

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

IN RE: NOMINATION PAPER OF
ELIZABETH FAYE SCROGGIN ET
AL.

: No. 460 M.D. 2020
:
: Objections of Paul Stefano and
: Tony C. Thomas – Objectors
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JURISDICTIONAL STATEMENT

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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

IN RE: NOMINATION PAPER OF ELIZABETH FAYE SCROGGIN ET AL.	:	No. 460 M.D. 2020
	:	
	:	Objections of Paul Stefano and Tony C. Thomas – Objectors

JURISDICTIONAL STATEMENT

Petitioners Paul Stefano and Tony C. Thomas (“Petitioners), by and through counsel, submit the following jurisdictional statement pursuant to Pa. R. A. P. 910.

1. The opinion delivered below by the Commonwealth Court is a September 9, 2020 opinion by the Honorable J. Andrew Crompton, in which the Court granted in part and denied in part Petitioners’ Petition to Set Aside the Nomination Paper of the Green Party of Pennsylvania’s candidates for President and Vice-President of the United States. The Opinion and Order is attached hereto as Exhibit A.

2. The Supreme Court has exclusive jurisdiction over the instant appeal pursuant to 42 Pa.C.S. § 723, which provides that “[t]he Supreme Court shall have exclusive jurisdiction of appeals from final orders of the Commonwealth Court entered in any matter which was originally commenced in the Commonwealth Court.” The Commonwealth Court had original jurisdiction over Appellants’ Petition to Set Aside and issued the subsequent final order in that case from which Appellants now appeal. 42 Pa.C.S. § 764.

3. The Order from the September 9, 2020 Opinion is attached hereto as the last two pages of Exhibit A.

4. The procedural history of this case is as follows: on August 10, 2020, Objectors timely filed their Petition to Set Aside the Nomination Paper of GPPA's entire slate, being candidates for President and Vice-President of the United States, State Treasurer, State Auditor General, and State Attorney General. The Petition to Set Aside also included over 7,000 individual line challenges. (Pet. at Ex. 1).

On August 24, 2020, Petitioners/Objectors filed an Application for Summary Relief based on arguments related to the sufficiency of the affidavits (and lack thereof) appended to the GPPA Nomination Paper. On August 28, 2020, Respondents filed certain Applications to Dismiss based on jurisdictional issues. On August 31, 2020, the Commonwealth Court heard oral argument on all pending Applications. On September 3, 2020, Petitioners/Objectors and Candidates entered into a Joint Stipulation. In that Joint Stipulation, Petitioners/Objectors agreed to withdraw their individual line challenges and consent to the placement of the statewide row officers on the 2020 General Election Ballot. In exchange, Candidates agreed to withdraw their Applications to Dismiss, and agreed that Objectors' challenges as to the nomination of candidates for the offices of President and Vice President are preserved, including the challenges to the efforts to substitute candidates. On September 7, 2020, the Commonwealth Court held an

evidentiary hearing on all remaining issues. The court then issued its Opinion and Order on September 9, 2020.

5. The questions presented for review are:

- Where the Election Code expressly requires that a candidate's affidavit be appended to a nomination paper, and the parties specifically stipulated that the candidate for President listed on the nomination paper did not append an affidavit, whether the lower court erred in finding that such candidate was duly nominated.
- Whether the lower court erred in allowing the GPPA to substitute a candidate for President when the candidate listed on the nomination paper was not duly nominated.
- Where the Department misapplied provisions of the Election Code in accepting a nomination paper without the appended affidavit of the Presidential candidate, did the lower court err in concluding that an objector would have no recourse in challenging that candidate's status through a timely objection under the Election Code.

Respectfully submitted,

DENTONS COHEN & GRIGSBY P.C.

By: /s/ Clifford B. Levine

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Dated: September 10, 2020

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Exhibit A

I. Background

A. Political Body Nominations

The Green Party, as a political body, is subject to different provisions of the Election Code than the major parties. *See generally* 25 P.S. §§2911-2914, 2940. The authority to use multiple-candidate nomination papers is unique to political bodies. Similarly, the requirement in Section 951(e) of the Election Code, 25 P.S. §2911(e), for “each candidate” for office to file an affidavit as to certain facts, (Candidate Affidavit requirement), has no equivalent for political parties, so a major party Presidential Candidate is not required to submit such an affidavit. The Election Code also allows substitution of a duly-nominated candidate. *See* Section 980 of the Election Code, 25 P.S. §2940.

