[J-75-2026]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

TODD, C.J., DONOHUE, DOUGHERTY, WECHT, MUNDY, BROBSON, McCAFFERY, JJ.

IN RE: NOMINATION PAPERS OF ANDREW TUPONE AS THE GREEN PARTY CANDIDATE FOR REPRESENTATIVE IN CONGRESS FROM THE SEVENTH CONGRESSIONAL DISTRICT IN THE NOVEMBER 3, 2026 GENERAL ELECTION OBJECTION OF: GREEN PARTY OF PENNSYLVANIA AND CHRISTINA OLSON	:	No. 56 MAP 2026
	:	Appeal from the Order of the Commonwealth Court dated September 4, 2026 at No. 366 MD 2026
	:	SUBMITTED: September 14, 2026
APPEAL OF: ANDREW TUPONE	:	

OPINION

DECIDED: September 17, 2026
JUSTICE DONOHUE **OPINION FILED: November 17, 2026**

In this case, we consider whether the Commonwealth Court erred in setting aside nomination papers filed by Andrew Tupone ("Candidate") who claimed to be a candidate of the Green Party of Pennsylvania ("Green Party of PA") for Pennsylvania's Seventh Congressional District in the November 3, 2026 General Election, despite Candidate having failed to obtain the nomination of the Green Party of PA prior to circulating the nomination papers. The Green Party of PA is a political body under the Election Code[1] and has the exclusive authority to control who it selects as candidates to run for office. As it is undisputed that Candidate did not abide by the Green Party of PA's nomination procedures outlined in its bylaws and was not selected by the Green Party of PA to run for office, Candidate was not entitled to file nomination papers under the false pretense

[1] Act of June 3, 1937, P.L. 1333, *as amended* 25 P.S. §§ 2600-3591.

that he was a Green Party of PA candidate. Therefore, we affirm the order of the Commonwealth Court setting aside Candidate's nomination papers.

I. Background

On July 29, 2026 and August 3, 2026, Candidate filed nomination papers for Representative in Congress from the Seventh Congressional District in the November 3, 2026 General Election, identifying himself as the "Green" nominee. On August 10, 2026, the Green Party of PA and Christina Olson[2] (collectively "Objectors") filed a petition to set aside Candidate's nomination papers, arguing that Candidate failed to obtain the nomination of the Green Party of PA prior to circulating the nomination papers as its nominee.

Candidate, who had been a registered Republican for many years, changed his affiliation to Democrat in February 2026, then to Green Party in April 2026 on the last day to disaffiliate his voter registration from a political party to run as a third-party candidate. N.T., 8/20/2026, at 60. Prior to circulating his nomination papers in which he purported to run as the "Green" nominee, he attempted to reach the Green Party of PA by leaving a voicemail, but he did not speak with anyone. *Id.* at 30-31. Candidate understood that he was not endorsed by the Green Party of PA. *Id*. at 39. However, when asked if he understood that he did not have the endorsement of the Green Party of PA when he circulated the nomination papers, he responded "no." *Id*. at 43.

After Candidate filed his nomination papers consisting of 637 pages with 10,586 putative signatures, Objectors filed their petition to set aside asking for the court to direct the Secretary of the Commonwealth to set aside Candidate's nomination papers and "not

[2] Olson is a qualified elector who is registered with the Green Party of PA. Petition to Set Aside, 8/10/2026, ¶ 7.

to place [Candidate's] name as the Green Party candidate for Representative in Congress from the Seventh Congressional District." Petition to Set Aside, 8/10/2026, ¶ 66.

The court, through the Honorable Stella M. Tsai, held a hearing at which Candidate, Jessica Mathis, Director of the Bureau of Elections at the Department of State ("Director Mathis"), and Timothy Runkle, Co-Chair of the Green Party of PA ("Runkle"), testified regarding Candidate's relationship with the Green Party of PA, the process of collecting signatures and filing nomination papers, voter registration and affiliation generally, and the structure and organization of the Green Party of PA. Judge Tsai found all three witnesses' testimony credible aside from Candidate's testimony regarding the assistance he received in the circulation and filing of his nomination papers. *In re Nomination Papers of Andrew Tupone*, 366 M.D. 2026, at 5-17 (Pa. Commw. Sept. 4, 2026) (non-precedential decision).

Runkle testified that the Green Party of PA is the Commonwealth's representative in the Green Party of the United States. N.T., 8/20/2026, at 66-70. According to Runkle, the Green Party of PA has an endorsement and vetting process consistent with its bylaws that establishes how the party nominates candidates, a process that starts with a prospective candidate completing a candidate questionnaire. *Id*. at 71-72, 80-82. Any prospective candidate seeking statewide or federal office must complete the questionnaire before the Green Party decides whether to nominate the candidate. *Id*. Candidate did not complete the questionnaire. *Id*. at 72-73. For this general election, the Green Party of PA only endorsed a candidate for governor and a candidate for lieutenant governor for which nomination papers were circulated as Green Party of PA candidates. The Green Party of PA's bylaws provide that its "State Committee holds the exclusive authority to nominate Green Party candidates for federal and state office within the Commonwealth of Pennsylvania." Rules of the Green Party of PA, Rule II, § 7.

