

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In re: Nomination Petition of Tim :
Kramer for Representative in :
Congress from the 16th Congressional :
District : No. 75 M.D. 2024
: Heard: February 27, 2024
Objection of: Randolph Brewer Sr., :
John Beuchert, and Peter Mitchell, II :

BEFORE: HONORABLE MICHAEL H. WOJCIK, Judge

MEMORANDUM and ORDER

Presently before the Court is the Petition to Set Aside the Nomination Petition of Tim Kramer (Objection Petition and Candidate, respectively) as a Republican candidate for nomination to the office of Representative in the United States Congress for the 16th Congressional District in the General Primary Election to be held on April 23, 2024 (Primary Election). On February 20, 2024, Randolph Brewer, Sr., John Beuchert, and Peter Mitchell, II (Objectors) filed the Objection Petition in this Court.

Pursuant to Section 912.1(12) of the Pennsylvania Election Code (Election Code),¹ a candidate for the office of Representative in the federal Congress must present at least 1,000 valid signatures of registered and enrolled electors of the candidate’s political party in the relevant district. On or before February 13, 2024,

¹ Act of June 3, 1937, P.L. 1333, added by the Act of December 12, 1984, P.L. 968, *as amended*, 25 P.S. §2872.1(12). Section 912.1(12) of the Election Code states: “Candidates for nomination of offices as listed below shall present a nominating petition containing at least as many valid signatures of registered and enrolled members of the proper party as listed below: . . . Representative in Congress: One thousand.”

Candidate filed a Nomination Petition with the Secretary of the Commonwealth to appear on the Primary Election ballot for that office consisting of 73 pages containing a total of 1,235 signature lines of presumably qualified electors.

As indicated, on February 20, 2024, Objectors filed the Objection Petition in this Court alleging, *inter alia*, that the Nomination Petition contains fewer than the required 1,000 signatures, contesting the validity of 329 signatures appearing therein. Specifically, in relevant part, Objectors assert that 153 of the signatures on the Nomination Petition are those of individuals who are either: (1) not registered to vote; (2) not registered to vote as a member of the Republican Party;² (3) registered as a member of the Republican Party, but not at the address provided on the Nomination Petition;³ or (4) are not registered to vote as a member of the Republican Party in the 16th Congressional District.⁴ In addition, Objectors claim

² Section 907 of the Election Code states, in relevant part, that a candidate’s nomination petition “shall be . . . signed by duly registered and enrolled members of such party who are qualified electors . . . of the political district . . . within which the nomination is to be made” 25 P.S. §2867. In addition, Section 908 of the Election Code states, in pertinent part: “Each signer of a nomination petition . . . shall declare therein that he is a registered and enrolled member of the party designated in such petition” 25 P.S. §2868. As a result, the signatures of electors who are not registered and enrolled members of the Republican Party appearing on Candidate’s Nomination Petition are invalid and will be stricken. *In re Nomination Petition of Morrison-Wesley*, 946 A.2d 789, 795-96 (Pa. Cmwlth.), *aff’d*, 944 A.2d 78 (Pa. 2008); *Petition of Thompson*, 516 A.2d 1278, 1280 (Pa. Cmwlth. 1984).

³ Section 908 of the Election Code also states, in relevant part: “Each 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” 25 P.S. §2868. The Supreme Court has recently stated: “We now hold the [Election Code] as amended plainly and unambiguously 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 Nomination Petitions of Major*, 248 A.3d 445, 454 (Pa. 2021).

⁴ Section 907 of the Election Code states, in relevant part:

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that 67 of the signature lines are invalid because the individuals failed to provide all of the required information on the Nomination Petition at the time that it was signed and that these signature lines have been stricken through.⁵ Finally, Objectors assert that 23 of the signature lines are invalid as duplicate signatures of those electors.⁶

The names . . . of all other candidates for party nominations, . . . shall be printed upon the official primary ballots or ballot labels of a designated party, upon the filing of separate nomination petitions in their behalf, in form prescribed by the Secretary of the Commonwealth, signed by duly registered and enrolled members of such party who are qualified electors . . . of the political district . . . within which the nomination is to be made

25 P.S. §2867. In addition, Section 908 of the Election Code states, in pertinent part: “Each signer of a nomination petition . . . shall also declare therein that he is a qualified elector . . . of the political district therein named, in which the nomination is to be made” 25 P.S. §2868. As a result, the signatures of individuals who do not reside in the 16th Congressional District appearing on Candidate’s Nomination Petition are invalid and will be stricken. *In re Nomination Petition of Morrison-Wesley*, 946 A.2d at 795-96; *Petition of Thompson*, 516 A.2d at 1280.