The nomination process between political bodies and political parties also differs. “[A] political party uses the primary election to nominate its candidate; [whereas] a political body nominates its candidate by collecting the requisite number of signatures from electors, of any party or no party, and filing nomination papers with the Secretary of the Commonwealth.” *Working Families Party v. Com.*, 169 A.3d 1247, 1251 (Pa. Cmwlth. 2017) (*en banc*). The process for political bodies involves signature collection over several months; this year, political bodies like the Green Party were permitted to start collecting signatures on February 19, 2020, through the deadline for filing the nomination papers, August 3, 2020. As such, the nomination of candidates for political bodies is not accomplished by the national convention. At its convention in July 2020, the Green Party nominated Howie Hawkins as its Candidate for the office of President of the United States, and Angela Walker as its Candidate for the office of Vice-President. As a result, the individuals named on the Nomination Paper for those offices (Scroggin for President and Gale for Vice-President) were not the same as the individuals nominated at the convention. This is routinely reconciled through the substitution process.

B. Procedural History

The Green Party timely filed the Nomination Paper on August 3, 2020. The Nomination Paper consists of 710 pages and contains over 5000 valid signatures of qualified electors. The Department of State (DOS) initially held the Nomination Paper in a pending status solely based on the lack of Presidential Elector affidavits; DOS accepted the Nomination Paper as to the candidates for national office on August 4, 2020. *See* Ex. P-10 (DOS Database screen shots). The Candidates for national office named in the Nomination Paper, Scroggin for President, and Gale for Vice-President, were substituted by Hawkins and Walker (Substitute Candidates) by the substitution deadline, August 10, 2020. On the same date, Objectors filed their Petition. As modified by the Joint Stipulation, Objectors challenge the Green Party Candidates for the national offices of President and Vice-President of the United States based on noncompliance with the Candidate Affidavit requirement for political bodies, *i.e.*, that the lack of any Candidate Affidavit for the office of Vice-President and the defects in the Candidate Affidavit submitted by Scroggin for the office of President, (Scroggin's Affidavit), preclude the proper nomination of any Green Party Candidates for national office.

Both parties filed various applications, which this Court heard and decided, with the exception of the Application. After status conferences regarding outstanding issues, this Court conducted a hearing on the Petition on September 7.

During the hearing, this Court admitted Objectors' exhibits, (P-1 through P-12).³ The sole witness, Jessica Mathis, DOS Director of the Bureau of Election Services and Notaries (Director), testified in pertinent part as follows.

³ The exhibits are: P-1 (Stipulation, 9-7-20); P-2 (Sheets of Nomination Paper); P-3 (Green Party Candidate Affidavit Submissions); P-4 (DOS Political Body Instructions) P-5 (Substitution Papers, 8-10-20); P-6 (Blank Candidate Affidavit); P-7 (Libertarian Party Affidavit submissions); P-8 (Sheets of Libertarian Party Nomination Paper); P-9 (Fax of Scroggin Affidavit, 8-3-20); P-10 (DOS Database screen shots); P-11 (2020 Democratic Party Candidate Declaration); and P-12

Director has worked in the Department's Bureau of Elections since 2007. Prior to becoming Director in February 2019, she was the Chief of the Division of Elections. In that position, she administered elections, created the candidate list for counties, offered guidance to county election offices, reviewed nomination petition and paper filings, created the date list for the November General Election, and set up the ballot for county election officials. Currently, as Director, she oversees the entire election process, reviews nomination petitions and nomination papers, in addition to having oversight for the notaries division. She stated that she does not make policy for the Bureau of Elections; her supervisor is Jonathan Marks. Specifically with regard to the 2020 Election, she was one of two or three other people who accepted Nomination Papers and Petitions in person because of strict Covid-19 limitations on in-person staff.

Director confirmed that DOS oversees many offices and functions, only one of which is elections. These offices include the Bureau of Professional and Occupational Affairs (licensing boards), the corporations bureau and the charitable organizations bureau. She confirmed DOS' location at 210 in the North Office Building in Harrisburg as the place for political bodies like the Green Party to deliver completed nomination papers for filing. Relevant here, Director confirmed that she accepted the Nomination Paper for the Candidates for President and Vice-President because there were candidate affidavits for each office, notwithstanding that there were not affidavits for each individual candidate.

(DOS Emails re: Nomination Paper). There were no objections to Exhibits P-1 through P-6, P-9, P-10 and P-12, some of which were identical to Candidates' proposed exhibits. After confirming that there was no objection to the authenticity or accuracy of the exhibits, the Court admitted exhibits P-7 and P-8, relating to the Libertarian Party, and P-11 relating to the Democratic Party over Candidates' relevance objection. It was deemed relevant in that Director advised one reason DOS accepted the Candidate Affidavits was there was no equivalent requirement of an individual candidate affidavit for the major political parties.

Director explained that when she accepts nomination papers generally, they are either accepted outright, rejected outright, or are placed in a pending status. In the case of the Green Party Slate, she placed the Nomination Paper in a pending status based on the lack of sworn affidavits for the Presidential Electors, for which there were only unsworn affirmations.⁴ She advised Runkle, who delivered the Nomination Paper, that the documents needed to be sworn to be accepted.⁵

As to the Candidate Affidavits for the national offices, Director discussed the matter with her Supervisor, Marks, and legal counsel for DOS, who determined that it sufficed for a political body to have affidavits for each *office* as opposed to each *individual* candidate as named individuals were merely placeholders until their anticipated substitution by the candidates nominated at the national convention for the Green Party in July 2020. Thus, the lack of Candidate Affidavits for the named individuals, Scroggin and Gale, was deemed not fatal to the Nomination Paper, and, critically, DOS did not advise the Green Party of any deficiency necessitating amendment. In addition, Director acknowledged Scroggin's Affidavit was received by DOS by an un-manned fax at 4:33 p.m., on August 3, 2020, prior to the deadline for timely submission. As described by Director, the faxes were collected electronically in an email account. She was not personally aware of Scroggin's Affidavit until weeks after receipt.

II. Discussion

Objectors bear the burden of proof on their Petition, and as the moving party on their Application, also bear the burden of establishing entitlement to judgment in their favor as a matter of law under Pa.R.A.P. 1532.

⁴ Covid-19 impacted DOS operations with respect to the filings for the 2020 General Election in that, according to Director, DOS allowed filing of submissions by email based on the lack of in-person staff in the building.

⁵ As such, the Green Party (Runkle) was advised the Presidential Electors' affirmations could be cured by submission of sworn affidavits by email, and the unsworn deficiency was cured.

Objectors contend that neither Scroggin nor Gale qualified as duly-nominated Candidates for national office based on non-compliance with the Candidate Affidavit requirement in Section 951(e) of the Election Code, 25 P.S. §2911(e). As to the Green Party Candidate for Vice-President, this Court agrees.

A. Candidate Affidavit Requirement

Based on the unambiguous terms in Section 980 of the Election Code, substitution is only appropriate following the “withdrawal of any candidate nominated by any political body by nomination papers, the committee named in the original nomination papers may nominate a substitute in his place” 25 P.S. §2940 (emphasis added). Thus, a prerequisite for substitution is proper nomination of a candidate by nomination papers, and the subsequent withdrawal of the nominated candidate. *Id.*; see *In re Barr*, 956 A.2d 1083 (Pa. Cmwlth.), *aff’d*, 958 A.2d 1045 (Pa. 2008) (upheld substitution of duly-nominated Presidential Candidate).

The Election Code requires a political body candidate to file an affidavit with the Commonwealth. 25 P.S. §2911(e)(5). Section 951(e) provides that “each candidate” shall file an affidavit swearing that his “name has not been presented as a candidate by nomination petitions for any public office to be voted for at the ensuing primary election, nor has he been nominated by any other nomination papers filed for any such office[.]” *Id.* This Candidate Affidavit requirement thus applies to each candidate for each office.

