

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

<i>In re:</i>	:	
<b>Nomination Petition of Robert Jordan</b>	:	<b>Election Matter</b>
<b>as Republican Candidate for State</b>	:	
<b>Representative from the 165<sup>th</sup></b>	:	<b>MD 2022</b>
<b>Legislative District</b>	:	

**PETITION TO SET ASIDE NOMINATION PETITION**

Fred Runge, Petitioner-Objector, by and through undersigned counsel,  
respectfully avers that:

**Jurisdiction**

1. This Court has original jurisdiction in cases relating to election challenges for candidate for State Representative. *See* 42 Pa. C.S. § 764(1); 25 P.S. § 2937.

## **Background**

2. Fred Runge is a registered Republican residing in the 165<sup>th</sup> Legislative District at 242 Claremont Road, Springfield, Pennsylvania.
3. The 165<sup>th</sup> District is located entirely in Delaware County.
4. Robert Jordan is currently registered to vote in Swarthmore, which is located in the 165<sup>th</sup> Legislative District.
5. Although he had previously been registered to vote elsewhere in Delaware County (outside the current 165<sup>th</sup> District), Mr. Jordan was, prior to February 2022, a resident of Philadelphia County.
6. Mr. Jordan moved from Philadelphia County to Swarthmore, Delaware County, into a newly constructed house at 101 Oakdale Avenue.
7. The newly constructed home that Mr. Jordan was moving to was not completed and certified for occupancy until February 7, 2022. *See Exhibit A.*
8. Mr. Jordan did not move into the county, let alone the district, until after February 7, 2022.

## **Jordan Affidavit**

9. On or about March 28, 2022, Robert Jordan filed a nomination petition seeking the Republican nomination for State Representative from the 165<sup>th</sup> Legislative District.

10. In connection with the filing of the nomination petition, Candidate filed an Affidavit stating that he is eligible for the office of State Representative from the 165<sup>th</sup> Legislative District, but attempting to condition such statement. A copy of the affidavit is attached hereto as Exhibit B.

### **Constitutional Requirement of Residency**

11. The Pennsylvania Constitution sets forth the requirements of qualifications of members of the General Assembly in Article II, Section 5. Members of the General Assembly are, *inter alia*, required to “have been citizens and inhabitants of the State four years, and inhabitants of their respective districts one year next before their election (unless absent on the public business of the United States or of this State) and shall reside in their respective districts during their terms of service.” Pa. Const. Art II, § 5.

12. The Constitution does not condition the one-year requirement to exempt individuals who move within the Commonwealth. *See id.*

13. In fact, expressly the opposite is true, the one-year requirement specifically only applies to those who move within the Commonwealth as those who moved into the Commonwealth within a year would obviously run afoul of the four year requirement of Commonwealth residency. *See id.*

14. The case on which Mr. Jordan is apparently relying, based on the footnote to his affidavit, in fact rejected any attempt to suspend residency requirements arising out of an election. *See In re 1991 Pennsylvania Legislative Reapportionment Commission*, 530 Pa. 335, 352, 609 A.2d 132 (Pa.). As the Supreme Court said, its review of the decennial plan was “limited to those enumerated constitutional requirements in Section 16 of Article II of our Constitution. That Section does not include a requirement that all senatorial districts be redrawn in such a manner that incumbent senators remain residents of their redrawn districts.” *Id.* at 352-354.

15. The Pennsylvania Supreme Court considered the issue and disavowed a candidate’s property right in and to a district, instead looking to whether the District residents’ right to have a representative, consistent with the requirements of the Constitution, and not about a candidate’s right to run. *See id.* at 353-56. “There is no precedent in this state nor in the Federal Courts for a claim arising from the deprivation of an individual’s right to run for a particular office nor of a citizens’ right to vote for a specific individual.” *Id.* at 356.

16. The footnote cited by Mr. Jordan is entirely inapposite. The footnote addressed a claim by a then-sitting Senator that by moving “his” district across the state and changing the number of the district in which he lived, if he was not seated as a Senator, the district’s residents would be unrepresented for the last two years of a four-year term. *See id.* at 350, n.7.

17. While the Supreme Court in 1991 left unresolved a theoretical future claim by unrepresented citizens if the Senate refused to seat that Senator and refused to call a special election to replace him, the concern was about the people of a district being unrepresented, not the candidate's possessory right to an office. *See id.* at 350-56.

18. That situation is simply inapplicable to the situation faced in the 165<sup>th</sup>, where come December 1, 2022, every citizen of the district will be represented by whomever wins the General Election in November.

19. As the Supreme Court ruled in the last reapportionment, even interim concerns about redistricting and representation are simply inapplicable to State Representatives when new maps take effect at the beginning of a legislative term. *See e.g. Fagan v. Smith*, 41 A.2d 816 (Pa. 2012) (per curiam).

### **Statutorily Mandated Affidavit**

20. Candidates for office in Pennsylvania are required to complete an "affidavit" that contains certain information, including residence, election district, the office sought, that the person is eligible for such office, and a number of other elements. 25 P.S. § 2870.

21. The statute expressly and explicitly requires an affidavit and expressly requires, *inter alia*, that the candidate swear or affirm that he or she is eligible for the office sought. *Id.*

22. Mr. Jordan executed an affidavit on March 25, 2022, however, in that affidavit, he altered it to condition his statement of eligibility. See Exhibit A.

