



stricken from the primary ballot for the Republican nomination for candidate for State Representative in the 41st Legislative District.

## **I. BACKGROUND**

Candidate filed his Nomination Petition and Candidate's Affidavit on or about February 13, 2024. His Nomination Petition includes 11 pages containing 323 signatures of purported qualified, registered Republican electors, and a circulator statement for each page. In addition, Candidate filed his Candidate's Affidavit, in which he swore or affirmed, in relevant part,

that my residence, my election district and the title of the office for which I desire to be a candidate are as specified above, that I am eligible for said office, that I will not knowingly violate any election law or any law regulating and limiting nomination and election expenses, and prohibiting corrupt practices in connection therewith; [and] that I am aware of the provisions of Section 1626 of the [ ] Election Code[, 25 P.S. § 3246,<sup>2</sup>] requiring pre-election and post-election reporting of campaign contributions and expenditures . . . .

(Candidate's Affidavit.)

On February 20, 2024, Objectors filed the Petition pursuant to Section 977 of the Election Code, 25 P.S. § 2937, alleging that 93 of the signatures are defective for one or more reasons. Upon receipt of the Petition, the Court issued a per curiam Scheduling and Case Management Order (Scheduling Order) scheduling a hearing for February 26, 2024.

Pursuant to the Scheduling Order, counsel for Objectors filed a status report on February 25, 2024, after meeting with Candidate on February 23, 2024. According to the status report, after a 2.5-hour meeting, the parties agreed that 46 of the 93 signatures originally challenged would survive and that 24 lines remained

---

<sup>2</sup> Added by Section 2 of the Act of October 4, 1978, P.L. 893.

contested. (Status Report at 1.) Further, the parties agreed at that time, that 25 of the signatures would not survive challenge. (*Id.*) That agreement, if it stood, would have meant that only 298 signatures could possibly be valid, rendering the Nomination Petition 2 signatures short. (*Id.* at 2.) However, according to the status report, on the morning of February 24, 2024, Candidate called Objectors’ counsel and “advise[d] he would attempt to rehabilitate the 25 lines that were stipulated as [‘]out[,]’” and the status report further indicates that if Candidate did succeed in rehabilitating some of those 25 lines, Objectors “would proceed with a review of the 24 contested items[.]” (*Id.*)<sup>3</sup>

Objectors effectuated service upon Candidate by way of this Court’s July 19, 2023 Order, which provided for service by email to the Court, after which the Court posted the Petition on its website. At the hearing, Objectors offered into evidence proof of service upon the Secretary of the Commonwealth,<sup>4</sup> consisting of a date-stamped copy of the Petition, showing a received date by the Department of State on February 20, 2024, at 12:13 p.m., which the Court admitted. (Ex. P-1.) Candidate appeared at the hearing pro se.

## II. GENERAL LEGAL PRINCIPLES

The Court is guided by the principle that “the Election Code [is to] be liberally construed so as not to deprive an individual of [the] right to run for office or the voters of their right to elect the candidate of their choice.” *In re Nomination Petition of Wesley*, 640 A.2d 1247, 1249 (Pa. 1994); *Nomination Petition of Ross*, 190 A.2d

---

<sup>3</sup> The Court’s review of the spreadsheet attached to the Status Report indicates that **45** lines were agreed to as surviving the challenge, and **24** remained contested.

<sup>4</sup> The Court’s July 19, 2023 Order made clear that Objectors were still required to serve the Secretary of the Commonwealth, as required by Section 977 of the Election Code, 25 P.S. § 2937.

719, 720 (Pa. 1963). The Court recognizes that “the purpose of the Election Code is to protect, not defeat, a citizen’s vote.” *Dayhoff v. Weaver*, 808 A.2d 1002, 1006 (Pa. Cmwlth. 2002). Thus, nomination petitions are presumed valid, and the objector bears the heavy burden of proving that a candidate’s nomination petition is invalid. *In re Nomination Petitions of Scott*, 138 A.3d 687, 691 (Pa. Cmwlth. 2016) (Cohn-Jubelirer, J., single judge op.).<sup>5</sup> Our Supreme Court has explained:

[a] party alleging defects in a nominati[on] petition has the burden of proving such defects, and, where the court is not convinced that challenged signatures are other than genuine, the challenge is to be resolved in favor of the candidate. Further, the Election Code should be liberally construed to protect a candidate’s right to run for office and the voters’ rights to elect the candidate of their choice.

