

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In Re: Nomination Petition of :
Enid Santiago as Democratic :
Candidate for the 134th : No. 179 M.D. 2022
Legislative District :
 : Heard: April 7 and 8, 2022
Objections of: Peter Schweyer, :
Leroy Bachert Jr. and Luis Lantigua :

BEFORE: HONORABLE PATRICIA A. McCULLOUGH, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE McCULLOUGH

FILED: April 13, 2022

Before this Court is a Petition to Set Aside the Nomination Petition (Petition to Set Aside) of Enid Santiago (Candidate) filed by Peter Schweyer, Leroy Bachert Jr., and Luis Lantigua (collectively, Objectors), seeking to remove Candidate from the ballot as a Democratic Candidate for the 134th Legislative District of Pennsylvania in the General Primary Election to be held on May 17, 2022.

A. Background

Pursuant to Section 912.1(14) of the Pennsylvania Election Code¹ (Election Code), a candidate for Representative in the General Assembly must present at least 300 valid signatures of registered and enrolled electors of the candidate's political party in his or her nomination petition. Candidate filed her Nomination Petitions and Candidate's Affidavit on March 28, 2022. Her

¹ 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(14).

Nomination Petition includes 36 pages containing **508** signatures of purported qualified, registered Democratic electors, as well as a circulator statement for each page.

On April 4, 2022, Objectors filed the Petition to Set Aside pursuant to Section 977 of the Election Code, 25 P.S. §2937, alleging **240** signature lines of Candidate’s nominating petitions are invalid for a variety of reasons, including: the signer was not a registered voter, the signer was not registered at the address listed, the signer was not registered in the new 134th Legislative District, line information was omitted, line information was in the hand of another, the signer signed the nomination petition for another candidate running for the same office, or “other” reasons that would support invalidity. Objectors and Candidate alleged that a total of **268** signature lines were not challenged.

On April 4, 2022, the Court issued a Scheduling and Case Management Order (Case Management Order) scheduling a hearing for Thursday, April 7, 2022, at 9:30 a.m., and ordering Objectors to secure the services of a court stenographer for the hearing and, if signatures were challenged, to secure the presence of a SURE System² operator for the hearing. Objectors were ordered to immediately arrange to meet with Candidate or her representative and a SURE System operator, if necessary, to review before the hearing every challenged signature. Objectors and Candidate were ordered to file a stipulation identifying the total number of completed signatures submitted; the total number of uncontested signatures submitted; the total number of signatures challenged; every signature challenged,

² As this Court has previously noted, “[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 Morrison-Wesley*, 946 A.2d 789, 792-93 n.4 (Pa. Cmwlth.), *aff’d*, 944 A.2d 78 (Pa. 2008).

identified by page number and line number, and the basis for the objection; and every signature to be stricken as invalid or for which an objection is to be withdrawn, identified by page number and line number.

At the outset, the Court notes that, contrary to Objectors' Petition to Set Aside and the parties' stipulation packet, there were not 240 objected signature lines and 268 unchallenged signature lines. Rather, there were 239 objected signature lines and 269 unchallenged signature lines. Thus, both Candidate and Objectors came to the Court with incorrect numbers, which caused confusion, throwing off counts, including Candidate's total valid signatures. After trial, the Court noticed a discrepancy in the numbers and performed its own count, concluding there were actually 269 unchallenged signature lines on Candidate's Nomination Petition. The confusion stems from Objectors' withdrawal of the challenge to Page 22, Line 15 (a line with no writing at all). It is incumbent upon the parties to come to the Court with the exact numbers upon which the rest of the computations are based. The Court should be able to rely on the numbers presented by the parties as the starting point of its analysis. It goes without saying that these initial numbers must be precisely accurate because one signature line could be the difference of Candidate remaining on the ballot.

Furthermore, the Court directed the parties at the beginning of the hearing to meet with the SURE operator, due to the manifest inconsistencies in the parties' supposed list of signature lines remaining to be challenged. Upon a cursory review, the Court observed that a number of those signature lines were already stipulated valid.³

³ Moreover, the parties created further confusion when the Court, upon review, found that several signature lines appear to have been completely lined-out at some point: Page 1, Line 12; **(Footnote continued on next page...)**

B. Pre-Trial Stipulations

1. Stipulated Invalid

Pursuant to the Case Management Order, the parties met and conferred in person before the hearing and as the result of their meeting, Candidate agreed that the following **191** lines were **invalid**:

