. Objectors argue if an office of the United States were read to omit the Presidency, a sitting President could simultaneously occupy a seat in Congress, violating the aim of the Incompatibility Clause, per *Buckley v. Valeo*, 424 U.S. 1 (1976).
- (8) The President of the U.S is a covered officer of the U.S. under Section 3, relying on *Anderson, supra*, dictionary definitions of officer, *Motions Sys. Corp. v. Bush*, 437 F.2d 1356 (Fed. Cir 2006), as well as Candidate's assertions of such in seeking removal of lawsuits to federal court.
- (9) The Presidential oath of Article II, Section 1, clause 8, is an oath to support the constitution, citing *Anderson, supra*, and the plain language thereof, and to hold otherwise would produce an absurd result.

Candidate's Opposition to Objectors' Motion for Summary Judgment filed January 23, 2024. In his Response to Objectors' Motion for Summary Judgment, Candidate argues summary judgment must be denied because the objection rests on a host of disputed facts, citing *Sun-Times v. Cook Cnty. Health & Hosps. Sys.*, 2022 IL 127519, when viewed in the light most favorable to Candidate, and presents genuine issues of material facts. Candidate lists 8 facts offered by Objectors which he objects to:

- (1) the sincerity of Candidate's Ellipse speech,
- (2) Candidate's overall intent,
- (3) Candidate's alleged knowledge of plans for violence,
- (4) Candidate's conduct toward public officials,
- (5) Candidate's understanding of the 2020 election result,
- (6) Candidate's alleged relationship with "extremist groups",
- (7) whether January 6th rioters had a broader revolutionary plan, and
- (8) the scale and scope of the January 6th riot.

Second, Candidate argues Objectors' own arguments show summary judgment is unwarranted because the precedents Objectors cite and rely on, *Anderson, supra*, and the decision of the Maine Secretary of State, both occurred after a trial or evidentiary hearing.

Third, Candidate argues that much of Objectors' evidence is inadmissible under Illinois Rule of Evidence 191(a) and *Ory v. City of Naperville*, 2023 IL App (3d) 220105.

Objectors' Reply in Support of their Motion to Grant Objectors' Petition or, in the Alternative for Summary Judgment filed January 25, 2024. In their Reply, Objectors argue Candidate misconstrues the summary judgment standard, citing *Porter v. Miller*, 24 Ill. App. 2d 424 (3rd Dist. 1960), arguing summary judgment depends on whether a bona fide issue of fact exists between the parties, and mere denial is not sufficient to raise a genuine issue against uncontroverted evidentiary matter(s). Objectors argue that Candidate's 8 alleged disputed facts require an unreasonable inference to be entertained in his favor and in opposition to governing case law, citing *W. Bend Mut. Ins. Co v. DJW-Ridgeway Bldg. Consultants, Inc.*, 2015 IL App (2d) 140441.

Objectors then reiterate that the core facts of their objection petition are undisputed, supported by admissible evidence and establish Candidate engaged in insurrection because the January 6th Report is admissible under Illinois Rules of Evidence and the SOEB Rules of Procedure.

Objectors identify 13 facts they argue are supported by admissible evidence, and allow for only a single inference that Candidate provided voluntary assistance to and thus engaged in the events of January 6th, which were an insurrection under Section 3.

Objectors argue the Colorado and Maine proceedings do not mean that summary judgment is improper here but, rather, the factual record here should consider those proceedings persuasive reasoning to grant their Motion.

Record Exam Necessary: No

Hearing Officer: Clark Erickson

Hearing Officer Findings and Recommendations: A hearing on the Objector's petition was held on January 29, 2024. Following that hearing, the Hearing Officer recommends denying Objectors' Motion for Summary Judgment because there are numerous disputed material facts, and there is disagreement over the application of constitutional law to those facts.

