

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In Re: Nomination Petition of :
: :
Darlene Shackelford Ward 36 Div1 : No. 511 C.D. 2014
Objector: Julia Bringham : :
Constance Goodwin Ward 36 Div 2 : Submitted: April 11, 2014
Objector: Stephen Sabo : :
Charlene Hannah Ward 36 Div 2 : :
Objector: Stephen Sabo : :
Delores Richardson Ward 36 Div 4 : :
Objector: Dwayne Toomer : :
Gaynell Scott Ward 36 Div 4 : :
Objector: Dwayne Toomer : :
Harold James Ward 36 Div 5 : :
Objector: Donetta Franklin : :
Jokon Brown-Hart Ward 36 Div 7 : :
Objector: Wtanya Fitchet : :
Wilma E. Frazier Ward 36 Div 9 : :
Objector: Earl Roberts : :
Tanasha Vann Ward 36 Div 9 : :
Objector: Earl Roberts : :
Jonathan Abbott Ward 36 Div 10 : :
Objector: Michael Parker : :
Marie Hightower Ward 36 Div 12 : :
Objector: Darnell Jenerette : :
Dorothy Wright Ward 36 Div 12 : :
Objector: Darnell Jenerette : :
Daralis Lippett-Simms Ward 36 Div 13 : :
Objector: Kenny Davis : :
Carolyn Ramsey Ward 36 Div 13 : :
Objector: Kenny Davis : :
Joseph Middleton Ward 36 Div 15 : :
Objector: Michael Johnson : :
Donald Dudley Ward 36 Div 15 : :
Objector: Michael Johnson : :
Ralanda King Ward 36 Div 16 : :
Objector: Peter Sosalski : :
Darlene Swint Ward 36 Div 17 : :
Objector: Darrell Wilson : :
Audrey Hill Ward 36 Div 17 : :
Objector: Darrell Wilson : :
Ethel Charles Ward 36 Div 18 : :

Objector: Kevin Miller :
Angela G. Parks Ward 36 Div 20 :
Objector: Ervin McCoy :
Terry L. Wiggins Ward 36 Div 20 :
Objector: Ervin McCoy :
Willie L. Allen Ward 36 Div 21 :
Objector: Brownie Whitfield :
Mary Blackwell Ward 36 Div 22 :
Objector: Diane Fryer :
Sherri D. Stanford Ward 36 Div 23 :
Objector: Jerome Hamilton :
Edmu(o)nd Wiggins Ward 36 Div 23 :
Objector: Jerome Hamilton :
Tulsa T. Wills Ward 36 Div 29 :
Objector: Zachary Shaffer :
Harriet Henley Ward 36 Div 30 :
Objector: Leo Bryant :
Cristal Heath Ward 36 Div 30 :
Objector: Leo Bryant :
Jefferson Branch Ward 36 Div 31 :
Objector: Ali Jennings :
Rita A. Butler Ward 36 Div 34 :
Objector: Alexandru Popovici :
Juanita H. Jarrett Ward 36 Div 35 :
Objector: Emily MacFarlane :
Alexandria Gibson Ward 36 Div 36 :
Objector: John Pietrafitta :
Jennie H. Burton Ward 36 Div 39 :
Objector: Jamal D. Barksdale :
Charles L. Simpkins Ward 36 Div 41 :
Objector: David Harley :
Darlene L. Lewis Ward 36 Div 41 :
Objector: David Harley :
Dionne Bracley Ward 36 Div 41 :
Objector: David Harley :
:
:
Appeal of: Objectors :

BEFORE: HONORABLE BERNARD L. McGINLEY, Judge
HONORABLE RENÉE COHN JUBELIRER, Judge
HONORABLE MARY HANNAH LEAVITT, Judge

OPINION NOT REPORTED

**MEMORANDUM OPINION
BY JUDGE COHN JUBELIRER**

FILED: April 15, 2014

Before this Court are the consolidated appeals of the Court of Common Pleas of Philadelphia County's (trial court) dismissal of Objectors'¹ Petitions to Set Aside the Nomination Petitions (Petitions to Set Aside) of thirty-seven Candidates for various offices in the 36th Democratic Ward in the Pennsylvania General Primary Election to be held on May 20, 2014.² The trial court denied the Petitions to Set Aside for two reasons: (1) ten were denied because Objectors did not serve the Petitions to Set Aside on those ten Candidates by the time prescribed by the trial court for service; and (2) twenty-seven Petitions to Set Aside were denied because Objectors did not attach the Nomination Petitions as an exhibit to their Petitions to Set Aside, rendering the challenges therein insufficiently specific. We will address the Objectors' claims of error regarding the two groups of appeals separately after setting forth the background of the cases before the Court.

