

Appendix

[J-34-2024]
IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

IN RE: NOMINATION PETITION OF	:	No. 9 WAP 2024
WILLIAM ANDERSON AS DEMOCRATIC	:	
CANDIDATE FOR THE 24TH	:	Appeal from The Order of the
LEGISLATIVE DISTRICT OBJECTION OF:	:	Commonwealth Court entered March
L'OREAL SNELL, AMANDA GREEN-	:	4, 2024 at No. 95 MD 2024.
HAWKINS AND ERIN WISE	:	
	:	SUBMITTED: March 19, 2024
	:	
APPEAL OF: WILLIAM ANDERSON	:	

ORDER

PER CURIAM

AND NOW, this 22nd day of March, 2024, the order of the Commonwealth Court is
AFFIRMED.

Chief Justice Todd and Justice Wecht did not participate in the consideration or
decision of this matter.

Judgment Entered 03/22/2024


DEPUTY PROTHONOTARY

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In re: Nomination Petition of	:	
William Anderson	:	
As Democratic Candidate	:	
for the 24th Legislative District	:	No. 95 M.D. 2024
	:	Heard: March 1, 2024
Objection of: L'Oreal Snell,	:	
Amanda Green-Hawkins and	:	
Erin Wise	:	

BEFORE: HONORABLE MICHAEL H. WOJCIK, Judge

MEMORANDUM and ORDER

Presently before the Court is the Petition to Set Aside the Nomination Petition of William Anderson (Objection Petition and Candidate, respectively), as a Democratic candidate for nomination to the office of Representative in the Pennsylvania General Assembly for the 24th Legislative District in the General Primary Election to be held on April 23, 2024 (Primary Election). On February 20, 2024, L'Oreal Snell, Amanda Green-Hawkins, and Erin Wise (Objectors) filed the Objection Petition in this Court.

Pursuant to Section 912.1(14) of the Pennsylvania Election Code (Election Code),¹ a candidate for the office of Representative in the Pennsylvania General Assembly must present at least 300 valid signatures of registered and

¹ Act of June 3, 1937, P.L. 1333, *as amended*, added by the Act of December 12, 1984, P.L. 968, 25 P.S. §2872.1(14). Section 912.1(14) 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 the General Assembly: Three hundred."

enrolled electors of the candidate's political party in the relevant district. On or before February 13, 2024, Candidate filed a Nomination Petition with the Secretary of the Commonwealth to appear on the Primary Election ballot for that office consisting of 28 pages containing a total of 598 signature lines of presumably qualified electors.

As indicated, on February 20, 2024, Objectors filed the Objection Petition in this Court alleging, *inter alia*, that the Nomination Petition contains fewer than the required 300 signatures, contesting the validity of 422 signatures appearing therein. Specifically, in relevant part, Objectors first assert that 184 of the signature lines are invalid based on a faulty Statement of Circulator because they “were obtained by a circulator who could not legally circulate petitions in this [P]rimary [E]lection.” Objection Petition² ¶5.³ In addition, Objectors also claim that 157 of

² It is appropriate for this Court to take judicial notice of documents that are filed and entered in our docket. *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).

³ Section 909(a) of the Election Code states, in pertinent part:

Each sheet [of a nomination petition] shall have appended thereto the statement of the circulator of each sheet, setting forth, subject to the penalties of [Section 4904 of the Crimes Code,] 18 Pa. C.S. §4904 (relating to unsworn falsification to authorities)[,] . . . that he or she is a qualified elector of the Commonwealth, who is duly registered and enrolled as a member of the party designated in said petition, unless said petition relates to the nomination of a candidate for a court of common pleas, for the Philadelphia Municipal Court

(Footnote continued on next page...)

the signatures on the Nomination Petition are those of individuals who are either: (1) not registered to vote; (2) not registered to vote as a member of the Democratic Party;⁴ (3) registered as a member of the Democratic Party, but not at the address provided on the Nomination Petition;⁵ or (4) are not registered to vote as a member of the Democratic Party in the 24th Legislative District.⁶ Finally, Objectors claim

or for justice of the peace, in which event the circulator need not be a duly registered and enrolled member of the designated party

25 P.S. §2869(a). Thus, “[i]n short, the circulator must be a member of the party designated in the [nomination] petition, unless the petition concerns the nomination of a candidate for common pleas judge, Philadelphia Municipal Court, or justice of the peace.” *In re Nomination Petition of Wheeler*, 293 A.3d 744, 748 (Pa. Cmwlth. 2023).

