

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Petition to Set Aside Nomination :
Petition : No. 367 C.D. 2015
: Argued: April 13, 2015
Appeal of: Elizabeth A. Ziegler :

BEFORE: HONORABLE DAN PELLEGRINI, President Judge
HONORABLE RENÉE COHN JUBELIRER, Judge
HONORABLE ROBERT SIMPSON, Judge

OPINION NOT REPORTED

**MEMORANDUM OPINION
BY JUDGE SIMPSON**

FILED: April 17, 2015

In this election appeal, Elizabeth A. Ziegler (Candidate), an attorney representing herself, asks whether the Court of Common Pleas of the 37th Judicial District (Forest County Branch) (trial court) erred by granting R. Paul Rockwell's (Objector) petition to set aside Candidate's nomination petition as a Republican Candidate for District Attorney of Forest County in the May 19, 2015 Municipal Primary Election (Objection Petition). The trial court determined Candidate did not meet the residency requirements for the office upon finding she is a resident of Warren County, and not a resident of Forest County. Candidate argues the trial court erred by: not granting her oral demurrer based on insufficient evidence; shifting the burden to Candidate to prove residency; overruling Candidate's objection to the expansion of the issue; and, ruling against the weight of the evidence presented. Upon review, we affirm.¹

¹ Pursuant to Internal Operating Procedure §258, this decision was reached without circulation to, or participation by, the judges not sitting on the panel.

I. Background

In February 2015, Candidate, who is the incumbent District Attorney of Forest County,² timely filed a nomination petition (Nomination Petition) to have her name appear on the official ballot of the Republican Party as a candidate for the office of District Attorney of Forest County in the primary election. To be eligible for this office, a candidate must reside in Forest County. On her candidate's affidavit, Candidate attested she resides at 2802 Kelly Hill Road, Tidioute, Hickory Township, Forest County.

Objector, who is a duly registered and qualified elector of the Republican Party in Hickory Township,³ filed the Objection Petition challenging Candidate's qualification for the position. Objector alleged Candidate "is not a resident of Forest County" as stated in her Candidate's affidavit. Objection Pet. at ¶3. More particularly, "[t]he location of the residential dwelling with the address of 2802 Kelly Hill Road and being the Candidate's actual place of abode and residence is in Limestone Township, Warren County, Pennsylvania, and not in Hickory Township, Forest County." *Id.* at ¶5.

The trial court held a hearing on the Objection Petition. At the hearing, Objector testified. In addition, he presented the testimony of Brian Bull, the Deputy Chief Assessor of Warren County (Assessor Bull), and Candidate, as of cross examination.

² Candidate was elected to the post in 2008 and reelected in 2012.

³ Objector is also a candidate for the office of District Attorney of Forest County.

Assessor Bull testified Candidate owned property assigned to parcel number 543. Tr. Ct. Hr'g, 3/17/15, Notes of Testimony (N.T.) at 17-18, 25. With the aid of an aerial tax map depicting parcel and municipal lines, which the trial court admitted as Petitioner's Exhibit No. 5, Assessor Bull showed the location of parcel number 543, which stretched across two counties – Warren and Forest. Id. at 11-12, 28. Two addresses are assigned to Candidate's property – 2740 and 2802. Id. at 18. He testified 2740 is in Warren County, but 2802 is not. Id. at 19. Yet, the entire parcel was assessed for real estate taxes in Warren County. Id. at 18-19. According to the Warren County tax records, admitted as Petitioner's Exhibit No. 3, 2740 Kelly Hill Road is improved with a 2800 sq. ft. residential structure and a closed shed. Id. at 17.

In addition, Assessor Bull testified the property was approved for a Homestead Exemption, which is only available to the primary residence. Id. at 23-24, 30. Assessor Bull testified his records did not contain an application for the Homestead Exemption, and he acknowledged it was possible this designation may be inaccurate. Id. at 38. Although Assessor Bull could not be sure of the precise accuracy of the county lines drawn on Petitioner's Exhibit No. 5, he stated he was 100 percent sure that the residential structure depicted on the map was located in Warren County. Id. at 41, 43-44.