I. Background

The facts are not in dispute. Pursuant to Section 912.1(35) of the Pennsylvania Election Code³ (Election Code), Candidates were required to present at least ten valid signatures of registered and enrolled members of the Democratic party who are qualified electors of the applicable division of the 36th Ward. See Section 907 of the Election Code, 25 P.S. § 2867 (requiring the filing of

¹ Objectors are listed in the caption.

² The appeals were consolidated by the trial court. (Trial Ct. Order, March 25, 2014.)

³ Act of June 3, 1937, P.L. 1333, added by Section 2 of the Act of December 12, 1984, P.L. 968, as amended, 25 P.S. § 2872.1(35).

nomination petitions). It is undisputed that Candidates timely filed their Nomination Petitions.

In anticipation of a large number of election challenges, on March 7, 2014, President Judge Sheila Woods-Skipper issued Administrative Order No. 2014-01 (Administrative Order), in which she set forth the manner in which petitions to set aside nomination petitions would be “filed, scheduled and disposed.” (Administrative Order at 1.) The Administrative Order instructs objectors when and where the Petitions to Set Aside and “Exhibits” should be filed on the Court, the Philadelphia County Board of Elections, and the candidates. (Administrative Order ¶¶ 1-2.) The Administrative Order also included, as Exhibits, a sample Petition to Set Aside, a spreadsheet on which to set forth objections with a schedule of objections, an Order to Show Cause form to be completed by objector and served on candidate, an Affidavit of Service form, and a “Final Order” form to be completed by the trial judge. (Administrative Order, Exs. 1-A, 1-B, 2, 3, 4.) The Administrative Order was “designed to facilitate the preparation for trial, the amicable pre-trial resolution and the efficient litigation of these claims.” (Trial Ct. Op. at 2.) As anticipated, the volume of election challenges was very high: “three judges heard over three hundred and ninety (390) challenge petitions” and “[i]n one courtroom, [the trial judge here] disposed of one hundred and eighty-three (183).” (Trial Ct. Op. at 2.)

Objectors filed the Petitions to Set Aside, which challenged the validity of the signatures in the Nomination Petitions and alleged that Candidates’ Nomination Petitions, therefore, contained insufficient valid signatures to remain on the ballot and should be set aside. In guiding our review, we are mindful that

the Election Code must be construed liberally “so as to not deprive an individual of his right to run for office, or the voters of their right to elect a candidate of their choice.” Nomination Petition of Ross, 190 A.2d 719, 720 (Pa. 1963); accord In re Nomination Petition of Flaherty, 770 A.2d 327, 331 (Pa. 2001). “[T]he 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). Yet, we are also cognizant of this Court’s “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. 1981) (single judge opinion, Crumlish, J.).

II. Timing of the Service of the Petitions to Set Aside

The trial court’s Administrative Order provided that, once a Petition to Set Aside had been filed, “an Order to Show Cause shall be issued scheduling a hearing date for March 21, 2014. The Order must be served by the petitioner before the hearing date as provided in the Order. The Order to Show Cause shall be in the format attached as ‘Exhibit 2.’” (Administrative Order ¶ 4.) The Order to Show Cause attached as Exhibit 2 stated that “a copy of this Order and a copy of the Petition [to Set Aside] (if it had not already been served) shall be served upon the Respondent-Nominee . . . on or before the 20th day of March, 2014, at 4:00 PM.” (Order to Show Cause, Ex. 2, ¶ 4.) The Administrative Order also advised that the trial court may reschedule the hearing for good cause, such as the inability to effectuate timely service. (Administrative Order ¶ 6.) This matter was originally scheduled for a hearing on March 21, 2014; however, the trial court continued the hearing to March 24, 2014.

