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SUPREME COURT, U.S.

In the Supreme Court of the United States

NICKIE KANE,
PETITIONER,
v.

BOARD OF ELECTIONS IN THE CITY OF NEW YORK, and SEAMUS
CAMPBELL, RESPONDENTS.

On Petition for a Writ of Certiorari
to the New York Court of Appeals

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

This petition presents federal constitutional questions concerning due process, equal protection, ballot access, court access, and the burden imposed on pro se indigent candidates in emergency Election Law proceedings.

1. Whether the First and Fourteenth Amendments permit a candidate to be removed from the ballot where the Board of Elections processed specifications of objections that the candidate did not receive, where the proof of service was internally inconsistent, and where the Board refused to provide the specifications or allow examination of the original proof of service before acting.
2. Whether due process is violated when a Board of Elections treats service of specifications as valid solely because an objector used an overnight delivery method, even where the delivery service failed to actually deliver the specifications to the candidate and the candidate was denied access to the specifications before the Board acted.
3. Whether strict service requirements in emergency Election Law proceedings, as applied to a pro se indigent candidate who cannot afford a process server, impose an unconstitutional burden on ballot access and court access.
4. Whether New York City process-server regulations, including licensing and repeated-service restrictions, compound the unconstitutional burden on pro se indigent candidates in expedited Election Law proceedings.

5. Whether due process and ballot access are violated when emergency Election Law service rules require a pro se indigent candidate to use third-party service or personal service first, even though less burdensome methods such as email, NYSCEF, overnight delivery, certified mail, or party-accessible service methods are reasonably calculated to give notice.
6. Whether due process is violated when a court signs and uploads an Order to Show Cause late in the day, despite the papers being filed well in advance, leaving a pro se candidate little time to print, assemble, and serve papers before strict Election Law deadlines.
7. Whether the Board of Elections violated due process by refusing to hear Petitioner's abuse-of-process claim that the objection process was being used to harass and target her campaign.
8. Whether the Appellate Division should have treated Petitioner's challenge to the refusal to sign an Order to Show Cause for sanctions and protective relief as an application under CPLR 5704(a), where Petitioner was self-represented and had been advised by court staff to file in the same manner as an appeal.
9. Whether due process and equal protection were violated where Respondent-Objector's attorney accepted representation adverse to Petitioner despite a prior adversarial history, including a prior attorney complaint filed by Petitioner against him, failed to disclose that history to the court, and then

allegedly engaged in courthouse conduct that affected Petitioner's ability to participate safely and fairly in an expedited Election Law hearing.

PARTIES TO THE PROCEEDING

Petitioner is Nickie Kane, a pro se candidate.

Respondent Seamus Campbell was the objector in the underlying Election Law proceeding.

Respondent Board of Elections in the City of New York is the administrative body that processed the objections and removed Petitioner from the ballot.

RELATED PROCEEDINGS

1. Matter of Kane v Campbell, Supreme Court of the State of New York, New York County, Index No. 451700/2026.
2. Matter of Kane v Campbell, Appellate Division, First Department, Docket No. 2026-02722.
3. Matter of Kane v Campbell, Appellate Division, First Department, Docket No. 2026-02724.
4. Matter of Kane v Campbell, New York Court of Appeals, APL-2026-00064 and APL-2026-00065.

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164 A.D.3d 1540 (3d Dept 2018) 10

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PETITION FOR WRIT OF CERTIORARI

Petitioner Nickie Kane respectfully petitions this Court for a writ of certiorari to review the final orders and judgments of the New York state courts in this Election Law ballot-access proceeding.

OPINIONS AND DECISIONS BELOW

The Supreme Court of the State of New York, New York County, denied and dismissed Petitioner's Election Law validation proceeding. The Appellate Division, First Department, denied relief. The New York Court of Appeals denied leave to appeal and declined review of the constitutional questions.

Copies of the relevant orders are included in the Appendix.

JURISDICTION

The New York Court of Appeals denied leave to appeal and declined review of the constitutional questions on May 19, 2026. This petition is timely under Supreme Court Rules 13 and 12.4.

This Court has jurisdiction under 28 U.S.C. § 1257(a) because this case arises from final state-court judgments and presents substantial federal constitutional questions under the First and Fourteenth Amendments.

Pursuant to Supreme Court Rule 12.4, this petition seeks review of two orders entered in the same state-court case. The relevant orders, constitutional provisions, statutes, regulations, and rules involved in this case are set forth in the appendix to this petition.

CONSTITUTIONAL PROVISIONS AT ISSUE

The First Amendment provides, in relevant part, that Congress shall make no law abridging freedom of speech or the right of the people peaceably to assemble.