*In re Nomination Petition of Gales*, 54 A.3d 855, 857 (Pa. 2012) (citations omitted), *abrogated on other grounds by In re Nomination Petition of Vodvarka*, 140 A.3d 639 (Pa. 2016), *overruled on other grounds by statute as recognized by In re Nomination Petition of Major*, 248 A.3d 445, 454 (Pa. 2021).

Notwithstanding the recognized liberal construction of the Election Code, “the provisions of the [E]lection [Code] relating to the form of nominati[on] 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); *see also In re Nomination Petition of Shimkus*, 946 A.2d 139, 154 (Pa. Cmwlth. 2008) (Cohn

---

<sup>5</sup> Pursuant to Pennsylvania Rule of Appellate Procedure 126(c)(1), “[a] reported single-judge opinion in an election law matter filed after October 1, 2013, may be cited as binding precedent only in an election law matter.” Pa.R.A.P. 126(c)(1). Reported, single-judge opinions otherwise may be considered persuasive authority. Pa.R.A.P. 126(c)(2). The Court’s Internal Operating Procedures provide that “[a] reported opinion of a single Judge filed after October 1, 2013, in an election law matter may be cited as binding precedent in an election law matter only.” 210 Pa. Code § 69.414(d).

Jubelirer, J., single judge op.) (same). The Supreme Court has consistently “recognized that the signature requirement serves as a means of preventing forgery and assuring that each elector personally signs the petition with an understanding of what [that elector] is signing.” *In re Gales*, 54 A.3d at 859 (quotation omitted). Accordingly, the policy to liberally construe the language “of the Election Code cannot be distorted to emasculate those requirements necessary to assure the” integrity of the election process. *In re Cianfrani*, 359 A.2d at 384. This Court is, therefore, mindful of the need to balance the liberal purposes of the Election Code and “the provisions of the [E]lection [C]ode relating to . . . nominati[on] petitions . . . [which] are necessary . . . to prevent fraud and to preserve the integrity of the election process.” *In re Scott*, 138 A.3d at 692 (alterations in original) (citation omitted). “This Court is entrusted with the responsibility of protecting the Commonwealth’s compelling interest in preserving the integrity of the election process.” *Id.* (citation omitted).

The Supreme Court may reverse this “Court’s order concerning the validity of challenges to a nomination petition [only] if [its] findings of fact are not supported by substantial evidence in the record, there was an abuse of discretion, or there was an error of law.” *In re Vodvarka*, 140 A.3d at 641. As the Petition is within this Court’s original jurisdiction, the Court is the fact-finder and “has exclusive authority to weigh the evidence, make credibility determinations[,] and draw reasonable inferences from the evidence presented.” *In re Nomination Papers of Amato* (Pa. Cmwlth., 1406 C.D. 2017, filed Oct. 23, 2017), slip op. at 8-9 (alteration in original) (quotation omitted).<sup>6</sup> In doing so, this Court may believe all, part, or none of the

---

<sup>6</sup> Pursuant to Pennsylvania Rule of Appellate Procedure 126(b), Pa.R.A.P. 126(b), and Section 414(a) of this Court’s Internal Operating Procedures, 210 Pa. Code § 69.414(a), an unreported panel opinion of this Court, while not binding, may be cited for its persuasive value.

evidence presented. *Id.* Where a signature line is challenged for one reason, it may be subject to challenge on a different, but sound, reason under the Election Code. *In re Nomination Paper of Rogers*, 908 A.2d 942, 944 (Pa. Cmwlth. 2006), *abrogated on other grounds*, *In re Nomination Petitions and Papers of Stevenson*, 40 A.3d 1212 (Pa. 2012).

