

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In Re: Nomination Petition of Michael :  
Cashaw as Democratic Candidate :  
for the 72nd Legislative District :  
: :  
Objections of: Jeffrey Gray and : No. 197 M.D. 2022  
Lisa Gray : Heard: April 7, 2022

**BEFORE: HONORABLE DAN PELLEGRINI, Senior Judge\***

***OPINION NOT REPORTED***

**MEMORANDUM OPINION**  
**BY SENIOR JUDGE PELLEGRINI FILED: April 8, 2022**

Before this Court is a petition filed by Jeffrey Gray and Lisa Gray (Objectors) to set aside the nomination petition of Michael Cashaw (Candidate) as a Democratic candidate for the General Assembly in the 72nd Legislative District. Candidate seeks to appear on the ballot in the primary election scheduled for May 17, 2022 (2022 Democratic Primary).

To appear on the primary election ballot as a candidate for the office of Representative in the General Assembly, Section 912.1(14) of the Pennsylvania Election Code (Election Code) requires 300 valid signatures of registered electors who are members of the party whose nomination is sought. Generally, “the Election Code [is to] be liberally construed so as not to deprive an individual of [the] right to

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\* Retired Senior Judge temporarily assigned to the Commonwealth Court.

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 719, 720 (Pa. 1963). The signatures on a nomination petition are presumed valid and the party alleging defects in a nomination petition has the burden of proving otherwise. *See In re Nomination Petition of Johnson*, 502 A.2d 142, 146 (Pa. 1985); *In re Williams*, 625 A.2d 1279, 1281 (Pa. Cmwlth. 1993).

In their petition to set aside, Objectors challenge 319 out of the total 508 submitted elector signatures because the Statements of Circulator signed by the Candidate as the circulator do not match the Candidate’s signature presented on either his candidate affidavit or his voter registration card saved in the Statewide Uniform Registry of Electors (SURE) system. Objectors contend that these discrepancies establish that the circulator signatures on the Candidate’s nomination petitions are invalid. The parties agree that Objectors’ petition to set aside would have to be granted if we were to find that the Candidate did not sign the circulator statement pages of his nomination petition.

On the evening preceding the scheduled hearing on the petition to set aside Candidate’s nomination petition, Objectors objected for the first time in a Stipulation and Status Report that someone other than Candidate had circulated the nomination

petition and collected the elector signatures outside of Candidate's presence. *See* Stipulation and Status Report, 4/6/2022, at 1.<sup>1</sup>

At the hearing held on April 7, 2022, the only evidence presented by Objectors calling into question the authenticity of Candidate's signatures in his nomination petition was that they differed from the signature he used in other documents. That is, the Statement of Circulator sections in the nominating petition were signed with what may best be described as a "squiggly line" resembling the beats on a heart monitor screen. These signatures starkly contrasted with the legible signatures Objector used in other documents.

Although Objectors correctly note that Candidate utilized different "signatures" in signing the pages of the nominating petition, that fact is not dispositive. Candidate rebutted that evidence by testifying unequivocally that he

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<sup>1</sup> As this Court has explained:

The Election Code also requires that each page of a nomination petition have an affidavit of a circulator who was present when the voters signed the page; if the individual who signed the circulator affidavit was not present when the signatures were gathered, those signatures are not valid. Section 909 of the Election Code. 25 P.S. § 2869; *In re Nomination Petition of Farnese (Farnese I)*, 609 Pa. 573, 17 A.3d 375, 377 (2011); *In re Nomination Petition of Flaherty*, 564 Pa. 671, 770 A.2d 327, 336–38 (2001), *overruled on other issue by In re Nomination Petition of Vodvarka (Vodvarka III)*, 636 Pa. 16, 140 A.3d 639 (2016); *In re Petition to Set Aside Nomination of Fitzpatrick*, 822 A.2d 867, 869 n.2 (Pa. Cmwlth. 2003).

*Morley v. Farnese*, 178 A.3d 910, 913 (Pa. Cmwlth. 2018).

personally signed the Statement of Circulator sections in his submitted nomination petition. To explain the gaps in dates between nomination pages, he explained that while collecting elector signatures, he had them in the back of his car and picked a nomination page in a somewhat haphazard manner. He also testified that when he signed those pages, he used an abridged version of his signature simply to save time. We find Candidate's testimony to be credible, making the signatures on those pages of the nomination petition valid.

We now turn to Objectors' belated claim that someone other than Candidate served as the circulator of the nomination petition. At the hearing on Objectors' petition to set aside, we found that this issue was not before the Court, but in the exercise of caution, we allowed Objectors to question Candidate on this issue and for the parties to submit supplemental briefs.