The Commonwealth Court, mindful of the liberal construction of the Election Code as well as its role assuring the integrity of the election process as it relates to nomination papers, started its analysis with the beginning of the Election Code, the definitional section. *Tupone*, 366 M.D. 2026 at 22. It recounted that "nomination" is defined as "the selection, in accordance with the provisions of [the Election Code], of a candidate for a public office authorized to be voted for at an election[.]" *Id*. at 23 (quoting 25 P.S. § 2602). Political body is defined as "an independent body of electors, as defined in Section 801 [of the Election Code,]" the Section where political party is likewise defined. *Id*. (quoting 25 P.S. § 2602).

As the court explained, Section 801 distinguishes political bodies and political parties based on the percentage of votes received by the entity at the preceding primary or general election. *Id*. at 23 (citing 25 P.S. § 2831). Under the law, "only a political body that achieves a certain level of success in the voting booth is recognized … as a political party." *Id*. at 24 (citing 25 P.S. § 2831). Presently, the Green Party of PA is a political body, although in recent history it has twice qualified as a political party. *Id*.

After setting forth various provisions of the Election Code, the Commonwealth Court considered how they interact. It opined that the Election Code "vests with political parties and political bodies the right to 'nominate'—i.e., 'select'—the candidates they wish to place on the ballot in the General Election." *Id*. at 27. The Election Code grants political parties the right to nominate or select candidates through primaries. *Id*. The court supported its conclusion that the Election Code vests political bodies with the right to nominate or select candidates for the ballot with the following analysis:

> The verity of this statement as it relates to political bodies, such as the Green Party, is borne out in the very definition of "political body" in Section 801 of the Election Code, which describes a political body in terms of it "ha[ving] **nominated** candidates for such general . . . election by nomination papers" and prohibits a "political body [from] **nominat[ing] its**

> candidates . . . at primaries." 25 P.S. § 2831(c) (emphasis added). Section 951 is entitled "Nominations by political bodies," reinforcing that the statutory provision refers to "**each political body nominating**." 25 P.S. § 2911(c) (emphasis added). Most tellingly, the nomination papers must contain the "name . . . of the **political body which the candidates nominated thereby represent**." 25 P.S. § 2912 (emphasis added). The use of the past tense "nominated" indicates that the person[] has already been nominated by the political body and is now seeking signatures to appear on the General Election ballot.

Id. at 27-28 (emphasis added by Commonwealth Court).

In the Commonwealth Court's estimation, Candidate skipped over these basic requirements of the Election Code when he argued that the "signatures are the nomination." *Id*. at 28 (quoting Candidate's Commonwealth Court Brief at 15). The signatures cannot be the nomination, the court reasoned, "because the electors signing the nomination papers in support of the person appearing on the ballot are not necessarily members of the Green Party." *Id*. If signatures were the nomination, this "would allow non-Green Party electors to select the candidate for the Green Party, usurping the Green Party's ability to nominate its own candidate should it chose to do so." *Id*.

The court found it inconsequential that the Secretary of the Commonwealth accepted the nomination papers given the court's statutory authority to decide this matter. *Id*. (citing 25 P.S. § 2937). Moreover, the defect here was that Candidate failed to obtain the nomination of the Green Party of PA prior to circulating the nomination papers. According to the Commonwealth Court, this defect was not apparent on the face of the nomination papers. *Id*.

The court also noted that Objectors' and Candidate's arguments about whether the use of the Green Party name was deceptive missed the mark given that "Candidate unequivocally testified that he circulated nomination papers as the nominee of the Green Party of PA." *Id*. at 29 (citing N.T., 8/20/2026, at 25). Had Candidate testified that he

represented another political body by the same name, the court's analysis would have focused on Sections 952 and 976 of the Election Code.[3] *Id*. at 29 & n.10.

The court observed that the Election Code places no restrictions on political bodies as such bodies "can have formal structures … or no structure at all." *Id*. at 29. A political body must only "select an eligible nominee, name persons to serve on a committee to fill vacancies,[] and timely file nomination papers with sufficient signatures of the general electorate." *Id*. at 29-30 (citing 25 P.S. § 2912) (footnote omitted). According to the Commonwealth Court, it is the "filing of nomination papers with sufficient signatures [that] secures the political body's nominee a place on the General Election ballot as a candidate of the political body." *Id*. at 30.