With these principles in mind, the Court turns to the signature challenges. In reviewing the signature lines, the Court, along with the SURE<sup>7</sup> System Operator, made multiple attempts to identify the elector using the available information on the Nomination Petition and the SURE System. The Court wishes to recognize the diligence and care of the SURE System Operator for assisting the Court in this endeavor. Further, the Court drafted this opinion without benefit of a transcript in an effort to expeditiously resolve the objections. Thus, there may have been multiple bases upon which a signature was struck, but only one is listed in the opinion and review of the transcript would provide additional bases if applicable. In addition, the Court’s specific analysis and review of each of the lines was stated on the record and that analysis is incorporated by reference into this opinion.

### III. SIGNATURE CHALLENGES

Pursuant to Section 912.1(14) of the Election Code, to qualify to appear as a candidate for a major party ballot for “Representative in the General Assembly,” a prospective candidate must file a nomination petition that contains at least 300 valid signatures of registered and enrolled members of the proper political party. 25 P.S.

---

<sup>7</sup> “The 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. . . . Among other things, the records maintained by this system include an elector’s registered address.” *In re Nomination Petitions of Major*, 248 A.3d 445, 449 (Pa. 2021) (internal quotation marks and citation omitted).

§ 2872.1(14). Section 908 of the Election Code, 25 P.S. § 2868, as amended by Section 3 of the Act of October 31, 2019, P.L. 552, No. 77 (Act 77),<sup>8</sup> governs the requirements for signatures on a nomination petition. It provides, in relevant part:

Each signer of a nomination petition shall sign but one such petition for each office to be filled, and shall declare therein that he is a registered and enrolled member of the party designated in such petition: Provided, however, That where there are to be elected two or more persons to the same office, each signer may sign petitions for as many candidates for such office as, and no more than, he could vote for at the succeeding election. He shall also declare therein that he is a qualified elector<sup>[9]</sup> of the county therein named, and in case the nomination is not to be made or candidates are not to be elected by the electors of the State at large, of the political district therein named, in which the nomination is to be made or the election is to be held. He shall add his address where he is duly registered and enrolled, giving city, borough or township, with street and number, if any, and shall legibly print his name and add the date of signing, expressed in words or numbers: Provided, however, That if the said political district named in the petition lies wholly within any city, borough or township, or is coextensive with same, it shall not be necessary for any signer of a nomination petition to state therein the city, borough or township of his residence.

25 P.S. § 2868. To summarize, Section 908 requires that a signature: (i) come from a registered elector, (ii) of the same party as the candidate, and (iii) in the same county and political district as the candidate. Along with the signature, the signer must include their (iv) address, (v) legibly printed name, and (vi) the date of the signature.

---

<sup>8</sup> Act 77 survived a constitutional challenge unrelated to the provision at issue above in *McLinko v. Department of State*, 279 A.3d 539 (Pa. 2022).

<sup>9</sup> A “qualified elector” is defined as “any person who shall possess all of the qualifications for voting now or hereafter prescribed by the Constitution of this Commonwealth, or who, being otherwise qualified by continued residence in his election district, shall obtain such qualifications before the next ensuing election.” Section 102 of the Election Code, 25 P.S. § 2602(t).

In general, the failure of a signature line to comply with the requirements of Section 908 of the Election Code renders that signature line invalid. *In re Nomination Petition of Morrison-Wesley*, 946 A.2d 789, 794-95 (Pa. Cmwlth. 2008) (Leavitt, J., single judge op.). “If the [C]ourt shall find that [a] nomination petition . . . does not contain a sufficient number of genuine signatures of electors entitled to sign the same under the provisions of this act, . . . it shall be set aside.” Section 977 of the Election Code, 25 P.S. § 2937.

Candidate needs 300 signatures of qualified electors to be on the ballot, and he has submitted a Nomination Petition with 323 signatures.

#### *A. Registration Challenges*

Section 907 of the Election Code provides 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, **within which the nomination is to be made** or election is to be held.” 25 P.S. § 2867 (emphasis added). Section 908 of the Election Code requires, relevant here, that “[e]ach signer of a nomination petition . . . shall declare therein that he is a **registered** and enrolled member of the party designated in such petition” and “also declare therein that **he is a qualified elector** . . . of the political district therein named, in which the nomination is to be made or the election is to be held.” 25 P.S. § 2868 (emphasis added). The failure to meet the registration requirements mandates that the signature be stricken as invalid. *In re Petition of Thompson*, 516 A.2d 1278, 1280-81 (Pa. Cmwlth. 1984). Objectors raised three categories of challenges related to registration: (1) the electors were not registered; (2) the electors were not



registered at the address provided; (3) the electors were not registered Republicans. The Court addresses these challenges in turn.