Upon further study, however, we find that Objectors may not amend their petition to include their additional claim as to Candidate's identity as the circulator of his nomination petition. First, the Election Code grants courts discretion to entertain amendments to objections to signatures, but only as long as the new claim is sufficiently related to those in the original petition to "advise the proposed candidate of the errors in his [or her] nomination petitions[.]" *In re Nomination Petition of Bryant*, 852 A.2d 1193, 1196 (Pa. 2004) (quoting *In re Appeal of Beynon*, 88 A.2d 789 (Pa. 1952)).

Here, however, the new claim asserted the day before the hearing – challenging Candidate’s identity as the circulator – is materially different from the claim in the petition that Candidate’s nomination petition were not validly signed by the circulator. That is, Candidate would have only been advised of the need to establish the authenticity of his signatures, not of the need to establish that he was the person who acted in the capacity of circulator on all the days on which the challenged elector signatures were collected. This deprived Candidate of an opportunity to gather relevant evidence and witnesses and, as a result, it is not within this Court’s discretion to allow Objectors’ requested amendment.

Second, Objectors’ new distinct claim is time-barred because under 25 P.S. § 2937 of the Election Code, a nomination petition must be considered valid if it is not objected to within seven days from the last date on which a nomination petition could be filed. Candidate’s nomination petition was filed on March 28, 2022, which was the final filing day for nomination petitions. Even assuming that a new claim may be raised in a Stipulation and Status Report (and not with the same formalities as the petition to set aside), Objectors raised their new claim challenging Candidate’s nomination petition on April 6, 2022, which was two days beyond the deadline. Our Supreme Court has held that even where an objector has timely challenged a nomination petition, it is improper to allow “an entirely new objection subsequent

to the expiration of the statutorily-prescribed seven-day period.” *Bryant*, 852 A.2d at 1196.

Furthermore, even if we were to find that Objectors had timely raised this additional claim, we would find that it lacks merit. As previously discussed, Candidate testified that he was present when all of the elector signatures were collected, and that he personally signed the Statement of Circulator sections in his nomination petition. This Court found Candidate to be credible in this respect, rebutting any of the counter inferences drawn by Objectors based on the discrepancies in Candidate’s signatures.

Thus, for all of the aforementioned reasons, Objectors’ petition to set aside Candidate’s nomination petition is denied.

  
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DAN PELLEGRINI, Senior Judge

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for the 72nd Legislative District :  
: :  
Objections of: Jeffrey Gray and :  
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**ORDER**

AND NOW, this **8th** day of April 2022, the Petition to Set Aside the Nomination Petition of Michael Cashaw as Democratic Candidate for the General Assembly in the 72nd Legislative District is DENIED. The Chief Clerk shall notify the parties hereto and their counsel of this order and also certify a copy hereof to the Secretary of the Commonwealth.

  
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DAN PELLEGRINI, Senior Judge

**IN THE SUPREME COURT OF PENNSYLVANIA**

IN RE: TEMPORARY MODIFICATION : No. 571 Judicial Administration Docket  
OF THE RULES OF APPELLATE :  
PROCEDURE ARISING UNDER THE :  
PENNSYLVANIA ELECTION CODE :

**ORDER**

**PER CURIAM**

**AND NOW**, this 5<sup>th</sup> day of April, 2022, in order to expedite the appellate process regarding appeals from challenges to nomination petitions for **any and all** candidates running for office in the May 17, 2022 General Primary Election, Pa.R.A.P. 903(c)(1)(ii), providing for a ten-day appeal period from an order in any matter arising under the Pennsylvania Election Code, is **TEMPORARILY MODIFIED** to provide for a five-day appeal period.

Additionally, Pa.R.A.P. 107 is **TEMPORARILY SUSPENDED** to the extent it specifies that weekends and holidays are to be excluded from calculating the five-day appeal period.

In appeals arising under the Election Code that fall within this order, appellants shall file briefs within twenty-four hours after filing their notice of appeal and jurisdictional statement. Appellees' briefs are due within twenty-four hours of the filing of appellants' briefs. Further, Pa.R.A.P. 2113 (regarding reply briefs) is **TEMPORARILY SUSPENDED** in these matters; no reply briefs will be permitted.

Notices of appeal, jurisdictional statements, and briefs shall be filed electronically when counsel or the litigants have a PACFile account. Otherwise, counsel or the litigants shall contact the relevant filing office during normal business hours to make alternative arrangements to ensure that the filing office actually receives the submissions by the applicable deadline.



Pa.R.A.P. 1931(a) and (c) (regarding the deadline for transmittal of the record when complete) are **TEMPORARILY SUSPENDED** in these matters, and the record shall be transferred as soon as practicable. The lower court may transmit partially completed records in the interest of facilitating prompt resolution of any appeal in these matters.

Applications for reconsideration or reargument will not be entertained by this Court on election matters falling under this order.

Any court deciding a matter that arises under the Pennsylvania Election Code in relation to the May 17, 2022 General Primary Election shall append a copy of this order to its decision.

A True Copy Nicole Traini  
As Of 04/05/2022

Attest: Nicole Traini  
Chief Clerk  
Supreme Court of Pennsylvania