

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In re: Nomination Petition :
of George Rathmell for :
Representative in Congress :
From the 15th Congressional :
District :
: :
: :
Objection of: Pat Saylor : No. 121 M.D. 2022
and Carol Gingrich : Heard: April 1, 2022

BEFORE: HONORABLE MARY HANNAH LEAVITT, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY SENIOR JUDGE LEAVITT

FILED: April 8, 2022

Before the Court is the Petition to Set Aside the Nomination Petition of George Rathmell (Candidate) as a Republican Candidate for the Office of Representative in the United States Congress from the 15th Congressional District in the General Primary Election to be held on May 17, 2022, that was filed by Pat Saylor and Carol Gingrich (Objectors) on March 22, 2022. Section 912.1(12) of the Pennsylvania Election Code¹ requires a candidate for the Office of Representative in the United States Congress to present at least 1,000 valid signatures of electors registered in the candidate's political party in order to have his or her name appear on the primary election ballot. Candidate's Nomination Petition has 1,306 signatures. Objectors challenge Candidate's Nomination Petition as fatally flawed in its entirety. In the alternative, Objectors challenge over 400 signatures as invalid, which reduces the total number of signatures below the statutory minimum of 1,000.

¹ Act of June 3, 1937, P.L. 1333, *as amended*, added by the Act of December 12, 1984, P.L. 968, 25 P.S. §2872.1(12).

On March 23, 2022, this Court entered a scheduling and case management order scheduling the hearing on Objectors' petition for March 31, 2022, at 9:30 a.m., and imposing pre-hearing responsibilities upon both Objectors and Candidate. Specifically, (1) Objectors were ordered to secure the services of a court stenographer for the hearing and, if signatures were challenged, to secure the presence of a SURE system² operator for the hearing; (2) Objectors were ordered to effect personal service on Candidate or an adult member of Candidate's family, on or before 5:00 p.m., on March 25, 2022, and to file proof of service in this Court; (3) Objectors and Candidate were ordered to file a list of all witnesses intended to testify at the hearing; (4) Objectors were ordered to arrange to meet with Candidate or his representative and a SURE system operator, if necessary, to review each challenged signature before the hearing; (5) Objectors and Candidate were ordered to file a stipulation that listed the total number of completed signatures submitted, the total number of uncontested signatures, the total number of contested signatures by petition page and line number and the basis for the objection, and each signature for which an objection can be withdrawn, by page and line number; and (6) Candidate was ordered to identify each signature, by page and line number, to be rehabilitated at the hearing and the manner of rehabilitation. Objectors and Candidate were ordered to file all of the foregoing items with this Court no later than 12:00 noon on March 30, 2022.³ The case management order stated that a party's failure to comply

² “[T]he SURE system is the Statewide Uniform Registry of Electors, the statewide database of voter registration maintained by the Department of State and administered by each county.” *In re Nomination Petition of Morrison-Wesley*, 946 A.2d 789, 792 n.4 (Pa. Cmwlth.), *aff’d*, 944 A.2d 78 (Pa. 2008).

³ On March 24, 2022, Objectors personally served Candidate with a copy of the Petition to Set Aside and a flash drive containing the signature objections in a spreadsheet format. *See* Proof of Service, filed 3/30/2022.

with any of its provisions could preclude the noncompliant party from presenting evidence at the hearing and could authorize the imposition of monetary sanctions by the Court.

On March 25, 2022, the Court granted the Objectors’ application to reschedule the hearing to Friday, April 1, 2022, at 9:30 a.m., and gave Objectors until Monday, March 28, 2022, to effect service of the order. Objectors personally served the March 25, 2022, order upon Candidate. Thereafter, the parties jointly requested a one-day extension of time to file the above-described stipulation and witness list. The Court granted the application.

On March 31, 2022, the parties filed a stipulation to strike the following 23 signature lines in the Nomination Petition:

Page	Line	Page	Line
4	18	16	12
4	22	38	9
5	27	39	3
7	21	44	19
8	23	45	1
9	19	45	30
9	29	59	11
10	6	59	14
10	11	59	24
10	25	61	11
15	1	63	5
15	2		

This stipulation left 1,283 signatures on the Nomination Petition at the inception of the hearing. In addition, Objectors withdrew eight of their signature line challenges:

Page	Line	Page	Line
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4	24	17	7
10	24	38	8
15	14	39	9
17	6	44	3

Objectors filed a witness list indicating their intention to call (1) J. Wright Leonard, a certified document/handwriting examiner; (2) Daniel Kunselman, a circulator; (3) Candidate; and (4) Beth Lechman, or other designee, from the Centre County Bureau of Elections. In addition, Objectors filed an expert report from J. Wright Leonard and her curriculum vitae, as well as a memorandum of law in support of their Petition to Set Aside. Candidate did not file a list of witnesses or expert report, or identify the signatures that he intended to rehabilitate, as directed by this Court’s scheduling and case management order.