⁵ As noted above, Section 908 of the Election Code also states, in relevant part: “Each 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 shall legibly print his name and add the date of signing, expressed in words or numbers” 25 P.S. §2868. *See, e.g., In re Nomination Petition of Morrison-Wesley*, 946 A.2d at 795 (“The Court finds that the following signatures on the nomination petition lack a complete address, and they are stricken in accordance with *In re Nomination Petition of Silcox*, [674 A.2d 224, 225 (Pa. 1996)].”); *id.* at 797 (“[T]he signature was not valid because it lacked required elector information such as a printed signature, address, or date of signing. These defects rendered the signature invalid under Section 908 of the Election Code.”).

⁶ Section 908 of the Election Code also provides, in pertinent part: “Each signer of a nomination petition shall sign but one such petition for each office to be filled” 25 P.S. §2868. In addition, Section 907 states, in relevant part:

If a person shall sign any nomination petitions . . . for a greater number of candidates than he is permitted under the provision of this act, if said signatures bear the same date, they shall, upon objections filed thereto, not be counted on any petition . . . and if they bear

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On February 22, 2024, this Court entered an Amended Scheduling and Case Management Order (CMO)⁷ scheduling a hearing on the Objection Petition for

different dates, they shall be counted in the order of their priority of date, for only so many persons as there are candidates to be nominated

25 P.S. §2937. As a result, a qualified elector may only sign a nomination petition once for the office of Representative in Congress and duplicate signatures bearing the same date will be stricken. *See, e.g., In re Treichel*, 898 A.2d 650, 652 n.1 (Pa. Cmwlth.), *aff'd*, 896 A.2d 507 (Pa. 2006) (“Section 908 of the Election Code requires that each signer of a Nomination Petition sign but one such petition for each office to be filled. . . . Here, only one person is to be elected to the office of State Representative from the 149th Legislative District. Thus, a signer may sign only one petition.”).

⁷ It is appropriate for this Court to take judicial notice of documents that are filed and entered in our docket. *See, e.g., Pa.R.E. 201(b)(2)* (permitting courts to take judicial notice of facts that may be “determined from sources whose accuracy cannot reasonably be questioned”); *Moss v. Pennsylvania Board of Probation and Parole*, 194 A.3d 1130, 1137 n.11 (Pa. Cmwlth. 2018) (taking judicial notice of docket entries that were not part of the original record); *Miller v. Unemployment Compensation Board of Review*, 131 A.3d 110, 115 (Pa. Cmwlth. 2015) (taking judicial notice of the entries on a claimant’s criminal docket and the records contained therein); *Germantown Cab Co. v. Philadelphia Parking Authority*, 27 A.3d 280, 283 n.8 (Pa. Cmwlth. 2011) (taking judicial notice of the docket in a Supreme Court case involving a similar point of law).

Likewise, it is appropriate for this Court to take judicial notice of information in nomination petitions filed with the Secretary of the Commonwealth and posted on the website of the Pennsylvania Department of State. *See, e.g., Lynch v. Commonwealth (Workers’ Compensation Appeal Board)*, 275 A.3d 1130, 1134 n.5 (Pa. Cmwlth. 2022) (taking judicial notice of an employer’s designation as self-insured on the official website of the Pennsylvania Department of Labor and Industry); *Hill v. Department of Corrections*, 64 A.3d 1159, 1165 n.3 (Pa. Cmwlth. 2013) (taking judicial notice of policies and handbooks that appear on the official website of the Pennsylvania Department of Corrections); *Figueroa v. Pennsylvania Board of Probation and Parole*, 900 A.2d 949, 950 n.1 (Pa. Cmwlth. 2006) (taking judicial notice of the description of a community corrections center appearing on the official website of the Department of Corrections); *see also Horton v. Washington County Tax Claim Bureau*, 81 A.3d 883, 890 (Pa. 2013) (taking judicial notice of information provided on the United States Postal Service official website); Section 977 of the Election Code, 25 P.S. §2937 (“All nomination petitions . . . received and filed within the periods limited by this act shall be deemed to be valid, unless, within seven days after the last day for filing said nomination petition . . . , a petition is presented to the court specifically setting forth the objections thereto, and praying that the said petition . . . be set aside.”).