⁴ Section 907 of the Election Code states, in relevant part, that a candidate’s nomination petition “shall be . . . 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” 25 P.S. §2867. In addition, Section 908 of the Election Code states, in pertinent part: “Each signer of a nomination petition . . . shall declare therein that he is a registered and enrolled member of the party designated in such petition” 25 P.S. §2868. As a result, the signatures of electors who are not registered and enrolled members of the Democratic Party appearing on Candidate’s Nomination Petition are invalid and will be stricken. *In re Nomination Petition of Morrison-Wesley*, 946 A.2d 789, 795-96 (Pa. Cmwlth.), *aff’d*, 944 A.2d 78 (Pa. 2008); *Petition of Thompson*, 516 A.2d 1278, 1280 (Pa. Cmwlth. 1984).

⁵ Section 908 of the Election Code also states, in relevant part: “Each signer of a nomination petition . . . shall add his address where he is duly registered and enrolled, giving city, borough or township with street and number, if any” 25 P.S. §2868. The Supreme Court has recently stated: “We now hold the [Election Code] as amended plainly and unambiguously requires the signer to use the address where he or she is duly registered and enrolled, on pain of disqualification of the signature.” *In re Nomination Petitions of Major*, 248 A.3d 445, 454 (Pa. 2021).

⁶ Section 907 of the Election Code states, in relevant part:

The names . . . of all other 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

(Footnote continued on next page...)

that a number of signature lines are invalid because required information on the signature line was omitted by the elector at the time of signing the Nomination Petition, and a portion of the required information on the signature line is in the handwriting of another.⁷

On February 22, 2024, this Court entered an Amended Scheduling and Case Management Order (CMO) scheduling a hearing on the Objection Petition for March 1, 2024, at 9:30 a.m., and imposing certain duties and obligations upon

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

25 P.S. §2867. In addition, Section 908 of the Election Code states, in pertinent part: “Each signer of a nomination petition . . . shall also declare therein that he is a qualified elector . . . of the political district therein named, in which the nomination is to be made” 25 P.S. §2868. As a result, the signatures of individuals who do not reside in the 24th Legislative District appearing on Candidate’s Nomination Petition are invalid and will be stricken. *In re Nomination Petition of Morrison-Wesley*, 946 A.2d at 795-96; *Petition of Thompson*, 516 A.2d at 1280.

⁷ See Section 908 of the Election Code, 25 P.S. §2868 (“He shall add his address where he is duly registered and enrolled, giving city, borough or township, with street and number, if any, and shall legibly print his name and add the date of signing, expressed in words or numbers[.]”); *In re Nomination Petition of Morrison-Wesley*, 946 A.2d at 794 (“[S]ection 908 of the Election Code directs that an elector must sign himself, be a member of the designated party, live in the appropriate district named on the petition, provide his address and date his signature. 25 P.S. §2868. Each item must be personally written by the elector.”) (footnote omitted); *id.* at 796 (“Where a court finds that signatures are not genuine because they are [all] in the same handwriting, the signatures will be stricken.”) (citation omitted); *see also In re Nomination Petition of Silcox*, 674 A.2d 224, 225 (Pa. 1996) (“[W]e hold that [S]ection 908 of the [Election Code] requires the elector who signs the nomination petition to add his occupation, residence, and date of signing. The Commonwealth Court therefore correctly invalidated the fifty signatures on page four because the occupation, residence and date of signing were added by someone other than the elector.”).