The Fourteenth Amendment provides, in relevant part, that no State shall deprive any person of life, liberty, or property without due process of law, nor deny any person the equal protection of the laws.

STATUTORY PROVISIONS AT ISSUE

Election Law § 6-154(3)(b) provides, in relevant part, that specifications of objections shall not be considered unless proper service is made on the candidate and proof of service is filed.

CPLR 5704(a) provides for review where a lower court refuses to sign an ex parte order or order to show cause.

STATEMENT OF THE CASE

I. Factual Background

Petitioner was a candidate seeking ballot access in New York. Respondent-Objector Seamus Campbell filed objections and specifications of objections challenging Petitioner's designating petition.

Petitioner states that she never received the specifications of objections. The alleged FedEx delivery record stated that the package was "left on porch." Petitioner's building has no porch. The delivery photograph did not show a porch.

Petitioner notified the Board of Elections that she did not receive the specifications. Petitioner requested a copy of the specifications. Petitioner requested to examine the original proof of service. Petitioner also raised an abuse-of-process claim,

arguing that the objection process was being used to harass and target her campaign.

The Board refused to provide the specifications, refused to allow Petitioner to examine the original proof of service, refused to meaningfully hear the abuse-of-process claim, and processed the objections anyway.

The Board removed Petitioner from the ballot.

II. Proceedings Below

Petitioner filed a validation proceeding in Supreme Court, New York County.

Petitioner argued that the Board lacked jurisdiction because service of the specifications was defective, the proof of service was internally inconsistent, and Petitioner never received the specifications.

Petitioner also argued that the Board violated due process by refusing to provide the specifications, refusing to allow examination of the original proof of service, and refusing to hear the abuse-of-process claim.

The Supreme Court denied and dismissed the validation proceeding.

Petitioner also sought sanctions and protective relief after Respondent-Objector's counsel allegedly approached Petitioner immediately before the Election Law hearing, attempted to speak with her outside the courtroom, followed her after she refused, and loudly berated her in the courtroom. The Supreme Court declined to sign the Order to Show Cause.

Petitioner sought appellate review. The Appellate Division denied relief. The New York Court of Appeals denied leave to appeal and declined review of the constitutional questions.

REASONS FOR GRANTING THE PETITION

This case presents important and recurring federal constitutional questions concerning ballot access, court access, due process, equal protection, and the practical burdens imposed on pro se indigent candidates in emergency Election Law proceedings.

Election Law cases move under extremely compressed deadlines. A candidate may lose ballot access within days. If constitutional violations are not reviewed quickly, the case may become effectively unreviewable once ballots are certified, printed, mailed, or voted.

This case is an appropriate vehicle because Petitioner was removed from the ballot after she states she never received the specifications of objections, after the proof of service was internally inconsistent, and after the Board refused to provide the specifications or allow review of the original proof of service before acting.

The petition also presents a broader access-to-courts question. Petitioner's Court of Appeals submissions raised that strict service rules, New York City process-server regulations, and court-controlled delay can combine to prevent pro se indigent candidates from obtaining any merits review. Election Law matters are uniquely time-sensitive. When the court signs an order late, when the candidate cannot

afford a process server, when party service is barred, and when alternative service is denied, a candidate may lose ballot access based on service mechanics rather than the merits.

Review is also warranted because the sanctions and protective-relief issue was not merely collateral. Petitioner alleged that opposing counsel's conduct occurred in the courthouse immediately before the Election Law hearing and affected her ability to participate safely and fairly. The Appellate Division should have treated the filing as a CPLR 5704(a) application where Petitioner was pro se and followed court staff instructions.

These questions are recurring, important, and capable of evading review because ballot-access cases often become moot before ordinary appellate review can occur.

The petition should be granted.

ARGUMENT

I. The Board's Removal of Petitioner from the Ballot Violated Due Process Because Petitioner Did Not Receive the Specifications and Was Denied Access to the Documents Needed to Respond

Due process requires notice reasonably calculated, under all the circumstances, to inform the affected party and provide an opportunity to respond. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950).

Here, Petitioner did not receive the specifications of objections. The proof of service was internally inconsistent. It stated "left on porch," although Petitioner's building has no porch and the photograph did not show a porch.

The Board was notified that Petitioner did not receive the specifications. Instead of requiring reliable proof of service or providing Petitioner the specifications, the Board processed the objections and removed Petitioner from the ballot.

Without the specifications, Petitioner could not meaningfully review the challenged signatures, prepare exceptions, contact voters, gather proof, or defend her designating petition.

This denied meaningful notice and a meaningful opportunity to be heard.