1. No Duly-Nominated Candidate for Vice-President

The complete absence of an affidavit is a fatal defect because there is nothing to amend. See *Pet. of Kloiber*, 362 A.2d 484 (Pa. Cmwlth. 1976). As to “the failure to execute the [candidate] affidavit[.]” ... [s]uch a defect cannot be cured by subsequent conduct and the [candidate’s nomination] petition was therefore void and invalid.” *In re Nomination Petition of Driscoll*, 847 A.2d 44, 50 (Pa. 2004); see also *In re Prendergast*, 673 A.2d 324 (Pa. 1996).

An affidavit, at its core, is a *sworn* statement. Black’s Law Dictionary defines “affidavit” as “a voluntary declaration of facts written down and *sworn to* by the declarant *before an officer authorized to administer oaths.*” Black’s Law Dictionary 66 (West 9th ed.) (emphasis added). At its most basic level, an affidavit must be signed and sworn before an authority, like a notary. “The requirements of sworn affidavits are to insure the legitimacy of information crucial to the election process [and therefore,] 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 Nomination Pet. of Cianfrani*, 359 A.2d 383, 384 (Pa. 1976).

Here, Candidates admit there was no Candidate Affidavit submitted, even untimely, for Gale for the office of Vice-President. Because the lack of any affidavit is a fatal defect, as a matter of law, Gale was not a duly-nominated candidate for Vice-President and so may not be substituted under Section 980 of the Election Code, 25 P.S. §2940, by Angela Walker.⁶

2. Scroggin’s Affidavit Satisfies Candidate Affidavit Requirement

Defects in a Candidate Affidavit may be amendable within this Court’s discretion depending on the circumstances. *See Kloiber* (lack of notary seal on affidavit amendable *nunc pro tunc*). As such, this Court was unable to rule on the validity of Scroggin’s Affidavit without a record of the pertinent facts. The record reflects Scroggin’s Affidavit was timely received by DOS. Based on the record developed in the hearing, this Court examines whether alleged defects in Scroggin’s Affidavit render her nomination invalid, thus precluding the substitution by Hawkins as the Green Party Candidate for President of the United States.

⁶ Also, the Walker submission on the “Candidate Affidavit” form is not notarized or dated; thus, it does not meet the basic criteria for an “affidavit,” which include being sworn before a notary. As such, her submission does not meet the Candidate Affidavit requirement for the office of Vice-President even under a generous construction of the statute. However, this is academic since Gale did not file an affidavit and therefore could not be substituted.

Nominating papers with improperly completed affidavits are amendable at the Court's discretion. *See In re Berg*, 973 A.2d 447 (Pa. Cmwlth.), *aff'd*, 971 A.2d 486 (Pa. 2009). But, false affidavits may not be cured. *Cianfrani*.

In their Application, Objectors alleged the following defects in Scroggin's Affidavit: lack of an original signature; faxing instead of filing; and failure to append to Nomination Paper. In their memorandum of law, Objectors also contend this Court should discount Scroggin's Affidavit as false based on the date of signing.

This Court is unpersuaded that the non-original signature on Scroggin's Affidavit is grounds for its invalidation. The point of an original or "wet" signature is to ensure against fraud and to utilize for signature comparisons when assessing whether it is an accurate signature as in a line challenge. Notably, Objectors do not contend the signature on Scroggin's Affidavit is not genuine. In light of the indicia of reliability supplied by the notarization of her signature, invalidating Scroggin's Affidavit based on the lack of original signature elevates form above substance.

Related, as to the method of submission, in that it was faxed instead of filed, the means of submission is not critical to compliance with the Candidate Affidavit requirement. Indeed, Objectors acknowledge that different tribunals may accept a facsimile as a means of filing as it is within their discretion. *See* Obj. Supp. Br. at 4. In fact, Director confirmed that candidates were permitted to submit electronic filings by midnight on August 3, 2020. Because there is no indication that DOS did not accept Scroggin's Affidavit based on the means of submission (via fax), and faxing was not precluded by the DOS Instructions, and electronic submission was expressly permitted based on the reduced staff and limitations resulting from Covid-19, the Court discerns no basis for excluding the Scroggin's Affidavit for this reason.