At the March 24, 2014 hearing, counsel for Candidates Dorothy Wright, Joseph Middleton, Donald Dudley, Ralanda King, Sherri D. Stanford, Edmond Wiggins, Tulsa T. Wills, Juanita H. Jarrett, Jennie H. Burton, and Dionne Bracley objected to the Petitions to Set Aside to their Nomination Petitions because Objectors had not served them with the Petitions to Set Aside by 4:00 p.m. on March 20, 2014. (Hr’g Tr., March 24, 2014, at 73-77, 85-87, 91-93, 110-15.) Objectors admitted that they had not effectuated service on these Candidates by the day and time directed in the Order to Show Cause and, instead, served these Candidates with the Petition to Set Aside, Order to Show Cause (with the date of the continued hearing), and copies of their Nomination Petitions over the weekend of March 22 and 23, 2014. (Hr’g Tr. at 73-77, 85-87, 91-93, 110-15.) Objectors contended that there was no prejudice as a result of the late service because the hearing scheduled for March 21, 2014 was continued to March 24, 2014, these Candidates were served prior to that hearing and, therefore, had notice of the hearing. (Hr’g Tr. at 76-77, 88-87.) After considering the arguments, the trial court dismissed these ten Petitions to Set Aside for failing to serve the Candidates with the Petition to Set Aside by 4:00 p.m. on March 20, 2014. (Hr’g Tr. at 77, 86, 92-93, 114-15.) The trial court held that service was required to be performed by March 20, 2014, and that Objectors had neither requested nor received an extension of this time period.⁴ (Hr’g Tr. at 77, 86, 92, 114-15.)

⁴ Although included in Objectors’ Statement of Issues to be Presented on Appeal, neither Objectors nor Candidates address this issue in their brief, nor does the trial court address it in its opinion. Additionally, it appears that Candidate Ralanda King is mistakenly not included in Objectors’ Statement of Issues to be Presented on Appeal, but she also was not timely served with a Petition to Set Aside. (Hr’g Tr. at 92-93.) Nevertheless, given that this is an election matter and because Objectors timely appealed the trial court’s Orders disposing of the Petitions to Set Aside the Nomination Petitions of these ten Candidates, we will address this issue for all of the Candidates that were not timely served.

Section 977 of the Election Code⁵ provides trial courts in election matters with ““complete control to regulate the time and manner of giving notice and [the] fixing of hearings.”” In re Nomination Petitions of McElhatton, 729 A.2d 163, 167 (Pa. Cmwlth. 1999) (quoting In re Nomination Petition of Morgan, 428 A.2d 1055, 1058 (Pa. Cmwlth. 1981)). The failure to comply with a trial court’s order directing the manner of service may be a fatal defect that would require the denial of a petition to set aside. Morgan, 428 A.2d at 1058 (dismissing petition to set aside for failing to personally serve candidate as required by court order). Here, as authorized by Section 977 of the Election Code, the trial court directed that the Petitions to Set Aside and Orders to Show Cause be personally served on Candidates by 4:00 p.m. on March 20, 2014.

Objectors did not comply with this service requirement and did not seek approval from the trial court to serve Candidates at a later date. At the March 24,

⁵ 25 P.S. § 2937. This section states:

All nomination petitions and papers 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 or paper, a petition is presented to the court specifically setting forth the objections thereto, and praying that the said petition or paper be set aside. A copy of said petition shall, within said period, be served on the officer or board with whom said nomination petition or paper 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 or paper, and specifying the time and manner of notice that shall be given to the candidate or candidates named in the nomination petition or paper 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 or papers.

Id.

2014 hearing, Objectors did not offer an explanation of good cause for serving these Candidates after the deadline, but simply asserted that no one was prejudiced because the March 21, 2014 hearing was continued. The trial court did not abuse its discretion in finding that Objectors had to seek court approval to serve Candidates after the date required for service. Accordingly, we affirm the trial court's denial of the Petitions to Set Aside the Nomination Petitions of the following Candidates: Dorothy Wright; Joseph Middleton; Donald Dudley; Ralanda King; Sherri D. Stanford; Edmu(o)nd Wiggins; Tulsa T. Wills; Juanita H. Jarrett; Jennie H. Burton; and Dionne Bracley.

As a matter of record keeping we note that, in six of the trial court's Orders in these ten cases, the trial court appears to have checked off the wrong box, which states the Nomination Petitions were defective, the Petitions to Set Aside were granted, and these Candidates' names were to be removed from the ballot. This disposition is contrary to the clear evidence in the hearing transcript, the trial court's opinion stating that *all* of the Petitions to Set Aside in this appeal were denied, (Trial Ct. Op. at 2), and the parties' representations and appeals in this matter. Therefore, consistent with the hearing transcript and the trial court's opinion, we interpret these six Orders as denying the objections to the Nomination Petitions of the following Candidates: Sherri D. Stanford, Edmu(o)nd Wiggins, Tulsa T. Wills, Juanita H. Jarrett; Jennie H. Burton and Dionne Bracley and requiring the Philadelphia County Board of Elections to accept these Candidates' Nomination Petitions.