February 27, 2024, at 9:30 a.m., and imposing certain duties and obligations upon Objectors and Candidate.⁸ Specifically, therein: (1) Objectors were ordered to

⁸ Section 977 of the Election Code provides a very restrictive time schedule stating, in relevant part:

All nomination petitions . . . received and filed within the periods limited by this act shall be deemed to be valid, unless, within seven days after the last day for filing said nomination petition . . . , a petition is presented to the court specifically setting forth the objections thereto, and praying that the said petition . . . be set aside. A copy of said petition shall, within said period, be served on the officer or board with whom said nomination petition . . . was filed. Upon the presentation of such a petition, the court shall make an order fixing a time for hearing which shall not be later than ten days after the last day for filing said nomination petition . . . and specifying the time and manner of notice that shall be given to the candidate or candidates named in the nomination petition . . . sought to be set aside. On the day fixed for said hearing, the court shall proceed without delay to hear said objections, and shall give such hearing precedence over other business before it, and shall finally determine said matter not later than fifteen (15) days after the last day for filing said nomination petitions

25 P.S. §2937. Accordingly, we have observed:

The purpose of [CMOs] in election cases is to facilitate the proceedings in an expeditious and timely manner due to the extreme time limitations placed on election matters. That is why objectors are ordered to immediately arrange to meet with the candidate or his/her representative to reach a stipulation as to the number of signatures that are challenged and/or valid. In short, time is of the essence in election matters. As such, the Court expects compliance.

In re Ford, 994 A.2d 9, 12 n.3 (Pa. Cmwlth. 2010) *overruled in part on other grounds by In re Nomination Petition of Gales*, 54 A.3d 855, 860-61 (Pa. 2012).

To this end, Paragraph 1(C) of our February 21, 2024 CMO in this matter provides:

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C. Service of the Objection Petition on Candidate and this [CMO] on all parties is complete upon the posting of the Objection Petition and this [CMO] on the Court’s website in accordance with this Notice and Order in *In re: Objections to Nomination Petitions/Papers of Candidates for Statewide and State-Level Office* (Pa. Cmwlth., No. 126 Misc. Dkt. No. 3, filed July 19, 2023) [(Posting Order)].

In turn, our July 19, 2023 Posting Order at 2-3, states:

THE POSTING OF AN OBJECTION PETITION ON THE WEBPAGE SHALL CONSTITUTE SERVICE ON THE CANDIDATE WHOSE NOMINATION PETITIONS[] HAVE BEEN CHALLENGED. ALL CANDIDATES ARE ON A CONTINUING OBLIGATION TO CHECK THE WEBPAGE TO DETERMINE IF AN OBJECTION PETITION HAS BEEN FILED TO THEIR NOMINATION PETITIONS[].

Furthermore, upon the filing of an objection petition, the Court will issue a [CMO]. The Court will post the [CMO] on the same webpage as the objection petition.

THE POSTING OF A [CMO] ON THE WEBPAGE SHALL CONSTITUTE SERVICE OF THE [CMO] ON THE OBJECTOR AND THE CANDIDATE. ALL PARTIES ARE UNDER A CONTINUING OBLIGATION TO CHECK THE COURT’S WEBSITE TO CONFIRM WHETHER A [CMO] HAS BEEN ISSUED WITH RESPECT TO ANY OBJECTION PETITION.

(Emphasis in original and footnote omitted.) The authority of this Court to issue the foregoing orders is not questioned. Indeed, as we have recognized: “Under Section 977 of the [Election Code], th[is C]ourt ‘has complete control to regulate the time and manner of giving notice and the fixing of hearings.’” *In re Blount*, 898 A.2d 1181, 1184 (Pa. Cmwlth.), *aff’d*, 895 A.2d 545 (Pa. 2006) (quoting *In re Morgan*, 428 A.2d 1055, 1058 (Pa. Cmwlth. 1981)).

secure the services of a court stenographer and a Statewide Uniform Registry of Electors (SURE) System⁹ operator for the hearing; (2) Objectors were ordered to immediately arrange to meet with Candidate or his representative and, if appropriate, with a SURE System operator, to review before the hearing each and every challenged signature; (3) Objectors and Candidate were ordered to file a Stipulation of the Parties identifying the total number of signature lines, the total number of uncontested signature lines, the total number of signature lines challenged, each and every signature line challenged by page number and line number, and each and every signature to be stricken off as invalid or for which an objection is to be withdrawn; (4) Objectors and Candidate were permitted to file a memorandum of law in support of their respective positions; (5) the parties shall make a good faith effort to file all of the foregoing items no later than 24 hours in advance of the February 27, 2024 hearing; and (6) the failure to comply with any provision of the order may preclude the noncompliant party from entering any evidence at the hearing and may result in the imposition of monetary sanctions.¹⁰

We initially note that “in reviewing election issues, ‘we must consider the longstanding and overriding policy in our Commonwealth to protect the elective

⁹ As this Court has previously explained, “[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 at 792-93 n.4.

