

At an IAS Term, Special Election Part of the
Supreme Court of the State of New York,
held in and for the County of Kings, at the
Courthouse, at Civic Center, Brooklyn,
New York, on the 27th day of June, 2008.

P R E S E N T:

HON. DAVID I. SCHMIDT

Justice.

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IN THE MATTER OF THE APPLICATION OF
INEZ D. BARRON,

PETITIONER-CANDIDATE

ANDRE T. MITCHELL AND ALICE LOWMAN,
Petitioners,

Order

- against -

Index No. 700000/08

BOARD OF ELECTIONS IN THE CITY OF NEW YORK,
Respondent

FOR AN ORDER, PURSUANT TO SECTIONS 16-100,
16-104, AND 16-116 OF THE ELECTION LAW,
COMPELLING RESPONDENT TO CONDUCT ELECTIONS
ON GENERAL ELECTION DAY, NOV. 4, 2008, AND ON
PRIMARY ELECTION DAY, SEPT. 9, 2008, IN THE 40TH
ASSEMBLY DISTRICT, IN KINGS COUNTY, TO FILL THE
VACANCY IN THE PUBLIC OFFICE OF MEMBER OF
ASSEMBLY FROM SAID ASSEMBLY DISTRICT IN THE
TERM OF OFFICE ENDING DEC. 31, 2008 CAUSED BY
THE CONVICTION OF ASSEMBLYWOMAN DIANE
GORDON; TO PLACE SAID ELECTION CONTESTS ON
THE OFFICIAL BALLOTS USED AT SAID GENERAL
AND PRIMARY ELECTION; AND TO ACCEPT FOR
FILING VALID DESIGNATING PETITIONS FILED BY
CANDIDATES FOR THE SEPT. 9, 2008 PRIMARY
ELECTION FOR THE SAID VACANCY IN SAID
PUBLIC OFFICE.

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The following papers numbered 1 to 4 read on this motion:

	<u>Papers Numbered</u>
Notice of Motion/Order to Show Cause/ Petition/Cross Motion and Affidavits (Affirmations) Annexed_____	<u>1-3</u>
Opposing Affidavits (Affirmations)_____	<u>4</u>
Reply Affidavits (Affirmations)_____	_____
_____Affidavit (Affirmation)_____	_____
Other Papers_____	_____

Upon the foregoing papers in this Election Law § 16-104 proceeding it is

ORDERED, that Respondent Board of Elections in the City of New York conduct an election on General Election Day, November 4, 2008, in the 40th Assembly District, in Kings County, to fill the vacancy in the Public Office of Member of Assembly from said assembly district in the term of office ending December 31, 2008 unless the Governor shall lawfully proclaim a special election to fill such office; and it is further

ORDERED, that respondent conduct an election on Primary Election Day, September 9, 2008, in the 40th Assembly District, in Kings County, to make political party nominations to fill the vacancy in the Public Office of Member of Assembly from said assembly district in the term of office ending December 31, 2008 unless the Governor shall lawfully proclaim a special election to fill such office; and it is further

ORDERED, that the period for circulating designating petitions by candidates for the September 9, 2008 Primary Election for the Public Office of Member of Assembly from the 40th Assembly District to fill the vacancy in the term of office ending December 31, 2008 shall

Assembly District to fill the vacancy in the term of office ending December 31, 2008 shall commence on Wednesday, July 2, 2008 and the last day to circulate such designating petitions, as with all other designating petitions for the September 9, 2008 Primary Election, shall be Thursday, July 10, 2008, unless the Governor shall lawfully proclaim a special election to fill such office; and it is further

ORDERED, that respondent shall receive petitions for elections ordered herein in accordance with the provisions of the Election Law; and it is further

ORDERED, that respondent's existent calendar for the September 9, 2008 Primary Day Election shall in all other respects apply herein; and it is further

ORDERED, that petitioner serve a copy of this order, by 5 PM on Friday, June 27, 2008, on those specified below by guaranteed overnight next day delivery to an office of the Kings County Chairpersons of the Democratic, Republican, Independence and Conservative Parties and the New York State Chairperson of the Working Families Party and to the residence of or office of Nathan Bradley Jr., Kenneth Evans, Winchester Key, Eugene K. Myrick and John C. Whitehead Sr.

This constitutes the order of this court and a formal opinion to follow.

ENTER FORTHWITH,



J. S. C.

FILED

JUN 27 2008

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KINGS COUNTY CLERK
2008 JUN 27 AM 11:23

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