III. Failure to include copies of the Nomination Petitions with the Petitions to Set Aside

The trial court dismissed twenty-seven Petitions to Set Aside because the Objectors did not attach a copy of the challenged Nomination Petition. The trial court found that the Petitions to Set Aside lacked the requisite specificity.

The Administrative Order stated that the Petition to Set Aside “shall be in the format attached as ‘Exhibit 1.’” (Administrative Order ¶ 1.) The sample Petition to Set Aside contains 6 paragraphs; paragraph 3 states: “On or _____, _____, above captioned Candidate filed a Nomination for the Office of _____ Party. A copy of the Nominating Petition is attached as Exhibit ‘A.’” (Ex. 1-A to the Administrative Order ¶ 3.)

Objectors filed timely Petitions to Set Aside on March 18, 2014. The Petitions to Set Aside and Orders to Show Cause to appear at a hearing before the trial court on March 21, 2014 were timely served on these twenty-seven Candidates. The Petitions to Set Aside did not attach copies of the Candidates’ Nomination Petitions; however, each of the Petitions to Set Aside set forth specific challenges to the relevant Candidates’ Nomination Petition by page number, line number, and reason for the challenge. These Petitions to Set Aside were originally scheduled to be considered on March 21, 2014. It appears that, at the March 21, 2014 hearing, Candidates’ counsel objected to the Petitions to Set Aside and moved for their dismissal based on Objectors’ failure to attach copies of the Candidates’ Nomination Petitions to the Petitions to Set Aside.⁶ The trial court took the matter under advisement and continued the hearing until March 24, 2014.

⁶ The March 21, 2014 hearing transcript was not certified to this Court on appeal; however, the parties and the trial court represent that these objections were made and the matter was continued until March 24, 2014.

Over the weekend of March 22 and 23, 2014, Objectors served Candidates with copies of their respective Nomination Petitions.

At the beginning of the March 24, 2014 hearing, counsel for both parties began the process of going through the Petitions to Set Aside, addressing the Nomination Petition of Candidate Shackelford first. (Hr'g Tr. at 5.) Prior to the commencement of the hearing, counsel for both parties had reviewed some of the Nomination Petitions and, in Candidate Shackelford's case, had agreed that she did not have enough signatures to remain on the ballot. (Hr'g Tr. at 5.) However, before the trial court ruled on the stipulation, another of Candidate Shackelford's attorneys indicated that the Petition to Set Aside was not sufficiently specific because it had not included a copy of Candidate Shackelford's Nomination Petition. (Hr'g Tr. at 5-9, 15-18.) Notwithstanding the fact that counsel was about to stipulate that there were insufficient valid signatures, the trial court denied the Petition to Set Aside because it did not include a copy of the Nomination Petition, did not follow the Administrative Order and, therefore, "the challenge lack[ed] the required specificity." (Hr'g Tr. at 5-9, 15-18.)

The trial court proceeded to address the remaining Petitions to Set Aside to determine whether the challenges contained therein "required" the Nomination Petition in order for them to be sufficiently specific. Concluding that in these cases the challenges involved, *inter alia*, the validity of the elector's signatures, addresses, or registration, and required an examination of the signature lines of the corresponding Nomination Petitions, the trial court dismissed the Petitions to Set Aside for failure to attach a copy of the Candidates' Nomination Petitions because the court found that it was "necessary for specificity." (Trial Ct. Op. at 3; Hr'g Tr.

at 18, 21, 25, 27-33, 46-48, 61-65, 68-69, 73-82, 86-87, 91-97, 112-15, 120-21, 124-26, 128-30.) The trial court reasoned that, without the Nomination Petitions, the page and line challenges contained in the Petitions to Set Aside were not sufficiently specific for Candidates to defend their Nomination Petitions because the objections did not include the specific name or address of the challenged elector. (Trial Ct. Op. at 3.) The trial court further reasoned that the Administrative Order required that Objectors attach a copy of the Nomination Petition being challenged to the Petition to Set Aside and that “the court’s orders must be obeyed,” citing Section 323 of the Judicial Code which states, in part, that “every court shall have power to make such rules and orders of court as the interest of justice or the business of the court may require,” 42 Pa. C.S. § 323. (Trial Ct. Op. at 1-2.) Finally, the trial court noted that, while some defects in petitions to set aside can be corrected by amendment, to do so in this matter would “defeat the purpose of the pre-trial administrative order.” (Trial Ct. Op. at 3.) Objectors now appeal to this Court.⁷