23. Specifically, on that affidavit, Mr. Jordan placed an asterisk next to the word eligible and referenced an irrelevant case, *In re 1991 Pennsylvania Legislative Reapportionment Commission*, 530 Pa. 355, 609 A.2d 132 (Pa.).

24. Section 2870 does not allow for a candidate to condition his statement of eligibility. It must be absolute.

25. To the extent that Mr. Jordan is asserting a different interpretation of residency, he may have a defense to a future charge of perjury – if and only if his position is a truthfully held *bona fide* belief instead of an attempt to intentionally misconstrue an unrelated matter. However, the possible perjury defense is irrelevant to his eligibility for this office in this electoral cycle.

26. Mr. Jordan is, and on March 25 was, intimately aware of the fact that his relocation to Delaware County (and thus the 165<sup>th</sup> District) came after November 8, 2021, and that he was thus ineligible for the office he desired to seek. That is evidenced by the fact that he affixed what he apparently believed to be a conditioning footnote to the affidavit.

27. Would-be candidates who file false affidavits must be removed from the ballot. *See* 25 P.S. § 2937; *Cianfrani*, 359 A.2d at 384; *In re Nom. Pet. of Driscoll*, 847 A.2d 44 (Pa. 2004); *In re Nom. Certificate of Ramirez* (Pa. Cmwlth. No. 44 M.D. 2017, filed February 23, 2017) (as cited in *Pa Democratic Party v. Pa. Dept. of State*, 159 A.3d 72 (Pa. Commw. 2017)).

WHEREFORE, Petitioners pray this Honorable Court to set aside the Nomination Petition and order that Robert Jordan not appear on the 2022 ballot for nomination in the 165<sup>th</sup> Legislative District.

**Greenberg Traurig, LLP**



Dated: April 4, 2022

Kevin Greenberg, Attorney Number 82311  
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*Attorneys for Petitioner-Objectors*

**Exhibit A**  
**Certificate of Occupancy**



**BUILDING PERMIT CERTIFICATE OF OCCUPANCY**

Property Owner: Cavalier Homes LLC

Applicant (if different from above): \_\_\_\_\_

Property Address: 101 Oakdale Avenue

Tax Folio #: 43 00 00115 00 Page and Parcel #: \_\_\_\_\_

Building Permit #: 3619

Applicable Construction Code(s) (including year): 2015

Use Group Classification: R-3

Type of Construction (ICC only): V-B

Building permit/Certificate of Occupancy issued for: new single home

Special Stipulations: \_\_\_\_\_

Sprinkler System?  Yes  No

The issuance of the Certificate of Use and Occupancy shall not prevent the Borough or any authorized representative from requiring the correction of any non-conforming or dangerous or other unsafe condition that is discovered after the issuance of this Certificate of Use and Occupancy.

Building Code Official:  00412

Construction Code Official(s): \_\_\_\_\_

Date of Final Inspection: 2,7,22

**Exhibit B**  
**Certificate False Affidavit**

<b>CANDIDATE'S AFFIDAVIT</b>	<b>PENNSYLVANIA DEPARTMENT OF STATE BUREAU OF ELECTIONS</b> 210 NORTH OFFICE BLDG. HARRISBURG, PA 17120	OFFICE USE ONLY 2022000735 
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Name: Jordan, Robert, \_\_\_\_\_  
Last Name First Name Middle Name or Initial Suffix

Residential Address: 101 Oakdale Avenue  
Street Address

City: Swarthmore State: PA Zip Code: 19081

Municipality (City, Boro, or Township): Swarthmore Borough Gender: F  M  NB

Mailing Address (if different from residential): \_\_\_\_\_  
Street Address

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Voting Precinct Name (including Ward & Division, if applicable): Swarthmore Borough, Northern Precinct

Office for which you are seeking nomination: REPRESENTATIVE IN THE GENERAL ASSEMBLY

District Number (if applicable): 165th Legislative District

Email address: \_\_\_\_\_

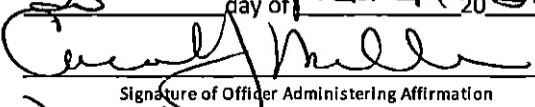
Name as it is to appear on the Ballot: Robert Jordan

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

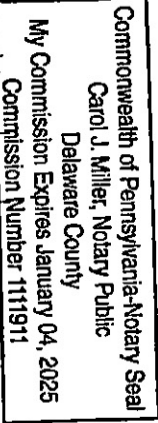
\* In Re: 1991 PA Legis Reapportionment 530 PA 335 (PA 1992) F7N7 7

I swear (or affirm) to the above part(s) as required by the law(s) applicable to the office I am seeking.

Sworn to and subscribed before me this

25 day of March 2022  
  
 Signature of Officer Administering Affirmation  
 \_\_\_\_\_  
 Official Title

My commission expires 1/4/25



Robert Jordan  
 Signature of Candidate  
(610) 220-5675  
 Telephone Number

DELAWARE  
 County of Residence

**VERIFICATION**

I, Fred Runge, hereby verify that the facts contained in the within Petition regarding the nomination petition of Robert Jordan are true and correct to the best of my knowledge or information and belief. I understand that the foregoing statement is made subject to the provisions of 18 Pa. C.S. § 4904 relation to unsworn falsification to authorities.

Signature: Fred Runge

Date: April 4, 2022