The scheduled hearing was conducted on April 1, 2022. At the hearing, Candidate offered an “Addition to Stipulations,” agreeing to strike additional signatures from the Nomination Petition:

Page	Line	Page	Line	Page	Line
1	17	16	7	49	14
1	29	20	1	49	13
1	28	22	2	49	11
1	27	24	4	49	10
4	26	26	5	49	9
5	29	26	2	49	8
10	23	32	1	49	12
10	22	35	9	49	15
10	8	35	8	50	30
10	29	35	7	50	29
12	2	35	1	50	28
13	4	39	3	50	27

15	24	43	5	50	26
15	5	45	14	50	25
15	4	45	13	50	24
15	21	47	7	50	23
15	7	48	2	50	22
15	6	48	1	50	21

Page	Line	Page	Line	Page	Line
50	20	65	1	80	3
50	19	66	1	80	20
50	18	68	2	80	27
50	17	70	7	80	26
50	16	70	6	82	17
50	15	70	1	83	1
50	14	71	1	84	19
50	7	72	7	88	13
51	20	73	7	88	10
51	13	77	8	88	6
54	4	78	23	88	3
55	11	78	30	88	1
59	7	79	3	89	3
59	30	79	29	89	2
59	27	79	22	90	10
59	9	79	14	90	9
59	1	79	12	92	2
65	2	80	24	92	1
				93	3
				94	11
				95	1
				96	1

The signature on line 3 of page 39 had already been stricken in the March 31, 2022, stipulation. Accordingly, the above list of 112 signatures consisted of 111 new

signatures to be stricken. This left 1,172 signatures on the Nomination Petition before the hearing began.

Objectors presented the testimony of the Director of Elections for Centre County, Beth Lechman, who administers the voter registration rolls on the SURE system. The voter registration record of each elector's signature challenged by Objectors was brought up on the SURE screen and examined by all parties and the Court. Objectors also presented the testimony of J. Wright Leonard, a forensic document and handwriting examiner, who testified about multiple instances where the elector information, such as the street address, city or township, or printed name of the elector, was written in the hand of another. Candidate had the opportunity to cross-examine Objectors' witnesses and to testify on his own behalf. However, Candidate did not present any evidence, except for his own testimony.

This matter is ready for disposition.

I. Global Challenges to Nomination Petition

A. Pages of Nomination Petition Lacking Page Numbers

Candidate's Nomination Petition contained four unnumbered pages. Objectors argue that the Nomination Petition should be stricken in its entirety because pagination is necessary to prevent after-the-fact insertion of pages. Pagination provides an important safeguard against fraud. Because the unnumbered sheets are interspersed with the numbered sheets, Objectors argue that it is not obvious where these pages belong. Alternatively, Objectors argue that the unnumbered pages should be stricken.

Under the Election Code, a nomination petition containing "one or more sheets . . . shall be bound together when offered for filing if they are intended to constitute one petition, and *each sheet shall be numbered consecutively beginning*

with number one, at the foot of each page.” Section 909 of the Election Code, 25 P.S. §2869 (emphasis added). However, the failure to number all the pages in a petition is not fatal but, rather, an amendable defect. *See In re Freeman*, 540 A.2d 606, 611 (Pa. Cmwlth. 1988).

In *In re Petition for Election of Two Additional Supervisors in Birmingham Township*, 549 A.2d 620 (Pa. Cmwlth. 1988), a nomination petition was filed with a county election bureau to have a question placed on the ballot. The petition contained eight pages, not numbered, stapled or otherwise affixed together; all pages were placed in a single folder. The objectors argued that the nomination petition should be set aside because the petition was not bound and paginated as required by Section 909 of the Election Code. This Court rejected this contention for the stated reason that the pages were contained in a single folder.

Here, Candidate’s Nomination Petition was bound but four sheets were not numbered; this is an amendable defect. Candidate testified that it was an inadvertent omission, explaining that the missing numbers for unnumbered sheets can be easily inferred. Specifically, the unnumbered sheets after page 33 and before page 36 makes them pages 34 and 35; the unnumbered sheet after page 43 and before page 45 makes it page 44; and the unnumbered sheet after page 53 and before page 55 is number 54. We accept Candidate’s testimony as amendments to add numbers 34, 35, 44, and 54 where missing from the Nomination Petition.

Accordingly, the Court denies Objectors’ request to set aside the Nomination Petition in its entirety, or, in the alternative, to strike the four pages that were not numbered when the Nomination Petition was filed with the Department of State.

