

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

In Re: Nomination Petition of Tony :  
Moreno for the Republican :  
Nomination for Representative in :  
the General Assembly, 20th District :  
: No. 189 M.D. 2022  
Objections of: Thomas R. Slavicek : Heard: April 7, 2022  
and Thomas M. Hrynda :

**BEFORE: HONORABLE DAN PELLEGRINI, Senior Judge\***

***OPINION NOT REPORTED***

**MEMORANDUM OPINION**

**BY SENIOR JUDGE PELLEGRINI FILED: April 8, 2022**

Before this Court is a petition filed by Thomas R. Slavicek and Thomas M. Hrynda (Objectors) to set aside the nomination petition of Tony Moreno (Candidate) as a Republican candidate for State Representative in the 20th Legislative District. Candidate seeks to appear on the ballot in the primary election scheduled May 17, 2022 (2022 Republican Primary). Objectors contend that Candidate's nomination petitions lack the number of valid signatures required by law to appear on the 2022 Republican Primary because Candidate signed the "Statement of Circulator" for several pages of his nomination petition but had others circulate the pages. Objectors

---

\* Retired Senior Judge temporarily assigned to the Commonwealth Court.

also assert several line-by-line challenges of individual signatures. After review, this Court must set aside Candidate's petition.

To appear on the primary election ballot as a candidate for the office of Representative in the General Assembly, Section 912.1(14) of the Pennsylvania Election Code (Election Code)<sup>1</sup> requires 300 valid signatures of registered electors who are members of the party whose nomination is sought. Candidate filed a nomination petition with the Department of State consisting of 34 pages purportedly containing 419 signatures. In their petition to set aside, Objectors challenged 209 signatures in total, 131 of which were based on Candidate signing the "Statement of Circulator" for several pages of his petition even though he was not the person who circulated the pages. The remaining challenges asserted various reasons for individual signatures being invalid.

On April 7, 2022, the Court conducted a hearing on the petition to set aside Candidate's nomination petition. Candidate appeared at the hearing. Objectors

---

<sup>1</sup> Section 912.1(14) of the Act of June 3, 1937, P.L. 1333, added by the Act of December 12, 1984, P.L. 968, *as amended*, 25 P.S. § 2872.1(14). Section 912.104) of the Election Code provides, in pertinent part:

Candidates for the nomination of offices as listed below shall present a nominating petition containing at least as many valid signatures of registered and enrolled members of the proper party as listed below:

...

(14) Representative in the General Assembly: Three hundred.

presented in-person testimony from four witnesses. First, Objectors called Joan Boyko. She signed Page 11 of Candidate's petition, which contains 30 signatures of electors and has a "Statement of Circulator" signed by the Candidate. Ms. Boyko, however, testified that a woman in her 50s brought the petition to her door to sign, and that Candidate was not present when she signed.

Objectors next called Christopher Fromme. He testified that he circulated five pages with 30 signatures each for a total of 150 signatures. Objectors, however, showed Mr. Fromme Pages 1 and 4 (30 signatures each), both of which he circulated but Candidate signed as the circulator. When asked about the discrepancy, Mr. Fromme testified that he believed that he signed those pages but admitted that it was possible he did not and that Candidate did.

Objector's third witness was Paul Morack, Jr. Objectors showed him Page 31, which contains 8 signatures. He testified that he circulated Page 31 but Candidate signed the "Statement of Circulator," and that Candidate was merely "in the area" when Mr. Morack gathered the signatures for the page.

Objectors' fourth witness was Keith Hasek. Similar to Mr. Morack, Objectors showed him Page 29, which contains 8 signatures and has a "Statement of Circulator" signed by Candidate. Mr. Hasek testified that he got the signatures for Page 29 but did not sign the "Statement of Circulator" before dropping it off at Candidate's home. Finally, Objectors stated that they intended to call Darlene Guest

to testify telephonically that Page 23, which contains 10 signatures and has a “Statement of Circulator” signed by Candidate, was circulated by another person. While he would not stipulate that these signatures were invalid, Candidate stipulated that she would have testified that he was not the person who obtained her signature but that he was “available.”

After Objectors rested, Candidate testified in an effort to explain how the signatures were obtained for those pages in which he was listed as the circulator but did not obtain the signatures. Candidate conceded that he was not present for those signatures, but on some of the challenged pages, he was “available” or “a few blocks over” when the signatures were obtained by others. When asked by the Court whether he was perhaps at the next house or in eyesight, Candidate admitted that he was not.

As this Court has explained:

The Election Code also requires that each page of a nomination petition have an affidavit of a circulator who was present when the voters signed the page; if the individual who signed the circulator affidavit was not present when the signatures were gathered, those signatures are not valid. Section 909 of the Election Code. 25 P.S. § 2869; *In re Nomination Petition of Farnese (Farnese I)*, 609 Pa. 573, 17 A.3d 375, 377 (2011); *In re Nomination Petition of Flaherty*, 564 Pa. 671, 770 A.2d 327, 336–38 (2001), *overruled on other issue by In re Nomination Petition of Vodvarka (Vodvarka III)*, 636 Pa. 16, 140 A.3d 639 (2016); *In re Petition to Set Aside Nomination of Fitzpatrick*, 822 A.2d 867, 869 n.2 (Pa. Cmwlth. 2003).