Moreover, the court theorized that "Candidate could have circulated nomination papers as the nominee of a political body unrelated to the Green Party of PA had he chosen to do so." *Id*. But again, that was not the circumstance as "Candidate regard[ed] himself as the nominee of Objector Green Party of PA without its nomination and despite its objection." *Id*. The court also rejected Candidate's arguments that finding in favor of Objectors would "cause[] the court to become involved in the internal governance of a political body." *Id.* The court explained that its "analysis respects the internal governance of political bodies and protects political bodies from external forces hijacking those bodies." *Id*. at 30.[4] Given this resolution, the court deemed it unnecessary to address

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[3] These Sections prohibit the filing of nomination papers where, inter alia, "the appellation set forth therein is identical with or deceptively similar to the words used by any existing party or by any political body which has already filed nomination papers for the same office[.]" 25 P.S. § 2936; *see also* 25 P.S. § 2912.

[4] Additionally, the court overruled Candidate's objection to an unsworn declaration of an individual who indicated he would not have signed the nomination papers had he known that Candidate only recently became a Green Party member. *Tupone*, 366 M.D. 2026 at 31-33. This evidence did not impact the court's analysis.

the First Amendment freedom of association challenges advanced by Objectors. *Id*. at 31.

On September 8, 2026, Candidate filed a notice of appeal arguing that the Commonwealth Court erred in setting aside his nomination papers because he complied with the requirements set forth in the Election Code. On September 17, 2026, this Court issued a per curiam order affirming the Commonwealth Court's order and indicating that an opinion would follow. *In re Nomination Papers of Tupone*, 56 MAP 2026, 2026 WL 2752303 (Pa. Sept. 17, 2026) (per curiam).

II. Parties' Arguments

Candidate's Arguments

At the outset, it is important to note that Candidate "does not challenge the Commonwealth Court's findings of historical fact." Candidate's Brief at 7. Based on the Commonwealth Court's findings, Candidate argues that "the Election Code compelled the opposite result" as that reached by the Commonwealth Court. *Id*. Candidate insists that the Election Code does not require a candidate to obtain the political body's nomination before circulating nomination papers because the nominating paper is "the instrument that does the nominating." *Id*. at 17, 22. He highlights Section 951(a) of the Election Code to support his position that the nomination is "made by nomination papers" and Section 951(c) which references multiple candidates being "nominated by one nomination paper" as clear indications that the nomination is made by the nomination papers and not by a political body's internal procedures. *Id*. at 19, 21 (quoting 25 P.S. § 2911(a), (c)). He also draws attention to Section 952, which provides: "All nomination papers shall specify--(a) The name or appellation of the political body which the candidates nominated thereby represent." 25 P.S. § 2912(a). In his interpretation, "thereby" refers to the nomination papers themselves and "[t]he past participle 'nominated' describes candidates

nominated *by the papers*." Candidate's Brief at 20 (emphasis in original). Candidate cites Section 801(c), which describes a political body as one "which has nominated candidates for such general or municipal election *by nomination papers in the manner provided by this act*." *Id*. at 21 (emphasis added by Candidate) (quoting 25 P.S. § 2831(c)). He believes that "has nominated" refers to a nomination accomplished by nomination papers, "not to some antecedent selection by the organization's leadership." *Id*. In Candidate's view, the Election Code provides the mechanism for how candidates of political bodies appear on the ballot and "courts are not empowered to employ principles of equity to override the express statutory command." *Id*. at 24 (quoting *In re Nomination Petition of Guzzardi*, 99 A.3d 381, 382 (Pa. 2014)).

Candidate avers that the Commonwealth Court's approach would create two irreconcilable systems of nomination for political parties and bodies. In his view, a primary is "an elector-driven process in which the party organization has no gatekeeping role." *Id*. at 25. According to Candidate, the signature requirement of Section 951 likewise establishes "an elector-driven process" for political body candidates. *Id*. at 27. In either case, Candidate asserts that "[t]he party organization plays no gatekeeping role[.]" *Id*. Candidate acknowledges that the Green Party has an interest in protecting its brand and reputation, vetting for consistency in values, and avoiding spoilers and outside money. *Id*. at 27-30. However, he highlights that political parties also share these same concerns, yet political parties have no recourse under the Election Code to prohibit would-be candidates from filing nomination petitions. *Id*. at 30-31. According to Candidate, the General Assembly has not made these issues "a condition of ballot access for anyone." *Id*.

Finally, Candidate accuses the lower court of enforcing the internal governance procedures of the Green Party of PA by removing him from the ballot in violation of this

Court's decision in *Mohn v. Bucks County Republican Committee*, 259 A.3d 449 (Pa. 2021), which he construes as holding that a political party's internal governance is not a matter of judicial resolution. *Id*. at 31-32. He argues that "[i]f adherence to a political body's internal procedures is a condition precedent to circulating and filing nomination papers, then even a candidate the body has endorsed can be challenged on the ground that its procedures were not followed to the letter." *Id*. at 32. He suggests that this impermissibly converts an organization's bylaws into provisions of the Election Code and would open the door to challenges to strangers. *Id*.[5]

