

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In re: Nomination Petition of :  
Rania Major, Candidate for Judge :  
of Municipal Court, First Judicial :  
District of Pennsylvania, Democratic :  
Party :  
: No. 136 M.D. 2023  
Objection of: Joseph McAteer : Heard: March 20, 2023

BEFORE: HONORABLE CHRISTINE FIZZANO CANNON, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION  
BY JUDGE FIZZANO CANNON

FILED: March 22, 2023

Before the Court is the Petition to Set Aside Nominating Petition (Objection Petition) of Joseph McAteer (Objector) seeking to set aside the Nomination Petition of Rania Major (Candidate) to appear on the ballot in the General Primary Election to be held on May 16, 2023, as a candidate for the Democratic nomination for the office of Judge of Municipal Court, First Judicial District of Pennsylvania (Office). Objector alleges that the Nomination Petition is insufficient because it does not contain a notarized affidavit as required by Section 910 of the Election Code,<sup>1</sup> 25 P.S. § 2870. For the reasons that follow, the Court denies the Objection Petition.

On March 7, 2023, Candidate filed a nomination petition to be placed on the ballot for the Office in the General Primary Election (Nomination Petition).

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<sup>1</sup> Act of June 3, 1937, P.L. 1333, *as amended*, 25 P.S. §§ 2600-3591.

As part of the Nomination Petition, Candidate filed a candidate's affidavit that included her signature but was not notarized. *See* Candidate's Affidavit attached as Exhibit A to the Objection Petition (Candidate's Affidavit).<sup>2</sup> To comply with the requirements of the Department of State, Bureau of Elections' (Department) nomination petition filing checklist for candidates,<sup>3</sup> Candidate also filed with her

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<sup>2</sup> The Candidate's Affidavit includes the following language:

CANDIDATE AFFIDAVIT – I do swear (or affirm) that my residence, my election district and the title of the office for which I desire to be a candidate are as specified above, that I am eligible for said office, that I will not knowingly violate any election law or any law regulating and limiting nomination and election expenses, and prohibiting corrupt practices in connection therewith; that I am aware of the provisions of Section 1626 of the Pennsylvania Election Code requiring pre-election and post-election reporting of campaign contributions and expenditures; that unless I am a candidate for Judge of a Court of Common Pleas, the Philadelphia Municipal Court or the office of school board in a district where that office is elective or the office of magisterial district judge, my name has not been presented as a candidate by nomination petitions of any other party for the same office; that if I am a candidate for any office of a political party I am a registered and enrolled member of such party; that if I am a candidate for Committee Delegate or Alternate Delegate to the National Convention the name of the candidate to whom I am committed is as indicated on my nomination petition and that my signature on the Delegate's Statement was affixed to each page of my nomination petition prior to circulation of same; that I am not a candidate for an office which I already hold, the term of which is not set to expire on the same year as the office subject to this affidavit.

Candidate's Affidavit. Below this language appears the statement "I swear (or affirm) to the above part(s) as required by the law(s) applicable to the office I am seeking[,]" with a signature line thereunder and separate lines for the prospective candidate's telephone number and county of residence. *Id.* Also below the above language is a space and appropriate blanks to be filled out for the Candidate's Affidavit to be notarized. *See id.*

<sup>3</sup> The Department's "'Things You Will Need' Checklist" instructs prospective candidates:

Nomination Petition a completed and signed “CANDIDATE DECLARATION to be attached to CANDIDATE’S AFFIDAVIT where notarized statement is not available,” which form she obtained from the Department’s website. *See* Candidate’s Declaration attached as Exhibit B to Objection Petition (Candidate’s Declaration).<sup>4</sup> The top of the Candidate’s Declaration form, which the Department

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You must file with your nomination petition a completed and notarized Candidate’s Affidavit. If you are unable to obtain notarization for your Affidavit, an Unsworn Declaration must accompany the Affidavit.

Department Candidate Checklist, Hearing Exhibit T-1.

<sup>4</sup> The Candidate’s Declaration reads as follows:

CANDIDATE DECLARATION – I declare that my residence, my election district and the title of the office for which I desire to be a candidate are as contained in the attached document, that I am eligible for said office, that I will not knowingly violate any election law or any law regulating and limiting nomination and election expenses, and prohibiting corrupt practices in connection therewith; that I am aware of the provisions of Section 1626 of the Pennsylvania Election Code requiring pre-election and post-election reporting of campaign contributions and expenditures; that unless I am a candidate for Judge of a Court of Common Pleas, the Philadelphia Municipal Court or the office of school board in a district where that office is elective or the office of magisterial district judge, my name has not been presented as a candidate by nomination petitions of any other party for the same office; that if I am a candidate for any office of a political party I am a registered and enrolled member of such party; that if I am a candidate for Committee Delegate or Alternate Delegate to the National Convention the name of the candidate to whom I am committed is as indicated on my nomination petition and that my signature on the Delegate’s Statement was affixed to each page of my nomination petition prior to circulation of same; that I am not a candidate for an office which I already hold, the term of which is not set to expire on the same year as the office subject to the accompanying affidavit.

revised in late 2022,<sup>5</sup> bears the Department’s logo and title with “Bureau of Elections” and the Department’s phone number appearing thereunder. *See* Candidate’s Declaration.

On March 14, 2023, Objector filed the Objection Petition in this Court alleging that Candidate’s Nomination Petition was insufficient because the Candidate’s Affidavit was not notarized and that the completed Candidate’s Declaration could not serve as a replacement for a notarized Candidate’s Affidavit. *See* Objection Petition at 1-2. Thereafter, Candidate executed and attempted to file an amended notarized Candidate’s Affidavit, but the Department rejected the filing as untimely.

On March 20, 2023, the Court conducted a hearing on the Objection Petition at which Candidate testified and counsel for both sides offered extensive argument. Objector asked this Court to set aside Candidate’s Nomination Petition based on the position that the unnotarized Candidate’s Affidavit is the functional

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I declare under penalty of perjury under the law of the Commonwealth of Pennsylvania that the foregoing is true and correct.

Signed on the \_\_\_\_ (date) day of \_\_\_\_ (month), \_\_\_\_ (year), at  
\_\_\_\_ (county or other location, and state), \_\_\_\_  
(country).

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(printed name)

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(signature)

Candidate Declaration.

<sup>5</sup> The lower left-hand corner of the Candidate’s Declaration bears the notation “(rev. 12/22)”. *See* Candidate’s Declaration.

equivalent of no affidavit at all. Candidate, on the other hand, argued that, pursuant to the Uniform Unsworn Declarations Act (Declarations Act),<sup>6</sup> her unsworn Candidate's Affidavit and the accompanying Candidate's Declaration fulfilled the requirements of the Election Code. Candidate further argued that she followed the Department's direction in completing and filing her Candidate's Declaration.

This Court recently decided this exact issue in the factually indistinguishable matter of *In Re: Nomination Petition of Caroline Turner* (Pa. Cmwlth., No. 138 M.D. 2023, filed March 21, 2023) (*In Re: Turner*). Accordingly, the Objection Petition in the instant matter is denied for the reasons stated in *In Re: Turner*.

s/Christine Fizzano Cannon

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CHRISTINE FIZZANO CANNON, Judge

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<sup>6</sup> 42 Pa.C.S. §§ 6201-6208.

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ORDER

AND NOW, this 22nd day of March, 2023, the Petition to Set Aside  
Nominating Petition of Joseph McAteer is DENIED.

s/Christine Fizzano Cannon

CHRISTINE FIZZANO CANNON, Judge