*Morley v. Farnese*, 178 A.3d 910, 913 (Pa. Cmwlth. 2018).

Here, Objectors proved that Candidate was not present when the signatures for Pages 1, 4, 11, 23, 29 and 31 were obtained, even though he signed the “Statement of Circulator” for each one of those pages. Indeed, as Candidate and the witnesses admitted, Candidate did not obtain the signatures on those pages. While Candidate might have been “in the area,” he was not present when the signatures were obtained. As a result, this Court finds that the signatures on those pages, totaling 116 signatures, are stricken.

With those signatures stricken, Candidate would have 303 signatures left on the remaining pages that were stricken. At the hearing, Objectors began their line-by-line challenges to individual signatures. As the challenges progressed, Candidate conceded that enough of the individual signatures would be stricken for differing reasons, including crossed-out signatures, voters not being registered, voters not being registered as Republicans, or voters being registered in other districts, thus leaving Candidate with less than the 300 valid signatures required by statute to appear on the 2022 Republican Primary ballot.

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

  
DAN PELLEGRINI, Senior Judge

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

In Re: Nomination Petition of Tony :  
Moreno for the Republican :  
Nomination for Representative in :  
the General Assembly, 20th District :  
: No. 189 M.D. 2022  
Objections of: Thomas R. Slavicek :  
and Thomas M. Hrynda :

**ORDER**

AND NOW, this **8th** day of April 2022, upon consideration of the petition filed by Thomas R. Slavicek and Thomas M. Hrynda (Objectors) to set aside the nomination petition of Tony Moreno (Candidate) as a Republican candidate for State Representative in the 20th Legislative District, the Court, having concluded that Candidate does not have a sufficient number of valid signatures to appear on the 2022 Republican Primary ballot, orders:

1. The Petition to Set Aside the Nomination Petition of Tony Moreno as Republican candidate for State Representative in the 20th Legislative District is GRANTED.
2. The Secretary of the Commonwealth is directed to REMOVE the name of Tony Moreno as a Republican candidate for the office of State

Representative in the 20th Legislative District from the ballot for the Republican Primary to be held on May 17, 2022.

3. The Chief Clerk shall notify the parties hereto and their counsel of this order and also certify a copy hereof to the Secretary of the Commonwealth.

  
DAN PELLEGRINI, Senior Judge

**IN THE SUPREME COURT OF PENNSYLVANIA**

IN RE: TEMPORARY MODIFICATION : No. 571 Judicial Administration Docket  
OF THE RULES OF APPELLATE :  
PROCEDURE ARISING UNDER THE :  
PENNSYLVANIA ELECTION CODE :

**ORDER**

**PER CURIAM**

**AND NOW**, this 5<sup>th</sup> day of April, 2022, in order to expedite the appellate process regarding appeals from challenges to nomination petitions for **any and all** candidates running for office in the May 17, 2022 General Primary Election, Pa.R.A.P. 903(c)(1)(ii), providing for a ten-day appeal period from an order in any matter arising under the Pennsylvania Election Code, is **TEMPORARILY MODIFIED** to provide for a five-day appeal period.

Additionally, Pa.R.A.P. 107 is **TEMPORARILY SUSPENDED** to the extent it specifies that weekends and holidays are to be excluded from calculating the five-day appeal period.

In appeals arising under the Election Code that fall within this order, appellants shall file briefs within twenty-four hours after filing their notice of appeal and jurisdictional statement. Appellees' briefs are due within twenty-four hours of the filing of appellants' briefs. Further, Pa.R.A.P. 2113 (regarding reply briefs) is **TEMPORARILY SUSPENDED** in these matters; no reply briefs will be permitted.

Notices of appeal, jurisdictional statements, and briefs shall be filed electronically when counsel or the litigants have a PACFile account. Otherwise, counsel or the litigants shall contact the relevant filing office during normal business hours to make alternative arrangements to ensure that the filing office actually receives the submissions by the applicable deadline.

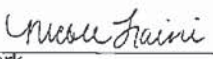


Pa.R.A.P. 1931(a) and (c) (regarding the deadline for transmittal of the record when complete) are **TEMPORARILY SUSPENDED** in these matters, and the record shall be transferred as soon as practicable. The lower court may transmit partially completed records in the interest of facilitating prompt resolution of any appeal in these matters.

Applications for reconsideration or reargument will not be entertained by this Court on election matters falling under this order.

Any court deciding a matter that arises under the Pennsylvania Election Code in relation to the May 17, 2022 General Primary Election shall append a copy of this order to its decision.

A True Copy Nicole Traini  
As Of 04/05/2022

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania