

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

In Re: Nomination Petition of :  
Kerry Fitzpatrick As Democratic :  
Candidate for Office of Committee :  
Person :  
: No. 525 C.D. 2014  
Appeal of: Colleen Leech : SUBMITTED: April 11, 2014

**BEFORE: HONORABLE BONNIE BRIGANCE LEADBETTER, Judge**  
**HONORABLE ROBERT SIMPSON, Judge**  
**HONORABLE P. KEVIN BROBSON, Judge**

**OPINION NOT REPORTED**

**MEMORANDUM OPINION BY**  
**JUDGE LEADBETTER**

**FILED: April 14, 2014**

In this appeal from the decision of the Court of Common Pleas of Philadelphia County overruling a challenge to the nomination petition of Kerry Fitzpatrick, we confront the same issue decided in the related case of *In Re: Nomination Petition of Meghan Reilly*, (Pa. Cmwlth. No. 523 C.D. 2014), i.e., whether a circulator’s affidavit is fatally defective when it inaccurately names the candidate as the circulator but contains the notarized signature of the actual circulator. We conclude that such a defect is not fatal to the nomination and affirm common pleas.

Kerry Fitzpatrick timely submitted a nomination petition seeking placement on the primary ballot as a nominee for democratic committee person, a nomination requiring ten signatures. Fitzpatrick’s petition contains 19 signatures

and a circulator's affidavit entitled, "Affidavit of Qualified Elector," on which Fitzpatrick's name is inappropriately printed in the blank space intended for the name of the circulator. The actual circulator signed the Affidavit and that signature is notarized.

Colleen Leech filed a timely challenge to the nomination petition, asserting that the circulator's affidavit is defective and seeking to have the nomination set aside.<sup>1</sup> Following a very brief hearing on March 21, 2014, common pleas, ruling from the bench, granted the petition to set aside. However, on March 24, common pleas reconsidered its ruling and directed that the County Board of Elections accept Fitzpatrick's nomination petition and place his name on the ballot.<sup>2</sup> Leech sought reconsideration, which common pleas denied, and thereafter, Leech filed the present appeal.

In her appeal, Leech asserts that common pleas erred as a matter of law in permitting amendment of the circulator's affidavit.<sup>3</sup> According to Leech, the affidavit originally submitted with the nomination petition is essentially a nullity that leaves nothing to later be amended. Specifically, she contends that "the

---

<sup>1</sup> As the trial court noted, this case is closely intertwined with that of two related appeals, *In Re Nomination Petition of Meghan Reilly*, Pa. Cmwlth. No. 523 C.D. 2014, and *In Re Nomination Petition of Timothy Reilly*, Pa. Cmwlth. No. 524 C.D. 2014. All three cases were heard by common pleas sequentially and present the identical issue regarding the defect in the circulator's affidavit. The briefs to this court in all three cases are identical.

<sup>2</sup> Of the three related cases, a Petition to Reconsider the March 21 Order appears only in the certified record of the present case. This Petition to Reconsider the March 21 Order is neither time-stamped nor docketed; it appears in the certified record immediately following the March 24 Order granting reconsideration.

<sup>3</sup> In the statement of issues filed in our court, Leech also asserted that common pleas erred in reconsidering ex parte its initial ruling, thus depriving Leech of due process. In her brief to our court, Leech has abandoned her due process argument and focuses only on the defective circulator affidavit.

circulator's signature was defective because it did not match the signature of the person identified as the circulator in the body of the affidavit" and "the seal and signature of the notary is improper because it is the duty of the notary to assure that the person signing a document is the person named as the signatory." Appellant's brief at 4.

For the reasons stated in *In Re: Nomination Petition of Meghan Reilly*, (Pa. Cmwlt. No. 523 C.D. 2014, filed April 14, 2014), we conclude there is no merit in Leech's arguments.

Accordingly, we affirm.

---

**BONNIE BRIGANCE LEADBETTER,**  
Judge