Objectors and Candidate.⁸ Specifically, therein: (1) Objectors were ordered to secure the services of a court stenographer and a Statewide Uniform Registry of

⁸ Section 977 of the Election Code provides a very restrictive time schedule stating, in relevant part:

All nomination petitions and papers 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 or paper, a petition is presented to the court specifically setting forth the objections thereto, and praying that the said petition or paper be set aside. A copy of said petition shall, within said period, be served on the officer or board with whom said nomination petition or paper was filed. Upon the presentation of such a petition, the court shall make an order fixing a time for hearing which shall not be later than ten days after the last day for filing said nomination petition or paper, and specifying the time and manner of notice that shall be given to the candidate or candidates named in the nomination petition or paper sought to be set aside. On the day fixed for said hearing, the court shall proceed without delay to hear said objections, and shall give such hearing precedence over other business before it, and shall finally determine said matter not later than fifteen (15) days after the last day for filing said nomination petitions or papers.

25 P.S. §2937. Accordingly, we have observed:

The purpose of [CMOs] 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 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).

To this end, Paragraph 1(C) of our February 21, 2024 CMO in this matter provides:

(Footnote continued on next page...)

C. Service of the Objection Petition on Candidate and this [CMO] on all parties is complete upon the posting of the Objection Petition and this [CMO] on the Court's website in accordance with this Notice and Order in *In re: Objections to Nomination Petitions/Papers of Candidates for Statewide and State-Level Office* (Pa. Cmwlth., No. 126 Misc. Dkt. No. 3, [filed] July 19, 2023) [(Posting Order)].

In turn, our July 19, 2023 Posting Order at 2-3, states:

THE POSTING OF AN OBJECTION PETITION ON THE WEBPAGE SHALL CONSTITUTE SERVICE ON THE CANDIDATE WHOSE NOMINATION PETITIONS[] HAVE BEEN CHALLENGED. ALL CANDIDATES ARE UNDER A CONTINUING OBLIGATION TO CHECK THE WEBPAGE TO DETERMINE IF AN OBJECTION PETITION HAS BEEN FILED TO THEIR NOMINATION PETITIONS[].

Furthermore, upon the filing of an objection petition, the Court will issue a [CMO]. The Court will post the [CMO] on the same webpage as the objection petition.

THE POSTING OF A [CMO] ON THE WEBPAGE SHALL CONSTITUTE SERVICE OF THE [CMO] ON THE OBJECTOR AND THE CANDIDATE. ALL PARTIES ARE UNDER A CONTINUING OBLIGATION TO CHECK THE WEBPAGE TO DETERMINE IF A [CMO] HAS BEEN ISSUED WITH RESPECT TO ANY OBJECTION PETITION....

(Emphasis in original and footnote omitted.) The authority of this Court to issue the foregoing orders is not questioned. Indeed, as we have recognized: “Under Section 977 of the [Election Code], th[is C]ourt ‘has complete control to regulate the time and manner of giving notice and the fixing of hearings.’” *In re Blount*, 898 A.2d 1181, 1184 (Pa. Cmwlth.), *aff’d*, 895 A.2d 545 (Pa. 2006) (quoting *In re Morgan*, 428 A.2d 1055, 1058 (Pa. Cmwlth. 1981)).

Electors (SURE) System⁹ operator for the hearing; (2) Objectors were ordered to immediately arrange to meet with Candidate or his representative and, if appropriate, with a SURE System operator, to review before the hearing each and every challenged signature; (3) Objectors and Candidate were ordered to file a Stipulation of the Parties identifying the total number of signature lines, the total number of uncontested signature lines, the total number of signature lines challenged, each and every signature line challenged by page number and line number, and each and every signature to be stricken off as invalid or for which an objection is to be withdrawn; (4) Objectors and Candidate were permitted to file a memorandum of law in support of their respective positions; (5) the parties were ordered that they shall make a good faith effort to file all of the foregoing items no later than 48 hours in advance of the March 1, 2024 hearing; and (6) the parties were warned that the failure to comply with any provision of the order may preclude the noncompliant party from entering any evidence at the hearing and may result in the imposition of monetary sanctions.¹⁰

With regard to the signature challenges, Objectors secured the services of an operator of the SURE System who is employed by the Allegheny County Bureau of Elections. At the March 1, 2024 hearing, the SURE System operator

⁹ As this Court has previously explained, “[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 at 792-93 n.4.