Objector testified he visited Candidate's property and took photographs, which the trial court admitted as Petitioner's Exhibits Nos. 6-10. Id. at 48-50. The picture of the mailbox shows two numbers, 2802 and 2704. Id. at

46; Pet'r's Ex. Nos. 6 & 7. Objector testified he observed a well-maintained and plowed driveway, leading to a large residential structure. N.T. at 50-51; Pet'r's Ex. No. 8. He found the area surrounding the house was shoveled, swept and maintained. N.T. at 53. There was a large garage nearby with an outside wood-burning log burner with smoke emitting from it and a stacked woodpile. Id. at 52; Pet'r's' Ex. No. 10. Objector testified that further down the driveway was a lane leading off to the right. The lane, which was plowed, did not have a roadway surface but was a moss-covered path. N.T. at 54. At the end of the lane, through the woods, was a travel trailer laying on its side. Id.; Pet'r's Ex. No. 9. The trailer had a fifth-wheel mechanism in the front for towing. N.T. at 54.

Objector called Candidate to testify as of cross examination. Candidate confirmed she declared 2802 Kelly Hill Road, Hickory Township as her residence on her affidavit. Id. at 68. Objector showed Candidate the photograph exhibits depicting a framed house and the tipped-over travel trailer. Candidate testified she operates her private office out of the framed structure. Id. at 70. She also allows her boyfriend and other guests to occasionally stay there, but she denied she actually lived in this structure. Id. at 70-71, 76-78. She testified the tipped-over travel trailer was her residence. Id. at 72. She stated the accumulation of snow on the roof caused the trailer to tip over on March 4, 2015. Id. She described her residence as a "fifth wheel with slide-outs," not a mobile home. Id. at 72, 78. As a result of the damage and while waiting for an insurance adjuster to view the damage, she is staying at another address in Forest County. Id. at 73, 79. When asked whether the trailer had a "septic system," Candidate hesitated and

responded it had “septic.” Id. at 73-74. Candidate testified the trailer has electricity. Id. at 74.

At the conclusion of Objector’s case, Candidate demurred on the basis that Objector did not meet his burden of proving that 2802 is not located in Forest County. Id. at 80. Candidate posited that the sole issue raised in the Objection Petition was the location of 2802 Kelly Hill Road, not whether 2802 was her residence. Id. at 74.

The trial court disagreed, opining that the objection to her candidacy was that Candidate did not satisfy the residency requirements for the Forest County office because she is “a resident of Warren County.” Id. at 74. As it was not clear whether the address of 2802 was specifically assigned to the secondary building, that is, the tipped-over trailer, the trial court denied the demurrer, and it allowed Candidate an opportunity to rebut Objector’s evidence. Id. at 81.

Candidate called two witnesses: Brenda Lee Vincent, Chief Assessor of Forest County (Assessor Vincent), and Curtis Kiefer, the 911 Coordinator for Forest County (911 Coordinator). Assessor Vincent authenticated copies of Candidate’s per capita tax bills, admitted as Respondent’s Exhibit No. 1. Id. at 83. Assessor Vincent reported that for 2007, 2008 and 2009, Candidate paid the per capita tax in Forest County while she was living in Harmony Township, Forest County. Id. at 85. She also testified that, in 2010, her records listed a delivery address of R.R.1, Box 143, A1 Tidioute, Forest County, for Candidate. Id. Then

in 2011 and 2012, the address on file was 2802 Kelly Hill Road, Tidioute, Forest County. Id.

Assessor Vincent's records did not indicate any permanent structure located in Forest County in Candidate's name assessed for real estate taxation purposes. Id. at 86. However, she testified a trailer that is licensed and registered would be exempt from real estate tax. Id. at 87.

911 Coordinator testified 911 addresses are assigned at 26.4 feet intervals upon roads in Forest County. Id. at 100. Upon request, a 911 address will be issued for an individual structure. Id. at 103. According to Respondent's Exhibit No. 2, Forest County assigned 2802 a 911 address. 911 Coordinator testified the 2802 address was issued by his predecessor. Id. at 93, 96.

Candidate also presented an aerial map showing the trailer is located in Forest County, which the trial court admitted as Respondent's Ex. No. 4. Id. at 94-95.