Page 1, Line 3
Page 1, Line 5
Page 1, Line 6
Page 1, Line 11
Page 1, Line 12
Page 1, Line 16
Page 1, Line 20
Page 1, Line 21
Page 1, Line 22
Page 2, Line 1
Page 2, Line 2
Page 2, Line 3
Page 2, Line 4
Page 2, Line 5
Page 2, Line 7
Page 2, Line 8
Page 2, Line 9
Page 2, Line 10
Page 2, Line 11
Page 2, Line 15
Page 2, Line 16
Page 2, Line 17

Page 5, Line 11; Page 6, Line 26; Page 6, Line 29; Page 8, Line 12; Page 16, Line 6; Page 21, Line 20; Page 23, Line 14; Page 27, Line 6. It is unclear whether these signatures were rejected by the Secretary before filing or lined through by Objectors or Candidate. Signatures stricken by the Secretary must be included in the objections to the nomination petitions. *In re Morrison-Wesley*, 946 A.2d at 797 (stating that where a signature is stricken by the Secretary or county board of elections, “an objector must still list the stricken signature in his objections and ‘show why the Secretary’s action was substantively correct and should be affirmed by the court.’”). From the Court’s own review of the nomination petitions, and pretrial stipulations, it appears that these signatures were included among the initial objections and that Candidate stipulated before trial that they were invalid.

Page 2, Line 21
Page 2, Line 23
Page 3, Line 2
Page 3, Line 3
Page 3, Line 5
Page 3, Line 16
Page 3, Line 17
Page 3, Line 19
Page 3, Line 20
Page 3, Line 22
Page 3, Line 25
Page 4, Line 1
Page 4, Line 2
Page 4, Line 4
Page 4, Line 5
Page 4, Line 9
Page 4, Line 10
Page 4, Line 16
Page 4, Line 21
Page 5, Line 1
Page 5, Line 2
Page 5, Line 8
Page 5, Line 9
Page 5, Line 10
Page 5, Line 11
Page 6, Line 1
Page 6, Line 4
Page 6, Line 7
Page 6, Line 12
Page 6, Line 15
Page 6, Line 16
Page 6, Line 17
Page 6, Line 18
Page 6, Line 19
Page 6, Line 22
Page 6, Line 26
Page 6, Line 28
Page 6, Line 29
Page 7, Line 3
Page 8, Line 1

Page 8, Line 12
Page 9, Line 7
Page 11, Line 1
Page 11, Line 2
Page 11, Line 3
Page 11, Line 4
Page 11, Line 5
Page 11, Line 13
Page 12, Line 1
Page 12, Line 8
Page 12, Line 14
Page 14, Line 8
Page 16, Line 3
Page 16, Line 4
Page 16, Line 5
Page 16, Line 6
Page 16, Line 7
Page 16, Line 8
Page 16, Line 9
Page 16, Line 12
Page 16, Line 13
Page 16, Line 14
Page 16, Line 15
Page 16, Line 16
Page 16, Line 17
Page 16, Line 18
Page 16, Line 19
Page 16, Line 20
Page 16, Line 21
Page 16, Line 22
Page 16, Line 23
Page 16, Line 24
Page 16, Line 25
Page 16, Line 26
Page 16, Line 27
Page 16, Line 28
Page 16, Line 29
Page 16, Line 30
Page 18, Line 3
Page 18, Line 4

Page 18, Line 5
Page 18, Line 6
Page 18, Line 7
Page 18, Line 8
Page 18, Line 9
Page 18, Line 10
Page 18, Line 13
Page 18, Line 14
Page 18, Line 16
Page 18, Line 17
Page 18, Line 18
Page 18, Line 19
Page 19, Line 5
Page 19, Line 8
Page 20, Line 15
Page 20, Line 16
Page 20, Line 17
Page 21, Line 3
Page 21, Line 6
Page 21, Line 8
Page 21, Line 10
Page 21, Line 11
Page 21, Line 12
Page 21, Line 13
Page 21, Line 14
Page 21, Line 15
Page 21, Line 19
Page 21, Line 20
Page 22, Line 1
Page 22, Line 3
Page 22, Line 4
Page 22, Line 5
Page 22, Line 7
Page 22, Line 8
Page 22, Line 10
Page 22, Line 11
Page 22, Line 12
Page 22, Line 13
Page 22, Line 14
Page 23, Line 1