B. Statement of Occupation of Candidate

Objectors assert that the Nomination Petition is defective in its entirety because Candidate listed his occupation on the Nomination Petition as “Army Chaplin, Pastor, Volunteer.” However, Candidate has not been in the Army for 30 years. Objectors assert that this defect renders Candidate’s Nomination Petition facially invalid and, thus, it must be stricken.

Section 952 of the Election Code provides that a candidate must specify his “profession, business or occupation” on all nomination papers. 25 P.S. §2912. The Department of State provides the following instructions on a candidate’s completion of a nomination petition:

The name of each candidate, and his/her occupation and place of residence must be listed. The correct title of the office which each such candidate is seeking must be indicated with the appropriate district number. NOTE: More than one candidate may be nominated by one set of nomination papers, provided that all the signers are eligible to vote for all offices for which such nominations are made.

<https://www.dos.pa.gov/VotingElections/CandidatesCommittees/RunningforOffice/Documents/2022/2022%20PB%20Nomination%20Paper%20Instructions%20DR AFT%20022422%20for%20Statewide%20Offices%20and%20District%20Offices.pdf> (last visited April 7, 2022).

At the hearing, Candidate testified that he served as Army Chaplin from 1974-1994; since his retirement, he has served as a civilian chaplain, church pastor, and a volunteer. Candidate testified that he listed Army Chaplin as his occupation, in addition to Pastor and Volunteer, to seek support and to let people know who he was. Notably, an army chaplain is required to “hold appropriate religious services

at least once on each Sunday for the command to which he is assigned” and to “perform appropriate religious burial services for members of the Army who die while in that command.” 10 U.S.C. §7217(a) (relating to duties of chaplains and assistance required of commanding officers).

In his post-hearing brief, Candidate argues that although he is no longer on active military duty, he was not stripped of his title as Army Chaplain. He explained that his life revolves around devotion to God and that is why he thought it was important to include Army Chaplain as his occupation. Further, Candidate argues that he received no instructions that he could not list the occupation from which he retired on the Nomination Petition.

Nomination petitions are presumed valid, and it is the objector’s burden to prove otherwise. *In re Vodvarka*, 140 A.3d 639, 641 (Pa. 2016). Nomination petitions are not lightly set aside, but we have explained that:

The provisions of the Election Code must be liberally construed so as not to deprive an individual of his right to run for office or the voters of their right to elect the candidate of their choice. *In re Creighton*, 899 A.2d 1166, 1168 (Pa. Cmwlth.), *aff’d per curiam*, [] 896 A.2d 583 ([Pa.] 2006). *However, “the provisions of the [E]lection [Code] relating to the form of nominating petitions and the accompanying affidavits are not mere technicalities but are necessary measures to prevent fraud and to preserve the integrity of the election process.” In re Nomination Petition of Cianfrani*, [] 359 A.2d 383, 384 ([Pa.] 1976).

In re Nomination Petition of Shimkus, 946 A.2d 139, 154 (Pa. Cmwlth. 2008) (emphasis added). These principles govern the Court’s analysis of Candidate’s statement of occupation on his Nomination Petition, which Objectors have challenged.

Objectors rely primarily upon *In re Beyer*, 115 A.3d 835 (Pa. 2015). There, the candidate listed his occupation as an attorney because he was a recent law school graduate. However, he was not yet admitted to practice law in any jurisdiction. *Id.* at 836-37. Upon questioning by potential signers to his petition, the candidate explained his actual status as a future member of the Pennsylvania Bar. This Court held that the designation was not a material defect because a “lawyer” includes a person learned in the law and the candidate credibly testified that he did not intend to “deceive the electorate.” *Id.* at 837. The Supreme Court reversed.

In reaching its decision to strike the candidate from the ballot, the Supreme Court was guided by former Chief Justice Castille’s concurring opinion in *In re Nomination Petition of Guzzardi*, 99 A.3d 381 (Pa. 2014). In *Guzzardi*, a gubernatorial candidate had described his occupation as a “semi-retired businessman and lawyer” on the nomination petition. The candidate had practiced law for approximately 40 years but had assumed inactive status several years before seeking elected office. Ultimately, his nomination petition was stricken because he failed to file a timely statement of financial interests with the State Ethics Commission. Notably, two justices considered the occupation description fatally defective and would have stricken the petition on that basis. The concurring opinion incorporated a prior dissent in *In re Rankin*, 874 A.2d 1145, 1145-48 (Pa. 2008), a case involving a candidate, and retired attorney, who listed her current occupation as “attorney/publisher.” Therein, the dissent wrote:

A former occupation is not a current occupation. A conditional or equivocal status is not an unequivocal one What respondent viewed as an “explanation” of her conduct at the hearing below, properly understood, was a confession.