Scroggin's Affidavit was not "appended" by the candidate in the traditional sense, *i.e.*, fastened or attached, to the Nomination Paper. This Court recognizes that for political bodies, "Section 951(e) of the Election Code provides

that an affidavit shall be appended to each nomination paper offered for filing. . . .” *In re Barr*, 956 A.2d at 1087-88 (quoting 25 P.S. §2911(e)). However, the DOS Instructions for Political Bodies do not contain the word “appended” and there is no indication that DOS requires attachment of Candidate Affidavits.⁷ The record shows that Candidate Affidavits are separate documents from the Nomination Paper, and are not counted among its pages. Indeed, to support their argument that appending a Candidate Affidavit is mandatory, Objectors cite case law involving signature pages, which are sequential, required to be bound, and deemed one document. Signature pages comprising a nomination paper are not the same as a Candidate Affidavit, which, by all accounts, is a separate document.

This Court acknowledges the impracticality of appending Scroggin’s Affidavit under current circumstances, including Covid-19. In this case, where DOS provided an electronic submission option, in light of Covid-related staffing constraints, this Court concludes submission electronically, by fax or email, does not invalidate an otherwise compliant Candidate Affidavit.

However, the more compelling circumstance unique to the acceptance of the Nomination Paper here is that the DOS staff did not advise the Green Party that there was any defect in the submission of Candidate Affidavits for national office, or non-compliance with the Candidate Affidavit requirement generally. *Cf. Fuente v. Cortes*, 207 F.Supp.3d 441 (M.D. Pa. 2016) (abstaining from independent candidate challenge to DOS rejection of nomination paper for deficient candidate

⁷ Paragraph 10 of Exhibit P-4, titled “Candidate’s Affidavit and Ethics Statement” states:

Each candidate for public office must sign and submit one CANDIDATE’S AFFIDAVIT per set of nomination papers. The CANDIDATE’S AFFIDAVIT is a separate form and may be obtained from the Bureau of Election Services and Notaries, Room 210 North Office Building, Harrisburg, PA 17120. Each candidate for public office, except President and Vice-President of the United States . . . a copy of the Statement of Financial Interests required to be filed with the State Ethics Commission.

affidavit and failure to append). To the extent the strict timelines for election practice come into play, they favor Candidates as neither Presidential Candidate Scroggin nor Substitute Candidate Hawkins had notice or opportunity to challenge the alleged defect in Scroggin’s Affidavit in content or its submission.⁸ In fact, Director indicated there was compliance, except as for the elector affirmations. This Court finds no prejudice to Objectors by the later discovery of Scroggin’s Affidavit where Objectors had a full opportunity to litigate the issue.

Objectors’ argument that the date on Scroggin’s Affidavit renders it false, and thus, invalid and incurable is unavailing. There is no evidence or indication that Scroggin did not intend her nomination as Candidate for the office of President. The date alone is insufficient to imply fraudulent intent. At that point, Hawkins was not the duly-nominated Presidential Candidate, despite his nomination at the convention—until his substitution, Scroggin was the individual named in the Nomination Paper as the Presidential Candidate

In sum, Scroggin’s Affidavit strongly evinces substantial compliance with the Candidate Affidavit requirement under the Election Code. It is signed, it is sworn, dated and notarized by a commissioned notary. There is no evidence that it was not accurate when signed on August 3, 2020, because, notwithstanding the timing of the Green Party convention, and the nomination of Hawkins through that process, Hawkins was not duly-nominated under the Election Code until he filed his substitution paperwork. That is consistent with the chronology Director described. This Court concludes that under these circumstances, involving reduced staff and

⁸ Here, unlike the scenario in *Fuente v. Cortes*, the Green Party Candidates were not put on notice that their candidacy for national office was in jeopardy for non-compliance with the Candidate Affidavit requirement for political bodies, and so they had no reason or opportunity to cure the defect. In *Fuente*, relevant here, the federal court emphasized the importance of placing a Presidential candidate on notice of defects in his candidacy, stating “[r]ather, upon issuing their rejection, [DOS] immediately placed Plaintiff on notice that his best recourse was to file suit in Commonwealth Court, where [the candidate’s] legal issues could be resolved and [DOS] could be ordered to accept [the candidate’s] nomination papers if necessary.” *Id.* at 451 (emphasis in original).

lack of in-person staff to oversee facsimiles and review/receive submissions in the Covid-19 era that prioritizes working remotely, that Scroggin's Affidavit met the Candidate Affidavit requirement.