Page 23, Line 2
Page 23, Line 3
Page 23, Line 4
Page 23, Line 6
Page 23, Line 7
Page 23, Line 8
Page 23, Line 9
Page 23, Line 10
Page 23, Line 11
Page 23, Line 12
Page 23, Line 13
Page 23, Line 14
Page 23, Line 15
Page 23, Line 16
Page 23, Line 17
Page 24, Line 1
Page 24, Line 2
Page 24, Line 3
Page 24, Line 4
Page 24, Line 5
Page 25, Line 1
Page 25, Line 2
Page 25, Line 3
Page 25, Line 4
Page 25, Line 5
Page 25, Line 6
Page 27, Line 6
Page 28, Line 3
Page 28, Line 4
Page 28, Line 5
Page 29, Line 7
Page 29, Line 8
Page 29, Line 9
Page 29, Line 10
Page 29, Line 11
Page 29, Line 12
Page 31, Line 2
Page 31, Line 3
Page 31, Line 4
Page 31, Line 5

Page 31, Line 6
Page 31, Line 7
Page 32, Line 1
Page 32, Line 2
Page 32, Line 4
Page 35, Line 1
Page 35, Line 2
Page 35, Line 3
Page 35, Line 4

Thus, with Candidate's pre-trial concession that **191** signature lines are invalid, **48** of the original **239** signature lines challenged remained in dispute.

2. Stipulated Valid

Also, based on the additional pre-trial stipulations ordered by the Court, Objectors withdrew their objections to the following **8** lines:

Page 1, Line 1
Page 1, Line 2
Page 4, Line 13
Page 10, Line 4
Page 10, Line 7
Page 14, Line 9
Page 21, Line 22
Page 34, Line 2

Therefore, as the result of the parties' pre-trial stipulations, it was agreed that Candidate had **277** valid signatures and was **23** short of **300**. A total of **40** lines remained in dispute.

C. Hearing

On April 7, 2022, and April 8, 2022, this Court conducted a hearing to address Objectors' challenges to the Nomination Petition. At the hearing, Candidate testified and offered several notarized affidavits of signers to rehabilitate some of

the challenged lines.⁴ Candidate indicated that she attempted to obtain more affidavits but had difficulty making contact with signers due to the shortened time frame.⁵ At approximately 4:30 p.m. on April 7, 2022, at the conclusion of an all-

⁴ We shall admit the affidavits into the record as the statements contained therein were corroborated by Candidate’s credible sworn testimony at the hearing. See *In re Nomination Petitions of Smith*, 182 A.3d 12 (Pa. Cmwlth. 2018) (accepting rehabilitation evidence in the form of affidavits to overcome facial challenges to signatures where the candidate credibly testified that he presented each affidavit to the elector who signed it and witnessed each signature); *In Re Nomination Petition of Kristofer J. Wiegand*, (Pa. Cmwlth., No. 165 M.D. 2014, filed April 15, 2014) (unreported), slip op. at 9–10 (rejecting hearsay challenge to an elector’s affidavit where the information in the affidavit was sufficient to rehabilitate the amendable error and was corroborated with other evidence); *Uptown Partners v. City of Pittsburgh Zoning Board of Adjustment* (Pa. Cmwlth., No. 528 C.D. 2017, filed December 27, 2017), slip op. at 11 (unreported) (“Since Daniel’s testimony corroborated the Daugherty’s affidavits, the [Pittsburgh Zoning Board of Adjustment] did not err by affording the affidavits weight in concluding that the [subject p]roperty has been a continuous nonconforming use as a two-unit dwelling since before 1958.”). Section 414(a) of this Court’s Internal Operating Procedures (IOPs) authorizes the citation of unreported panel decisions issued after January 15, 2008, for their persuasive value, but not as binding precedent. 210 Pa. Code §69.414(a).

⁵ Section 908 of the Election Code provides: “No nomination petition shall be circulated prior to the thirteenth Tuesday before the primary, and no signature shall be counted unless it bears a date affixed not earlier than the thirteenth Tuesday nor later than the tenth Tuesday prior to the primary.” Normally candidates have 3 weeks, or 21 days to circulate petitions. This year the time frame for consideration of objections to nomination petitions for seats in the General Assembly (and State Party Committees) was modified via a per curiam order issued in *In re: Petitions for Review Challenging the Final 2021 Legislative Reapportionment Plan, No. 569 Judicial Administrative Docket*, filed March 16, 2022. That order sets the following relevant deadlines:

- First day to circulate and file nomination petitions – March 18, 2022
- Last day to circulate and file nomination petitions – March 28, 2022
- Deadline to file objections to nomination petitions – April 4, 2022

(Footnote continued on next page...)

day hearing, this Court noted that Candidate was only several signatures short of the 300 needed to remain on the ballot and, given the condensed time frame within which Candidate had to obtain rehabilitation evidence, granted Candidate until 10:30 a.m. the following the day to obtain rehabilitative evidence and ordered the parties to return for a final hearing day on April 8, 2022. Candidate was able to secure an additional three affidavits pertaining to three of the remaining disputed signatures lines which she presented to the Court on April 8, 2022.