### 1. Not Registered

Sections 907 and 908 of the Election Code require the signatures of registered and enrolled electors. After a review of the SURE system, and pursuant to Section 907 and 908 of the Election Code, the following signatures are struck because the signers are not registered: Page 6, line 3; page 6, line 17; page 8, line 26.

This removes 3 of the remaining signatures from the Nomination Petition, leaving 320 signatures thereon.

### 2. Not Registered at Address Provided

While in the past Section 908 referred to the address of the elector's residence, *see former* 25 P.S. § 2868 (stating that the elector “shall add his residence, giving city, borough, or township, with street and number . . .”), Section 908 of the Election Code was amended by Act 77 in 2019 to require that an elector “shall 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 (emphasis added). Thus, the General Assembly now requires that the address a signer uses on the nomination petition **must be** the address at which the signer “is duly registered and enrolled.” *Id.* *See In re Major*, 248 A.3d at 447 (“[W]e conclude the statute as amended plainly and unambiguously imposes a mandatory duty on a signer of a nominating petition to add the address where he or she is duly registered and enrolled[.]”). “[T]he failure to comply with this requirement exposes the signature to viable legal challenge.” *In re Major*, 248 A.3d at 447-48.

After a review of the SURE system, and pursuant to Section 908 of the Election Code, as amended by Act 77, the following signatures are struck because the signers were not registered at the address at which they were duly registered and enrolled when they signed the Nomination Petition: page 5, line 27; page 5, line 29; page 7, line 15; and page 10, line 23.

At the hearing, the Court also took two challenges under advisement where the respective signers wrote one or two incorrect digits in the house number (3453 instead of 3458 and 1331 instead of 1337). Given our Supreme Court's admonition that signers have a mandatory duty to write the address where they are **registered**, the Court was constrained to also strike page 5, line 1; and page 11, line 19 for that reason.

In total, this removes 6 of the remaining signatures from the Nomination Petition, leaving 314 signatures thereon.

### 3. Not Registered in the Party

Sections 907 and 908 of the Election Code require that the electors signing the nomination petition be a duly registered and enrolled member of the party of the candidate. After reviewing the SURE system, and pursuant to Sections 907 and 908 of the Election Code, the following signatures are struck because the signers were not duly registered and enrolled members of the Republican party: page 1, line 27; page 4, line 8; page 5, line 4; page 7, line 13; page 8, line 3; page 9, line 27; page 9, line 29; page 9, line 30; page 10, line 22; page 10, line 25; page 10, line 26; and page 11, line 15.

This removes 12 of the remaining signatures from the Nomination Petition, leaving 302 signatures thereon.

### *B. Illegible*

“Signatures that are illegible are invalid.” *In re Nomination Petition of Payton*, 945 A.2d 279, 284 (Pa. Cmwlth. 2008), *abrogated on other grounds by In re Stevenson*, 40 A.3d 1212. After reviewing the SURE system, the following signature is struck as illegible: page 2, line 26.

This removes 1 of the remaining signatures from the Nomination Petition, leaving 301 signatures thereon.

### *C. In the Hand of Another*

Section 908 of the Election Code provides that **an elector** “shall add his address where he is duly registered and enrolled, giving city, borough or township, with street and number, if any, and shall legibly print his name and add the date of signing, expressed in words or numbers[.]” 25 P.S. § 2868. The information on a nomination petition required by Section 908 of the Election Code “**must be written by the elector** himself” or herself. *In re Nomination Petition of Silcox*, 674 A.2d 224, 225 (Pa. 1996) (emphasis added). In *Silcox*, the Supreme Court examined the language of former Section 908 of the Election Code, requiring that an elector “shall add” certain information to a nomination petition and concluded that the provision

clearly require[d] **the elector** to sign the petition, add his occupation and residence, and also add the date of signing. When the words of a statute are clear and free from ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit. . . . Therefore, until the legislature chooses to amend [now former] [S]ection 908, we are constrained to find that **the elector shall sign the petition as well as add his occupation, residence, and date of signing.**