¹⁰ Specifically, Section 977 of the Election Code also states, in relevant part: “In case any such petition is dismissed, the court shall make such order as to the payment of the costs of the proceedings, including witness fees, as it shall deem just.” 25 P.S. §2937. However, Section 977 does not authorize the award of attorney fees. *In re Nomination Paper of Rogers*, 942 A.2d 915, 927-28 (Pa. Cmwlth.), *aff’d*, 959 A.2d 903 (Pa. 2008). Rather, “[p]ursuant to Section 2503(7) of the Judicial Code, a party may be awarded counsel fees as a sanction against another party for dilatory, obdurate, or vexatious conduct during the pendency of a[n election] matter. 42 Pa. C.S. §2503(7).” *Id.* at 928.

accessed the SURE System and retrieved voter information, when possible, corresponding to the signature lines of the Nomination Petition.

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 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).

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 Beyer*, 115 A.3d 835, 838 (Pa. 2015). 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 Beyer*, 115 A.3d at 838.

As noted above, the validity of the challenged signatures to meet the threshold number of 300 signatures required by Section 912.1(14) of the Election Code are at issue in this case. Initially, we note that, at the March 1, 2024 hearing

on the Objection Petition,¹¹ Candidate stipulated that the following 11 signature lines are invalid:

¹¹ As a preliminary matter, we note that Candidate filed a Motion to Dismiss (Motion) the Objection Petition on the morning of the March 1, 2024 hearing. In the Motion, Candidate claimed that the Objection Petition should be dismissed because: (1) the copy of the Objection Petition sent by Objectors to Candidate as a courtesy did not contain the Nomination Petition as an exhibit; (2) Objectors' verifications were not directly attached to the Objection Petition; and (3) Objectors and Objectors' counsel did not participate at the pre-hearing meeting as directed by our CMO. As outlined above, we could have dismissed the Motion out-of-hand because it was not properly before us based on our directions in the CMO. Nevertheless, out of an abundance of caution, we permitted Candidate to argue the merits of the Motion.

First, Objectors' failure to attach the Nomination Petition as an exhibit to the copy of the Objection Petition sent to Candidate, or the failure to directly attach the verifications to the Objection Petition, are not bases upon which we should invalidate the Objection Petition. *See, e.g., In re Nomination Petition of Johnson*, 502 A.2d 142, 145 (Pa. 1985) ("To encumber the election process with 'niceties in form' by incorporating the rules of civil procedure by judicial interpretation would frustrate the carefully designed time frame established under the [Election] Code for the expeditious disposition of these objections. . . . Therefore, we concluded that an untimely verification was an improper ground for dismissal of the [o]bjectors' petition since a verification was not required."); *Appeal of Beynon*, 88 A.2d 789, 792 (Pa. 1952) ("A petition challenging [a candidate's] qualification need not be drafted with the nicety required of a formal pleading in an action at law. If it is timely filed and alleges a *prima facie* case, the court should, in the public interest, undertake its consideration.") (footnote omitted). In addition, as outlined above, per our July 19, 2023 Posting Order, the posting of the Objection Petition on our website constitutes perfected service of the Objection Petition on Candidate, and that "[u]nder Section 977 of the [Election Code], th[is C]ourt 'has complete control to regulate the time and manner of giving notice'" *In re Blount*, 898 A.2d at 1184.

Moreover, at the March 1, 2024 hearing, Objectors' counsel explained that he sent an agent to act in his stead at the pre-hearing meeting because he was occupied with other matters in Philadelphia at that time. It is clear that Objectors were not required to appear or participate in the proceedings on the Objection Petition either before or at the hearing on the objections. *See, e.g., In the Matter of Nomination Petition of Samms*, 674 A.2d 240, 242 (Pa. 1996) ("Dismissal was sought on the ground that [the objector] was not present at the hearing. The motion was denied on the basis that [the objector] was not required to attend, given that he made an appearance through counsel of record. [The objector's] registration and residence within the [relevant] district were not contested; hence, there was no need for him to testify as to those matters. . . . In short, there

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- Page 23, Line 5

was no requirement for [the objector] to be present.”). Accordingly, we properly denied Candidate’s untimely Motion to Dismiss.