D. Stipulations at the Hearing

1. Stipulated Valid

At the beginning of the hearing, as already noted, the Court ordered the parties to meet again with the SURE operator due to inconsistencies which were readily apparent to the Court in the stipulations provided by counsel. As a result of that consultation, Objectors withdrew the following additional **10** objections:

Page 1, Line 10
Page 1, Line 15
Page 2, Line 12
Page 3, Line 18
Page 4, Line 7
Page 4, Line 11
Page 4, Line 22
Page 9, Line 22

• Last day that may be fixed for hearings and decisions – this was extended from April 12, 2022, to April 13, 2022 (See Supreme Court’s Order issued on April 4, 2022)

With those modifications, candidates this year, had 11 days to circulate and filed their nomination petitions, which is 10 days fewer than regularly provided by the Election Code. In light of Candidate’s sincere efforts to bring several affidavits into court for rehabilitation purposes and her credible testimony that she attempted to contact other voters but was unable to do so given the truncated timeframe of this election year, the Court has given due weight to this consideration when assessing validity of the challenged signatures.

Page 18, Line 12
Page 32, Line 3

2. Stipulated Invalid

Candidate, on her part, conceded after that consultation that the following **6** more signature lines were invalid:

Page 2, Line 13
Page 2, Line 14
Page 4, Line 23
Page 4, Line 24
Page 8, Line 3
Page 10, Line 3

In sum, Candidate began with **269** unchallenged signatures. As the result of pre-trial stipulations, Objectors withdrew their objections to **8** signature lines. This yielded **277** valid signatures. As set forth above, at trial, Objectors voluntarily withdrew their objections to another **10** signature lines, leaving Candidate with **287** valid signatures. Thus, based on the concessions made by Objectors before and during trial, Candidate had **287** valid signatures – which is **13** signatures lines short of the number necessary to remain on the ballot.

The Court was required then to issue rulings on **24** signature lines which, after the stipulations, remained in dispute.

E. Analysis

The Election Code is to be liberally construed and the purpose is to protect, not defeat, a citizen's vote. *See In re Nomination Petition of Wesley; Dayhoff v. Weaver*, 808 A.2d 1002, 1006 (Pa. Cmwlth. 2002). Nomination petitions

are presumed to be valid, and it is the objector’s heavy burden to prove that a candidate’s nomination petition is invalid. *In re Nomination Petitions of Scott*, 138 A.3d 687, 691 (Pa. Cmwlth. 2016) (single judge op.). Challenges to a nomination petition are within this Court’s original jurisdiction; and, as such, the Court is the fact finder and “has exclusive authority to weigh the evidence, make credibility determinations[,] and draw reasonable inferences from the evidence presented.” *In re Nomination Papers of Amato* (Pa. Cmwlth., 1406 C.D. 2017, filed Oct. 23, 2017), slip op. at 8-9. “Where the court is not convinced that challenged signatures are other than genuine, the challenge is to be resolved in favor of the candidate.” *In re Nomination Petition of Gales*, 54 A.3d 855, 857 (Pa. 2012) (abrogated on other grounds). Further, if the names used on the nomination petition and the signature card do not match, including if a maiden or married name is used, the signature will be struck in the absence of rehabilitative evidence. *In re Nomination Petition of Delle Donne*, 779 A.2d 1, 5 n.5 (Pa. Cmwlth. 2001).

NOT REGISTERED/NOT REGISTERED
AT ADDRESS CHALLENGES

There were **13** challenges on the grounds that the signer was not registered, not registered in the District, or not registered at the address on the voter registration card.

Objectors argue that a defect relative to Act 77 of 2019’s registered address requirement is incurable. They rely on the Supreme Court’s decision in *In re Major*, 248 A.3d 445 (2021), in which the Court held that the voter must provide the address at which he or she is “duly registered and enrolled” in signing a nomination petition. According to Objectors, because the Supreme Court clarified that the use of the word “shall” in the Election Code requires full deference to the

General Assembly’s determination of which requirements should remain mandatory, this Court should now conclude that the mandatory nature of the requirements on a petition signer cannot be rehabilitated by subsequent affidavit.

