

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In re: Nomination Petition of :
Summer Lee, Candidate for the :
Democratic Nomination for :
Representative In Congress in the :
12th U.S. Congressional District of : No. 112 M.D. 2026
Pennsylvania, Primary Election to : Heard: March 25, 2026
be held May 19, 2026 :
:
:
Objection of: William Parker :

BEFORE: HONORABLE MICHAEL H. WOJCIK, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE WOJCIK

FILED: April 1, 2026

This memorandum opinion follows in support of the Court’s March 26, 2026 order denying the Petition to Set Aside the Nomination Petition of Summer Lee (Petition to Set Aside and Candidate, respectively) as a Democratic candidate for nomination to the office of Representative in the United States House of Representatives (House) for the 12th Congressional District (District) in the General Primary Election (Primary Election) to be held on May 19, 2026. *See* Commonwealth Court 3/26/26 Order (Wojcik, J.). The *pro se* Petition to Set Aside was filed by another candidate for that office, William Parker, who is a registered Democratic elector in the District (Objector). As indicated in that order, and as discussed *infra*, the Court determined that Candidate complied with the order filed by our President Judge in *Dean, et al. v. Schmidt* (Pa. Cmwlth., No. 42 M.D. 2026,

filed February 12, 2026) (2/12/26 M/O),¹ constraining this Court to deny Objectors’ Petition to Set Aside and to direct the Secretary of the Commonwealth to place Candidate’s name on the Primary Election ballot pursuant to the provisions of the Pennsylvania Election Code (Election Code).²

On or before March 10, 2026, Candidate filed a Nomination Petition with the Secretary of the Commonwealth (Secretary) to appear on the Primary Election ballot for that office. On March 17, 2026, Objector filed the instant Petition to Set Aside alleging that Candidate’s Nomination Petition is invalid because Candidate failed to state her residential address on the face of the Petition and in the

¹ As explained to Objector by the Court at the hearing on the Petition to Set Aside, and in the Candidate’s Memorandum of Law filed in response to the Petition to Set Aside, Candidate’s Affidavit and Nomination Petition complied with the President Judge’s 2/12/26 M/O. The 2/12/26 M/O expressly permitted Candidate to file both an unredacted and redacted Affidavit with her Nomination Petition with the Secretary, and prohibited the Secretary’s Office from posting, making available, or otherwise divulging the redacted Candidate’s residential address. *See id.* at 2; *see also* our Internal Operating Procedure (IOP) §321, 210 Pa. Code §69.321, which states:

Election law matters within the Court’s original jurisdiction (petitions for review in the nature of mandamus and objections to nomination petitions and papers) shall be under the direct supervision of the President Judge, the Prothonotary and the Chief Legal Counsel. The President Judge, to dispose of such cases, shall establish a special election Court schedule, assign Judges to hear cases or, when necessary, convene a special Court en banc or panel in accordance with Section 112(b).

² Act of June 3, 1937, P.L. 1333, 968, *as amended*, 25 P.S. §§2600-3591. Section 912.1(12) of the Election Code states: “Candidates for 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: . . . Representative in Congress: One thousand.” Added by the Act of December 12, 1984, P.L. 968, *as amended*, 25 P.S. §2872.1(12).

candidate's affidavit (Affidavit) attached thereto as required by Sections 907³ and 910 of the Election Code.⁴

On March 18, 2026, this Court entered a Scheduling and Case Management Order (CMO)⁵ scheduling a hearing on the Petition to Set Aside for

³ 25 P.S. §2867. Section 907 states, in relevant part:

The . . . the names of all . . . candidates for party nominations . . . 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 political district . . . within which the nomination is to be made or election is to be held.

⁴ 25 P.S. §2870. Section 910 states, in pertinent part:

Each candidate . . . for the office of United States . . . Representative in Congress, shall file with his nomination petition his affidavit stating--(a) his residence, with street and number, if any, and his post-office address In the case of a candidate for nomination as President of the United States, it shall not be necessary for such candidate to file the affidavit required in this section to be filed by candidates, but the post-office address of such candidate shall be stated in such nomination petition.