Finally, at the March 1, 2024 hearing, Candidate interposed an oral motion to dismiss the Objection Petition on the basis that the SURE System does not comply with the relevant provisions of federal and state law in updating the electors’ information. Again, the untimely oral motion could have been denied out-of-hand; however, we permitted Candidate to call David Voye, Division Manager of the Allegheny County Elections Division (Division Manager), to testify regarding the accuracy of the information in the SURE System. This Court, acting as “[t]he trier of fact, while passing upon the credibility of witnesses and the weight to be afforded the evidence produced, is free to believe all, part or none of the evidence.” *Commonwealth v. Harper*, 403 A.2d 536, 539 (Pa. 1979). In addition, “[i]t is within the purview of the fact finder to draw all reasonable inferences from the evidence presented[.]” *Ellis v. City of Pittsburgh*, 703 A.2d 593, 594 (Pa. Cmwlth. 1997). We find as credible and persuasive the Division Manager’s testimony that: Allegheny County processed over 16,000 changes through Electronic Registration Information Center (ERIC) in the last year; Allegheny County is following all relevant state and federal law in maintaining the SURE System; and the information contained in the SURE System is “as accurate as possible.” We also note that Candidate failed to present any testimony contradicting the Division Manager’s testimony, or that supports his bald assertion that the SURE System is inaccurate or not in compliance with federal and state law. Accordingly, we properly denied Candidate’s oral motion to dismiss based on the lack of evidence supporting his bald assertion regarding the SURE System’s accuracy. *See, e.g., In re Appeal of Smith*, 231 A.3d 59, 67 (Pa. Cmwlth.), *appeal denied*, 242 A.3d 1248 (Pa. 2020) (“[W]e note that government actors are presumed to act legally. *See Office of Governor v. Donahue*, 59 A.3d 1165, 1170 (Pa. Cmwlth. 2013) (stating, ‘[n]o rule of law requires this Court to presume that an agency will act in bad faith in complying with its statutory duties’), *aff’d*, [98 A.3d 1223 (Pa. 2014)]; *Hughes v. Chaplin*, [132 A.2d 200, 202 (Pa. 1957)] (stating presumption of regularity of acts of public officers exists until the contrary appears.)”); *U.S. National Bank Association v. United Hands Community Land Trust*, 129 A.3d 627, 636 (Pa. Cmwlth. 2015) (“‘It is, as a general rule, presumed that a public official properly and regularly discharges his duties, or performs acts required by the law, in accordance with the law and the authority conferred on him, and that he will not do any act contrary to his official duty or omit to do anything which such duty may require.’”) (citation omitted).

- Page 23, Line 6

Subtracting the aforementioned 11 signature lines, Candidate's Nomination Petition contains a total number of 587 signatures that are presumed to be valid.

With respect to the lines at issue in the Objection Petition, Objectors first claim that all of the signatures contained on Pages 4, 5, 6, 7, 8, 17, 18, and 20 of the Nomination Petition, totaling 184 signature lines, are invalid because the circulators were not duly registered and enrolled members of the Democratic Party at the time of circulation. In light of the credible evidence adduced at the hearing,¹²

¹² Specifically, Objectors contend that the circulators of those pages, David Tessitor (Circulator) and Mark Green, were not registered and enrolled members of the Democratic Party at the time of circulation. During the course of the March 1, 2024 hearing, the SURE System operator accessed the foregoing circulators' registration information and confirmed that the records indicate that neither circulator was a registered and enrolled member of the Democratic Party in Pennsylvania at the time of circulation. Based upon her demeanor while testifying, we find the SURE System operator's testimony, and the information contained in the SURE System in this regard, to be credible and persuasive and we rely upon it to determine that the signature lines obtained by these circulators are invalid under Section 909(a) of the Election Code.