This Court does not read *In Re Major* to be so definitive on the subject of whether an address challenge can be cured. In response to Justice Saylor’s Concurring Opinion expressing “difficulty joining the majority’s analysis to the extent it may be read to suggest that a non-matching address is a disabling defect that can never be cured.” the Majority stated:

Justice Saylor takes the position that “‘mandatory’ does not automatically equate to ‘uncurable’” and thus distances himself from our analysis “to the extent it may be read to suggest that a non-matching address is a disabling defect that can never be cured.” Concurring Opinion at 455. As our learned colleague correctly notes, however, Candidate has never suggested a defect in an elector’s signature is subject to potential cure; in fact, she expressly limited the legal issue before us by stipulating to that effect. See *id.* at 454–55, citing Joint Stipulation of Facts at ¶¶15-18. Accordingly, **this case presents no occasion to consider this matter, and we render no judgment on it.**

Id. at 453 n. 10 (emphasis added). Thus, this Court finds that, contrary to Objectors’ interpretation, *In Re Major* left unresolved the issue of the incurability of the address requirement. In deciding here whether Candidate should be permitted to cure defects in the matching address requirement, we are mindful of the principal that “[t]he Election Code [is to] be liberally construed so as not to deprive an individual of [the] right to run for office or the voters of their right to elect the candidate of their choice.” *In re Nomination Petition of Wesley, Nomination Petition of Ross*, 190 A.2d 719, 720 (Pa. 1963). The Court recognizes that “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). Thus, nomination petitions are presumed to be valid, and it is the objector’s heavy burden to prove that a candidate’s nomination petition is invalid. *In re Nomination Petitions of Scott*, 138 A.3d 687, 691 (Pa. Cmwlth. 2016) (single judge op.). Because the Supreme Court in *In Re Major* does not expressly preclude a candidate from rehabilitating a signature line challenged on the grounds that the address line listed on the nomination petition does not match the address where the voter is registered as evidenced in the SURE System, we have allowed Candidate to rehabilitate the following signatures with her sworn testimony and/or affidavit: Page 1, Line 29; Page 4, Line 3; Page 4, Line 6; Page 4, Line 8; Page 12, Line 22; Page 14, Line 30; Page 21, Line 9. The Court found that **12** of the **13** signatures were valid, and **1** was invalid. That left Candidate with **299** valid signatures.

1. **Page 1, line 4 (NR) - VALID.** At the hearing, the Court reserved judgment on this challenge and now declares the signature valid. The voter printed her name as “Elena Ayala” when her name on the registration card is “Elena Santiago.” Candidate was the circulator for this particular petition and testified at the hearing that she personally witnessed the voter sign and fill out the form and that she met with the voter at the address indicated both on the nomination petition and within the SURE system. Candidate also signed the Statement of Circulator attesting to the validity of the information provided. Further, Candidate provided sworn testimony at the hearing that she knows the voter and the voter has two last names “Ayala Santiago.” The SURE system operator also testified that he is familiar with voters, in particular voter of Hispanic descent, who frequently go by two last names.

The provisions of the Election Code relating to the form of nomination petitions are necessary measures to prevent fraud – there appears to be no fraud here.

See In re Scott, 138 A.3d 687 (Pa. Cmwlth. 2016) – (use of one Spanish language surname on nomination petition instead of two surnames listed on registration cards found valid). Given Candidate’s rehabilitative testimony, the fact that she personally was the circulator on this petition, and testified she knows the voter and that she has two last names, met with the voter at the address listed on both the nomination petition and in SURE, and the voter was located in the SURE system, the Court finds that Candidate successfully rehabilitated this line as Valid.

2. **Page 1, line 29 (NRA) - VALID.** The Court reserved judgment on this line at the hearing. The signer listed her house number as 1803 and according to the SURE System, her house number is 818. Candidate credibly testified that once she received the Petition to Set Aside she personally worked around the clock to obtain affidavits from 16 signers, including this one, in an attempt to rehabilitate their signature lines. However, due to the extreme time constraints, she was unable to obtain an affidavit from this voter as well as others. Candidate argues that when the Supreme Court modified the General Primary Election calendar, it created extraordinary circumstances that directly impaired her ability to rehabilitate this challenged signature line. Here, Objectors filed their Petition to Set Aside Nomination Petition on April 4, 2022, at 10:25 a.m. The hearing was set for April 7, 2022, at 9:30 a.m. This gave Candidate less than 72 hours to examine all of the 239 signature lines that were challenged and attempt to rehabilitate them.

