

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In re: Nomination Petition of :  
Winston Diloné As Democratic :  
Candidate for the 126th Legislative : No. 66 M.D. 2024  
District :  
 :  
 :  
Objection of: Kim May and James :  
May : Heard: February 29, 2024

BEFORE: HONORABLE ELLEN CEISLER, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION  
BY JUDGE CEISLER

FILED: March 1, 2024

Before this Court is a Petition to Set Aside the Nomination Petition of Winston Diloné (Candidate) as Democratic Candidate for Representative in the General Assembly for the 126th Pennsylvania House Legislative District. Kim May and James May (Objectors) properly submitted the Petition to Set Aside on February 19, 2024.

Pursuant to Section 912.1(14) of the Pennsylvania Election Code,<sup>1</sup> 25 P.S. § 2872.1(14), the nomination petition of a candidate for Representative in the General Assembly must contain at least 300 valid signatures of registered and enrolled electors of the candidate's political party. Objectors seek to invalidate some of the 372 signatures contained in Candidate's Nomination Petition.

On February 21, 2024, this Court issued a Scheduling and Case Management Order (Case Management Order), through which this Court scheduled a hearing regarding the Objection Petition for February 29, 2024, and imposed certain duties

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<sup>1</sup> Act of June 3, 1937, P.L. 1333, *as amended*, added by the Act of December 12, 1984, P.L. 968.

upon both Candidate and Objectors. Pursuant to an Order of this Court, *In Re: Objections to Nomination Petitions/Papers of Candidates for Statewide and State-Level Office* (Pa. Cmwlth., No. 126 Miscellaneous Docket Number 3, filed July 19, 2023), the posting of this Case Management Order constituted proper service upon Candidate.

Pursuant to the Case Management Order, the Candidate and a representative of Objectors met in person on February 27, 2024 to review the signature objections with a Statewide Uniform Registry of Electors (SURE) operator, to review and ultimately stipulate to those signatures which could be stricken. However, Candidate later stated he declined to agree to a written stipulation, because the person sent to represent Objectors was not their counsel. Accordingly, at the beginning of the February 29, 2024 hearing, the Court called a brief recess to give the parties an opportunity to discuss stipulations. During the course of that meeting, Candidate agreed to stipulate that 50 of the signatures in support of his Nominating Petition were invalid. This agreement left the Nomination Petition with a maximum of 322 signatures.

When the February 29, 2024 hearing resumed, Objectors queried the SURE database with the assistance of Silvia Gutiérrez, Chief Registrar of Berks County and a qualified SURE operator. Using the information provided in the SURE database, Objectors submitted challenges on various grounds to 54 signatures on the Nomination Petition, several of which were subsequently withdrawn.

Sections 907 and 908 of the Election Code, 25 P.S. §§ 2867 and 2868, respectively, provide that in a primary election, only those persons actively registered to vote, enrolled in the political party of the candidate, and residing in the candidate's district may lawfully sign his petition. *In re Nomination of Flaherty*,

770 A.2d 327, 336 (Pa. 2001); *In re Payton*, 945 A.2d 279, 284 (Pa. Cmwlth. 2008); *In re Morrison-Wesley*, 946 A.2d 789, 794 (Pa. Cmwlth. 2008); *Petition of Thompson*, 516 A.2d 1278, 1281 (Pa. Cmwlth. 1984). Each petition signature line contains spaces where the following information must be written legibly in the signing elector's hand: signature of elector, printed name of elector, place of residence (including house number; street or road; city, borough or township) and date. *In re Vodvarka*, 994 A.2d 25, 26 (Pa. Cmwlth. 2010).

The failure to meet any of the foregoing requirements are fatal errors which require the signatures to be stricken as invalid. See *Petition of Thompson*, 516 A.2d at 1280-81 (striking challenged signatures where signatories were not registered at all, were not enrolled members of the appropriate party, or were not registered at the given address); *Nomination of Flaherty*, 770 A.2d at 332-33 (striking lines where printed names were improperly provided instead of signatures); *In re Morrison-Wesley*, 946 A.2d at 797 (striking signature lines where no printed name was provided); *In re Silcox*, 674 A.2d 224, 225 (Pa. Cmwlth. 1996) (striking lines where required information was written by someone other than the elector).

Upon examination of the original Nomination Petition and information obtained from the SURE database, this Court finds as fact that 27 of the Nomination Petition's signature lines are invalid for the following reasons:

1. The signatory was not a registered elector in the database:  
Page 7: line 28
2. There was no elector in the database registered at the address given:  
Page 5: line 1  
Page 17: line 17
3. The signatory was not a registered Democrat on the date of signing:  
Page 1: line 21  
Page 2: lines 26 and 27

Page 7: line 4  
Page 9: line 1  
Page 10: line 9  
Page 17: lines 6 and 18  
Page 18: lines 4, 5, and 26

4. Required information was omitted from the signature line:  
Page 2: line 12  
Page 12: line 9  
Page 23: line 22
  
5. The signature line bears writing that was clearly completed in another's hand:  
Page 2: line 24 and 30  
Page 4: line 7  
Page 7: line 14  
Page 10: line 27  
Page 11: lines 25 and 26  
Page 12: lines 9 and 12  
Page 16: line 16

When these 27 invalidated signature lines are subtracted from the 322 remaining following the parties' stipulations, there are 295 valid signature lines remaining, 5 fewer than the 300 required by Section 912.1(14) of the Election Code, 25 P.S. § 2872.1(14).

In light of the foregoing, this Court grants Objectors' Petition to Set Aside.



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ELLEN CEISLER, Judge

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: :  
: :  
Objection of: Kim May and James :  
May :

**ORDER**

AND NOW, this 1st day of March, 2024, it is hereby ORDERED that the Petition to Set Aside the Nomination Petition of Winston Diloné as Democratic Candidate for Representative in the General Assembly for the 126th House Legislative District in the above-captioned matter is GRANTED, and the Nomination Petition of Winston Diloné is hereby SET ASIDE.

The Secretary of the Commonwealth is directed to REMOVE the name of Winston Diloné as Democratic Candidate for Representative in the General Assembly for the 126th House Legislative District from the April 23, 2024 primary ballot, and to transmit this order promptly to the Board of Elections of Berks County. The Prothonotary is directed to send a copy of this Order to the Secretary of the Commonwealth.



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ELLEN CEISLER, Judge