Rankin, 874 A.2d at 1148 (Castille, J., dissenting) (emphasis added) (citations omitted). In *Beyer*, the Supreme Court concluded that “a prospective occupation is not a current occupation” and that lack of intent to deceive the electorate was irrelevant. *Beyer*, 115 A.3d at 841. Thus, the Supreme Court held that the candidate’s “nomination petitions bore a fatal defect, as he was not yet qualified to claim the present occupational or professional status of ‘lawyer.’” *Id.* at 843.

Here, Candidate listed his occupation as Army Chaplin, although he was a *former* or *retired* Army Chaplin.⁴ In any case, a former occupation is not a current occupation. *Beyer*, 115 A.3d at 841. Because Candidate’s Nomination Petition bears a facial defect that is material and incurable, Objectors have met their burden of disproving the presumptive validity of Candidate’s Nomination Petition.

The defect in Candidate’s Nomination Petition is dispositive of Objectors’ petition to set aside Candidate’s Nomination Petition. However, for the sake of completeness, the Court addresses Objectors’ remaining objections.

II. Objections to Specific Pages

A. Defective Preamble - Lack of Congressional District

Objectors contend that all the signatures on pages 2, 10, 12, 51, 64, and 65 of Candidate’s Nomination Petition must be stricken because those pages do not state the congressional district number. Objectors contend that the missing information is not an amendable defect.

Candidate testified that it was an oversight to omit the congressional district number on those pages. He explained that, because his campaign had to get

⁴ In his post-hearing brief, Candidate attaches affidavits from individuals stating that “they did not feel deceived or misled regarding [his] occupation.” Candidate Brief at 5, ¶15. These affidavits were not admitted into evidence at the hearing and will not be considered. *Erie Indemnity Company v. Coal Operators Casualty Company*, 272 A.2d 465, 467 (Pa. 1971).

new sheets on which the congressional district number was not pre-printed, this required the circulators to handwrite the number on the forms. Inadvertently, the circulators failed to write the congressional district numbers on some of the sheets.

In his post-hearing brief, Candidate contends that “the vast majority of signatures were collected within the very counties that were previously included in the last map.” Candidate Brief at 3, ¶10. Further, Candidate states that when it was “established to signers that [he] was running against [the incumbent], they knew [the incumbent] and they wanted to put someone else on the ballot to challenge him.” Candidate Brief at 4, ¶11. Candidate did not present any evidence at the hearing to support this version of the facts and, accordingly, the Court will disregard it.

In *In re Snyder*, 516 A.2d 788, 790 (Pa. Cmwlth. 1986), this Court held that the absence of a district designation on a page of the nomination petition is not a fatal error. The candidate was allowed to amend the nomination petition with the candidate’s credible testimony that, as the circulator of the page in question, he personally informed every signer with whom he spoke that he was a candidate for representative in the General Assembly for the 144th legislative district. *Id.* See also *In re Ford*, 994 A.2d 9, 22 (Pa. Cmwlth. 2010) (candidate allowed to amend nomination petition by providing missing information, including the congressional district number).

The defects on the faces of pages 2, 10, 12, 51, 64, and 65 of Candidate’s Nomination Petition are amendable.⁵ However, Candidate did not provide any testimony or evidence that he and the other circulators informed each signer that Candidate was running for the Office of Representative in the United States Congress in the 15th Congressional District. Because of the omission of the

⁵ The circulator of page 2 was Rebecca Kunselman. Candidate was the circulator for pages 10, 64, and 65. Daniel Kunselman was the circulator for pages 12 and 51.

congressional district in the preamble, the Court finds that the signers of pages 2, 10, 12, 51, 64, and 65 could have been misled as to which congressional district Candidate was running in.

Accordingly, this Court is compelled to strike the 103 signatures lines⁶ on pages 2, 10, 12, 51, 64, and 65, which lack the congressional district number. Because 12 of the 103 signatures were stricken by joint stipulation of the parties, this reduces the new strikes to 91 signatures. Subtracting 91 signatures from the Candidate's remaining 1,172 signatures leaves 1,081 signatures on Candidate's Nomination Petition.

B. Defective Circulator Statement – Wrong County

Objectors challenge pages 72, 95, and 96 of Candidate's Nomination Petition because the circulator's identification of the county of residence for electors signing these pages does not match the county listed in the preamble to the page they signed. Page 72 lists the signers' county of residence as Indiana, but the preamble lists Jefferson. Page 95 lists the signers' county of residence as Jefferson, but the preamble lists Armstrong. Page 96 lists the signers' county of residence as Jefferson,

⁶ The pages and lines to be stricken follow:

Page	No. of Signature Lines
2	30
10	30
12	15
51	20
64	6
65	2

but the preamble lists Clarion. Objectors ask the Court to strike the 24 signature lines contained on pages 72, 95, and 96 of Candidate’s Nomination Petition.