The Hearing Officer recommends granting the Candidate's Motion to Dismiss, because the Board is unable to decide whether Candidate is disqualified by Section 3 without embarking upon constitutional analysis, and the Board is not permitted by the Election Code to engage in such analysis. In making this recommendation, the Hearing Officer noted that the objection process in Illinois is much shorter in time than in Colorado and leaves no time for meaningful discovery or subpoena of witnesses needed to adjudicate the factual claims. Further, the Illinois Supreme Court, in *Goodman and Delgado* has prohibited the Board from addressing issues involving constitutional analysis. If the Motion to Dismiss is granted, the Hearing Officer implies the objection should be overruled, and Candidate Donald J. Trump's name should be placed on the ballot for President of the United States.

The Hearing Officer finds that, if the Board declines to follow the Hearing Officer's recommendation to grant Candidate's Motion to Dismiss, the evidence presented at the hearing proves by a preponderance of the evidence that Candidate engaged in insurrection within the meaning of Section 3, specifically referencing a social media post referencing former Vice President Pence during the breach of the Capitol. As a result, should the Board decide it has jurisdiction to decide the Section 3 question, the Hearing Officer recommends that Candidate Donald J. Trump's name should not be placed on the ballot for President of the United States.

Recommendation of the General Counsel: I concur in the Hearing Officer's ultimate recommended result, which it to overrule the Objectors' petition and certify Candidate's name to the March 19, 2024 General Primary ballot.

To ensure that a reviewing court has sufficient reasons to affirm the SOEB's decision in this matter, I offer several different options for the SOEB to discuss as possible resolutions of this case. My goal is to reduce the possibility that a reviewing court remands the matter back to the SOEB for further proceedings, and offering alternatives to the Hearing Officer's recommendation may further that goal, especially if the court rejects the recommendation that the SOEB lacks jurisdiction.

First, I will discuss my recommendation: Option 1. I recommend that the SOEB consider resolving the objection petition under Illinois law without reaching the constitutional question under Section 3 as follows.

Paragraph 8 of Objectors' petition reads:

Candidate's nomination papers are not valid because when he swore in his Statement of Candidacy that he is "qualified" for the office of the presidency as required by 10 ILCS 5/7-10, he did so falsely. Trump cannot satisfy the eligibility requirements for the Office of the President of the United States established in Section 3 of the Fourteenth Amendment of the U.S. Constitution.

Pet. at ¶8; *see also* ¶341. On its face, Paragraph 8 alleges a violation of state law: Section 7-10 of the Election Code, 10 ILCS 5/7-10. As explained below, I recommend finding that Candidate's Statement of Candidacy is not knowingly false and therefore does not violate Section 7-10, his nomination papers are valid, and the objection should be overruled.

The Election Code's mandate for an electoral board is contained in Section 10-10:

The electoral board shall take up the question as to whether or not the certificate of nomination or nomination papers or petitions are in proper form, and whether or not they were filed within the time and under the conditions required by law, and whether or not they are the genuine certificate of nomination or nomination papers or petitions which they purport to be.... and in general shall decide whether or not the certificate of nomination or nominating papers or petitions on file are valid or whether the objections thereto should be sustained....

10 ILCS 5/10-10 (in relevant part). An electoral board's jurisdiction extends to determining whether a candidate filed a false statement of candidacy. *See Goodman*, 241 Ill.2d at 410; *see also Cullerton v. DuPage County Officers Electoral Bd.*, 384 Ill.App.3d 989 (2d Dist. 2008) (false statement of candidacy disqualified candidacy). One appellate court interpreted this to mean: "If a candidate's statement that he or she is qualified for the office sought is inaccurate, the statement fails to satisfy statutory requirements and constitutes a valid basis upon which an electoral board may sustain an objector's petition seeking to remove a candidate's name from the ballot." *Muldrow v. Municipal Officers Electoral Bd. for City of Markham*, 2019 IL App (1st) 190345, at ¶20, *quoting Goodman*, 241 Ill.2d at 410.