Because the voter was located in the SURE System and given this extraordinary circumstance, a liberal construction of the Election Code is necessary in a manner favoring validation of the signature at issue.

3. **Page 1, line 30 (NRA) - INVALID.** Objector requested the SURE operator to pull up the information, and the only person with the name on the petition

that is registered as a Democrat appears at a totally different address than that listed on the nomination petition. Candidate offered no rehabilitative evidence or argument, so the signature was deemed invalid. *In re Major*, 248 A.3d 445 (Pa. 2021) (citing amendment to Section 908 of the Election Code, amended by Act 77 of 2019).

4. **Page 4, line 3 (NRA) - VALID.** The Court reserved judgment at the hearing and now deems this signature valid. Objectors challenged this signature line on the grounds that the signor listed a college address which was different than the address which appeared on the registration card in the SURE System. Candidate testified credibly that she personally met with this voter and observed him sign her nomination petition. As already noted by Candidate, she did not have enough time to obtain an affidavit from this voter. The SURE card was found, the voter's signature matched the SURE card, and he was registered in the district as a Democrat, so the voter was located in the system. Even without a rehabilitating affidavit, in light of the above, and Candidate's credible testimony, the Court finds the signature is valid.

5. **Page 4, line 6 (NR) - VALID.** The Court reserved judgment on this line at the hearing. The information in the SURE System listed Rosa Nazario at a different address, not at 1996 Baker Street, which is the address listed on Candidate's nomination petition. Candidate credibly testified that she spoke to the voter, and the voter stated that she just moved to this address seven months ago. Candidate also provided a notarized affidavit of Rosa Nazario to that effect. The Court found the rehabilitative evidence sufficient to validate this signature. *See In re White* (Pa. Cmwlth., No. 446 C.D. 2015, filed Apr. 17, 2015) (single-judge op.) (holding that if a candidate is able to come forward with credible evidence showing that the elector who listed an incorrect address by mistakenly writing the house number personally

signed the nomination petition, is duly registered, resides in the correct district, and that the listing of the incorrect address was inadvertent and unintentional, the defect in the address in the address has been cured).

6. **Page 4, Line 8 (NR) - VALID.** The Court reserved judgment on this line at the hearing. Objectors challenged this signature on the grounds that the voter was not registered. Two signers named Luis A. Ruiz signed Candidate's petition on Page 4, lines 7 and 8, both with an address of 1934 Baker Drive. The SURE operator found Luis A. Ruiz in the SURE System at this address. Candidate testified credibly that she personally met with this voter and observed him sign her nomination petition. Candidate argues that had she more time she would have had the chance to obtain an affidavit from this individual to explain the address discrepancy and rehabilitate the line. The voter was found in the SURE System, is registered as a Democrat in the district, there is no appearance of fraud and in light of the extraordinary timeframe, the signature is valid.

7. **Page 5, line 5 (NR) - VALID.** The voter signed and printed her name as "Johana Calderon." The information in the SURE System for that address states the voter is "Johana Mejia." Candidate testified credibly that she spoke to this voter twice and that the voter stated she just got married three months ago to a man by the last name of "Calderon." The Court found Candidate's testimony on this issue to be credible and also given the compressed timeframe to secure an affidavit, sufficient to rehabilitate the challenged defect on that line.

8. **Page 11, line 9 (NR) - VALID.** The printed name on the nomination petition is "Kathleen Lyons" but "Kathleen Garrison" appeared in the SURE system at this address in SURE. Candidate testified credibly that she met with the voter at the address stated on the petition and in SURE, and that the voter stated that her

maiden name was Kathleen Garrison and that she got married 6 months ago. Candidate also presented a notarized affidavit of the voter. The Court found Candidate's testimony and the affidavit on this issue to be credible and sufficient to rehabilitate the challenged defect on that line and as the voter was located in the SURE system and there was no appearance of fraud, the signature is valid.

9. **Page 12, line 22 (NRA) - VALID.** The voter, Kathy Bortz, listed her address on the nomination petition as "134" W. Berger. The address listed on voter's registration card in the SURE System was "143" W. Berger. Candidate testified that she met with the voter at the correct address, 143 W. Berger. Candidate presented a signed affidavit from the voter stating that she flipped the numbers, and that her correct address is 143 W. Berger, as reflected in the SURE system. The Court found Candidate's testimony and the affidavit on this issue to be credible and sufficient to rehabilitate the challenged defect on that line and also, as voter was located in the SURE system and there was no appearance of fraud, the signature is valid.