Objectors' Arguments

Objectors begin by describing the established nature of the Green Party of PA, noting that it gained attention in 2000 when presidential candidate Ralph Nader qualified for statewide ballot access. Objectors' Brief at 7. Thereafter, in 2001, the Green Party of PA became officially affiliated with the Green Party of the United States. The Green Party of PA has run candidates in presidential elections as well as in the geographic region of the Seventh Congressional District. In 2004, the ballot included a Green Party candidate for what was then the Fifteenth Congressional District, with the candidate receiving 2,194 votes. *Id*. at 7-8. When registering to vote, Pennsylvanians may choose to register as a member of the Democratic, Republican, Libertarian, Green Party, none or other. *Id*. at 8. As of August 18, 2026, the Green Party of PA is a political body with 14,188 registered voters, 464 of whom live in the Seventh Congressional District. *Id*. at 8-9. The Green Party of PA has an established organizational structure comprised of a State Committee, a State Steering Committee, state and local leaders, and it is governed pursuant to its bylaws. *Id*. at 9. The State Committee decides whether to nominate or endorse

[5] Candidate does not address the First Amendment freedom of association claim which Objectors raised before the Commonwealth Court.

candidates in any given election, paying careful attention to the image of the party, in part because of the criticism it faces as an election spoiler.[6] *Id*. at 9-10. Objectors highlight that the Green Party of PA's bylaws provide that "the State Committee holds the *exclusive authority to nominate Green Party candidates for federal* and state office within the Commonwealth of Pennsylvania." *Id*. at 11 (emphasis in Brief) (quoting Rules of the Green Party of PA, Rule II, § 7). For prospective candidates, the nomination process begins with completing the Green Party questionnaire. The process is clearly laid out on the Green Party website. *Id*. at 13-14.

As to the statutory interpretation of the Election Code, Objectors' arguments largely follow the rationale of the Commonwealth Court. Objectors assert that Section 952 sets forth the required contents of a nomination paper and explains that all nomination papers shall include "[t]he name or appellation of the political body which the candidates nominated thereby represent, expressed in not more than three words." *Id*. at 27 (quoting 25 P.S. § 2912). Objectors, like the Commonwealth Court, claim that use of the word "nominated" presumes that the candidate has already been nominated by the political body before the nomination paper is circulated. *Id*. at 28.

Objectors assert that only their interpretation is consistent with the Green Party of PA's freedom of association under the First Amendment to the United States Constitution and Article I, Section 7 of the Pennsylvania Constitution and the Green Party's right to equal protection under the Fourteenth Amendment to the United States Constitution. Objectors' Brief at 45-46. They invoke this Court's statement that, to the extent the statute is capable of two constructions, one which raises "grave and doubtful constitutional

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[6] Notably, in the 2016 presidential election, Hilary Clinton lost to Donald Trump by 44,292 votes in Pennsylvania, and Green Party candidate Jill Stein obtained 49,941 votes. *See* November 8, 2016, Official Returns Statewide, Dep't of State, https://www.electionreturns.pa.gov/_ENR/General/SummaryResults?ElectionID=54&ElectionType=G&IsActive=0 (last visited Oct. 19, 2026).

questions" and another which avoids such questions, the Court's duty is to adopt the latter. *Id*. at 46 (quoting *Commonwealth v. McClelland*, 233 A.3d 717, 735 (Pa. 2020) (internal citations omitted)). Here, Objectors posit that Candidate's interpretation would create a grave constitutional question because the Green Party of PA would have no ability to exercise its right to exclude candidates from serving as its nominees aside from successfully racing to the ballot. *Id*. at 51.

Objectors explain that the right to freely associate includes a corollary right to exclude those who do not align with the association's values, brand and reputation. *Id*. at 47. Objectors observe that our Constitution provides greater protection of associational rights than the United States Constitution, although this Court has stated that First Amendment authority remains instructive. *Id*. (citing *Working Families Party v. Commonwealth*, 209 A.3d 270, 275, 285 (Pa. 2018); *DePaul v. Commonwealth*, 969 A.2d 536, 546-47 (Pa. 2009)). Objectors contend that these rights are particularly salient in the process of selecting and nominating candidates. *Id*. at 48-49 (internal citations omitted). Objectors call upon cases from the Commonwealth Court and "federal courts across the country [which] have found that political organizations have an extremely strong First Amendment right to exclude candidates who are not actually associated with or endorsed by the organizations from running under their banner." *Id*. at 49-50 & n.8 (collecting cases).