In addition, Candidate offered Circulator's testimony at the hearing in an effort to rehabilitate the signature lines on the Nomination Petition pages that he circulated. However, Circulator conceded that he was not registered with the Democratic Party at the time of circulation and that he is not an attorney. Rather, he stated that he was not affiliated with any party for over a decade as a non-partisan Judge of Elections, and that he only switched his registration to the Democratic Party for the instant proceedings on the Objection Petition as a "demonstration" of how "superficial" party registration truly is in Pennsylvania. Circulator stated that he does not "accept" the two-party system, and that he intended to change his registration back to non-affiliated soon after these proceedings. He also explained his belief that Section 909(a) is unconstitutional, that registration as a Democrat at the time of nomination petition circulation is "not a legal requirement," and that he has signed numerous petitions for referenda and for the candidates of third parties in the past as a non-affiliated elector.

Finally, Circulator testified that he read through the Statement of Circulator on the relevant pages of the Nomination Petition "quickly," and that he did not realize that he was attesting that he was duly registered and enrolled as a member of the Democratic Party at the time of circulation. Based on Circulator's admitted participation in contested elections as a Judge of Elections, and based on our observation of Circulator's demeanor while testifying, we find Circulator's testimony **(Footnote continued on next page...)**

and in accordance with the Election Code and the applicable case law,¹³ the following signature lines are invalid under Section 909(a) of the Election Code:

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in this regard, and in general, to be neither credible nor persuasive in any respect. Accordingly, we reject as not credible Circulator's testimony *in toto*.

¹³ As indicated, both Candidate and Circulator raised vague constitutional claims that the same-party requirement for circulators in Section 909(a) violates their First Amendment expressive and associational rights. However, in *In re Nomination Petition of Wheeler*, and *In re Nomination Petitions of Smith*, 182 A.3d 12 (Pa. Cmwlth. 2018), we rejected claims that Section 909(a) is unconstitutional either facially or as applied to a candidate or a circulator. Because we are bound by this Court's three-judge panel opinion in *In re Nomination Petition of Wheeler*, and the single-judge reported opinion *In re Nomination Petitions of Smith*, we reject these vague constitutional claims. See, e.g., *McGrath v. Bureau of Professional and Occupational Affairs, State Board of Nursing*, 173 A.3d 656, 661 n.7 (Pa. 2017) ("[A]n en banc panel of an intermediate [appellate] court is authorized to overrule a three-judge panel decision of the same court. See generally *Commonwealth v. Morris*, 958 A.2d 569, 580 n.2 (Pa. Super. 2008)."); see also this Court's Internal Operating Procedures (IOP) §414(d), 210 Pa. Code §69.414(d) ("A reported opinion of a single Judge filed after October 1, 2013, in an election law matter may be cited as binding precedent in an election law matter only."); *In re Nomination Petition of Wheeler*, 293 A.3d at 751 ("[B]ecause there is a 'strong presumption of constitutionality, [] a challenging party bears a very heavy burden of persuasion' to invalidate a statute on constitutional grounds. *McLinko v. Department of State*, [279 A.3d 539, 565 (Pa. 2022)]. Legislation will be voided only where it violates the constitution 'clearly, palpably [and] plainly.' *Id.* (citation omitted)."). Nevertheless, at the March 1, 2024 hearing, Objectors conceded that if our determination in this regard is reversed on appeal to the Pennsylvania Supreme Court, there are sufficient valid signature lines under Section 912.1(14) of the Election Code for Candidate to appear on the Primary Election ballot.

