

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In re: Nomination Petition of :
William Jones a/k/a Bill Jones, :
Candidate for Representative in the :
General Assembly, 117th Legislative :
District, Primary Election to be held :
May 19, 2026 :
: No. 123 M.D. 2026
Objection of: Leann Busch : Hearing: March 19, 2026

BEFORE: HONORABLE STACY WALLACE, Judge

OPINION NOT REPORTED

**MEMORANDUM OPINION
BY JUDGE WALLACE**

FILED: March 20, 2026

Leann Busch (Objector) has filed a petition to set aside the nomination petition of William Jones a/k/a Bill Jones (Candidate). Candidate is seeking the Republican nomination for election to represent the 117th Legislative District in the Pennsylvania House of Representatives. After careful review, the Court dismisses the petition to set aside.

I. BACKGROUND

In her petition to set aside, Objector raises a single issue regarding the adequacy of the candidate’s affidavit accompanying Candidate’s nomination petition. Specifically, Objector alleges the “Voting Precinct Name” field on the candidate’s affidavit is blank. Objector contends this is a fatal defect that requires the Court to set aside Candidate’s nomination petition. Significantly, the last day to file and serve objections to nomination petitions was March 17, 2026, at 5:00 p.m.

Objector's petition to set aside includes a certificate of service, indicating she served the Secretary of the Commonwealth (Secretary) with her objection petition on March 17, 2026, **via certified mail**, return receipt requested.

This Court scheduled an evidentiary hearing for March 19, 2026, at 1:00 p.m. At the time of the hearing, Objector and her counsel appeared, along with Candidate and his counsel. Although Objector's counsel explained he retained the services of a court reporter, the court reporter did not arrive on time for the hearing. After waiting a short time, the Court began the hearing in the court reporter's absence for the limited purpose of addressing service of the petition to set aside on the Secretary. Counsel for Objector asserted he served the Secretary via certified mail on March 17, 2026, and via hand delivery on March 18, 2026. Counsel for Objector also suggested he served the Secretary by filing the petition to set aside via the PACFile system on March 17, 2026.

Based on Counsel for Objector's explanation regarding service on the Secretary, the Court determined it would also consider Objector's claim that the candidate's affidavit was fatally defective. The Court paused the hearing to await the arrival of the court reporter. Ultimately, after another short wait, the Court proposed that the case was essentially a legal, rather than factual dispute, and that the parties could stipulate the "Voting Precinct Name" field on the candidate's affidavit was blank, admit the affidavit into evidence, and proceed with oral argument. The parties were agreeable to this solution.

Counsel for Objector argued filing an incomplete candidate's affidavit was akin to failing to file a candidate's affidavit entirely. Counsel for Objector also distinguished an incomplete candidate's affidavit from a candidate's affidavit containing inaccurate information. Counsel for Objector then returned to the issue

of service, arguing a party who uses the PACFile system consents to receive service via that system. Because the Secretary uses the PACFile system, Counsel for Objector argued that the Secretary agreed to receive service via that system, and that the petition to set aside was timely served.

Counsel for Candidate argued the Election Code did not require Candidate to include his voting precinct on his candidate's affidavit. Moreover, Counsel for Candidate argued there is only one precinct in the municipality in which Candidate resides. Counsel for Candidate argued the defect in the candidate's affidavit was not material because it was not misleading. Even if the defect was material, Counsel for Candidate argued the defect was amendable. Regarding service, Counsel for Candidate conceded that requiring physical receipt of service by the Secretary was "form over substance" but suggested that precedent may bind the Court on that issue.¹

Counsel for Objector then presented rebuttal argument. Contrary to Counsel for Candidate's contention that there is only one precinct in the municipality in which Candidate resides, Counsel for Objector maintained there were multiple precincts that might apply to Candidate based on his address.