As for equal protection, Objectors insist that Candidate's interpretation of the Election Code would interfere with the Green Party's ability to protect its name, brand and reputation and therefore, would "treat[] the Green Party and its members differently from similarly situated parties and candidates." *Id*. at 52.[7] They state that the applicable test

[7] Objectors incorrectly state that Pennsylvania's equal protection provisions are analyzed using the same standards applicable under the Fourteenth Amendment's equal protection clause. Objectors' Brief at 52 (citing *Love v. Borough of Stroudsburg*, 597 A.2d 1137, (continued…)

requires courts to "weigh, against the burdens imposed, any plausible justifications the State has advanced for imposing unequal burdens on major and minor parties." *Id*. at 53 (quoting *Working Families Party*, 209 A.3d at 282-83) (quoting *Reform Party of Allegheny Cnty. v. Allegheny Cnty. Dep't of Elections*, 174 F.3d 305, 3015 (3d Cir. 1999)). They state that federal constitutional jurisprudence, which state courts have followed, similarly prohibits treating the rights of smaller political entities differently than the rights of the major parties. *Id*. They assert that Candidate's interpretation treats political parties and bodies completely differently, "and in a way prejudicial to the political bodies' most fundamental rights." *Id*. at 53. They believe that it exposes the Green Party of PA and other political bodies to a vulnerability that political parties do not face. *Id*. at 54. They submit that the burden this places on political bodies is substantial, and therefore unconstitutional. *Id*.

III. Analysis

Candidate challenges the lower court's interpretation of the Election Code and therefore, our standard of review is de novo and our scope of review is plenary. *Genser v. Butler Cnty. Bd. of Elections*, 325 A.3d 458, 479 (Pa. 2024). The object of statutory interpretation is to ascertain and effectuate the General Assembly's intention. 1 Pa.C.S. § 1921(a). "Every statute shall be construed, if possible, to give effect to all its provisions." *Id*. When the letter of the law is clear and free from ambiguity, we will not disregard it "under the pretext of pursuing its spirit." *Id*. § 1921(b). When the words are not explicit,

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1139 (Pa. 1991)). We established in *Allegheny Reproductive Health Center v. Pennsylvania Department of Human Services*, 309 A.3d 808, 945 (Pa. 2024) that the protection afforded by Article I, Section 26 of the Pennsylvania Constitution is distinct from that afforded by the federal equal protection provision of the Fourteenth Amendment. Given their misunderstanding of Pennsylvania law, Objectors do not develop any unique claims thereunder.

we ascertain the intention of the General Assembly with reference to other matters described in Section 1921(c) of the Statutory Construction Act.

Before addressing the relevant provisions of the Election Code, we begin with our decision in *Mohn* as it illustrates the significant associational rights afforded to political parties and political bodies. Daniel Mohn was elected in 2014, and reelected in 2016, as a Republican committeeperson of the Bucks County Republican Committee for the Yardley Borough. *Mohn*, 259 A.3d at 450. After Mohn's reelection, the Committee received complaints that Mohn "actively campaigned against an endorsed candidate for committeeman and disparaged the importance and value of the Bucks County Republican Committee Sample Ballot." *Id.* at 451 (internal quotations omitted). More specifically, the Committee explained that a political action committee controlled by Mohn and another individual circulated an advertisement that a candidate endorsed by the Committee, and the candidate's wife, were "Rhinos," i.e., Republicans in name only, supported unions, and inferred that they supported Planned Parenthood, all of which were untrue. *Id*. The complainants claimed that Mohn violated the Committee's Code of Ethics, and the Committee scheduled a hearing with its Ethics Committee. Mohn argued that the Code of Ethics in the Committee's Rules applied only to elected and appointed public officials, not party officials. After a hearing before the Ethics Committee, Mohn and two other committeepersons filed a complaint in the court of common pleas seeking declaratory and injunctive relief to prevent their removal as committeepersons. The trial court denied Mohn's request for injunctive relief. *Id.* at 452. Subsequently, complainants presented evidence of Mohn's wrongdoing at a hearing, and the Executive Committee voted to disqualify Mohn as a committeeperson and declare his office vacant. *Id.* at 453.

Returning to the trial court action for declaratory relief, both Mohn and the Committee filed cross-motions for summary judgment. Relevant here, the Committee

asserted its right to associate under the First and Fourteenth Amendments to the United States Constitution and argued that because the matter was an "intra-party dispute with no direct or substantial relationship to any state interest[,]" the court had no jurisdiction to hear Mohn's claim. *Id*. The trial court agreed with the Committee, and the Commonwealth Court affirmed. On appeal to this Court, we considered whether the trial court had jurisdiction based on our prior decision in *Bentman v. Seventh Ward Democratic Executive Committee*, 218 A.2d 261 (Pa. 1966), which ruled that a court had jurisdiction over an action brought by elected Democratic committeepersons who challenged their removal from office by the Committee.