10. **Page 14, line 30 (NRA) - VALID.** The voter inverted house numbers. Candidate testified that she met with the voter at the address reflected in the SURE System, house number 251. Candidate also presented a notarized affidavit by voter stating that the voter's house number is 251, and not what she wrote (215). The Court found Candidate's testimony and the affidavit on this issue to be credible and sufficient to rehabilitate the challenged defect on that line, and also, as voter was located and no appearance of fraud, the signature is valid.

11. **Page 20, line 4 (NR) - VALID.** Voter signed her married name (Tosha Clay) rather than maiden name (Tosha Moss). Candidate testified and presented a notarized affidavit of the signer stating that her registration was under

her maiden name of Tosha Moss. The Court found Candidate’s testimony and the affidavit on this issue to be credible and sufficient to rehabilitate the challenged defect on that line, and as voter was identifiable, properly registered and there was no appearance of fraud, the signature is valid.

12. **Page 21, line 9 (NRA) - VALID.** The Court reserved judgment at the hearing. The Petition is signed by Jason Odom at either “128” or “108” Madison. Objectors challenged this signature on the grounds that the voter was registered at 108 Madison, not 128 Madison. Candidate argued she would have obtained rehabilitative evidence but there was not enough time. After reviewing the original nomination petition and the SURE card at the hearing, the voter was located in the system, appears to have printed a sloppy “108” and not a “128” and, therefore, the voter was, in fact, registered at the address on the nomination petition. Hence, the Court finds the signature is valid.

13. **Page 22, line 2 (NRD) - VALID.** The line is signed by “Luis Bardoles,” with a suffix of either “Jr.” or “Sr.” Candidate testified that the voter here is “Luis Bardoles, Sr.,” that she has known him for five years, and that she met with him the night before at the address listed in SURE on Mohawk Street. Two SURE cards show individuals registered as Democrat, Jr. or Sr., at this address and registered in the district. Candidate also presented a notarized affidavit from Luis Bardoles, Sr. stating that it is his signature. The Court found Candidate’s testimony and the affidavit on this issue to be credible and sufficient to rehabilitate the challenged defect on that signature line.

LINE INFORMATION OMITTED CHALLENGES

There were **3** challenges on the grounds that information was missing from signature line on the nomination petition. The Court found that **2** of these **3**

signatures were valid, and 1 was invalid. That left Candidate with **301** valid signatures.

1. **Page 1, line 25 – INVALID.** The voter signed and printed her name as “Karen.” The voter did not provide a last name. The signature on the SURE card did not match the signature on the petition. Candidate offered no rehabilitative evidence or argument. Without any other information, the Court cannot readily identify the signer, so the signature was deemed invalid.

2. **Page 6, line 20 – VALID.** Despite Objectors’ challenge on the basis of LIO, upon examination, the Court found all of the required information on this line was present. Objectors then tried to raise a new challenge for NRA that the house number of the address was incorrect. The Court noted objections to a nomination petition are required to be specific and did not permit amendment of the objection on day of the hearing, as Candidate had no prior notice.

3. **Page 14, line 1 - VALID.** The signer signed her name “Jennifer Farber,” but printed her name as “Jennifer.” Candidate noted on the SURE System that Jennifer Farber lived at the address listed on Candidate’s nomination petition and that her signature on Candidate’s nomination petition matched her signature on her voter registration card. The Court found the signature matched the SURE card, the voter was located in the SURE system, there was no fraud, and she was registered in the district as a Democrat. Candidate also noted she did not have time to obtain further rehabilitative evidence. The signature was deemed valid.

DUPLICATE CHALLENGES

There were **4** challenges on the grounds that the voter previously signed the nomination petition of another candidate, Peter Schweyer, who is running for the

same office as Candidate. The Court found that **3** signatures were invalid on this ground and **1** was valid. That left Candidate with **302** valid signatures.

1-3. **Page 21, lines 17, 23 & 24 – INVALID.** Section 908 of the Election Code states: “[e]ach signer of a nomination petition shall sign but one such petition for each office to be filled” 25 P.S. §2868. Here, Objectors presented evidence that three signers signed the nomination petition of another candidate prior to signing Candidate’s nomination petition. Specifically, Page 21, Line 17 was found invalid because Objector showed that elector also signed on Page 37, Line 3 of Schweyer petition prior to signing Candidate’s nomination petition. Page 21, Line 23 was found invalid because Objectors showed that elector also signed on Schweyer petition Page 16, Line 4 prior to signing Candidate’s nomination petition. Page 21, Line 24 was found invalid because Objector showed that elector also signed Schweyer petition on Page 37, Line 22 prior to signing Candidate’s nomination petition. Candidate attempted to rehabilitate the signatures by providing testimony and affidavits from each of the signers. However, these affidavits did not indicate that the voters did not sign the Schweyer petitions, and thus does not cure the specific challenge. Moreover, to rule in Candidate’s favor on these lines the Court would essentially have to invalidate the signatures of another candidate’s nomination petition, which was signed prior to this petition and was not before the Court.