Candidate responded that he initially believed that he was supposed to list his county, which is Jefferson, in the Circulator’s Statement. Subsequently, he learned that he was to record the county where the petition was circulated.

In *In re Nomination Petition of Delle Donne*, 779 A.2d 1, 6 (Pa. Cmwlth.), *aff’d*, 777 A.2d 412 (Pa. 2001), this Court noted that Section 977 of the Election Code, 25 P.S. §2937, provides that “material errors or defects apparent on the face of the nomination petition” are amendable at the discretion of the Court. In *Delle Donne*, there was a conflict between the county listed on the front of the petition (Fayette) and that listed in the circulator’s affidavit⁷ (Allegheny) on the back. This Court held that this conflict was a defect apparent on the face of the petition and amendable. *Id.* at 6. In so holding, this Court relied upon *Jackson v. Fields*, 386 A.2d 533, 533 (Pa. 1978), wherein the Supreme Court stated “that nomination petitions shall be treated as lawful for the district intended . . . if they are otherwise in order with respect to the designation of the office and residence of the candidate and of the signers, and if the signers have not been misinformed or misled.” In *Delle Donne*, the front of the petition showed the correct county of the signers’ residence. This Court reasoned that because the circulator’s attestation was not signed until after all the signers had executed their signatures and the petition was otherwise in order, the defect was amendable. *Delle Donne*, 779 A.2d at 6 (citing Section 977 of the Election Code, 25 P.S. §2937).

⁷ Sections 909 and 951(d) of the Election Code, 25 P.S. §§2869, 2911(d), amended by Section 3 of the Act of October 31, 2019, P.L. 552, No. 77 (Act 77), now require that circulators of nomination petitions or papers file a “statement” subject to the penalties of 18 Pa. C.S. §4904 (relating to unsworn falsification to authorities), rather than a notarized affidavit.

Here, the alleged defect is apparent on the faces of pages 72, 95, and 96 of the Nomination Petition and is amendable. Page 72 was circulated in Jefferson County, and the signers of page 72 were residents of Jefferson County. Page 95 was circulated in Armstrong County, and all but two of the signers⁸ of page 95 were residents of Armstrong County. Page 96 was circulated in Clarion County, and all the signers of page 96 were residents of Clarion County. The signers of pages 72 and 96 could not have been misled by the mistake because the mistake occurred after they had signed the Nomination Petition. The defect is amendable.

However, Candidate did not request to amend the “County of Petition Signers’ Residence” listed in the Circulator’s Statement on pages 72 and 96 of the Nomination Petition. As such, the Court is constrained to grant Objectors’ request to strike the 24 signature lines. This includes 10 signatures on page 72; 11 on page 95; and 3 on page 96. Three of these 24 signatures were already stricken by stipulation of the parties, which reduces the total number of strikes to 21 signatures from the Nomination Petition’s remaining 1,081 signatures. This leaves 1,060 signatures.

C. Defective Circulator Statement – Lack of Knowledge

Objectors argue that Candidate and Daniel Kunselman lacked sufficient knowledge to attest to the qualifications of the individuals who signed pages they circulated because they were not present when the signatures were made. Objectors point out that the Circulator’s Statement is to be filled out after all the signatures have been obtained on the petition. On many pages, the county designation on the Circulator’s Statement was crossed out and replaced with a different county.

⁸ One signer was from Mayport, Pennsylvania, in Clarion County, and one signer was from Worthington, Pennsylvania, in Armstrong County.

Objectors argue that this indicates that the Circulator's statements were filled in before circulation, in direct contravention of the instructions on the Nomination Petition.

Each page of a candidate's nomination petition must be attested by a statement from the circulator declaring, among other things, that the signers to the petition personally signed the petition with full knowledge of the contents of the petition. Section 909 of the Election Code, 25 P.S. §2869. Our Supreme Court has held that "in order to verify this information, the circulator needs to be present when each signer agrees to sign the petition." *In re Farnese*, 17 A.3d 375, 377 (Pa. 2011). Further, "[t]he policy of liberally reading the Election Code cannot be distorted to emasculate the requirements of providing legitimate [] affidavits." *Id.* at 380. Any false statement in an affidavit casts "doubt on the accuracy of the entire affidavit, and, thus, the authenticity of the petition." *Id.*

Daniel Kunselman, a full-time college student, testified that he circulated Candidate's Nomination Petition and collected between 400 to 450 signatures. He collected signatures in the evening and attended several signing events, where he met individuals from various counties within the 15th Congressional District. At a signing event, he was able to collect signatures on multiple Nomination Petition pages from electors residing in multiple counties. Daniel Kunselman acknowledged that at the signing events, he would occasionally walk away from the table to use the restroom or get something to eat. When he did, he would leave the petition unattended on the table. Daniel Kunselman testified that he did not believe anybody tampered with the pages. Daniel Kunselman testified that he did not remember circulating pages 57 and 87 of the Nomination Petition.