On review of *Bentman*, the *Mohn* Court found it "remarkable that no mention [wa]s made of the political party's constitutional right of association." *Mohn*, 259 A.3d at 458. The *Mohn* Court observed that since *Bentman*, the High Court decided *Cousins v. Wigoda*, 419 U.S. 477 (1975), which rejected the proposition that the state has a greater interest in protecting the right to participate in primaries as compared to any interests a political party may wish to protect. *Mohn*, 259 A.3d at 258-59 (citing *Wigoda*, 419 U.S. at 488-91). The *Mohn* Court explained that *Wigoda* emphasized that a political party has the right of freedom of association. *Id.* at 459. Given this development in freedom of association jurisprudence, the *Mohn* Court declined to read *Bentman* broadly and affirmed the judgment that the courts did not have jurisdiction to hear Mohn's claims. *Id*. ("Particularly upon consideration of [the Committee's] right of political association, we choose the narrower of the interpretations with which we are now presented."). Importantly, the *Mohn* Court also "credit[ed the Committee]'s position that, through its internal, self-organized apparatus, [it was] permitted to construe its own governing rules and to disqualify elected occupants of its offices from participation in its affairs by

exercising its own judgment, free from judicial interference." *Id.* (internal quotations omitted).

The *Mohn* Court grasped the significance of the Republican Committee's right to associate which granted the Committee the authority to remove an elected committeeperson from office based on the Committee's own governing rules. Although *Mohn* dealt specifically with the right to associate of a political party, there is no doubt that the right also exists for political bodies. *See In re Barr*, 956 A.2d 1083, 1086 (Pa. Commw. 2008), *aff'd sub nom. In re Substitute Nomination Certificate of Barr*, 958 A.2d 1045 (Pa. 2008) (per curiam) (opining that the right to associate empowers "a political party/body" with the "right to choose the candidate selection process that it determines to be most appropriate to produce the nominee who will best represent the chosen platform"). Moreover, the High Court has explained that "[a] political party has a First Amendment right to limit its membership as it wishes, and **to choose a candidate-selection process that will in its view produce the nominee who best represents its political platform**." *N.Y. State Bd. of Elections v. Lopez Torres*, 552 U.S. 196, 203 (2008) (emphasis added). With these important constitutional issues in mind, we turn to the Commonwealth Court's analysis.

Given the Commonwealth Court's rationale for setting aside Candidate's nomination papers,[8] the parties spend much of their time arguing whether, pursuant to

[8] To reiterate, the Commonwealth Court interpreted the Election Code as "vest[ing] with political parties and political bodies the right to 'nominate'—i.e., 'select'—the candidates they wish to place on the ballot in the General Election." *Tupone*, 366 M.D. 2026 at 27. The Commonwealth Court pointed to various provisions of the Election Code to support its conclusion that a political body nominates its candidates before a nomination paper is filed. *See id.* at 28 (explaining that Section 801's definition of "political body" describes a political body as "ha[ving] nominated candidates for such general … election by nomination papers[,]" 25 P.S. § 2831(c); noting Section 951 is entitled "'Nominations by political bodies' reinforcing that the statutory provision refers to 'each political body nominating[,]'" 25 P.S. § 2911(c); observing that "[m]ost tellingly, the nomination papers (continued…)

the Election Code, the nomination of a political body candidate occurs before the filing of nomination papers or whether the nomination of a political body candidate occurs through the filing of nomination papers. In line with the Commonwealth Court's reasoning, Objectors argue that "Section 952 provides the foundation for this nomination-first understanding, as it lays out, among other things, the content required in a nomination paper." Objectors' Brief at 27 (citing 25 P.S. § 2912 and emphasizing that it requires "[a]ll nomination papers [to] specify . . . [t]he name or appellation of the political body which the candidates nominated thereby represent, expressed in not more than three words."). Objectors, like the Commonwealth Court, assert that use of the word "nominated" presumes that the candidate has already been nominated by the political body before the nomination paper is circulated. *Id*. at 28.

For his part, Candidate offers a reasonable rebuttal, arguing that Section 951(a) "directly answers whether a political body must first 'nominate' or 'select' a candidate before the candidate circulates nomination papers" as it provides that, "[i]n addition to the party nominations made at primaries, ***nomination of candidates for any public office may also be made by nomination papers*** signed by qualified electors of the State, or of the electoral district for which the nomination is made, and filed in the manner herein provided." Candidate's Brief at 19 (emphasis in Brief) (quoting 25 P.S. § 2911(a)). Candidate asserts that given this statutory language, "[t]he nomination is made 'by nomination papers signed by qualified electors.'" *Id*. (quoting 25 P.S. § 2911(a)). Candidate emphasizes that the Election Code "says nothing at all about any role for a political body's leadership" in nominating a candidate. *Id*.

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must contain the 'name … of the political body which the candidates nominated thereby represent[,]'" 25 P.S. § 2912). To the Commonwealth Court, "[t]he use of the past tense 'nominated' indicates that the persons ha[ve] already been nominated by the political body and [are] now seeking signatures to appear on the General Election ballot." *Id*.