Objectors argue that the trial court erred in dismissing their Petitions to Set Aside. Objectors first argue that they complied with the pleading requirements of Section 977 of the Election Code and that any additional pleading requirements set forth in the Administrative Order violated the Election Code, citing our Supreme Court’s decision in In re Nomination Petition of Johnson, 502 A.2d 142 (Pa. 1985). Objectors next argue that their Petitions to Set Aside were sufficiently specific as required by In re Nomination Petition of Bishop, 579 A.2d 860 (Pa. 1990), because they set forth the specific page number, line number, and reason for each signature

⁷ “The Court’s review of a trial court’s order as to the validity of a nomination petition is limited to determining whether the findings of fact are supported by substantial evidence in the record and whether there was an error of law or an abuse of discretion.” In Re Nominating Petition of Williams, 972 A.2d 32, 33 n.1 (Pa. Cmwlth. 2009).

challenge and, therefore, provided Candidates with adequate notice of which signatures were at issue such that Candidates could defend against the challenges. Finally, Objectors assert that service of the Nomination Petitions on Candidates on March 22 and 23, 2014 was not an improper attempt to amend their timely-filed Petitions to Set Aside.

Candidates argue that the trial court properly relied upon the Administrative Order to deny the Petitions to Set Aside because the Administrative Order must be complied with and, absent the attachment of the Nomination Petitions, they did not have timely notice of the specific reasons why their candidacy was being challenged. Candidates assert that the failure to attach the relevant Nomination Petition is a fatal defect, which cannot be amended after the filing deadline pursuant to In re Nomination Petition of Wagner, 511 A.2d 754 (Pa. 1986).

A. The Administrative Order and Compliance with the Election Code

Our Supreme Court has held that “[t]he sole and exclusive remedy for challenging a person’s right to run for political office in Pennsylvania is provided by Section 977 of the 1937 Pennsylvania Election Code.” Johnson, 502 A.2d at 144 (quoting In re Nomination Petition of Jones, 476 A.2d 1287, 1294 (Pa. 1984)).

The Supreme Court identified four requirements of Section 977:

- (1) the petition to set aside must be filed within seven (7) days after the last day for filing the challenged nomination petition or paper;
- (2) the petition must specifically set forth the objections;
- (3) the petition must contain a prayer that the nomination petition or paper be set aside; and
- (4) the petition must be served upon the officer or board with whom the nomination petition or paper was filed.

Id. Moreover, in holding that the Pennsylvania Rules of Civil Procedure are not applicable to a challenge to a nomination petition, the Supreme Court explained that “[t]he overriding consideration embodied in [S]ection 977 of the Election Code is the expeditious resolution of objections to a prospective candidate’s filings” and that it did not believe that “engrafting technical rules of pleading and procedure onto the mechanism prescribed by the legislature serves that end, nor do we find the addition of such a requirement would materially enhance the integrity of the election process.” Id. at 145. In this regard, the Supreme Court cited its prior decision in Appeal of Beynon, 88 A.2d 789, 792 (Pa. 1952), wherein it held that “[a] petition challenging [a candidate’s] qualification need not be drafted with the nicety required of a formal pleading in an action at law. If it is timely filed and alleges a *prima facie* case, the court should, in the public interest, undertake its consideration.” The Election Code’s requirements pertaining to the form of nomination petitions is 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). While the Election Code should be liberally construed to protect a candidate’s right to run for office and the voters’ rights to elect their choice of candidate, In re Nomination Petition of Gales, 54 A.3d 855, 857 (Pa. 2012), the ability to file objections to a nomination petition provides a valuable check on the nomination process. In re Nomination Papers of James, 944 A.2d 69, 72 (Pa. 2008).

We are cognizant of the time constraints involved in election matters and the burdens placed on the courts, as well as on litigants, to file, review and litigate election challenges in an efficient and expedient manner. Thus, we are sensitive to and respectful of the trial court’s well-intentioned attempt to streamline the process through the issuance of the Administrative Order. Candidates assert that the

Administrative Order *orders* that a petition to set aside *must* include an attached copy of the corresponding nomination petition. The Administrative Order specifically references the Petition to Set Aside (¶ 1), the Order to Show Cause (¶ 4), the Affidavit of Service (¶ 5), and the Final Order (¶ 6); it does not itself reference the Nomination Petitions. Instead, the Administrative Order states that the Petition to Set Aside shall be in the form set forth in Exhibit 1, and in Paragraph 3 of the form Petition to Set Aside that is attached to the Administrative Order is a statement that “A copy of the Nominating Petition is attached as Exhibit ‘A.’” (Ex. 1-A to the Administrative Order ¶ 3.) We do not interpret this single sentence at the end of one paragraph of the Petition to Set Aside form as ordering the attachment of the Nomination Petitions such that failure to attach these copies would violate a mandatory provision of the Administrative Order.⁸