Based on the evidence presented and the reasonable inferences drawn therefrom, the trial court determined Objector presented a *prima facie* case that there was no structure on Candidate's land in Forest County capable of habitation, a *prima facie* case which Candidate did not successfully rebut. The trial court found Candidate's testimony that the "fifth wheeler" home was her residence despite having a perfectly sound, large and attractive house within yards "so far beyond credibility as to be insulting to the intelligence of the fact finder whom she

hoped would believe her.” Tr. Ct., Slip Op., 3/25/15, at 12. “There was no evidence that she actually lived in and made her home in the trailer other than her own weak assertion [on] cross [examination].” Id.

The trial court observed Candidate did not testify on direct examination or call other witnesses, whom she alleged spent time in the large house on the premises. The trial court applied the “missing witness” rule:

Where evidence which would properly be part of a case, is within the control of the party whose interest it would naturally be to produce it, and, without satisfactory explanation, he fails to do so, the jury may draw an inference that it would be unfavorable to him. It is an inference of fact, not a presumption of law.

Tr. Ct., Slip Op., at 7-8 (quoting Hall v. Vanderpool, 26 A. 1069, 1071 (Pa. 1893)). As Candidate did not produce evidence within her control, the trial court drew a negative inference against her.

The trial court also found it significant that Candidate paid her real estate taxes on the entire parcel in Warren County, not Forest County. Under the “Mansion Rule,” one pays real estate taxes on a parcel that stretches across a county line in the county in which the person has a home or domicile. Id. at 12 (citing §72 Pa. C.S. §5020-5411). The trial court surmised if Candidate’s residence was truly in Forest County, and being an office holder in that county, she would certainly insist on being assessed real estate taxes in Forest County.

Ultimately, the trial court determined Candidate did not meet the residency requirements for the office upon finding she is a resident of Limestone

Township, Warren County, and not a resident of Hickory Township, Forest County. Thus, the trial court granted the Objection Petition and set aside Candidate's Nomination Petition. This appeal now follows.

II. Issues

On appeal,⁴ Candidate contends the trial court erred by denying her demurrer to the Objection Petition on the basis that Objector presented insufficient evidence to prove that her residential address of 2802 Kelly Hill Road is in Warren County. In ruling against her demurrer, Candidate claims the trial court improperly shifted the burden to her to supply evidence. In addition, Candidate asserts the trial court erred in overruling her objection to the expansion of the specific issue presented in the Objection Petition. The objection was whether 2802 Kelly Hill Road was located in Warren County, not whether this was Candidate's residence. Finally, Candidate asserts the trial court's ruling is against the weight of the evidence presented. Objector did not meet his burden of proving by a preponderance of the evidence that Candidate is not a resident of Forest County, and it is not Candidate's burden to prove that she is.

⁴ Appellate review is limited to determining whether the trial court's findings of fact are supported by substantial evidence, whether the trial court abused its discretion or whether the trial court committed an error of law. In re Hanssens, 821 A.2d 1247 (Pa. Cmwlth. 2003).

This Court has jurisdiction of the appeal pursuant to Section 762 of the Judicial Code, 42 Pa. C.S. §762. Contrary to Objector's assertions, this appeal does not invoke the Supreme Court's jurisdiction pursuant to Section 722 of Judicial Code, 42 Pa. C.S. §722. Section 722 provides: "The Supreme Court shall have exclusive jurisdiction of appeals from final orders of the courts of common pleas" in matters involving the "right to public office." Although we recognize Candidate currently holds the office of the District Attorney for Forest County, this appeal involves Candidate's eligibility to run for public office; not her right to remain in public office until the end of her term.

III. Discussion

A. Demurrer

First, Candidate contends the trial court erred by denying her oral demurrer at the hearing. She claims Objector presented insufficient evidence, and in fact, no evidence to prove that 2802 Kelly Hill Road is in Warren County. According to Candidate, the evidence adduced at the hearing clearly demonstrated the location of the residential dwelling with the address at 2802 Kelly Hill Road is in Forest County. There is simply no basis upon which to conclude that 2802 is in Warren County.

