

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

*In re:* :  
**Nomination Petition of Justin V. Behrens** : **Election Matter**  
**as Republican Candidate for State** :  
**Representative from the 82<sup>nd</sup>** : **MD 2022**  
**Legislative District** :

**PETITION TO SET ASIDE NOMINATION PETITION**

Kathryn Jeziorski, 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. Kathryn Jeziorski is a registered Republican residing in the 82<sup>nd</sup> Legislative District at 267 Wiltree Court, State College, Pennsylvania.

3. On or about March 21, 2022, Justin Behrens filed a petition seeking the Republican nomination for State Representative from the 82<sup>nd</sup> Legislative District.

4. In connection with the filing of the nomination petition, Mr. Behrens filed an affidavit purporting to state that he is eligible for the office of State Representative from the 82<sup>nd</sup> Legislative District. A copy of the affidavit is attached as Exhibit A.

5. The 82<sup>nd</sup> District is located entirely in Centre County.

6. Mr. Behrens is currently registered to vote in Centre County at 558 Clarence Avenue in State College.

7. Objectors are uncertain if Mr. Behrens has, in fact, ever lived in Centre County or if he simply has a Centre County mailing and voter registration address.

8. Prior to moving to Centre County, if he truly has made such a move, Mr. Behrens was registered in Luzerne County, where he was, amongst other positions, chair of the Luzerne Republican Party.

9. Mr. Behrens resigned as the Chair of the Luzerne Republican Party on December 3, 2021.

10. Upon information and belief, Mr. Behrens continues to be employed in Luzerne County.

11. Upon information and belief, Mr. Behrens's family continues to reside in Luzerne County.

### **Behrens is Constitutionally Ineligible for this Office**

12. The Pennsylvania Constitution sets the requirements for the qualification of members of the General Assembly in Article II, Section 5.

13. Section 5 reads, in full:

Senators shall be at least 25 years of age and Representatives 21 years of age. They shall 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 term of service.

Pa. Const. art. 2, § 5. (emphasis added).

14. The 2022 general election will be held on November 8, 2022, so, thus, candidates for State Representative in the 2022 election are required to have lived in the district, as currently constituted after the decennial redistricting process, continually since November 8, 2021.

15. Mr. Behrens has not lived in what are the current boundaries of the 82<sup>nd</sup> District continually since November 8, 2021.

### **Behrens Files a False Affidavit**

16. 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. *See* 25 P.S. § 2870.

17. 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 such office. *Id.*

18. Mr. Behrens executed the Department of State's form affidavit on March 21, 2022, with information he provided to create the affidavit. See Exhibit A.

However, on March 21, Mr. Behrens knew the affidavit was false because Mr. Behrens was not a resident of the 82<sup>nd</sup> District, and not even a resident of Centre County by November 8, 2021.

19. Mr. Behrens was not ill-informed. He previously twice ran for State Representative from Luzerne County. Mr. Behrens was a very successful chair of the Luzerne County Republican Party and recruited numerous candidates for numerous offices during his tenure.

20. Mr. Behrens is, and on March 21 was, intimately aware with the qualifications for office, including the residency requirement.

21. Mr. Behrens is, and on March 21 was, intimately aware of the fact that his relocation to Centre County came after November 8, 2021, and that he was thus ineligible for the office he desired to seek.

22. In short, Mr. Behrens knew his purported affidavit was a lie.

23. Mr. Behrens knew that if he told the truth that his petition would be rejected by the Secretary of the Commonwealth and chose to deceive and ascribe the lie.

24. A knowingly false affidavit is not an affidavit at all. See *In re Nom. Pet. of Cianfrani*, 467 Pa. 491, 359 A.2d 383, 384 (1976).

25. Would-be candidates who knowingly 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 Justin Behrens not appear on the 2022 ballot for nomination in the 82<sup>nd</sup> Legislative District.

**Greenberg Traurig, LLP**



Dated: April 4, 2022

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*Attorneys for Petitioner-Objectors*

**Exhibit A**  
**Candidate's Purported Affidavit**

CANDIDATE'S AFFIDAVIT

PENNSYLVANIA DEPARTMENT OF STATE
BUREAU OF ELECTIONS
210 NORTH OFFICE BLDG.
HARRISBURG, PA 17120

OFFICE USE ONLY
2022000592



Name: Behrens, Justin V
Last Name First Name Middle Name or Initial Suffix

Residential Address: 558 Clarence Ave
Street Address

City: State College State: PA Zip Code: 16803

Municipality (City, Boro, or Township): State College Boro Gender: F M [X] NB

Mailing Address (if different from residential):
Street Address

City: State Zip Code:

Voting Precinct Name (including Ward & Division, if applicable): 16-State College N

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

District Number (if applicable): 82nd Legislative District

Email address: justin@behrensforcentrecounty.com

Name as it is to appear on the Ballot: Justin V Behrens

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.

Sworn to and subscribed before me this

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

21st day of March 2022

Sheila Reed Flickinger
Signature of Officer Administering Affirmation

Justin V Behrens
Signature of Candidate


Notary Seal
SHEILA REED FLICKINGER, Notary Public
Dauphin County
My Commission Expires May 31, 2023
Commission Number 1051340

814-780-8114
Telephone Number

CENTRE
County of Residence

**VERIFICATION**

I, Kathryn Jeziorski, hereby verify that the facts contained in the within  
Petition regarding the nomination petition of Justin Behrens 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:  \_\_\_\_\_

Date: April 3, 2022