Moreover, even if the Administrative Order could be interpreted as mandating the attachment of a copy of a nomination petition, there is no indication in the Administrative Order that the failure to do so would result in the petition to set aside either being dismissed for failing to comply with the Administrative Order⁹ or declared insufficiently specific and dismissed on that basis. The trial

⁸ Moreover, even if it was a defect, it was properly amended by the subsequent service of the Nomination Petitions on Candidates on March 22 and 23, 2014. Because the service of the Nomination Petitions was not an attempt by Objectors to add challenges to the Nomination Petition, but was merely effectuated to address the concerns raised at the March 21, 2014 hearing, it does conflict with Wagner, 511 A.2d at 756 (holding that an objector may not amend a timely-filed petition to set aside after the expiration of the seven day filing period to *add* challenges to a nomination petition).

⁹ In fact, we note that the trial court did not always dismiss petitions to set aside because of the failure to attach a copy of the nomination petition. In at least one instance the trial court, notwithstanding the lack of inclusion of the nomination petition, reviewed an objection, concluded it was a valid objection, and dismissed the nomination petition as defective. (Hr’g Tr. at 42-46, 56-57.) Counsel in the present appeals was also counsel for this candidate and did not

court acknowledges that, “in some years, just citing the line number challenged would be sufficient,” but “[n]ot this year, not with this volume and under the time constraints of election cases.” (Trial Ct. Op. at 3.) If the trial court intended to alter the requirements for filing a valid petition to set aside from what had been previously acceptable, the public should have been placed on notice of the new requirements and the consequences of not complying with the new requirements.¹⁰ Such a harsh consequence is not consistent with the principle that our rules should be construed in a manner which promotes the just and efficient resolution of disputes, and we do not believe that such a draconian sanction should be imposed where it is not specifically and clearly mandated by statute, procedural rule, or order.

B. Were the Petitions to Set Aside Sufficiently Specific

We now turn to the question of whether, as Objectors’ assert, the Petitions to Set Aside adequately provided Candidates with notice of Objectors’ specific challenges to the Nomination Petitions. Allegations in a petition to set aside “must set forth the specific grounds of invalidity so as to sufficiently advise the proposed

object to the trial court’s decision to review the merits of the petition to set aside. (Hr’g Tr. at 57.)

¹⁰ Because of our disposition, we do not decide the extent to which a trial court may, by order, set forth mandatory requirements for the content and filing of petitions to set aside under Section 977 of the Election Code beyond the time and manner of giving notice and the fixing of hearings. The trial court cites Section 323 of the Judicial Code, 42 Pa. C.S. § 323, for the proposition that it could issue the Administrative Order in the interest of justice and the business of the Court. (Trial Ct. Op. at 1-2.) While courts do have the power to issue such orders, we note that this power is not unlimited. See Mikita v. Bailey Homes, Inc., 401 A.2d 1367, 1373 (Pa. Super. 1979) (stating that the rules established “must not act to abridge, enlarge, or modify the substantive rights of any litigant, . . . but must be confined to practice and procedure in the disposition of cases”). See also Johnson, 502 A.2d at 144 (setting forth the requirements for a petition to set aside pursuant to Section 977 of the Election Code).

candidate of the errors in his nomination petitions so that he is in a position to present any defense he may have to such allegations.” Bishop, 579 A.2d at 863. “If the challenger claims that any signature on the petition is invalid, he must cite the page, line and reason for the invalidity in his petition to challenge.” Id. “[T]he failure to comply with this requirement will render the challenge fatal.” Id.

A review of these twenty-seven Petitions to Set Aside reveal that, in each, Objectors have set forth, in detail, their challenges to the respective Nomination Petitions, which Candidates themselves had previously reviewed and had filed with their Candidate’s affidavit. The Petitions to Set Aside include, where relevant, the page number, line being challenged, and the specific reason that line was being challenged, such as “in the hand of another,” “not registered,” “not in the district,” “signature does not match,” “illegible,” “printed signature,” etc. This Court and our Supreme Court have consistently held that such information satisfies the specificity requirements of Section 977. In the Matter of the Nomination Petition of Samms, 674 A.2d 240, 243 (Pa. 1996); Bishop, 579 A.2d at 863; In re Nomination Petitions of Farrow, 754 A.2d 33, 36 (Pa. Cmwlth. 2000) (single judge opinion, Pelligrini, J.); In re Petition Objecting to the Nomination Petition and/or Papers of Williams, 625 A.2d 1279, 1282-83 (Pa. Cmwlth. 1993).

