

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In Re: The Nomination Petitions of :
Matthew Wayman as a Republican :
Candidate for State Representative :
in the 110th Legislative District :
: :
Objection of: Joan Jenkins and : No. 82 M.D. 2024
Julia Newman : Heard: February 29, 2024

BEFORE: HONORABLE STACY WALLACE, Judge

OPINION NOT REPORTED

**MEMORANDUM OPINION
BY JUDGE WALLACE**

FILED: March 1, 2024

On February 20, 2024, Joan Jenkins and Julia Newman (Objectors) filed a Petition to Set Aside Nominating Petitions (Petition to Set Aside) of Matthew Wayman (Candidate) as a Republican candidate for the Office of Representative in the General Assembly from the 110th Legislative District in the General Primary Election to be held on April 23, 2024. Pursuant to Section 912.1(14) of the Pennsylvania Election Code¹ (Election Code), 25 P.S. § 2872.1(14),² a candidate for the Office of Representative in the General Assembly must present at least 300 valid signatures of registered and enrolled electors of the political party of the candidate. Candidate's Nominating Petitions contained a total of **360** signatures. Objectors

¹ Act of June 3, 1937, P.L. 1333, *as amended*, 25 P.S. §§ 2600-3591.

² Added by the Act of December 12, 1984, P.L. 968.

originally challenged **88**³ of those signatures. Having held an evidentiary hearing on February 29, 2024, this Court denies the Petition to Set Aside.

I. STIPULATIONS AND WITHDRAWN OBJECTIONS

Pursuant to this Court’s February 21, 2024 Scheduling and Case Management Order, Objectors and Candidate reviewed the 88 challenged signature lines and entered into a stipulation (Stipulation). In the Stipulation, Candidate agreed that 43 of the 88 challenged signature lines were invalid and should be stricken, while Objectors withdrew 5 of their signature line challenges. Candidate was aware of, yet voluntarily chose to not attend, the hearing in this matter.⁴ Roberto Bozzuto (Bozzuto), who is employed by Objectors’ counsel, testified under oath that he met in person with Candidate and a SURE⁵ system operator on February 27, 2024, at which time Bozzuto and Candidate reviewed each challenged signature line and compared it with the SURE system records. Bozzuto stated that he marked on the Stipulation which signature lines the parties’ agreed were invalid and should be struck and which signature line challenges would be withdrawn. Bozzuto also testified that he witnessed Candidate sign the Stipulation after all strikes and withdrawn challenges were recorded, and that Candidate understood that he was agreeing the invalid signature lines would not be counted toward the 300 signatures needed. The Court finds Bozzuto’s testimony credible, and therefore accepts the parties’ Stipulation, which was marked and admitted as exhibit P2.

³ While Objectors filed a status report on February 27, 2024, indicating they were challenging 87 signature lines, their Objection Petition raised specific challenges to 88 signature lines.

⁴ Candidate emailed the Court on February 28, 2024 (the day before this Court’s hearing), indicating “[i]t is my understanding that I do not have to attend the proceedings tomorrow, that I can allow the challenges and review to go forth as a non-participant.”

⁵ SURE is the acronym for Statewide Uniform Registry of Electors.

Accordingly, the following 42⁶ signatures are stricken pursuant to the Stipulation: Page 1, lines 18, 23; Page 2, lines 1, 3, 8, 13; Page 3, lines 3, 4, 6, 7, 11; Page 4, line 4; Page 5, line 3; Page 6, lines 9, 14; Page 7, lines 6, 17; Page 8, lines 6, 10, 11; Page 9, lines 6, 12, 15, 16; Page 10, line 17; Page 12, lines 3, 26; Page 13 lines 3, 9, 12, 16, 24; Page 14, lines 6, 7, 9, 15; Page 15, lines 13, 15; Page 18, lines 4, 9, 19; and Page 19, line 1. In addition, Objectors’ challenges to the following 5 signatures are withdrawn pursuant to the Stipulation: Page 1, line 4; Page 2, line 14; Page 7, line 5; Page 11, line 4; and Page 12, line 20.