For his part, Candidate explained that, initially, he thought he was supposed to put his county of residence in the Circulator's Statement. Subsequently, he learned the county of the signers was to be identified in the Circulator's Statement. Candidate then corrected his Circulator's Statements by crossing out his county and writing in the county of the signers. Candidate denied that he completed the Circulator's Statement before obtaining the signatures.

Candidate testified that he also attended signing events. At those events, he would get signatures from individuals in attendance from multiple counties. He would pay close attention to the clipboard on the table. He did not recall leaving the table or the petition pages unattended. Further, Candidate testified that he would stop people in the parking lots at Walmart, Lowes, and a gun shop. At those locations, he also met individuals from multiple counties, including Lycoming and Clearfield Counties. Each individual signed a page for his county of residence.

The Court finds Candidate and Daniel Kunselman credible and rejects Objectors' contention that they lacked the knowledge required by Section 909 of the Election Code, 25 P.S. §2869, to attest to the signatures they collected, with the exception of those pages Daniel Kunselman did not remember circulating. Accordingly, pages 57 and 87 will be stricken. On page 57, there are 4 signatures, and on page 87, there are 2 signatures, for a total of 6 signatures. Subtracting 6 signatures from Candidate's remaining 1,060 signatures leaves 1,054 signatures.

D. Incomplete Circulator's Statement

Objectors argue that pages 37 and 59 of the Nomination Petition contain a Circulator's Statement that omits the circulator's zip code. Objectors contend that the zip code is a fundamental component of an address that, along with the other

address line information, indicates a precise location. Objectors' Memorandum of Law at 10. An incomplete circulator's statement renders that petition page invalid.

At the hearing, Candidate moved to amend page 37, testifying that the missing zip code was 15767. Objectors did not object to the amendment. As for page 59, Candidate testified that he believed that 15767 was the correct zip code, but he was not sure. Objectors did not agree to the amendment, and Candidate presented no other evidence on the correct zip code. Accordingly, the Court will strike the 7 signatures on page 37. Subtracting 7 signatures from Candidate's remaining 1,054 signatures leaves 1,047 signatures.

III. Individual Signature Line Challenges

Objectors challenged a number of signatures for a variety of reasons. The hearing addressed these challenges by category. Notably, Candidate conceded that five signatures should be stricken.⁹ This left 1,042 signatures at the beginning of the line-by-line review.

A. In the Hand of Another

Objectors challenged 80 signatures as invalid because line information was written in the hand of another. However, they withdrew a number of objections cited in their petition on the basis of their expert's evaluation.¹⁰

Each line on a nomination petition contains a space for the following information: signature of elector, printed name of elector, place of residence

⁹ Candidate conceded that the following five signatures should be stricken: page 13, line 15; page 15, line 17; page 33, line 6; page 50, line 4; and page 50, line 6.

¹⁰ Objectors withdrew their objections to the following signature lines as being in the hand of another by page and line as follows: 1-13, 1-14, 1-30, 2-5, 2-6, 2-12, 2-13, 2-14, 3-9, 3-10, 3-18, 3-19, 3-26, 3-27, 4-5, 4-6, 7-11, 7-12, 7-13, 8-1, 8-2, 8-27, 8-28, 12-12, 12-13, 14-5, 14-6, 14-27, 14-28, 16-4, 16-5, 16-29, 16-30, 20-18, 20-19, 20-20, 51-16, 51-17, 57-1, 57-2, 90-1, and 90-2. See Objectors' Exhibit 3.

(including house number; street or road; city, borough or township), and date. All this information must be filled out in the hand of the signing elector. *In re Nomination Petition of Silcox*, 674 A.2d 224, 225 (Pa. 1996). Stated otherwise, “[e]ach item must be personally written by the elector.” *In re Morrison-Wesley*, 946 A.2d at 794.

Generally, expert testimony is required to prove that any of the signature line information was written in the hand of another. *See, e.g., In re Morrison-Wesley*, 946 A.2d at 796; *In re Scott*, 138 A.3d 687, 695 (Pa. Cmwlth. 2016) (expert testimony showed that signatures were in the same handwriting); and *In re Treichel*, 898 A.2d 650, 652 (Pa. Cmwlth. 2006) (expert testimony showed that certain signatures were made by another person). In short, the trier of fact may reject a signature as made in the hand of someone other than the signer where supported by expert evidence. In *In re Freeman*, 540 A.2d at 613, this Court held that a trial court did not err in rejecting a signature challenge not supported by expert testimony. The party alleging defects in a nominating petition has the burden of proving such defects. *In re Nomination Petition of Flaherty*, 770 A.2d 327, 331 (Pa. 2001); *In re Scott*, 138 A.3d at 691.