In reviewing election matters, we must consider the longstanding and overriding policy in our Commonwealth to protect the elective franchise. In re Nomination Petition of Driscoll, 847 A.2d 44 (Pa. 2004). In promoting that policy, the provisions of the Pennsylvania Election Code (Election Code)⁵ must be liberally construed so as not to deprive an individual of her right to run for office or the voters of their right to elect the candidate of their choice. Id. However, the provisions of the Election Code relating to the form of nominating petitions and the accompanying affidavits are not mere technicalities, but are necessary measures to prevent fraud and to preserve the integrity of the election process. In re Cianfrani, 359 A.2d 383 (Pa. 1976).

Section 910 of the Election Code, 25 P.S. §2870, requires that a candidate file an affidavit stating her residence, her election district, the name of

⁵ Act of June 3, 1937, P.L. 1333, as amended, 25 P.S. §§2601-3591.

the office for which she consents to be a candidate, and that she is eligible for such office. The requirements of sworn affidavits in the Election Code are to insure the legitimacy of information crucial to this process. Cianfrani. If a nomination petition includes a candidate's affidavit in which the candidate states that she is eligible for the office she seeks, and she does not, in fact, meet the requirements of the office, such petition may be set aside. In re Nomination Petition of Prendergast, 673 A.2d 324 (Pa. 1996); Cianfrani.

Section 1401 of The County Code⁶ sets forth the qualifications for the office of district attorney. Specifically, Section 1401(a) provides, with emphasis added:

The district attorney shall be a resident of the county, at least twenty-five years of age, and a citizen of the United States, shall have been admitted to practice as an attorney before the Supreme Court of this Commonwealth for at least one year prior to taking the oath of office and shall have resided in the county for which he is elected or appointed for one year next preceding his election or appointment.

16 P.S. §1401(a).

“[W]hile a person may have several residences, only one of those residences may qualify as that person's residence or domicile for purposes of the Election Code.” Driscoll, 847 A.2d at 49-50. A “domicile” refers to “a fixed, permanent, final home to which one always intends to return,” as opposed to a habitation, which is “an abode for the moment” or “a tarrying place for some

⁶ Act of August 9, 1955, P.L., 323, as amended, 16 P.S. §1401.

specific purpose of business or pleasure.” In re Lesker, 105 A.2d 376, 380 (Pa. 1954). In other words, “[o]ne’s residence, for purposes of qualifying for office must be a habitation where one has put down roots, not a place where one has hoisted a flag of convenience.” In re Shimkus, 946 A.2d 139 (Pa. Cmwlth. 2008) (single judge op., Cohn Jubelirer, J.).⁷

Moreover, a person cannot simply declare a new residence or domicile by purchasing or renting a home in one location. Driscoll; see Prendergast; In re Hanssens, 821 A.2d 1247 (Pa. Cmwlth. 2003). Indeed, a person must intend to live in the new residence permanently. Driscoll; Prendergast. A determination of an individual's legal residence or domicile is a question of law that is “totally dependent upon the facts as found by the ... fact finder” Homan v. Civil Serv. Comm’n, City of Phila., 368 A.2d 883, 884 (Pa. Cmwlth. 1977).

In defining residency or domicile for electoral purposes, the Prendergast Court emphasized the need to analyze the complex intermingling of intent and physical presence that are the essential elements of domicile:

⁷ Pursuant to Section 414 of this Court’s Internal Operating Procedures:

(b) Except as provided in subsection (d) (relating to single judge opinions in election law matters), a single-judge opinion of this court, even if reported, shall be cited only for its persuasive value and not as a binding precedent.

* * *

(d) A reported opinion of a single judge filed after October 1, 2013, in an election law matter may be cited as binding precedent in an election law matter only.

210 Pa. Code §69.414(b) & (d) (emphasis added).

Intent is the actual state of facts, not what one declares them to be. An established domicile, however, can be retained without physical presence or residence until it is proven that a new domicile has been acquired.

673 A.2d at 327-28.

Here, Candidate is required to live in Forest County to run as the District Attorney for that county. At the hearing, Objector presented evidence showing that Candidate's property is situated in two counties and contains two street addresses. The house and garage are located in Warren County; the trailer is located in Forest County. Objector presented evidence showing the house is well-maintained with indices of inhabitation, while the trailer was tipped over and not inhabitable. In addition, Objector showed Candidate pays real estate taxes for the entire parcel in Warren County.