⁵ As this Court has observed:

The purpose of scheduling and case management orders in election cases is to facilitate the proceedings in an expeditious and timely manner due to the extreme time limitations placed on election matters. That is why objectors are ordered to immediately arrange to meet with the candidate or his/her representative to reach a stipulation as to the number of signatures that are challenged and/or valid. In short, time is of the essence in election matters. As such, the Court expects compliance.

In re Nomination Petition of Ford, 994 A.2d 9, 12 n.3 (Pa. Cmwlth. 2010) *overruled in part on other grounds by In re Nomination Petition of Gales*, 54 A.3d 855, 860-61 (Pa. 2012).

March 25, 2026, at 10:00 a.m., and imposing certain duties and obligations upon Objector and Candidate. Specifically, the CMO “directed Objector to secure the services of a court stenographer for the hearing,” and that the “[f]ailure of Objector to secure the services of a court stenographer may result in the dismissal of this matter.” CMO at 1.A.⁶ The CMO also directed that “Objector shall offer proof of timely service of the [Petition to Set Aside] on the Secretary of the Commonwealth.” *Id.* at 1.D. On March 25, 2026, Candidate’s counsel (Counsel) and Objector appeared for the hearing on the Petition to Set Aside.

We initially note that “in reviewing election issues, ‘we must consider the longstanding and overriding policy in our Commonwealth to protect the elective franchise,’ and that the Election Code must ‘be liberally construed to protect a candidate’s right to run for office and the voters’ right to elect the candidate of their choice.’” *In re Nomination Papers of James*, 944 A.2d 69, 72 (Pa. 2008) (citation omitted). The purpose of the Election Code is to protect, not defeat, a citizen’s vote. *Dayhoff v. Weaver*, 808 A.2d 1002, 1006 (Pa. Cmwlth. 2002).

However, “the policy of the liberal reading of the Election Code cannot be distorted to emasculate those requirements necessary to assure the probity of the process.” *In re Cianfrani*, 359 A.2d 383, 384 (Pa. 1976). The provisions of the Election Code relating to the form of nominating petitions and the accompanying

⁶ It is appropriate for this Court to take judicial notice of documents that are filed and entered in our docket and that of the Supreme Court. *See, e.g.*, Pa.R.E. 201(b)(2) (permitting courts to take judicial notice of facts that may be “determined from sources whose accuracy cannot reasonably be questioned”); *Moss v. Pennsylvania Board of Probation and Parole*, 194 A.3d 1130, 1137 n.11 (Pa. Cmwlth. 2018) (taking judicial notice of docket entries that were not part of the original record); *Miller v. Unemployment Compensation Board of Review*, 131 A.3d 110, 115 (Pa. Cmwlth. 2015) (taking judicial notice of the entries on a claimant’s criminal docket and the records contained therein); *Germantown Cab Co. v. Philadelphia Parking Authority*, 27 A.3d 280, 283 n.8 (Pa. Cmwlth. 2011) (taking judicial notice of the docket in a Supreme Court case involving a similar point of law).

affidavits are not mere technicalities but are necessary measures to prevent fraud and to preserve the integrity of the election process. *In re Nomination Petition of Farnese*, 17 A.3d 357, 372 (Pa. 2011). “It is not for us to legislate or by interpretation to add to legislation matters which the legislature saw fit not to include.” *Commonwealth ex rel. Fox v. Swing*, 186 A.2d 24, 27 (Pa. 1962).

Furthermore, “[a] party alleging defects in a nominating petition has the burden of proving such defects, as nomination petitions are presumed to be valid.” *In re Nomination Petition of Beyer*, 115 A.3d 835, 838 (Pa. 2015).⁷ This Court is “[e]ntrusted with the responsibility of protecting the Commonwealth’s compelling interest in preserving the integrity of the election process.” *In re Nomination Papers of Carlson*, 430 A.2d 1210, 1212 (Pa. Cmwlth.), *aff’d*, 430 A.2d 1155 (Pa. 1981). The Supreme Court may reverse our order concerning the validity of challenges to nomination petitions only if our findings of fact are not supported by substantial evidence, if we abused our discretion, or if we committed an error of law. *In re Nomination Petition of Beyer*, 115 A.3d at 838.