The *Muldrow* court's statement makes sense when evaluating a candidate swearing he is "legally qualified" for office under state law when the qualifications at issue are clear-cut factual

requirements. For example, in *Goodman v. Ward*, the Illinois Supreme Court held that the Illinois Constitution requires three qualifications for a judicial candidate: being a U.S. citizen, a licensed attorney-at-law, and a resident in the unit that selects him. *Goodman*, 241 Ill.2d at 407, citing Ill. Const. 1970, art. VI, § 11. The candidate in *Goodman* had sworn under Section 7-10 that he was “legally qualified to hold the office of Circuit Court Judge, 12th District [sic], 4th Judicial Subcircuit[,]” but the Court ruled that statement “was untrue” because the candidate admittedly did not yet live in the 12th District. *Goodman*, 241 Ill.2d at 410. Therefore, he was not “legally qualified” for office when he signed, which invalidated his statement of candidacy and nomination papers. *Id.*

The question of whether a candidate is “legally qualified” for the office sought under Section 7-10 can be simple for issues like residency, citizenship, and age. Indeed, the SOEB has decided the issue of natural born citizenship qualifications for candidates for President in ruling on objections to nomination papers of former President Barack Obama and Senator Marco Rubio, as cited in Paragraph 50 of Objector’s petition. However, when as here, it is alleged that being “legally qualified” for office necessarily means not being barred from holding office by Section 3 for engaging in insurrection, this is not a simple question of fact readily known to the candidate. In *Goodman*, the Court criticized the electoral board for engaging in a constitutional analysis beyond the Illinois Constitution’s fact-based requirements to hold judicial office, finding: “It should have confined its inquiry to whether Ward’s nominating papers complied with the governing provisions of the Election Code.” 241 Ill.2d at 414-415. Therefore, I encourage the SOEB to look at this case through a narrow lens strictly under Illinois law.

In *Welch v. Johnson*, the Illinois Supreme Court considered what constitutes a false statement justifying removal of a candidate from the ballot. 147 Ill.2d 40 (1992). Although *Welch* dealt with statements of economic interests, as opposed to whether the candidate was “legally qualified” for office, the analysis is nonetheless illustrative. The *Welch* Court held that the requirement of subscribing and swearing to the statement of candidacy, “implicates the perjury provision of the Election Code.” *Id.* at 52, citing provision currently cited as 10 ILCS 5/29-10 (additional citations omitted). The Court explained:

Section 29-10 [of the Election Code] makes a false statement, material to the issue or point in question, which the maker does not believe to be true, in any affidavit, certificate or sworn oral declaration required by any provision of the Code, a Class 3 felony. In establishing scienter as an element for false statements subject thereto, section 29-10 strongly intimates that merely innocently or inadvertently false statements shall not be cause for the imposition of any sanction thereunder.

Id. The *Welch* Court held that the perjury provisions of the Election Code “sanction only knowingly or willfully false statements” in connection with elections, generally. *Id.* at 55 (emphasis supplied). In other words, not every incorrect statement sworn in connection with one’s nomination papers is sufficient to implicate the Election Code’s perjury provisions and invalidate the papers. Rather, a candidate’s knowingly or willfully false statements that the maker does not believe to be true justify the sanction of removal from the ballot. *See id.* at 52, 55-56.

I recommend that the SOEB find, regardless of whether Candidate is disqualified from holding office under Section 3 as a matter of law, that his sworn statement on his Statement of Candidacy that he is “legally qualified” for office is not knowingly false, and therefore, does not violate Section 7-10 and cannot invalidate his nomination papers. *See id.* Throughout this proceeding, Candidate has consistently denied that he engaged in insurrection and violated Section 3. Rather, he has argued he is legally qualified to hold the office of President and did not swear his Statement of Candidacy falsely.