We find that each party offers a reasonable construction of the Election Code concerning the specific issue of whether the Code provides that a nomination of a political body candidate occurs prior to the filing of a nomination paper or upon the filing of a nomination paper. To start, the Election Code defines the term "nomination" as "the selection, in accordance with the provisions of this act, of a candidate for a public office authorized to be voted for at an election." 25 P.S. § 2602(k). Candidate is correct to highlight that the formal mechanism under the Election Code to achieve nomination as a candidate of a political body is through the filing of nomination papers. *Id.* § 2911(a). Absent the filing of nomination papers, a candidate of a political body is unable to be nominated "in accordance with the provisions of [the Election Code]." *Id.* § 2602(k). Objectors are also correct to point out that the Election Code defines a "political body" as "[a]ny political body which is not a political party, … but which **has nominated** candidates … by nomination papers[.]" *Id*. § 2831(c) (emphasis added). To Objectors, a political body is the entity that selects a candidate for office prior to the filing of a nomination paper.

Ultimately, however, we find it unnecessary to parse these specific arguments because the Commonwealth Court's order setting aside Candidate's nomination papers can be affirmed for a much simpler reason—Candidate was not entitled to file nomination papers purporting to run as the Green Party of PA's candidate because Candidate did not comply with Green Party of PA's internal nomination process. *See* 25 P.S. § 2937. That is, regardless of whether "nomination" occurs under the Election Code at the time of filing a nomination paper or prior thereto, the facts of this case support the Commonwealth Court's conclusion that Candidate was not entitled to file the nomination paper as the purported candidate of the Green Party of PA. Therefore, pursuant to Section 977 of the Election Code, the court rightly set aside Candidate's nomination papers. *Id.*

Section 977 of the Election Code sets forth the basis for objections to nomination petitions and papers and relevantly provides:

> If the court shall find that said nomination petition or paper is defective under the provisions of [S]ection 976,[9] 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.

25 P.S. § 2937 (emphasis added). The Commonwealth Court identified this same statutory language in its analysis and rejected Candidate's argument that he had the "right to file nomination papers as the nominee of the Green Party without the Green Party's actual nomination of him[.]" *See Tupone*, 366 M.D. 2026 at 27-28. The Commonwealth Court reasoned that "[t]o hold otherwise would allow non-Green Party electors to select the candidate for the Green Party, usurping the Green Party's ability to nominate its own candidate should it chose to do so." *Id.* at 28. Although the Commonwealth Court rightly identified the fatal flaw in Candidate's position, it did not specifically tie this flaw back to the language in Section 977 that "[i]f the court shall find that said nomination … paper … was not filed by persons entitled to file the same, it shall be set aside." 25 P.S. § 2937. Because the Commonwealth Court's findings clearly support that Candidate was not entitled to file the nomination paper as the Green Party of PA's candidate, that alone is sufficient to set aside his nomination papers.

We have previously interpreted this portion of Section 977 and determined that it "provides robust authority for courts to consider qualifications of potential candidates for elected office" and "instructs judges to 'set aside' nomination petitions [or papers] 'not filed by persons entitled to file the same." *In re Jordan*, 277 A.3d 519, 530 (Pa. 2022). The dictionary definition of "entitled" is "having a right to certain benefits or privileges."

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9 25 P.S. § 2936.

Entitled, MERRIAM-WEBSTER, https://www.merriam-webster.com/dictionary/entitled (last visited Oct. 20, 2026); *See Commonwealth v. Gamby*, 283 A.3d 298, 307 (Pa. 2022) (explaining that courts may look to dictionary definitions where terms are not defined by statute). In *Jordan*, the Court considered whether a nomination petition filed by an individual seeking the Republican nomination for state representative should be set aside because the individual did not satisfy the residency requirements set forth in Article II, Section 5 of the Pennsylvania Constitution. *See* PA. CONST. art. II, § 5 (providing that state senators and representatives "shall have been citizens and inhabitants of the State four years, and inhabitants of their respective districts one year next before their election[.]"). The Court reasoned that "[a]n individual who cannot meet the constitutional residency requirements, … is not entitled to file a nomination petition." *Jordan*, 277 A.3d at 530. *Jordan* stands for the proposition that one who does not meet certain eligibility requirements to run for office is not entitled to file a nomination petition seeking to run for office.

Beyond *Jordan*, there is scant case law interpreting the distinction between a candidate eligible to run versus one who is entitled (or not entitled) to run. However, to construe entitlement to mean eligibility under the Election Code is to redefine the notion of entitlement under the law and to ignore the General Assembly's use of two distinct terms with two distinct meanings in the Election Code. If the General Assembly only meant for objectors to be able to challenge a candidate's eligibility—as those eligibility requirements are set forth in the Code—it would have said so in Section 977. Yet, the General Assembly provided that a nomination paper could be set aside where it "was not filed by persons entitled to file the same" and thus acknowledged that candidates—though otherwise eligible under the Election Code—may not be entitled to file a nomination paper as a candidate of a political body. In sum, a candidate may be eligible to file a nomination

paper by satisfying the requirements set forth in the Election Code, but the same candidate may not be entitled to file the same where the candidate does not have an established right to file in the name of a political body because the candidate did not comply with the nomination requirements set forth by the political body.