As a preliminary matter, it must be noted that Section 977 of the Election Code states, in relevant part: “A copy of said [objection] petition shall, within said [seven-day] period, be *served* on the officer or board with whom said nomination petition or paper was filed.” 25 P.S. §2937 (emphasis added). In addition, as this Court has observed:

⁷ See also Section 977 of the Election Code, which states, in relevant part: “All nomination petitions . . . received and filed within the periods limited by this act shall be deemed to be valid, unless, within seven days after the last day for filing said nomination petition . . . , a petition is presented to the court specifically setting forth the objections thereto, and praying that the said petition . . . be set aside.” 25 P.S. §2937; see also *id.* (“The office of the Prothonotary of the Commonwealth Court and the office of the Secretary of the Commonwealth . . . *shall be open* between the hours of eight-thirty o’clock A.M. and five o’clock P.M. . . . on the last day to file objections to nomination petitions.”) (emphasis added).

The Court recognizes that Objector bears the burden of proving proper service on the Secretary, and such evidence is to be presented at the beginning of the hearing on an objection petition.^{FN9}

^{FN9} Acceptable evidence includes sworn affidavits or certificates affirming service on the Secretary or a copy of the front or cover page of an objection petition that bears a time stamp from the Secretary. *In re Jabbour*, [944 A.2d 78, 79 (Pa.) 2008] (per curiam).

In re Broadhurst, 312 A.3d 410, 417-18 (Pa. Cmwlth. 2024).⁸

In the Petition to Set Aside herein, Objector appended a Proof of Service dated March 14, 2026, in which it is stated that service on the Secretary of the Commonwealth was accomplished via First-class mail. When the Court asked Objector to produce evidence of service on the Secretary at the hearing on the Petition to Set Aside, Objector proffered proof indicating that the Petition to Set Aside was, in fact, sent to the Secretary on that date.

However, as the Pennsylvania Supreme Court has explained:

The requirement that the official with whom the nomination petition was filed receive timely notice that a petition to set aside has been filed is not just excess statutory verbiage. Service of a petition to set aside a nomination petition upon the officer or board with whom a nomination petition has been filed within the time limit prescribed by [S]ection 977 of the Election Code is mandatory. Clearly, when the Legislature amended [S]ection 977 of the Election Code in 1974, to include the final sentence which prescribes the office hours for the Secretary of the Commonwealth on “the last day to file objections to nomination petitions,” 25 P.S. §2937, it did so to ensure that the Secretary would *receive* a copy of the petition to set aside *within* the time limits set forth in that section.^{FN4}

⁸ See Pa.R.A.P. 126(c)(1) (“A reported single-judge opinion in an election law matter filed after October 1, 2013, may be cited as binding precedent only in an election law matter.”).

FN4 “Service” is defined as the *exhibition or delivery* of a legal document “to a person who is thereby officially notified of some action or proceeding in which he is concerned, and is thereby advised or warned of some action or step which he is commanded to take or to forbear.” BLACK’S LAW DICTIONARY (5th Ed.) (emphasis added). It is *when* the document is delivered that it is said to have been served. *Id.*

Petition of Acosta, 578 A.2d 407, 409 (Pa. 1990) (emphasis in original).

We recently examined the application of this binding precedent, stating:

In *Petition of Acosta*, the objector served the Secretary by U.S. Mail. This Court determined that “service by mail is not precluded by the Election Code,” and, based on Pennsylvania Rule of Civil Procedure 440(b), Pa.R.Civ.P. 440(b), found proper service when the objection petition was placed in the mail on the last day to file objection petitions. ***While the Supreme Court agreed that service by mail was not precluded by the Election Code, it disagreed that service was complete when the objection petition was put in the mail, but stated it was complete only upon receipt.*** *Petition of Acosta*, 578 A.2d at 409. This was because the Supreme Court “held that the Pennsylvania Rules of Civil Procedure do not apply to a challenge to a nomination petition or paper in light of the **overriding consideration** embodied in [S]ection 977 of the Election Code, *i.e.*[,] the **expeditious consideration and resolution** of challenges to nomination petitions.” *Id.* at 409 (emphasis added). Because service on the Secretary is mandatory, and the objections were not received within the time limits, this Court’s decision in *Petition of Acosta* was reversed.