*Silcox*, 674 A.2d at 225 (internal citation omitted) (emphasis added). Although the legislature has since removed the requirement that electors must disclose their

occupations, it did not eliminate the requirement that electors “**shall add** his address where he is duly registered and enrolled . . . and shall legibly print **his name and add** the date of signing, expressed in words or numbers[.]” 25 P.S. § 2868 (emphasis added). Under *Silcox*, if that information is written on the nomination petition by **someone other than the elector**, the signatures must be stricken. 674 A.2d at 225. The Court may review the handwriting itself, or may rely on expert evidence, to determine whether the signature should be stricken for this reason.

Having reviewed the challenged lines in the Nomination Petition, the following lines are struck for this reason: page 4, line 3; page 7, line 5; and page 11, line 2.

This removes 3 of the remaining signatures from the Nomination Petition, leaving 298 signatures thereon.

#### *D. Signatures or Names do not Match*

Pursuant to Section 908 of the Election Code, an elector’s signature will be stricken from a nomination petition if the signature does not match the signature in the voter registration records. *In re Nomination Petition of Flaherty*, 770 A.2d 327, 332 (Pa. 2001), *abrogated on other grounds*, *In re Vodvarka*, 140 A.3d at 639. Further, if the names used on the nomination petition and the signature card do not match, the signature will be struck in the absence of rehabilitative evidence. *In re Nomination Paper of Nader*, 865 A.2d 8, 137, 140, 144 (Pa. Cmwlth. 2004). Unfortunately, the Court had to strike three signatures on this basis. In the first instance, the signature appearing on the Nomination Petition was markedly less detailed than that in the SURE system, in another instance, the name printed on the

Nomination Petition did not match the name signed, and in a final instance, the name printed on the Nomination Petition did not match the name in the SURE system.

Having reviewed the challenged signatures, the following lines are struck for this reason: page 4, line 1; page 5, line 16; and page 11, line 23.

This removes 3 of the remaining signatures from the Nomination Petition, leaving 295 signatures thereon.

#### **IV. CONCLUSION**

Accordingly, based on our resolution of the objections to the Nomination Petition, Candidate does not have 300 valid signatures, which is the number of signatures required to appear on the ballot as Republican candidate for State Representative in the 41st Legislative District. Therefore, Objectors' Petition is hereby granted. If the candidate's name cannot be removed from the ballot, the County Board of Elections are directed to post notice within each voting station that Candidate has been removed from the ballot by court order and that casting a vote for Candidate, other than a write-in vote, will not be counted.

*/s/ Renée Cohn Jubelirer*

---

**RENÉE COHN JUBELIRER, President Judge**

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

In re: the Nomination Petition,	:	
of Brad Witmer as a	:	
Republican Candidate for State	:	
Representative in the 41st Legislative	:	No. 81 M.D. 2024
District	:	Heard: February 26, 2024
	:	
Objection: David Dunmeyer and	:	
Bruce Gadbois	:	
Respondent	:	

**ORDER**

**NOW**, February 28, 2024, the Petition to Set Aside The Nomination Petitions of Brad Witmer (Candidate) as a Republican Candidate for State Representative in the 41st Legislative District filed by David Dunmeyer and Bruce Gadbois is **GRANTED**. Candidate’s name is **STRICKEN** from the primary ballot for the Republican nomination for Candidate for State Representative in the 41st Congressional District.

The Secretary of the Commonwealth is **DIRECTED** to remove Candidate’s name from the April 23, 2024 primary ballot as a candidate for State Representative in the 41st Congressional District. If Candidate’s name cannot be removed from the ballot, the County Board of Election are directed to post notice within each voting station that Candidate has been removed from the ballot by court order and that casting a vote for Candidate, other than a write-in vote, will not be counted.

It is **ORDERED** that each party shall bear their own costs.

*/s/ Renée Cohn Jubelirer*  
\_\_\_\_\_  
**RENÉE COHN JUBELIRER**, President Judge