Having heard the testimony of the forensic expert and reviewed the signature lines, the Court finds that information was written in the hand of another on the following pages of the Nomination Petition:

Page	Lines	Page	Lines
1	5, 6	8	14, 15
1	7, 8	9	25, 26
1	9, 10	10	17, 18
1	11, 12	14	21, 22
1	16, 17	16	2, 3, 19, 20

1	22, 23	20	23, 24
1	27, 28, 29	21	15, 16
2	17, 18	25	1, 2
2	19, 20	32	6, 7
2	21, 22, 23	32	8, 9
2	27, 28	37	1, 2
4	11, 12	38	17, 18
4	20, 21, 23, 27	42	7, 8
4	28	46	1, 2, 3, 4, 5
5	18, 19	61	3, 4
7	15, 16	74	9, 10
8	6, 7	84	12, 13
		90	7, 8

Regarding lines 2 and 3 on page 16, Wright testified that the printed name, street, and city were written in the same hand because the writing was similar in letter formation and size. Further, in her expert opinion, the signature on line 2 was consistent with the printing on lines 2 and 3. In other words, the individual who signed line 2 also printed the name, street, and city on line 3. Wright testified that she could not definitively relate back the handwriting on any of the other lines to one of the signers. The Court strikes line 3 because it was written in the hand of another, but not line 2. *See In re Parkinson* (Pa. Cmwlth., No. 488 C.D. 2014, filed April 11, 2014) (unreported),¹¹ slip op. at 8 (citing *In re Morrison-Wesley*, 946 A.2d 789) (upon finding a single person signed for two electors, either by signing the name of the second elector or by filling in the second elector’s required information, such as address and date of signing, the court struck the second elector’s signature)).

¹¹ This Court’s unreported panel opinions, issued after January 15, 2008, may be cited “for [their] persuasive value, but not as binding precedent.” Section 414(a) of the Commonwealth Court’s Internal Operating Procedures, 210 Pa. Code §69.414(a).

Of the above-listed 78 signatures, 77 must be stricken as written in the hand of another. Of the 77, however, 13 signatures are on pages 2 and 10, which pages were stricken for lack of a congressional district. This leaves 64 signatures to be subtracted from the remaining 1,042 signatures, which leaves 978 signatures.

B. Line Information Omitted

Next, Objectors challenged signatures where information was omitted or where the signer used ditto marks. Section 908 of the Election Code provides that “[e]ach signer of a nomination petition . . . shall add his address where he is duly registered and enrolled, giving city, borough or township, with street and number, if any . . . and the date of the signing, expressed in words or numbers[.]” 25 P.S. §2868. The omission of any part of this required information is a basis for finding the signature invalid. *In re Nomination Petition of Silcox*, 674 A.2d at 225.

The Court finds that information is missing from the following signature lines:

Page	Line	Page	Line
1	3, 4	4	20
6	23	11	25
6	16	43	11
6	13		
6	6		
9	21		
21	7		
33	6		
47	5		
93	1		

Accordingly, the Court will strike these 13 signatures. Subtracting 13 signatures from the 978 remaining leaves 965 signatures on the Nomination Petition.

C. Electors Not at Registered Address

Objectors argue that a number of individuals who signed Candidate’s Nomination Petition are not registered at the address listed on the Nomination Petition. Section 908 of the Election Code requires all signers of nomination petitions to “add his address where he is duly registered and enrolled, giving city, borough or township, with street and number, if any” 25 P.S. §2868. The Supreme Court recently held that this means that this “requires the signer to use the address where he or she is duly registered and enrolled, on pain of disqualification of the signature.” *In re Major*, 248 A.3d 445, 454 (Pa. 2021).

The Court finds that the following signatures must be stricken because the signer did not use the address where he or she is registered:

Page	Line
8	8
8	25
35	6
49	3
50	5
50	8
51	14
51	15
71	4
72	10

Two of the signature lines appear on page 51, which page has been stricken in its entirety. Accordingly, subtracting 7 signature lines from Candidate’s remaining 965 signatures leaves 958 signatures.

D. Electors Not Registered

Objectors challenge a number of signatures for the stated reason that the signer was not registered as Republican at time of signing or not registered to vote at all. Section 907 of the Election Code, 25 P.S. §2867, states that nomination petitions must be signed by “duly registered and enrolled members of such party who are qualified electors of the State, or of the political district, as the case may be[.]” The evidence showed that 19 signatures must be stricken for lack of proper registration:

Not Republican		Not Registered	
Page	Lines	Page	Lines
23	5	7	18
35	5	12	2
47	8	14	4
51	5	15	17
51	18	15	18
54	2	20	11
60	2	50	1
62	5	51	19
		56	1
		73	6
		73	11

Pages 12 and 51, which have been stricken in their entirety, include 4 of the 19 signatures. Subtracting 15 signature lines from Candidate’s remaining 958 signatures leaves 943 signatures.