In re Broadhurst, 312 A.3d 410, 417-18 (Pa. Cmwlth. 2024) (emphasis added);⁹ *see also Walsh v. Tucker*, 312 A.2d 11, 12 (Pa. 1973) (“Filing requires more than proper mailing.”); *In re Henigan* (Pa. Cmwlth., Nos. 280 C.D. 2023, 281 C.D. 2023, filed

⁹ See Pa.R.A.P. 126(c)(1) (“A reported single-judge opinion in an election law matter filed after October 1, 2013, may be cited as binding precedent only in an election law matter.”).

April 7, 2023), *appeal denied*, 297 A.3d 397 (Pa. 2023), slip op. at 15¹⁰ (“[I]t is clear that the trial court erred in applying the “mailbox rule” to the filing requirements of Section 1104(b)(2) of the Ethics Act[, 65 Pa. C.S. §1104(b)(2)]. Rather, that mandatory provision, . . . requires the direct submission of the [Statement of Financial Interest] to the designated county official within the prescribed time period.”). Thus, where, as here, the only evidence presented is of the Petition to Set Aside’s *mailing*, and absolutely no record evidence of the Secretary’s *receipt* of the Petition to Set Aside within the mandatory seven-day period, we are unable to consider or dispose of the instant Petition to Set Aside.¹¹

Nevertheless, for the sake of judicial economy should Objector seek further appellate review, we will address the objection raised in the Petition to Set Aside. As outlined above, Section 910 of the Election Code required Candidate to provide, *inter alia*, that “[e]ach candidate . . . for the office of United States . . . Representative in Congress, shall file with his nomination petition his affidavit stating--(a) his residence, with street and number, if any, and his post-office address” 25 P.S. §2870. In this case, Objector contends that Candidate’s failure to list her residential address in the Candidate’s Affidavit compels this Court to remove her name from the Primary Election ballot.

¹⁰ See Pa.R.A.P. 126(b)(1)-(2) (“As used in this rule, ‘non-precedential decision’ refers to . . . an unreported memorandum opinion of the Commonwealth Court filed after January 15, 2008. Non-precedential decisions . . . may be cited for their persuasive value.”).

¹¹ See, e.g., *In re Boyd*, 41 A.3d 920, 924 (Pa. Cmwlth. 2012) (“[O]ur Supreme Court’s holding in *In re Lee*[, 578 A.2d 1277 (Pa. 1990),] controls and we cannot consider the Objection Petition. Further, because the Election Code provides that ‘[a]ll nomination petitions and papers received and filed within the periods limited by this act shall be deemed to be valid,’ 25 P.S. §2937, we find that the [c]andidate has submitted a sufficient number of valid signatures required for certification and that [he] may appear on the ballot as a candidate for State Representative. . . .”).

However, not all mistakes or omissions in a Candidate's Affidavit are fatal and require removal from the ballot. Indeed, as the Pennsylvania Supreme Court explained long ago:

In all the troubles and controversies which entangle citizens in legal complications, there is one golden thread running through the entire intricate skein, no matter how knotted, meshed and intertwined the strands may be-and that is intent. Whether it be in criminal law, contractual law and occasionally even in torts, the intent of the actor is the touchstone of evaluation of his act. And in the sphere of popular elections which, after all, constitute the very warp and woof of democracy, nothing can be more vital in the accomplishment of an honest and just election than the ascertainment of the intention of the voter.

“Election laws will be strictly enforced to prevent fraud, but ordinarily will be construed liberally in favor of the right to vote. All statutes tending to limit the citizen in his exercise of the right of suffrage should be liberally construed in his favor. Where the elective franchise is regulated by statute, the regulation should, when and where possible, be so construed as to insure rather than defeat the exercise of the right of suffrage. Technicalities should not be used to make the right of the voter insecure. No construction of a statute should be indulged that would disfranchise any voter if the law is reasonably susceptible of any other meaning.”

Appeal of James, 105 A.2d 64, 65-66 (Pa. 1954) (citation omitted and emphasis added); see also *In re Nomination Petition of Driscoll*, 847 A.2d 44, 50-51 (Pa. 2004) (“[W]e held in [*State Ethics Commission v. Baldwin*, 445 A.2d 1208, 1211 (Pa. 1982),] that although three candidates had stated that they had filed financial interest statements in their affidavits when in fact the statements had not been filed, such an

error was amendable because the candidates did not intend to deceive the electorate when they completed their affidavits. Accordingly, pursuant to *Baldwin*, before an affidavit may be declared void and invalid because it contains false information, there must be evidence that the candidate knowingly falsified the affidavit with an intent to deceive the electorate.”) (citation and footnotes omitted); *Petition of Ciappa*, 626 A.2d 146, 149 (Pa. 1993) (“The power to vitiate a ballot for minor irregularities should be used sparingly. It should be done only for very compelling reasons. *Norwood Election Contest Case*, [116 A.2d 552 (Pa.) 1955].”).