II. DISCUSSION

A. Service on the Secretary

Section 977 of the Pennsylvania Election Code (Election Code)² provides as follows with respect to filing and serving an objection to a nomination petition:

All nomination petitions and papers received and filed within the periods limited by this act shall be deemed to be valid, **unless, within**

¹ At this point, the Court received word that the court reporter had arrived. However, his or her services were not necessary.

² Act of June 3, 1937, P.L. 1333, *as amended*.

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. **If the court shall find that said nomination petition or paper is defective under the provisions of section 976, or does not contain a sufficient number of genuine signatures of electors entitled to sign the same under the provisions of this act, or was not filed by persons entitled to file the same, it shall be set aside. If the objections relate to material errors or defects apparent on the face of the nomination petition or paper, the court, after hearing, may, in its discretion, permit amendments within such time and upon such terms as to payment of costs, as the said court may specify.** In case any such petition is dismissed, the court shall make such order as to the payment of the costs of the proceedings, including witness fees, as it shall deem just. If a person shall sign any nomination petitions or papers for a greater number of candidates than he is permitted under the provisions of this act, if said signatures bear the same date, they shall, upon objections filed thereto, not be counted on any petition or paper and if they bear different dates, they shall be counted in the order of their priority of date, for only so many persons as there are candidates to be nominated or elected. The office of the Prothonotary of the Commonwealth Court and the office of the Secretary of the Commonwealth and the various offices of prothonotary of the court of common pleas shall be open between the hours of eight-thirty o'clock A.M. and five o'clock P.M. on the last day to withdraw after filing nomination petitions and on the last day to file objections to nomination petitions.

25 P.S. § 2937.

Here, “the officer . . . with whom said nomination petition . . . was filed” was the Secretary. *See In re Nominating Petition of Lee*, 578 A.2d 1277, 1278 (Pa. 1990). Counsel for Objector asserted he served the Secretary via hand delivery on March 18, 2026, which was after the March 17, 2026 deadline. Counsel for Objector also asserted he served the Secretary via certified mail on March 17, 2026. Service of an objection on the Secretary via mail is permissible. *In Re: Nomination Petition of Broadhurst*, 312 A.3d 410, 415 (Pa. Cmwlth. 2024) (Cohn Jubelirer, P.J.) (single-judge op.). Nonetheless, “the mail must be received by the Secretary on the seventh day.” *Id.* Merely mailing an objection “on the seventh day does not constitute timely service, **as the mail must be received by that date.**” *Id.* at 417 (emphasis added). There is no indication the Secretary received service by certified mail by March 17, 2026. Objector did not prove the mail sent that day was also received the very same day.

This leaves the Court with Counsel for Objector’s assertion that he served the Secretary via the PACFile system. Based on this Court’s review, it appears Counsel for Objector included the Secretary as a respondent when he filed Objector’s petition to set aside via the PACFile system. However, because the Secretary is not a respondent to this proceeding, the Commonwealth Court Prothonotary’s Office “deactivated” the Secretary. In *Broadhurst*, the Court concluded service via e-mail was inadequate where there was “no allegation or argument that the Secretary consented to service by email or that an email address was included on a legal filing, or otherwise provided for service of legal documents on the Secretary.” 312 A.3d at 419 (footnote omitted). The Court went on to explain:

The reason the civil rules do not apply to these challenges is the concern for expediency and timely resolution. If the Secretary has not agreed to service by email and has not provided an email address at

which the Secretary can expect to receive service of the official notification of the filing of an objection petition, there is no guarantee that the Secretary will be aware that a filing has been served by email. This does not give effect to the Election Code's intent for the expedient and timely resolution of such petitions. The Court is particularly sensitive to the Secretary's concern that allowing email service absent agreement of the Secretary would require the scouring of numerous email accounts to determine if any objection petitions had been served on the Secretary. . . . Here, of the objection petitions served on the Secretary, it appears that all but three were served in person on February 20, 2024. Of those three, one was served by courier, one was served by mail, and one was served by email. It was only [the o]bjector that served the Secretary by email. While it was fortuitous that the email was opened in this case, that is not any guarantee that it would happen in the future. . . .