“No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined.” *Williams v. Rhodes*, 393 U.S. 23, 31 (U.S. 1968) (citation omitted). In the interest of protecting the franchise and the right of voters to elect a candidate of their choice, this rationale extends to a candidate's signature on an affidavit, to which there is no challenge to its authenticity and other indicia of reliability exist, as with the notarization of Scroggin's signature here. *See generally In re Nader*, 858 A.2d 1167, 1177 (Pa. 2004) (“The longstanding and overriding policy in our Commonwealth [is] to protect the elective franchise.”); *In re Nomination Pet. of Flaherty*, 770 A.2d 327, 331 (Pa. 2001) (“The Election Code must be liberally construed in order to protect a candidate's right to run for office, and a voters' right to elect the candidate of their choice.”).⁹

Therefore, this Court denies Objectors' Petition as to the exclusion of Substitute Candidate Hawkins for the office of President of the United States to the extent it is premised on an alleged defective Scroggin's Affidavit.¹⁰

⁹ The Court is aware of multiple pending ballot access challenges before this Court and the Supreme Court. Ballot choice is a form of ballot access. Expanding the ways in which we vote, while limiting the choices on the ballot seems somewhat paradoxical if not inapposite.

¹⁰ Hawkins' affidavit is not challenged. This Court is also unpersuaded by Objectors' hypothetical argument regarding “celebrity” candidates, and the related concern that naming a well-known person on the nomination papers (while anticipating their subsequent substitution) translates into possibly more signatures. Provided the substitution is proper, there is nothing to preclude a political body from placing an eligible “celebrity” candidate on the nomination paper as the initial “placeholder” candidate. *See In re Barr*. This Court is unaware of any authority for excluding a qualified individual from being named on a ballot purely based on celebrity status or name recognition. Regardless, it is not relevant to the facts of this case and had no impact on the naming of Hawkins as a proper substitute for a duly-nominated candidate.

B. Running Mate “Requirement”

Lastly, having determined that Scroggin qualified as a duly-nominated Candidate for President, and discerning no flaws in her substitution by Hawkins, this Court examines Objectors’ contention that the candidacy for President depends upon having a duly-nominated Vice-President. Objectors cite no authority for this “running mate requirement” other than the 12th Amendment of the U.S. Constitution.

The 12th Amendment, ratified in 1804, says:

The Electors shall meet in their respective states and vote by ballot for President and Vice-President ...; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to [Congress, where] the votes shall then be counted.

U.S. Const., amend. XII. The Supreme Court of the United States recently explained the genesis of this amendment, explaining that its “main part provided that electors would vote separately for President and Vice[-]President.” *Chiafalo v. Washington*, ___ U.S. ___, 140 S. Ct. 2316, 2326–27 (2020) (emphasis added). Thus, while the purpose was to ensure the candidates were of the same party, the intent was to separate the roles, not treat the roles as a codependent unit. The 12th Amendment does not make the nomination of a Presidential Candidate contingent on the valid nomination of a Candidate to the office of Vice-President.

This Court discerns no support for the proposition that contemporaneous nomination of a Vice-Presidential Candidate is essential for placing a Presidential Candidate on the ballot. This Court declines to engraft a running mate requirement on the ballot access of a political body for national office where none exists, and for which there is no clear authority. There is no legal prohibition on the subsequent

naming of a Vice-President by the duly-elected President.¹¹ The 25th Amendment of the Constitution deals with Vice-Presidential vacancies. Further, as indicated on the ballot, voters are electing “Presidential Electors” when casting their vote.