After Objector rested, Candidate moved for a "demurrer" on the basis that the proof adduced did not establish that 2802 Kelly Hill Road is not in Forest County. N.T. at 80. By demurring to the evidence, Candidate, in essence, moved for a compulsory nonsuit. A motion for compulsory nonsuit allows a defendant to test the sufficiency of the plaintiff's evidence. See Pa. R.C.P. No. 230.1; Keffer v. Bob Nolan's Auto Serv., Inc., 59 A.3d 621 (Pa. Super. 2012), appeal denied, 69 A.3d 602 (Pa. 2013). A compulsory nonsuit is properly entered only in such cases where it is clear that the plaintiff has not introduced sufficient evidence to establish the necessary elements to maintain a cause of action. Keffer. In making this determination, the plaintiff must be given the benefit of all reasonable inferences arising from the evidence. Id.

Without addressing whether nonsuit procedures are applicable in election cases, the trial court denied the motion upon determining it was a question of fact as to whether the address 2802 was specifically assigned to the trailer or the house. Moreover, the trial court found that Objector presented a *prima facie* case that the trailer – the only structure in Forest County – was not actually Candidate’s abode because it was uninhabitable. Upon review, we agree with the trial court that Objector introduced sufficient evidence to establish the necessary elements to set aside Candidate’s Nomination Petition based on insufficient residency. Thus, the trial court properly refused to grant Candidate’s motion.

B. Burden

Next, Candidate contends the trial court improperly shifted the burden to her when it ruled against her demurrer. The trial court stated it heard no evidence that 2802 Kelly Hill is in Forest County. Candidate claims the burden was Objector’s to prove that she was not an inhabitant of Forest County, not her burden to prove she was.

Nomination petitions are presumed to be valid. Section 977 of the Election Code, 25 P.S. §2937; Driscoll. An objector bears a heavy burden of proving invalidity. 25 P.S. §2937; Driscoll; Hanssens. This burden includes proving that a candidate's affidavit is false with regard to statements about residency. Driscoll; see Shimkus; In re Street, 516 A.2d 791 (Pa. Cmwlth. 1986) (single judge op., Doyle, J.).

An objector must meet this burden by a preponderance of evidence. Street. “A preponderance of the evidence standard, the lowest evidentiary

standard, is tantamount to ‘a more likely than not’ inquiry.” Helwig v. Dep’t of Transp., Bureau of Driver Licensing, 99 A.3d 153, 158 (Pa. Cmwlth. 2014) (quoting Carey v. Dep’t of Corr., 61 A.3d 367, 374 (Pa. Cmwlth. 2013)). Only if an objector meets this burden does the burden shift to the candidate to offer rebuttal. See Street.

There are two ways an objector may meet this burden of proving the candidate is not an inhabitant of the district. Id. First, by establishing that the candidate has had, within the recent past, a domicile outside the district in question. Id. Second, by proving the candidate was not an inhabitant of the address set forth in the affidavit. Id.

In Street, the objector attempted to meet this heavy burden by trying to establish that the property listed as the candidate’s residence was a commercial property and did not meet a definition of a “residence.” 516 A.2d at 795. She further argued the candidate had some burden to demonstrate the building was not “primarily vacant.” Id. The Court disagreed, opining:

[E]ven if the commercial store front of the building was apparently vacant ... this would not, in and of itself, compel a finding that someone could not live elsewhere in the building. The [objector] was a thoroughly credible witness, but her testimony alone that the building ‘appeared vacant’, would not be enough to establish a syllogism logically resulting in a conclusion that the [c]andidate could not and did not live in the building.

Id. at 795-96. Having failed to establish that the candidate lived – was domiciled – elsewhere, the objector’s burden never shifted. Id.

Here, the trial court properly placed the burden on Objector to prove Candidate did not meet the residency requirement. The trial court opined Objector “has the burden of proving that a nomination instrument is invalid” and he “must also overcome the presumption of validity.” Tr. Ct., Slip Op., at 7.

For his part, Objector presented evidence showing Candidate’s property contained two addresses and three structures: a house, a garage and a trailer. The evidence also showed the house and garage were in Warren County; the trailer was in Forest County. Objector presented pictures showing the house had indicia of physical inhabitation, whereas the trailer, which was tipped over, did not. The driveway and walkways to the house were cleared of snow, well-maintained, and well-traveled. In addition, Candidate pays real estate taxes for the entire parcel to Warren County. Although Candidate claimed she resided in Forest County, the only structure in Forest County was the five-wheeled travel trailer.