Quite importantly, in this case, Candidate’s failure to provide this information in the Affidavit did not deprive the signatory electors on the Nomination Petition of the opportunity to independently assess her qualifications to hold the office of Representative in the House. Indeed, as noted by our President Judge:

The only qualification to run for United States Representative, besides being at least 25 years old and a United States citizen, is to, “when elected, be an Inhabitant of that State in which he shall be chosen,” U.S. CONST. art. 1, §2, cl. 2. Under these circumstances, the public’s interest in disclosure of [Candidate’s] complete residential address is outweighed when balanced against [Candidate’s] constitutional right to informational privacy under article I, section 1 of the Pennsylvania Constitution, PA. CONST. art. I, §1. *See P[ennsylvania] State Educ[at]ional Ass[ociation] v. Dep[artment] of C[ommunity] and Econ[omic] Dev[elopment]*, 148 A.3d 142, 158 (Pa. 2016) (“The right to informational privacy is guaranteed by [a]rticle 1, [s]ection 1 of the Pennsylvania Constitution, and may not be violated unless outweighed by a public interest favoring disclosure.”). Accordingly, the [Unopposed Petition for Review] is **GRANTED**.

As there is no statutory or regulatory requirement that the residential address be listed on nomination petitions, [Candidate is] permitted to list a campaign mailing address, including a post office box, instead of

[her] residential address[] on [her] nomination petitions, and [the Secretary] shall not reject [Candidate's] nomination petitions on this basis.

2/12/26 M/O at 1-2. Stated simply, Candidate's omission on her Affidavit does not implicate her ability to run for that office, or relate in any manner to fraud, and does not compel this Court to remove her as a candidate for that office from the ballot.¹² Because Candidate filled out the required paperwork pursuant to the President Judge's 2/12/26 M/O, and because the evidence failed to establish Candidate's requisite intent to deceive, Objector has failed to sustain his burden of proof and

¹² Moreover, when prompted at the hearing on the Petition to Set aside, Objector could not cite any relevant authority to the Court that would absolve this single judge from following the mandates of our President Judge's 2/12/26 M/O. Indeed, as the Pennsylvania Supreme Court has explained:

[T]h[e] coordinate jurisdiction rule falls squarely within the ambit of a generalized expression of the "law of the case" doctrine. This doctrine refers to a family of rules which embody the concept that a court involved in the later phases of a litigated matter should not reopen questions decided by another judge of that same court or by a higher court in the earlier phases of the matter. *See* 21 C.J.S. *Courts* §149a; 5 Am.Jur.2d *Appeal and Error* §744. Among the related but distinct rules which make up the law of the case doctrine are that: (1) upon remand for further proceedings, a trial court may not alter the resolution of a legal question previously decided by the appellate court in the matter; (2) upon a second appeal, an appellate court may not alter the resolution of a legal question previously decided by the same appellate court; and (3) upon transfer of a matter between trial judges of coordinate jurisdiction, the transferee trial court may not alter the resolution of a legal question previously decided by the transferor trial court. *See* Joan Steinman, *Law of the Case: A Judicial Puzzle in Consolidated and Transferred Cases and in Multidistrict Litigation*, 135 U.Pa. L.Rev. 595, 602 (1987) (citing A. Vestal, *Law of the Case: Single-Suit Preclusion*, 12 Utah L.Rev. 1, 1-4 (1967))[.]

Commonwealth v. Starr, 664 A.2d 1326, 1331 (Pa. 1995). Thus, the President Judge's 2/12/26 M/O may not be collaterally invalidated by this single judge in the instant related proceedings.

Candidate's Nomination Petition has the requisite number of valid signature lines. Accordingly, the Court was constrained to deny Objector's Petition to Set Aside in our prior order in this matter.

Michael H. Wojcik

MICHAEL H. WOJCIK, Judge