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- Page 7, Line 26
- Page 7, Line 27
- Page 7, Line 28
- Page 7, Line 29
- Page 7, Line 30
- Page 8, Line 1
- Page 8, Line 2
- Page 8, Line 3
- Page 8, Line 4
- Page 8, Line 5
- Page 8, Line 6
- Page 8, Line 7
- Page 8, Line 8
- Page 8, Line 9
- Page 8, Line 10
- Page 8, Line 11
- Page 8, Line 12
- Page 8, Line 13
- Page 8, Line 14
- Page 8, Line 15
- Page 8, Line 16
- Page 8, Line 17
- Page 8, Line 18
- Page 8, Line 19
- Page 8, Line 20
- Page 8, Line 21

- Page 8, Line 22
- Page 8, Line 23
- Page 8, Line 24
- Page 8, Line 25
- Page 8, Line 26
- Page 8, Line 27
- Page 8, Line 28
- Page 8, Line 29
- Page 8, Line 30
- Page 17, Line 1
- Page 17, Line 2
- Page 17, Line 3
- Page 17, Line 4
- Page 17, Line 5
- Page 17, Line 6
- Page 17, Line 7
- Page 17, Line 8
- Page 17, Line 9
- Page 17, Line 10
- Page 17, Line 11
- Page 17, Line 12
- Page 17, Line 13
- Page 17, Line 14
- Page 17, Line 15
- Page 17, Line 16
- Page 17, Line 17
- Page 18, Line 1
- Page 18, Line 2
- Page 18, Line 3
- Page 18, Line 4
- Page 18, Line 5
- Page 18, Line 6
- Page 18, Line 7
- Page 18, Line 8
- Page 18, Line 9
- Page 18, Line 10
- Page 18, Line 11
- Page 20, Line 1
- Page 20, Line 2
- Page 20, Line 3
- Page 20, Line 4
- Page 20, Line 5
- Page 20, Line 6

Subtracting the aforementioned 184 signature lines, Candidate's Nomination Petition contains a total number of 403 signatures that are presumed to be valid.

Next, based on the credible evidence adduced at the March 1, 2024 hearing,¹⁴ we struck the following 93 signature lines on the basis that the individual was either not registered to vote; not registered to vote at the address provided on the Nomination Petition; not registered to vote in the Democratic Party; or not registered to vote in the 24th Legislative District:

- Page 1, Line 5
- Page 1, Line 6
- Page 1, Line 8
- Page 1, Line 11
- Page 1, Line 15
- Page 1, Line 19
- Page 1, Line 20
- Page 1, Line 22
- Page 1, Line 27
- Page 2, Line 2
- Page 2, Line 16
- Page 2, Line 18
- Page 3, Line 4
- Page 3, Line 7
- Page 3, Line 8
- Page 3, Line 10
- Page 3, Line 11
- Page 3, Line 18
- Page 3, Line 24
- Page 3, Line 28
- Page 9, Line 9
- Page 9, Line 18
- Page 10, Line 3

¹⁴ During the course of the March 1, 2024 hearing, the SURE System operator accessed the registration information of the individual electors who had signed Candidate's Nomination Petition. Again, we find the SURE System operator's testimony, and the information contained in the SURE System, to be credible and persuasive and we rely upon this testimony and information in determining the validity of the individual signature lines that are at issue in this regard. *Harper; Ellis.*

- Page 10, Line 6
- Page 10, Line 7
- Page 10, Line 8
- Page 10, Line 16
- Page 10, Line 18
- Page 10, Line 28
- Page 11, Line 3
- Page 11, Line 5
- Page 11, Line 6
- Page 11, Line 7
- Page 11, Line 8
- Page 11, Line 9
- Page 11, Line 10
- Page 11, Line 17
- Page 11, Line 22
- Page 11, Line 25
- Page 11, Line 26
- Page 11, Line 27
- Page 11, Line 28
- Page 12, Line 3
- Page 12, Line 9
- Page 12, Line 15
- Page 12, Line 17
- Page 12, Line 21
- Page 12, Line 22
- Page 12, Line 23
- Page 13, Line 1
- Page 13, Line 2
- Page 13, Line 6
- Page 13, Line 11
- Page 13, Line 12
- Page 13, Line 13
- Page 13, Line 17
- Page 13, Line 27
- Page 13, Line 30
- Page 14, Line 2
- Page 14, Line 6
- Page 14, Line 7
- Page 14, Line 11
- Page 14, Line 12
- Page 14, Line 14
- Page 14, Line 17
- Page 14, Line 19