¹⁰ Specifically, Section 977 of the Election Code also states, in relevant part: “In case any such petition is dismissed, the court shall make such order as to the payment of the costs of the proceedings, including witness fees, as it shall deem just.” 25 P.S. §2937. However, Section 977 does not authorize the award of attorney fees. *In re Nomination Paper of Rogers*, 942 A.2d 915, 927-28 (Pa. Cmwlth.), *aff’d*, 959 A.2d 903 (Pa. 2008). Rather, “[p]ursuant to Section 2503(7) of the Judicial Code, a party may be awarded counsel fees as a sanction against another party for dilatory, obdurate or vexatious conduct during the pendency of a[n election] matter. 42 Pa. C.S. §2503(7).” *Id.* at 928.

franchise,’ and that the Election Code must ‘be liberally construed to protect a candidate’s right to run for office and the voters’ right to elect the candidate of their choice.’” *In re James*, 944 A.2d 69, 72 (Pa. 2008) (citation omitted). 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). However, “the policy of the liberal reading of the Election Code cannot be distorted to emasculate those requirements necessary to assure the probity of the process.” *In re Cianfrani*, 359 A.2d 383, 384 (Pa. 1976).

Furthermore, “[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). This Court is “[e]ntrusted with the responsibility of protecting the Commonwealth’s compelling interest in preserving the integrity of the election process.” *In re Nomination Papers of Carlson*, 430 A.2d 1210, 1212 (Pa. Cmwlth.), *aff’d*, 430 A.2d 1155 (Pa. 1981). The Supreme Court may reverse our order concerning the validity of challenges to nomination petitions only if our findings of fact are not supported by substantial evidence, if we abused our discretion, or if we committed an error of law. *In re Beyer*, 115 A.3d at 838.

As noted above, the sole legal issue presented in this matter is the validity of the challenged signatures to meet the threshold number of 1,000 signatures required by Section 912.1(12) of the Election Code. Per the CMO, a hearing on the Objection Petition was scheduled for February 27, 2024, at 9:30 a.m. However, on February 26, 2024, at 9:00 p.m., the parties PAC-filed a Joint Stipulation in which the parties agree: (1) Candidate’s Nomination Petition does not contain 1,000 signatures of registered and enrolled electors as required by Section

912.1(12) of the Election Code; (2) the Objection Petition should be granted; and Candidate's name should be removed from the ballot for the Primary Election.

Accordingly, based on the foregoing, we issue the following:

ORDER

AND NOW, this 27th day of February, 2024, it is hereby ORDERED:

1. Based upon the Joint Stipulation filed by the parties in the above-captioned matter, the Nomination Petition of Tim Kramer as a Republican candidate for nomination to the office of Representative in the United States Congress for the 16th Congressional District in the General Primary Election to be held on April 23, 2024, does not contain 1,000 valid signatures of qualified and enrolled electors as required by Section 912.1(12) of the Election Code, 25 P.S. §2872.1(12); the Petition to Set Aside the said Nomination Petition of Tim Kramer is GRANTED; and the said Nomination Petition of Tim Kramer is hereby SET ASIDE.

2. The Secretary of the Commonwealth of Pennsylvania is directed to REMOVE from the ballot the name of Tim Kramer as a Candidate for the Republican Nomination to the office of Representative in the United States Congress for the 16th Congressional District in the General Primary Election of April 23, 2024.

3. The hearing on the Petition to Set Aside the said Nomination Petition of Tim Kramer, scheduled for February 27, 2024, at 9:30 a.m., in Courtroom 814, City-County Building, Pittsburgh, is CANCELLED.

4. Each party shall bear his, her, or their own costs.

5. The Prothonotary shall notify the parties hereto and their counsel of this order and shall also certify a copy hereof to the Secretary of the Commonwealth of Pennsylvania forthwith.

Michael H. Wojcik

MICHAEL H. WOJCIK, Judge