After deducting the Stipulation’s 42 invalid signature lines, Candidate’s Nominating Petitions are left with 318 signature lines. Of those 318 signature lines, 277 were uncontested (272 originally uncontested + 5 withdrawn objections), leaving 41⁷ challenged signature lines for this Court’s consideration.

II. GENERAL LEGAL PRINCIPLES

In reviewing the remaining 41 challenged signature lines, the Court was mindful 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). The Court also acknowledges that “the purpose of the Election

⁶ The Court did not accept the Stipulation as sufficient to strike the signature line on page 1, line 19, because it was listed on Objectors’ spreadsheet under the “other” column with the notation “date out of order.” Unlike the other stipulated strikes, which had objections listed in columns which require a signature be stricken, signatures do not have to be in chronological order to be valid. *See In re Nomination of Delle Donne*, 779 A.2d 1, 13 (Pa. Cmwlth. 2001). Accordingly, Candidate’s factual stipulation that the dates were out of order is not sufficient, without more, to lead to the conclusion of law that this signature line is invalid.

⁷ Objectors filed a status report on February 27, 2024, indicating the number of remaining contested signature lines as 39. However, like their counting of total challenged signature lines, *see supra* note 3, it appears Objectors’ counting for remaining contested signatures was one signature line short. In addition, as outlined above, the Court did not accept the Stipulation as sufficient to strike one signature line.

Code is to protect, not defeat, a citizen’s vote.” *Dayhoff v. Weaver*, 808 A.2d 1002, 1006 (Pa. Cmwlth. 2002). Accordingly, “[a] party alleging defects in a nominating petition has the burden of proving such defects, as nomination petitions are presumed to be valid.” *In re Beyer*, 115 A.3d 835, 838 (Pa. 2015).

Even though the Election Code is to be liberally construed, the Court also recognizes that the Election Code’s requirements regarding nomination petitions “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). The Pennsylvania Supreme Court has consistently recognized that the Election Code’s signature requirements are necessary for “preventing forgery and assuring that each elector personally signs the petition with an understanding of what he is signing.” *In re Nomination Petition of Gales*, 54 A.3d 855, 859 (Pa. 2012) (citations omitted). To that end, this Court must balance the liberal purposes of the Election Code and the specific requirements for nomination petitions, “[which] are necessary . . . to prevent fraud and to preserve the integrity of the election process.” *In re Nomination Petitions of Scott*, 138 A.3d 687, 692 (Pa. Cmwlth. 2016) (Cohn Jubelirer, J., single-judge op.)⁸ (alterations in original) (citation omitted).

Section 908 of the Election Code sets forth the requirements for signatures on a nomination petition as follows:

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,

⁸ “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); *see also* 210 Pa. Code § 69.414(d). All other reported single-judge opinions may only be cited “for persuasive value[.]” Pa.R.A.P. 126(c)(2); *see also* 210 Pa. Code § 69.414(b).

however, [t]hat 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 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, [t]hat 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. No nomination petition shall be circulated prior to the thirteenth Tuesday before the primary, and no signature shall be counted unless it bears a date affixed not earlier than the thirteenth Tuesday nor later than the tenth Tuesday prior to the primary.

25 P.S. § 2868.

III. HEARING & RULINGS

On February 29, 2024, the Court held a hearing in this matter. Candidate did not participate in the hearing, as outlined above, and Objectors were represented by counsel. In addition to Bozzuto's testimony regarding the Stipulation, Objectors presented the sworn testimony of a SURE system operator. The SURE system operator displayed the voter registration records of each elector whose signature Objectors challenged. In reviewing each signature line, the Court and Objectors' counsel, along with the SURE system operator, attempted to identify each elector using the available information on the Nominating Petitions and the SURE System.