Further, that a defect exists as to one candidate on a political body slate does not impair the candidacy of other candidates for other offices. *Swartz v. Helm*, 41 Pa. D. & C.2d 322 (Dauph. C.C.P. 1966). “To disqualify a candidate because a fellow candidate fails to qualify would nullify the intent of [the section permitting election of multiple candidates by a single nomination paper].” *Id.* at 334. This is consistent with the plain language of the Election Code which provides “**each**” duly-nominated candidate stands on his or her own merit, based on the eligibility and documentation criteria.

There is simply no legal prohibition on the nomination of a candidate for the office of President simply by virtue of the invalidity of the candidate for the office of Vice-President for political bodies, hence, this Court does not strike the Nomination Paper as to Hawkins. This Court discerns no obstacle to permitting Hawkins’ candidacy despite lack of a duly-nominated candidate for Vice-President.¹² *See Swartz*. Because the absence of a Candidate Affidavit for the national office of Vice-President of the United States does not impair the validity of the Nomination Paper as to the Green Party Candidate for President of the United States, the Green Party Candidate for President, Howie Hawkins, shall be placed on the ballot.

Therefore, this Court’s order on the Application and the Petition follows.

¹¹ Prior to passage of the 25th Amendment in July 1965, for the period between November 22, 1963, when Lyndon Baines Johnson took the oath of office as President, and January 20, 1965, the inauguration date of Hubert Humphrey as Vice-President, there was no Vice-President.

¹² This Court is cognizant that the other 49 states may have different requirements for placement of the Green Party Presidential Candidate on the ballot. Indeed, Hawkins and Walker may be placed on the ballots of other states where the requirements for candidates of political bodies are more or less stringent.

ORDER

AND NOW, this 9th day of September 2020, following the hearing on the Petition to Set Aside filed by Paul Stefano and Tony C. Thomas (Objectors) to the Nomination Paper filed by the Green Party Slate (Petition), which was modified by Objectors to a challenge to the Green Party Candidates for the national offices of President of the United States and Vice-President of the United States, Objectors' Application for Summary Relief (Application), as modified by the Joint Stipulation, is **GRANTED IN PART**, and **DENIED IN PART** as follows.

The Application is **GRANTED** as to Objectors' challenge to the Green Party Candidate for the office of Vice-President of the United States, and the name ANGELA WALKER shall not be placed on the November 3, 2020 General Election Ballot.

The Application is **DENIED** in all other respects, for the reasons set forth in the opinion.

The remaining issues in the Application had been resolved by the Joint Stipulation filed on September 3, 2020, and as set forth in this Court's orders dated September 2, 2020 (Application to Dismiss - Global Challenges), September 3, 2020 (as to Statewide Row Offices) and September 4, 2020 (Motion to Dismiss - Notice).

AND FURTHER, Objectors' Petition is **DENIED** as to Objectors' challenge to the Green Party Candidate for the office of President of the United States, Howie Hawkins, for the reasons set forth in the opinion.

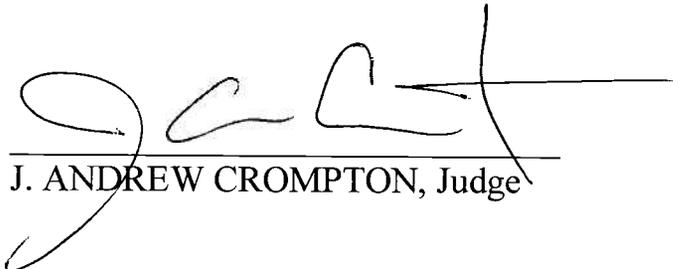
Accordingly, the Secretary of the Commonwealth is directed to place the following name on the November 3, 2020 General Election Ballot as the Candidate for national office for the Green Party:

Howie Hawkins for President of the United States

As there remain no other outstanding applications on the above-captioned matter before this Court, this Order addresses the merits of Objectors' Petition in full, and is therefore FINAL.

The parties shall bear their own costs and attorney fees. Objectors' request for attorney fees set forth in their Petition's prayer for relief is DENIED.

The Prothonotary is directed to send a copy of this Order to the Secretary of the Commonwealth.



J. ANDREW CROMPTON, Judge

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Jurisdictional Statement was served as indicated September 10, 2020 on the following persons:

Via PAC File System and Electronic Mail

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