E. Signers Signed for Another Candidate

Objectors challenge three signatures because the signer signed another candidate’s nomination petition for the same office. Section 908 of the Election Code states that “[e]ach signer of a nomination petition *shall sign but one such petition for each office* to be filled” 25 P.S. §2868 (emphasis added). On page

15, line 29, the elector signed the other candidate’s nomination petition on March 3, 2022; he signed Candidate’s Nomination Petition on March 9, 2022. Formal objections have not been filed against the other candidate’s nomination petition, and after examination of the signature, the elector’s signature on the other candidate’s nomination petition appears genuine. Accordingly, the Court strikes the signature on line 29 of page 15 as a duplicate. On page 26, lines 12 and 13, the signers signed the other candidate’s petition before signing the Candidate’s Nomination Petition. They must also be stricken.

Accordingly, the Court strikes the signatures on line 29 of page 15, and the signatures on lines 12 and 13 of page 16. Subtracting 3 signature lines from Candidate’s remaining 943 signatures leaves 940 signatures.

F. Signer Used Initials or Nickname

Objectors challenge several signatures on the basis that the electors used his or her “nickname” or initials when signing the Nomination Petition or used his or her initial(s). Our Supreme Court has noted that where an elector signs only the first letter or his or her name, a nickname, or any other name that, absent other evidence, is not readily identifiable as being the same name that appears on the voter registration card, those signatures are not valid. *In re Nomination Petition of Gales*, 54 A.3d 855, 859 n.5 (Pa. 2012).

Here, the evidence showed that the signers used nicknames and initials as follows:

Page	Lines
7	28
11	16
32	3
59	19
70	3

Page 72 has been stricken in its entirety, so the signature on that page cannot be part of the tally. Subtracting 5 signature lines from Candidate's remaining 940 signatures leaves 935 signatures.

G. Remaining Signature Line Challenges

Objectors challenged signatures for being illegible. They alleged that the signature on page 81, line 10 was so illegible it could not be verified. The Court agrees, and it will be stricken from Candidate's Nomination Petition.

Objectors challenged another signature as a printed signature. Section 908 of the Election Code, 25 P.S. §2868, requires that each signer of a petition "shall sign" and "legibly print his name." The signer on line 10 of page 82 printed his name in both the signature of the elector as well as in the printed name of the elector. A check of the SURE System confirmed that the elector uses a cursive signature for his signature. Therefore, this signature will be stricken.

Objectors challenged one signer as not registered in the district. Sections 907 and 908 of the Election Code provide that, in a primary election, only those persons residing in the candidate's district may lawfully sign his petition. 25 P.S. §§2867, 2868. *See also In re Flaherty*, 770 A.2d at 333. Failure to meet this requirement requires the signature to be stricken. *Id.* Here, the signer of line 5 on page 33 was not registered in the county, and this signature will be stricken. Subtracting 3 signature lines from Candidate's remaining 935 signatures leaves 932 signatures.

In sum, the signature line review demonstrated that Candidate did not secure the required number of valid signatures under the law or rehabilitate a

sufficient number of signatures to reach the required 1,000 valid signatures required by law.

Conclusion

Based on the Court's resolution of the objections raised by Objectors to Candidate's Nomination Petition, the Nomination Petition must be stricken in its entirety. Alternatively, Candidate's Nomination Petition contains less than 1,000 valid signatures, the requisite number required to place his name on the ballot as a Republican Candidate for the Office of Representative in the United States Congress from the 15th Congressional District. Therefore, said Nomination Petition will be set aside.

s/Mary Hannah Leavitt

MARY HANNAH LEAVITT, President Judge Emerita

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In re: Nomination Petition :
of George Rathmell for :
Representative in Congress :
From the 15th Congressional :
District :
: :
Objection of: Pat Saylor : No. 121 M.D. 2022
and Carol Gingrich :

ORDER

AND NOW, this 8th day of April, 2022, the Petition to Set Aside the Nomination Petition of George Rathmell for Representative in Congress From the 15th Congressional District is GRANTED.

The Secretary of the Commonwealth is directed to REMOVE the name of George Rathmell as a Republican Candidate for Representative in Congress From the 15th Congressional District from the May 17, 2022, General Primary Election ballot.

The Prothonotary is directed to send a copy of this Order to the Secretary of the Commonwealth.

Each party shall bear its own costs.

s/Mary Hannah Leavitt

MARY HANNAH LEAVITT, President Judge Emerita