The Court overruled Objectors' challenges to the signatures on page 1, lines 16 and 17. For each of these signatures, Objectors raised a challenge to the "wrong date year" because the electors wrote the date as "2/7/2014" instead of "2/7/2024." These signatures are between other signatures dated in February 2024. Moreover,

the first page of the nomination petition provides “YEAR OF PRIMARY: 2024.” In addition, the mistaken decade is an obvious scrivener’s error that does not lead the Court to question the identity of the electors or the integrity of the election process. *See In re Robertson*, 55 A.3d 1044 (Pa. 2012) (“[T]he interspersal of the challenged signatures [which omitted the year] among others dated in 2012 supports a common sense deduction that the challenged signatures also occurred in that year and negates any concern that the omissions ‘call into question the identity of the signatory or compromise the integrity of the election process.’”) (citation omitted). Therefore, Objectors’ challenges were overruled.

The Court also overruled Objectors’ challenge to the signature on page 9, line 8. While Objectors originally challenged this signature line on the basis that it was a nickname or initial, Objectors withdrew that challenge and challenged this signature line during the hearing on the basis that the elector’s signature did not match the signature in the SURE system. “Electors are required to sign their name to a candidate’s nomination petition as a means of preventing forgery and assuring that each elector personally signs the petition with an understanding of what he is signing.” *In re Nomination of Flaherty*, 779 A.2d 327, 332 (Pa. 2001). As a result, an elector’s name will be stricken when the elector’s purported signature on the nomination petition does not match his signature in the SURE system. *Id.* Here, although the signatures were not identical, they had sufficiently similar elements that the Court was not convinced this signature was not genuine. Accordingly, Objectors’ challenge was overruled. *See id.* at 332 (“Where the court is not convinced that challenged signatures are other than genuine, the challenge is to be resolved in favor of the candidate.”)

Through the course of the hearing, Objectors' counsel voluntarily withdrew Objectors' challenges to 24 signature lines,⁹ agreeing that those signature lines were valid. In addition, the Court granted Objectors' challenges to 9 signature lines,¹⁰ and reserved judgment on an additional 5 signature lines.¹¹ As a result of Objectors' withdrawn objections, Candidate has 301 uncontested signature lines (272 originally uncontested signatures + 5 withdrawn challenges in the Stipulation + 24 withdrawn challenges during the hearing). Accordingly, the Court need not further examine the signature lines upon which it reserved judgment.

IV. CONCLUSION

While Objectors originally asserted Candidate's Nominating Petitions lacked the 300 valid signatures required by Section 912.1(14) of the Election Code, 25 P.S. § 2872.1(14), Objectors voluntarily withdrew signature line challenges, both through the Stipulation and during the hearing, such that Objectors agree 301 signature lines exist. In addition, this Court overruled three signature line challenges, meaning Candidate has 304 valid signatures. Consequently, Candidate's Nominating Petitions have more than the 300 valid signatures required by Section 912.1(14) of the Election Code, 25 P.S. § 2872.1(14), and the Petition to Set Aside is denied.



STACY WALLACE, Judge

⁹ Page 1, line 30; Page 2, line 9, Page 3, line 10; Page 4, lines 8, 14; Page 6, lines 4, 5, 6, 22; Page 7, line 18; Page 12, line 30; Page 13, lines 20, 30; Page 14, lines 14, 16, 24, 25, 27; Page 15, lines 28, 29, 30; Page 16, line 3; and Page 18, lines 15, 16.

¹⁰ Page 3, line 9; Page 5, line 17; Page 7, line 21; Page 11, line 5; Page 13, line 19; Page 14, line 23; and Page 15, lines 1, 7, 14.

¹¹ Page 1, lines 19, 20; Page 2, line 6; Page 11, line 2; and Page 18, line 7.

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ORDER

AND NOW, this 1st day of March 2024, the Court having conducted an evidentiary hearing in this matter on February 29, 2024, Joan Jenkins’ and Julia Newman’s Petition to Set Aside the Nominating Petitions of Matthew Wayman (Candidate) as a Republican candidate for Representative in the General Assembly from the 110th Legislative District is hereby **DENIED**. Candidate shall remain on the ballot. The Prothonotary is directed to send a copy of this Order to the Secretary of the Commonwealth.



STACY WALLACE, Judge