Unlike the office building in Street, in which the commercial storefront of the building appeared vacant, the tipped-over travel trailer was clearly vacant and uninhabitable. As the trial court observed from the evidence, there were no visible water lines, utility hooks ups, pipes or conduits connected to the travel trailer. The trial court reasoned, “if there were pipes for water and sewage, not only would they be visible but they would have provided some adherence to the land making it unlikely that the trailer could tip over from snow on the roof.” Tr. Ct., Slip Op., at 11. Moreover, Candidate pays real estate taxes for the entire parcel to Warren County. Based on this evidence and the reasonable inferences

drawn therefrom, the trial court determined Objector presented a *prima facie* case that Candidate did not live in Forest County because there was no fixed and permanent place of abode situated on Candidate's property in Forest County capable of habitation.

Upon determining Objector met his initial burden, the trial court properly shifted the burden to Candidate to rebut Objector's evidence and prove that she, in fact, lived in Forest County. The trial court found Candidate presented no evidence to rebut Objector's *prima facie* case. Id. at 12. Candidate chose not to testify on direct examination or present any witnesses regarding the use of the buildings, the travel trailer or any of the premises. Id. at 7. Her witnesses testified regarding the per capita and earned income taxes and the assignment of 911 addresses on her road. Id. The trial court found "[t]here was no evidence that she actually lived in and made her home in the trailer other than her own weak assertion in cross [examination]." Id. at 12. The trial court did not find Candidate's testimony credible.

Contrary to Candidate's assertions, the trial court did not improperly place the burden on her. Rather, the trial court afforded Candidate the opportunity to "rebut the evidence presented" by Objector. Id. at 7. Thus, Candidate's assertions of error regarding the shifting burden are unavailing.

C. Issue Expansion

Candidate also contends the trial court erred by overruling her objection to the expansion of the specific issue presented in the Objection Petition. Candidate asserts the Objection Petition contested her candidacy on the basis that

the residential dwelling with the address of 2802 Kelly Hill Road is located in Warren County. Objector merely challenged the specific location of 2802. Objector admitted 2802 is her actual place of abode and residence. Therefore, the issue was never whether Candidate resides at 2802 Kelly Hill Road, as that was admitted, but only whether 2802 is in Forest County.

In order to overcome the presumption of the nomination's validity, an objector must set forth the specific grounds for objections. 25 P.S. §2937; In re Johnson, 502 A.2d 142 (Pa. 1985); In re Delle Donne, 779 A.2d 1 (Pa. Cmwlth. 2001). Moreover, new challenges may not be raised by amendment after the time period has run for raising objections inasmuch as the purpose of the Election Code is to provide fair notice of challenges to a nomination petition and to allow the candidate to mount a defense. In re Nomination Petition of Bishop, 579 A.2d 860 (Pa. 1990).

Our Supreme Court holds “[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 ... 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. at 144 (emphasis added).

In Johnson, this Court sustained a candidate's preliminary objection upon determining the objection was defective based on Rule 1024(a) of the Pennsylvania Rules of Civil Procedure, which provides, in pertinent part:

Every pleading containing an averment of fact not appearing of record in the action or containing a denial of fact shall state that the averment or denial is true upon the signer's personal knowledge or information and belief and shall be verified.

Pa. R.C.P. No. 1024(a). The Supreme Court, in reversing, held the rules of civil procedure do not apply to a challenge to a nomination petition or paper. Johnson.

The 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.” 502 A.2d at 145. The Court did not believe that “engrafting technical rules of pleading and procedure onto the mechanism prescribed by the legislature serves that end, nor [does it] find the addition of such a requirement would materially enhance the integrity of the election process.” Id. “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.” Id. (quoting Beynon Appeal, 88 A.2d 789, 792 (Pa. 1952)).

Here, the Objection Petition clearly stated Candidate “is not qualified for the Office of District Attorney ... because she is not a resident of Forest County ...” Objection Pet. at ¶3 (emphasis added). Candidate’s Affidavit identified her

residential address as 2802 Kelly Hill Road. Id. at ¶4. “The location of the residential dwelling with the address of 2802 Kelly Hill Road and being the Candidate’s actual place of abode and residence, is in Limestone Township, Warren County, Pennsylvania, and not in Hickory Township, Forest County.” Id. at ¶5 (emphasis added).