We note that the Petition to Set Aside was specific enough in Candidate Shackelford’s case for counsel to meet, review the objections, and begin to stipulate that she did not have sufficient signatures to be placed on the ballot. (Hr’g Tr. at 5.) It does not serve the integrity of the election process to allow a candidate who admits that she does not have enough valid signatures to be placed

on the ballot.¹¹ (See also, Candidate Hannah’s case, where it appeared that Candidate was going to concede, but then Candidate’s counsel stated that “I did go line by line, . . . but that was before I had your decision,” and the Petition to Set Aside was dismissed, (Hr’g Tr. at 19-20).) Moreover, by the time of the March 24, 2014 hearing, Candidates had received copies of their own Nomination Petitions when served with them on March 22 and 23, 2014; therefore, any alleged prejudice they may have suffered was cured.¹²

The purpose of the Election Code is to prevent fraud and to preserve the integrity of the election process. Cianfrani, 359 A.2d at 384. The record reveals that, in relying solely on the failure to attach copies of the Nomination Petitions, the wholesale dismissal of these Petitions to Set Aside may not have served this purpose.

C. Conclusion

Although we commend the trial court for its attempts to improve the efficiency of the election challenge process, because the Administrative Order did not clearly and expressly require the attachment of a copy of the nomination

¹¹ We are troubled by portions of the transcript wherein the trial court simply granted petitions to set aside, because the unrepresented candidates were not present to defend their petitions, without requiring objectors to present any evidence to prove their challenges. (See Hr’g Tr. at 25-26.) Nomination petitions are presumed to be valid, In re Nomination Petition of Shimkus, 946 A.2d 139, 141 (Pa. Cmwlth. 2008) (single judge opinion, Cohn Jubelirer, J.), and it is the objector’s burden to prove the deficiency of the nomination petitions, Gales, 54 A.3d at 857.

¹² If Candidates thought they needed additional time to prepare their defense, they could have requested a continuance. See In re Nomination Petition of Moore, 291 A.2d 531, 534 (Pa. 1972) (recognizing that while holding a hearing within twenty-four hours of being served with a petition to set aside was not unreasonable, a candidate could request a continuance if additional time was need to prepare a defense).

petitions being challenged, or state that failure to comply with the Administrative Order could or would result in dismissal of the Petition to Set Aside, we conclude that the trial court's dismissal on this basis was erroneous. We further hold that the Petitions to Set Aside were sufficiently specific when filed without the Nomination Petitions attached and, therefore, the trial court's dismissal on this basis likewise was in error. Accordingly, we vacate the trial court's Orders, reinstate the twenty-seven Petitions to Set Aside, and remand to the trial court for expedited hearings on the merits of these reinstated Petitions to Set Aside.¹³

RENÉE COHN JUBELIRER, Judge

¹³ As a matter of record keeping we note that, in seven of the trial court's Orders in these twenty-seven cases, the trial court appears to have checked off the wrong box, which states that the Nomination Petitions of Candidates Angela G. Parks, Mary Blackwell, Terry L. Wiggins, Harriet Henley, Cristal Heath, Jefferson Branch, and Rita A. Butler were defective, that the Petitions to Set Aside were granted, and these Candidates' names were to be removed from the ballot. This disposition is contrary to the clear evidence in the hearing transcript, the trial court's opinion stating that *all* of the Petitions to Set Aside in this appeal were denied, (Trial Ct. Op. at 2), and the parties appeals, representations, and filings in this matter. However, given our disposition, which vacates and remands these cases to the trial court, nothing further need be done.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In Re: Nomination Petition of :
 :
Darlene Shackelford Ward 36 Div1 : No. 511 C.D. 2014
Objector: Julia Bringhurst :
Constance Goodwin Ward 36 Div 2 :
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Charlene Hannah Ward 36 Div 2 :
Objector: Stephen Sabo :
Delores Richardson Ward 36 Div 4 :
Objector: Dwayne Toomer :
Gaynell Scott Ward 36 Div 4 :
Objector: Dwayne Toomer :
Harold James Ward 36 Div 5 :
Objector: Donetta Franklin :
Jokon Brown-Hart Ward 36 Div 7 :
Objector: Wtanya Fitchet :
Wilma E. Frazier Ward 36 Div 9 :
Objector: Earl Roberts :
Tanasha Vann Ward 36 Div 9 :
Objector: Earl Roberts :
Jonathan Abbott Ward 36 Div 10 :
Objector: Michael Parker :
Marie Hightower Ward 36 Div 12 :
Objector: Darnell Jenerette :
Dorothy Wright Ward 36 Div 12 :
Objector: Darnell Jenerette :
Daralis Lippett-Simms Ward 36 Div 13 :
Objector: Kenny Davis :
Carolyn Ramsey Ward 36 Div 13 :
Objector: Kenny Davis :
Joseph Middleton Ward 36 Div 15 :
Objector: Michael Johnson :
Donald Dudley Ward 36 Div 15 :
Objector: Michael Johnson :
Ralanda King Ward 36 Div 16 :
Objector: Peter Sosalski :
Darlene Swint Ward 36 Div 17 :
Objector: Darrell Wilson :
Audrey Hill Ward 36 Div 17 :

