

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In Re: The Nominating Petitions of :
Colette Leech as a Candidate for :
Republican State Committee :
 : No. 137 M.D. 2022
Objection of: Tonya Clark : Heard: April 5, 2022

BEFORE: HONORABLE MARY HANNAH LEAVITT, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY SENIOR JUDGE LEAVITT

FILED: April 8, 2022

Before the Court is Tonya Clark's (Objector) petition to set aside the nomination petitions of Colette Leech (Candidate) for the position of Republican State Committee member representing Bedford County. Candidate seeks to appear on the ballot in the primary election to be held on May 17, 2022. After hearing, the Court grants Objector's petition to set aside.

To appear on the primary election ballot as a candidate for member of state committee, Section 912.1(30) of the Pennsylvania Election Code (Election Code)¹ requires 100 valid signatures of registered electors who are members of the party whose nomination is sought. 25 P.S. §2872.1(30). On March 28, 2022, Candidate filed the nomination petitions with the Department of State consisting of 5 pages purporting to contain 107 signatures. On March 31, 2022, Objector filed the petition to set aside seeking to invalidate 26 of the 107 signatures for various reasons, including, but not limited to, that the signers were not registered to vote or registered as Republican voters.

¹ Act of June 3, 1937, P.L. 1333, added by the Act of December 12, 1984, P.L. 968, *as amended*.

On April 1, 2022, the Court entered a scheduling and case management order scheduling a hearing on the petition to set aside for April 5, 2022, at 9:30 a.m. The order also directed, *inter alia*, that the parties meet to review the challenged signature lines for purposes of filing a stipulation.

On April 5, 2022, the Court conducted the hearing on Objector's petition to set aside Candidate's nomination petitions. Objector and Candidate were not represented by legal counsel. Objector stated that she requested that Candidate meet with her on April 4, 2022, at 9:00 a.m., in front of the Director of Elections for Bedford County. Candidate did not appear at the meeting, and as such, the parties did not reach a stipulation.

Objector also stated at the hearing that she would withdraw 7 signature challenges, numbered as Page 2, Line 1; Page 2, Line 15; Page 4, Line 18; Page 5, Line 2; Page 5, Line 11; Page 5, Line 15; and Page 5, Line 29. After deducting these 7 signatures from Objector's original contested signatures, this leaves 19 signatures in dispute.

Objector asserted that among the 19 contested signatures, 8 of them were made by electors who were not registered to vote or registered as Republican voters. In support, Objector presented in-person testimony of Debra Brown, Director of Elections and Chief Clerk for Bedford County, and the screenshots printed from the Statewide Uniform Registry of Electors System (SURE System).² Brown testified that she accessed the SURE System and retrieved voter information, when possible, corresponding to the lines of the nomination petitions. She found, as a result, that the following signatures were not made by electors registered as

² As this Court has previously noted, "[t]he SURE system is the Statewide Uniform Registry of Electors, the statewide database of voter registration maintained by the Department of State and administered by each county." *In re Nomination Petition of Morrison–Wesley*, 946 A.2d 789, 792 n.4 (Pa. Cmwlth. 2008).

Republican voters: Page 1, Line 5; Page 1, Line 6; Page 2, Line 11; Page 3, Line 14; and Page 3, Line 15. *See* Objector Exhibits 2-6. Brown further testified that she was unable to locate the signers in the SURE System for the signatures numbered Page 4, Line 21; Page 4, Line 30; and Page 5, Line 30. This indicates that these signers were not registered to vote. Candidate stipulated at the hearing that these eight signatures are invalid.

Brown further testified that the signers for the following signatures did not use the address at which he or she is registered to vote: Page 1, Line 3; Page 4, Line 2; Page 4, Line 29; Page 5, Line 4; and Page 5, Line 8. Objector submitted the SURE System screenshots in support. *See* Objector Exhibits 11-15.

The Court is mindful that, even when a candidate or his legal counsel are not present, in considering challenges to signatures on nomination petitions, the Court is guided by the principle that "the Election Code [is to] be liberally construed so as not to deprive an individual of [the] right to run for office or the voters of their right to elect the candidate of their choice." *In re Nomination Petition of Wesley*, 640 A.2d 1247, 1249 (Pa. 1994); *Nomination Petition of Ross*, 190 A.2d 719, 720 (Pa. 1963). It is equally well-settled that a party alleging defects in a nomination petition has the burden of proving such. *In re Nomination Petition of Johnson*, 502 A.2d 142, 146 (Pa. 1985); *In re Nomination Petition of Wagner*, 516 A.2d 1276, 1277 (Pa. Cmwlth. 1986). In other words, there is a presumption that the signatures on a petition are valid. *In re Williams*, 625 A.2d 1279, 1281 (Pa. Cmwlth. 1993).

Here, Objector presented Brown's testimony and the screenshots from the SURE System to show that eight signatures on Candidate's nomination petitions were made by persons who were either not registered to vote or not registered as Republican voters, to which Candidate stipulated. The SURE System also identified that five signature lines on the nomination petitions contain an address different from

where the elector is registered. Sections 907 and 908 of the Election Code³ provide that in a primary election, only those persons registered to vote, enrolled in the political party of the candidate, and residing in the candidate’s district may lawfully sign his petition. 25 P.S. §§2867, 2868. Section 908 of the Election Code further requires that electors who sign nomination petitions “shall add his address where he is duly registered and enrolled[.]” 25 P.S. §2868. *See also In re Major*, 248 A.3d 445, 453-54 (Pa. 2021) (the registered address requirement imposed by Section 908 of the Election Code is plain and unambiguous). As such, the Court strikes these 13 signatures from the nomination petitions, thereby leaving Candidate with 94 valid signatures, which is less than the number required by statute to appear on the 2022 Republican Primary ballot.

Accordingly, for the reasons set forth above, the Court grants Objector’s petition to set aside Candidate’s nomination petitions.

s/Mary Hannah Leavitt
MARY HANNAH LEAVITT, President Judge Emerita

³ Section 907 of the Election Code provides, in part, that:

The names of candidates for nomination as President of the United States, and the names of all other candidates for party nominations, and for election as delegates, alternate delegates, members of committees and other party officers, shall be printed upon the official primary ballots or ballot labels of a designated party, upon the filing of separate nomination petitions in their behalf, in form prescribed by the Secretary of the Commonwealth, *signed by duly registered and enrolled members of such party who are qualified electors of the State, or of the political district, as the case may be, within which the nomination is to be made or election is to be held....*

25 P.S. §2867 (emphasis added).

Section 908 of the Election Code further states that “[e]ach signer of a nomination petition shall sign but one such petition for each office to be filled, *and shall declare therein that he is a registered and enrolled member of the party designated in such petition....*” 25 P.S. §2868 (emphasis added).

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ORDER

AND NOW, this 8th day of April, 2022, the Petition to Set Aside Nominating Petition of Colette Leech filed by Tonya Clark is GRANTED.

The Secretary of the Commonwealth is directed to REMOVE the name of Colette Leech as a Candidate for the Republican State Committee for the primary to be held on May 17, 2022.

The Prothonotary is directed to send a copy of this order to the Secretary of the Commonwealth.

Each party shall bear her own costs.

s/Mary Hannah Leavitt
MARY HANNAH LEAVITT, President Judge Emerita