Id. (citations and footnotes omitted).

Similar concerns are applicable here. Although the Secretary might use PACFile, he would have no reasonable expectation of receiving service via that method in a proceeding for which he is not a respondent. Thus, "there is no guarantee that the Secretary will be aware that a filing has been served" in a timely manner. *Broadhurst*, 312 A.3d at 419. It is important to add that, under the circumstances of this case, the Court cannot determine whether service was actually received by someone at the Secretary's office and, if so, by whom. Therefore, including the Secretary as a respondent in the PACFile system is no less problematic than the e-mail method this Court deemed inadequate in *Broadhurst* and does not satisfy the Election Code's service requirement.

This Court may not grant an objection that has not been timely served for the reason that the objector has "failed to prove compliance with the mandatory provisions of the Election Code." *In re Nomination Papers of Am. Lab. Party*, 44 A.2d 48, 51 (Pa. 1945). As a result, this Court has recognized "that Objector bears the burden of proving proper service on the Secretary, and such evidence is to be

presented at the beginning of the hearing on an objection petition.” *Broadhurst*, 312 A.3d at 414 (footnote omitted). The Court concludes Objector failed to meet her burden of proving that she timely served the Secretary and must dismiss her petition to set aside.

B. Incomplete candidate’s affidavit

In the alternative, the Court will address Objector’s claim that the candidate’s affidavit was fatally defective. Section 910 of the Election Code provides as follows with respect to candidate’s affidavits:

Each candidate for any State, county, city, borough, incorporated town, township, ward, school district, poor district, election district, party office, party delegate or alternate, or for the office of United States Senator or Representative in Congress, **shall file with his nomination petition his affidavit stating--**(a) his residence, with street and number, if any, and his post-office address; (b) **his election district, giving city, borough, town or township**; (c) the name of the office for which he consents to be a candidate; (d) that he is eligible for such office; (e) that he will not knowingly violate any provision of this act, or of any law regulating and limiting nomination and election expenses and prohibiting corrupt practices in connection therewith; (f) unless he is a candidate for judge of a court of common pleas, the Philadelphia Municipal Court or for the office of school director in a district where that office is elective or for the office of justice of the peace that he is not a candidate for nomination for the same office of any party other than the one designated in such petition; (g) if he is a candidate for a delegate, or alternate delegate, member of State committee, National committee or party officer, that he is a registered and enrolled member of the designated party; (h) if he is a candidate for delegate or alternate delegate the presidential candidate to whom he is committed or the term “uncommitted”; (i) that he is aware of the provisions of section 1626 of this act requiring pre-election and post-election reporting of campaign contributions and expenditures; and (j) that he is not a candidate for an office which he already holds, the term of which is not set to expire in the same year as the office subject to the affidavit. In cases of petitions for delegate and alternate delegate to National conventions, the candidate’s affidavit shall state that his signature to the delegate’s statement, as hereinafter set forth, if such statement is signed by said

candidate, was affixed to the sheet or sheets of said petition prior to the circulation of same. In the case of a candidate for nomination as President of the United States, it shall not be necessary for such candidate to file the affidavit required in this section to be filed by candidates, but the post-office address of such candidate shall be stated in such nomination petition.

25 P.S. § 2870 (emphasis added).

Failing to file a candidate's affidavit is a fatal defect that requires this Court to set the nomination petition aside. *See In re Nomination Petition of Cianfrani*, 359 A.2d 383, 384 (Pa. 1976). However, filing a defective candidate's affidavit is not necessarily fatal. This Court has explained the distinction as follows:

[I]t is clear that distinctions must be made on the one hand between situations where the affidavit is absent and therefore there is nothing to amend, . . . or where the affidavit is fraudulent, which of course, is *not* apparent on the face and which, if established, is not amendable, . . . and on the other hand, **those situations where the defect is obvious on the face of the affidavit and the affidavit is merely incomplete** . . .