Through such compliance with nomination requirements set forth by a political body, and selection by the political body, one is "entitled" to file a nomination paper as a candidate of the specified political body, i.e., granted the "right to certain benefits or privileges." *Entitled*, MERRIAM-WEBSTER. The Green Party of PA, as a political body, has the authority to control how it chooses its candidates for nomination. Here, the Commonwealth Court found that the Green Party of PA has an endorsement and vetting process consistent with its bylaws that establishes how the Green Party nominates candidates, a process that starts with a prospective candidate completing a candidate questionnaire. *Tupone*, 366 M.D. 2026 at 11 (citing N.T., 8/20/2026, at 71-72, 80-82). Any prospective candidate seeking statewide or federal office is expected to complete a questionnaire before the Green Party decides whether to run the candidate, something Candidate did not do in this case. *Id*. at 11 (citing N.T., 8/20/2026, at 72-73). The Green Party of PA explains that pursuant to its bylaws, it has the exclusive authority to nominate its candidates. Objectors' Brief at 44. Given this evidence, which the Commonwealth Court credited, it is apparent that Candidate did not abide by the Green Party of PA's procedures for nomination and thus was not entitled to file a nomination paper as its purported candidate.

To be clear, not every political body will necessarily be in a position to assert a challenge based on a candidate's lack of entitlement to the designation as the candidate of the political body. As demonstrated on the record before the Commonwealth Court, the Green Party of PA has been established in Pennsylvania for twenty-five years; is a

known political entity in Pennsylvania; has a structure and established platform of social justice, grassroots democracy, peace and nonviolence, and ecological wisdom; and has an endorsement and vetting process designated in its bylaws. *Tupone*, 366 M.D. 2026 at 2. Absent the established identity and structure, a challenge based on lack of entitlement to claim the party designation would be difficult, if not impossible, to prove. Likewise, as pointed out by Objectors, the lack of entitlement to present himself as the candidate of the Green Party of PA did not preclude Candidate from filing nomination papers as a candidate of some other political body, for example "Tupone for Seventh District." Enforcement of the Green Party of PA's selection protocols for its candidates did not limit Tupone's right to seek office. It only limited his ability to claim the banner of the Green Party in doing so. For these reasons, we conclude that the Commonwealth Court correctly set aside Candidate's nomination papers because Candidate was not entitled to file the same. *See* 25 P.S. § 2937.

In closing, we reiterate that the *Mohn* Court's discussion of the constitutional right of association is supportive of the conclusion that the Green Party of PA has the sole authority to determine who it selects to nominate for office. *See* supra pp. 13-15. Here, we believe that the Green Party of PA's right of association would be implicated if Candidate was permitted to run as its candidate because the Green Party of PA would be forced to associate with a candidate against its will. *See, e.g., In re Barr*, 956 A.2d 1083, 1086 (Pa. Commw. 2008), *aff'd sub nom. In re Substitute Nomination Certificate of Barr*, 958 A.2d 1045 (Pa. 2008) (per curiam) (opining that the right of association empowers "a political party/body" with the "right to choose the candidate selection process that it determines to be most appropriate to produce the nominee who will best represent the chosen platform"); *N.Y. State Bd. of Elections v. Lopez Torres*, 552 U.S. 196 (2008) ("A political party has a First Amendment right to limit its membership as it

wishes, and to choose a candidate-selection process that will in its view produce the nominee who best represents its political platform."); *In re Nomination Petitions of Smith*, 182 A.3d 12, 20 (Pa. Commw. 2018) (summarizing federal case law which notes that "the First Amendment guarantees a political party great leeway in governing its own affairs" and that it is "clear" that "the First Amendment affords political parties an autonomy that encompasses the right to exclude non-members from party functions, and in no area is the political association's right to exclude more important than in the process of selecting its nominee") (citing *Maslow v. Bd. of Elections in City of N.Y.*, 658 F.3d 291, 296 (2d Cir. 2011)). By interpreting Section 977 to permit a political body to challenge a nomination paper based upon the candidate's lack of entitlement to designate himself as the nominee of the Green Party without its endorsement, we avoid the "grave and doubtful constitutional questions."[10] *McClelland*, 233 A.3d at 735.

IV. Conclusion

For the foregoing reasons, we hold that under Section 977 of the Election Code, courts have the authority to set aside nomination papers where evidence establishes that the candidate was not entitled to file the papers in the name of the political body indicated on the papers. Here, because the evidence credited by the Commonwealth Court established that Candidate was not entitled to file nomination papers as a candidate of the Green Party of PA, we affirm the Commonwealth Court's order granting Objectors' petition to set aside Candidate's nomination papers.

Chief Justice Todd and Justices Dougherty, Wecht, Mundy, Brobson and McCaffery join the opinion.

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[10] To be clear, our conclusion that Candidate was not entitled to file nomination papers on behalf of the Green Party of PA is based on Section 977 of the Election Code, 25 P.S. § 2937, which is an adequate and independent state ground to support our judgment. *See Michigan v. Long*, 463 U.S. 1032, 1041 (1983).