Objector: Darrell Wilson :
Ethel Charles Ward 36 Div 18 :
Objector: Kevin Miller :
Angela G. Parks Ward 36 Div 20 :
Objector: Ervin McCoy :
Terry L. Wiggins Ward 36 Div 20 :
Objector: Ervin McCoy :
Willie L. Allen Ward 36 Div 21 :
Objector: Brownie Whitfield :
Mary Blackwell Ward 36 Div 22 :
Objector: Diane Fryer :
Sherri D. Stanford Ward 36 Div 23 :
Objector: Jerome Hamilton :
Edmu(o)nd Wiggins Ward 36 Div 23 :
Objector: Jerome Hamilton :
Tulsa T. Wills Ward 36 Div 29 :
Objector: Zachary Shaffer :
Harriet Henley Ward 36 Div 30 :
Objector: Leo Bryant :
Cristal Heath Ward 36 Div 30 :
Objector: Leo Bryant :
Jefferson Branch Ward 36 Div 31 :
Objector: Ali Jennings :
Rita A. Butler Ward 36 Div 34 :
Objector: Alexandru Popovici :
Juanita H. Jarrett Ward 36 Div 35 :
Objector: Emily MacFarlane :
Alexandria Gibson Ward 36 Div 36 :
Objector: John Pietrafitta :
Jennie H. Burton Ward 36 Div 39 :
Objector: Jamal D. Barksdale :
Charles L. Simpkins Ward 36 Div 41 :
Objector: David Harley :
Darlene L. Lewis Ward 36 Div 41 :
Objector: David Harley :
Dionne Bracley Ward 36 Div 41 :
Objector: David Harley :
:
:
Appeal of: Objectors :

ORDER

NOW, April 15, 2014, this Court hereby:

(1) **AFFIRMS** those Orders of the Court of Common Pleas of Philadelphia County (trial court), as interpreted by this Court in the foregoing opinion and the trial court's opinion, dismissing the Petitions to Set Aside the Nomination Petitions of the following Candidates which are listed at the following docket numbers of March Term 2014:

Dorothy Wright, No. 140302490;
Joseph Middleton, No. 140302576;
Donald Dudley, No. 140302579;
Ralanda King, No. 140302571;
Sherri D. Stanford, No. 140302581;
Edmu(o)nd Wiggins, No. 140302582;
Tulsa T. Wills, No. 140302488;
Juanita H. Jarrett, No. 140302633;
Jennie H. Burton, No. 140302624; and
Dionne Bracley, No. 140302616.

(2) **DIRECTS** the Philadelphia County Board of Elections to place the names of the above-referenced Candidates on the May 20, 2014 General Democratic Primary Election ballot as Candidates for the office designated on their respective Nomination Petitions;

(3) **VACATES** the trial court's remaining 27 Orders, as interpreted by this Court in the foregoing opinion and the trial court's opinion, that denied the Petitions to Set Aside because the Petitions did not contain a copy of the Nomination Petition and were insufficiently specific; **REINSTATES** these Petitions to Set Aside, and **REMANDS** these matters to the trial court for expedited hearings on the merits of the reinstated Petitions to Set Aside.

(4) **DIRECTS** the Chief Clerk to certify a copy of this Order to the trial judge, the Prothonotary for the Court of Common Pleas of Philadelphia County, and the Philadelphia County Board of Elections forthwith.

Jurisdiction relinquished.

RENÉE COHN JUBELIRER, Judge