The Objection Petition clearly placed Candidate on notice that it was her residency at issue. Contrary to Candidate’s assertions, the trial court did not expand the issue raised in the petition. As the trial court opined, the basis for Objector’s “petition is not whether the exact address by street number is accurate or not but it is that [Candidate] cannot be a district attorney in Forest County where she has no residence and therefore is not qualified to run for that office.” Tr. Ct., Slip Op., at 8. Upon review, the trial court properly identified the issue before it.

D. Weight of Evidence

Finally, Candidate asserts the trial court’s ruling is against the weight of the evidence presented. Objector did not prove by a preponderance of the evidence that Candidate is not a resident of Forest County.

“As the finder of fact, the trial court has exclusive authority to weigh the evidence, make credibility determinations and draw reasonable inferences from the evidence presented.” In re Sale of Real Estate by Lackawanna Cnty. Tax Claim Bureau, 22 A.3d 308, 312 n.3 (Pa. Cmwlth. 2011); accord Russo v. Phila. Cnty. Bd. of Elections, 540 A.2d 332 (Pa. Cmwlth. 1988). The trial court is free to believe all, part or none of the evidence. Commonwealth v. Begley, 780 A.2d 605 (Pa. 2001); Commonwealth v. Holtzapfel, 895 A.2d 1284 (Pa. Cmwlth. 2006).

The trial court's findings are binding on this Court if supported by substantial evidence. City of Phila., Bd. of Pensions & Ret. v. Clayton, 987 A.2d 1255 (Pa. Cmwlth. 2009). This Court is prohibited from making contrary credibility determinations or reweighing the evidence in order to reach an opposite result. Parkview Court Assoc. v. Delaware Cnty. Bd. of Assessment Appeals, 959 A.2d 515 (Pa. Cmwlth. 2008). However, deductions, conclusions, and inferences drawn from those facts are reviewable on appeal. Russo.

In evaluating a sufficiency or weight of the evidence claim, we must determine whether the evidence and all reasonable inferences deducible therefrom, viewed in a light most favorable to the prevailing party, are sufficient to sustain the judgment. See Commonwealth v. Lyons, 79 A.3d 1053 (Pa. 2013). A court must not reverse a judgment based on a weight of evidence claim unless that judgment was so contrary to the evidence as to “shock one's sense of justice.” Id. at 1067.

Here, the trial court found Candidate's property lies in Forest and Warren Counties. Candidate's affidavits listed 2802 Kelly Hill Road as her residential address. The portion of the property located in Warren County contained a residential dwelling and garage. However, the portion located in Forest County contained a tipped-over trailer. Candidate paid real estate taxes in Warren County, not Forest County. The trial court further found the residential dwelling in Warren County contained indices of inhabitation, while the travel trailer did not. The trial court's findings are based on substantial evidence presented by Objector. The trial court deduced from this evidence that Candidate did not live in the travel trailer, which is the only the structure located in Forest

County on her land. Although Candidate testified on cross examination that the trailer was her residence until it tipped over, the house is used by her as an office and guesthouse, and that she currently resides at another address in Forest County, the trial court did not find her testimony credible. Such credibility determinations are beyond appellate review. Parkview Court.

Accepting the trial court's supported findings and credibility determinations, and drawing our own conclusions and inferences from those facts, the trial court's conclusion that Candidate does not reside in Forest County is not against the weight of the evidence presented. Thus, Candidate's weight of evidence claim cannot succeed.

IV. Conclusion

Upon review, we are satisfied that the trial court reviewed the evidence in this case and reasonably determined that Candidate did not live in Forest County. Thus, the trial court properly set aside Candidate's Nomination Petition as she did not satisfy the residency requirements for the office of District Attorney of Forest County.

Accordingly, we affirm.

ROBERT SIMPSON, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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ORDER

AND NOW, this 17th day of April, 2015, the order of the Court of Common Pleas of the 37th Judicial District (Forest County Branch) is **AFFIRMED**.

ROBERT SIMPSON, Judge