4. **Page 11, line 10 - VALID.** The Court found Page 11, Line 10 to be valid because Objectors called the page and line but presented no evidence that demonstrated that the elector signed the Schweyer petition prior to signing Candidate’s nomination petition.⁶

⁶ After presenting all their other line challenges and arguments, the Court asked Objectors if they were finished, and counsel responded he was. But Objectors then sent someone to the **(Footnote continued on next page...)**

IN HAND OF ANOTHER CHALLENGES

There were **4** challenges on the grounds that the information on the signature lines was written in the hand of another. The Court found that **4** of the **4** challenged signatures were valid. That left Candidate with **306** valid signatures.

1. **Page 3, Lines 29 & 30 – VALID.** Objectors challenged these two lines as written in the hand of another. Objectors did not present any expert testimony on this issue or any other issue for that matter. The Court examined both signatures and due to differences between the two that were obvious to the Court, the Court determined the lines were not written in the same hand and were valid.

2. **Page 27, Lines 3 & 4 – VALID.** The Court reserved judgment on this objection at the hearing. Candidate credibly testified and presented the notarized affidavit of Mr. Moncada. Mr. Moncada attested that he personally signed his name, printed his name, address and date on Candidate’s nomination petition. Candidate also presented the notarized affidavit of Mrs. Moncada in which she attested that she personally signed her name, printed her name, address and date on Candidate’s nomination petition. The Court reviewed the information on Candidate’s nomination petition and notes, that although there are similarities in the writing on the two lines, there are also differences (Allentown is spelled differently, the l’s in Allentown are different), and without Objectors presentation of any expert testimony that would have aided the Court in its determination, the Court finds Candidate’s testimony and the affidavits on this issue to be credible and sufficient to rehabilitate the challenged defects on these lines.

Secretary of the Commonwealth’s office to sign an affidavit for Page 11, Line 10 and requested the Court re-open their challenges at the end of the day to permit them to re-present their challenge. The Court refused and noted Objectors had already rested, the Court had ruled on the challenges and would not go backwards when Objectors failed to meet their burden of proof on the record, as it would also prejudice Candidate.

F. Conclusion

Here, Candidate began with **508** signatures on her nomination petition, and Objectors lodged challenges to **239** of those signatures. After pre-trial stipulations, during trial stipulations, and during trial withdrawals, Candidate had **287** valid signatures and **24** objections remained for the Court. With respect to the remaining **24** objections, the Court concluded that **5** signatures were invalid and determined that **19** signatures were valid. Based on the Court's calculations, Candidate is left with **306** valid signatures appearing on her nomination petition. Because Candidate maintained a minimum of **300** valid signatures on her nomination petitions, she satisfied the requirement of section 912.1(14) of the Election Code and her name shall remain on the ballot as a candidate for the Democratic Party Nomination for State Representative in the 124th Legislative District in the General Primary Election to be held on May 17, 2022.

s/ Patricia A. McCullough

PATRICIA A. McCULLOUGH, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In Re: Nomination Petition of :
Enid Santiago as Democratic :
Candidate for the 134th : No. 179 M.D. 2022
Legislative District :
: :
: :
Objections of: Peter Schweyer, :
Leroy Bachert Jr. and Luis Lantigua :
: :
: :

ORDER

AND NOW, this 13th day of April, 2022, it is hereby ordered that:

1. The Petition to Set Aside the Nomination of Enid Santiago is denied. The Secretary of the Commonwealth is directed to certify Enid Santiago as a candidate for the Democratic Party Nomination for State Representative in the 124th Legislative District in the General Primary Election to be held on May 17, 2022
2. Objectors Peter Schweyer, Leroy Bachert Jr. and Luis Lantigua shall bear the cost of the stenographer. Otherwise, the parties shall each bear their own costs.
3. The Prothonotary is directed to notify the parties and their counsel of this order and to also certify a copy thereof to the Secretary of the Commonwealth of Pennsylvania forthwith.

s/ Patricia A. McCullough
PATRICIA A. McCULLOUGH, Judge

Order Exit
04/13/2022