- Page 14, Line 23
- Page 14, Line 24
- Page 14, Line 29
- Page 15, Line 2
- Page 15, Line 3
- Page 15, Line 9
- Page 15, Line 15
- Page 15, Line 21
- Page 15, Line 25
- Page 15, Line 26
- Page 15, Line 27
- Page 15, Line 28
- Page 16, Line 1
- Page 16, Line 2
- Page 16, Line 5
- Page 16, Line 6
- Page 16, Line 7
- Page 16, Line 8
- Page 16, Line 13
- Page 19, Line 4
- Page 21, Line 1
- Page 22, Line 2
- Page 24, Line 1
- Page 24, Line 2
- Page 24, Line 5
- Page 24, Line 8
- Page 24, Line 9

Subtracting the aforementioned 93 signature lines, Candidate's Nomination Petition contains a total number of 310 signatures that are presumed to be valid.

Next, based on the credible evidence adduced at the March 1, 2024 hearing, including our review of the original pages of the Nomination Petition filed with the Secretary, we struck the following 20 signature lines on the basis that the individual omitted some of the necessary information as required by Section 908 of the Election Code:

- Page 3, Line 17
- Page 9, Line 12
- Page 9, Line 19

- Page 9, Line 22
- Page 9, Line 23
- Page 9, Line 24
- Page 9, Line 25
- Page 9, Line 26
- Page 9, Line 27
- Page 9, Line 28
- Page 9, Line 29
- Page 10, Line 10
- Page 10, Line 11
- Page 10, Line 12
- Page 10, Line 13
- Page 11, Line 19
- Page 12, Line 1
- Page 12, Line 11
- Page 13, Line 4
- Page 15, Line 19

Subtracting the aforementioned 20 signature lines, Candidate's Nomination Petition contains a total number of 290 signatures that are presumed to be valid.

Finally, based on the credible evidence adduced at the March 1, 2024 hearing, including our review of the original pages of the Nomination Petition filed with the Secretary, we struck the following 24 signature lines on the basis that part of the necessary information as required by Section 908 of the Election Code was written in the hand of another, and not in the hand of the registered and enrolled elector:

- Page 10, Line 4
- Page 10, Line 5
- Page 10, Line 9
- Page 10, Line 15
- Page 10, Line 17
- Page 10, Line 19
- Page 10, Line 20
- Page 10, Line 21
- Page 10, Line 22
- Page 10, Line 23
- Page 10, Line 24

- Page 10, Line 25
- Page 10, Line 26
- Page 10, Line 27
- Page 10, Line 29
- Page 10, Line 30
- Page 11, Line 23
- Page 13, Line 7
- Page 13, Line 8
- Page 13, Line 20
- Page 13, Line 22
- Page 15, Line 8
- Page 15, Line 18
- Page 23, Line 9

Subtracting the aforementioned 24 signature lines, Candidate's Nomination Petition contains a total number of 266 signatures that are presumed to be valid.

Accordingly, we enter the following:

ORDER

AND NOW, this 4th day of March, 2024, it is hereby ORDERED:

1. Based upon the credible evidence admitted at the March 1, 2024 hearing before this Court, the Nomination Petition of William Anderson as a Democratic candidate for nomination to the office of Representative in the Pennsylvania General Assembly for the 24th Legislative District in the General Primary Election to be held on April 23, 2024, does not contain 300 valid signatures of qualified and enrolled electors as required by Section 912.1(14) of the Election Code, 25 P.S. §2872.1(14); the Petition to Set Aside the Nomination Petition of William Anderson is GRANTED; and the Nomination Petition of William Anderson is hereby SET ASIDE.

2. The Secretary of the Commonwealth of Pennsylvania is directed to REMOVE from the ballot the name of William Anderson as a Candidate for the Democratic Nomination to the office of Representative in the Pennsylvania General Assembly for the 24th Legislative District in the General Primary Election of April 23, 2024.

3. Each party shall bear his, her, or their own costs.

4. The Prothonotary shall notify the parties hereto and their counsel of this order and shall also certify a copy hereof to the Secretary of the Commonwealth of Pennsylvania forthwith.

Michael H. Wojcik
MICHAEL H. WOJCIK, Judge