This is unlike a simpler case in which a candidate falsely swears he is qualified to hold office, when that qualification is to live within the applicable district, for example, because the candidate knows where he lives and acts with intent in swearing he lives somewhere other than at his residence. The same is not true here, at least not to the extent needed to demonstrate by a preponderance of the evidence that this Candidate knowingly made a false statement when he swore he was legally qualified for the office of President.

Objectors have presented no evidence whatsoever to indicate that Candidate knowingly made a false statement when he signed his Statement of Candidacy and swore he was legally qualified for the office sought. Although I do not doubt that Objectors sincerely believe Candidate engaged in insurrection and is not legally qualified to hold office, Candidate believes the opposite, and Objectors have not offered evidence to refute this. Objectors offered thousands of pages of records in support of their petition, but they did not offer any evidence beyond the Statement of Candidacy itself to show Candidate’s intent when he signed his Statement of Candidacy. Objectors could have subpoenaed the notary public or other witnesses to the signing of his Statement of Candidacy regarding any admissions Candidate may have made when he signed indicating his state of mind, but they did not. Granted, it is simple to prove a candidate falsely swore to an untrue fact, but proving someone else’s state of mind in making a statement of his own beliefs regarding his eligibility for office is not easily proven. Constitutional scholars around this nation cannot agree whether Section 3 disqualifies Candidate from holding office, and there is no proof Candidate knows he is disqualified. I do not find sufficient evidence in the record to prove Candidate knowingly lied when he swore he was “legally qualified” for office when he signed his Statement of Candidacy. As such, I recommend concluding his Statement of Candidacy is valid, and Objectors’ petition should be overruled.

Further, I recommend denying Objectors’ Motion for Summary Judgment due to material disputed facts. I further recommend denying Candidate’s Motion to Dismiss as moot because the case can be resolved under Illinois law without reaching the questions of jurisdiction and federal law raised.

To the extent Objectors claim that even if a candidate did not falsely swear he was qualified for the office sought in his Statement of Candidacy, he must nevertheless not be disqualified by Section 3, then I recommend adopting the jurisdictional recommendation of the Hearing Officer.

Please see options for the SOEB to discuss on the next page.

Summary of Options

Option 1:

- Accept the Recommendation of the General Counsel
- Deny the Objectors' Motion to Grant Objectors' Petition, or in the Alternative for Summary Judgment ("MSJ") and Candidate's Motion to Dismiss Objectors' Petition ("MTD")
- Overrule the objection

Option 2:

- Accept the Hearing Officer's recommendation
- Deny the MSJ and grant the MTD in for lack of jurisdiction
- Overrule the objection

Option 3:

- Accept the General Counsel Recommendation that Candidate did not file a false Statement of Candidacy
- If the SOEB believes that Illinois law requires a candidate to not be disqualified by Section 3 in order to appear on the ballot, even though the Statement of Candidacy was not false, adopt the Hearing Officer's recommendation that the SOEB lacks jurisdiction to decide whether Candidate engaged in insurrection in violation of Section 3
- Deny the MSJ; Grant the MTD for lack of jurisdiction
- Overrule the objection

Option 4:

- Adopt Option 2 or 3 above but without the Hearing Officer's alternative finding that if the SOEB has jurisdiction, then Candidate engaged in insurrection in violation of Section 3, invalidating his nomination papers

Option 5:

- If the SOEB believes it has jurisdiction over the federal constitutional issue in this matter and disagrees with the General Counsel recommendation, adopt the Hearing Officer's alternate recommendation that Candidate engaged in insurrection in violation of Section 3
- Deny all motions and rule on the merits
- Sustain the objection

Option 6:

- If the SOEB believes it has jurisdiction over the federal constitutional issue in this matter and disagrees with the General Counsel recommendation and Hearing Officer's alternate recommendation that Candidate engaged in insurrection in violation of Section 3, determine on the merits that Candidate did not engage in insurrection
- Handle motions argument by argument
- Overrule the objection