These cases establish the distinction between those nomination petitions and accompanying affidavits which are fraudulent or are a nullity because an essential statutory requirement is missing completely, and **those petitions and affidavits in which the defects are not only facially apparent, but are obvious errors caused either by inattention to detail or confusion on the part of the candidate, circulator or notary in completing the forms**. Underlying these latter cases is the legal principle articulating the policy subsumed in the Election Code that technical and harmless defects should not be used to deny citizens access to the electoral process. . . .

In re Nomination Petition of Fowler, 574 A.2d 127, 128-29 (Pa. Cmwlth. 1990) (emphasis added).

Review of the candidate's affidavit in this case indicates Candidate completed the affidavit in its entirety with the exception of an empty line for his "Voting

Precinct Name.” This line is consistent with the requirement in Section 910 of the Election Code that a candidate must state “his election district, giving city, borough, town or township.” 25 P.S. § 2870. This is not a situation where the Candidate failed completely to file his candidate’s affidavit. Rather, the defect is obvious on the face of the affidavit, and the affidavit is merely incomplete.

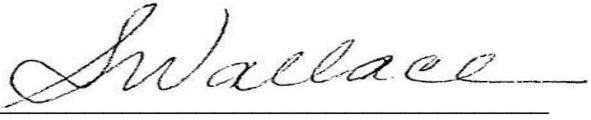
In addition, the Election Code prohibits filing a candidate’s affidavit that contains “material errors or defects.” *See* Section 976 of the Election Code, 25 P.S. § 2936; Section 977 of the Election Code, 25 P.S. § 2937. Counsel for Candidate argued the defect in this case was not material. Our Supreme Court has described a material error or defect as one “that may affect an elector’s nomination decision, *i.e.*, have the propensity to mislead an elector to nominate the candidate.” *In re Nomination Petition of Beyer*, 115 A.3d 835, 837 n.3 (Pa. 2014). We agree with Counsel for Candidate that the omission of Candidate’s “Voting Precinct Name” was a *de minimis* error that had no probability of affecting an elector’s nomination decision. It is highly unlikely that knowing or not knowing Candidate’s specific voting precinct would affect any elector’s perception of Candidate.

Even if the defect on the candidate’s affidavit was material, the Court would conclude it is amendable. In *In re Nomination Petition of Driscoll*, 847 A.2d 44, 50-53 (Pa. 2004), our Supreme Court concluded listing an incorrect residence on a candidate’s affidavit was amendable, where the incorrect residence did not disqualify the candidate from the office he was seeking and the candidate did not intend to deceive the public. Counsel for Objector did not argue Candidate’s error affects his qualifications for office. Notably, Candidate provided his address on his candidate’s affidavit, which is sufficient to establish whether he is qualified. There is also no reason to believe Candidate intended to deceive the public. Once again, it

is highly unlikely that knowing or not knowing Candidate's specific voting precinct would affect any elector's nomination decision or perception of Candidate.

III. CONCLUSION

For the foregoing reasons, the Court concludes Objector failed to prove timely service of her petition to set aside on the Secretary. Accordingly, the Court will dismiss the petition to set aside. Even if Objector had proven timely service on the Secretary, the Court would conclude the defect on the candidate's affidavit in this case was not material. Even if the defect was material, the Court would conclude it is amendable.


STACY WALLACE, Judge

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Objection of: Leann Busch :

ORDER

AND NOW, this 20th day of March 2026, the Petition to Set Aside Nomination Petition filed by Leann Busch, seeking to set aside the nomination petition of William Jones a/k/a Bill Jones as a candidate for the Republican nomination for election to represent the 117th Legislative District in the Pennsylvania House of Representatives, is **DISMISSED**. The parties shall bear their own costs.

William Jones a/k/a Bill Jones shall remain on the May 19, 2026 General Primary Election ballot.


STACY WALLACE, Judge