II. The Service Burdens Imposed on Pro Se Indigent Candidates Violate the First and Fourteenth Amendments as Applied in Emergency Election Law Proceedings

The exclusion of a candidate from the ballot burdens both the candidate and voters. *Anderson v. Celebrezze*, 460 U.S. 780 (1983). Under *Burdick v. Takushi*, 504 U.S. 428 (1992), courts weigh the burden imposed by election rules against the State's asserted interests.

Here, the burden was severe. Petitioner is a pro se indigent candidate. She was required to navigate strict Election Law deadlines, service requirements, Board procedures, court filings, and appellate deadlines without counsel.

A represented candidate can rely on attorneys, staff, campaign workers, office resources, and process servers. A pro se indigent candidate must locate a legally qualified nonparty adult or paid process server, print and assemble papers, arrange delivery, complete service, and file proof of service, often within hours.

New York City process-server rules compound the burden. Ordinary nonparty adults may be restricted from repeatedly helping pro se litigants because New York City treats service of five or more process in a calendar year as doing business as a process server. This makes informal help unreliable. Friends, volunteers, campaign supporters, or community members may be unwilling to assist if repeated service risks triggering licensing requirements.

This matters in Election Law proceedings because a candidate may need to serve papers more than once: an Order to Show Cause, amended papers, motion papers, reply papers, appellate papers, emergency applications, and supplemental submissions. The five-service threshold pushes pro se litigants toward paid licensed process servers. For an indigent candidate, that cost can become a barrier to court access and ballot access.

The constitutional problem is not that New York City may never regulate process servers. The problem is the combined effect of strict CPLR service rules, New York City process-server regulations, court delay, short Election Law deadlines, and inability to self-serve. Together, these rules can make ballot access depend on

money, staffing, and immediate access to professional service providers rather than the merits.

This burden is compounded when a court signs and uploads an Order to Show Cause late in the day, even though the papers were filed well in advance. Petitioner could not serve until the order was signed and uploaded. The delay consumed the time needed to complete service.

In *Lubin v. Panish*, 415 U.S. 709 (1974), this Court held that ballot access cannot be denied to an indigent candidate based on inability to pay where reasonable alternatives are not provided. The same principle applies here. Ballot access should not depend on whether a pro se indigent candidate can afford immediate process service or has staff available on short notice.

III. There Is No Justifiable Reason to Require Personal Service First or Prohibit Party Service Where Reliable Methods Provide Notice

The purpose of service is notice and an opportunity to respond. It is not to create a procedural trap that prevents a pro se indigent candidate from obtaining review in an emergency Election Law proceeding.

A represented candidate can usually rely on counsel, staff, campaign workers, office resources, and professional process servers. A pro se indigent candidate does not have those built-in resources. If the candidate cannot serve the papers herself, she must immediately locate a nonparty adult or paid process server, explain the

requirements, arrange delivery, obtain proof of service, and file that proof, often within hours.

There is no justifiable reason to require personal service to be attempted first where other methods are reasonably calculated to provide notice. In an emergency Election Law case, the court should authorize the method most likely to give prompt and reliable notice, not the method most likely to cause dismissal because a self-represented candidate could not afford or locate a process server.

There is also no justifiable reason to categorically prohibit a party from serving papers herself where reliable safeguards exist. A court can require sworn proof, email confirmation, NYSCEF confirmation, overnight delivery receipts, certified mail receipts, commercial carrier tracking, or a combination of methods. These safeguards protect notice and accountability without requiring the most burdensome form of service.

This issue is especially important here because the court controlled when the Order to Show Cause was signed and uploaded. Petitioner filed papers in advance, but could not serve until the order was signed. When an order is signed late in the day, a personal-service-first rule can make compliance nearly impossible for a pro se indigent candidate.

Accordingly, this case presents an important constitutional question: whether due process permits an Election Law court to require the most burdensome service

method first, while refusing less burdensome methods that would provide actual and reliable notice.

IV. The Board's Arbitrary Enforcement of Its Proof-of-Service Rules Raises an Important Due Process Question

Election Law § 6-154(3)(b) provides that specifications of objections shall not be considered unless proper service is made and proof of service is filed.

Petitioner argued that Respondent-Objector's proof of service did not comply with the Board's Rules H7 and H8. Those rules require a proper original register receipt showing the recipient's name and address or, if a copy is used, an affirmation that the copy is a true copy of the original.

The proof of service did not comply with those requirements. The Board nevertheless processed the specifications.

New York precedent recognizes that service of specifications is mandatory and jurisdictional. *Matter of Moran v. Board of Elections of City of N.Y.*, 122 A.D.2d 908 (2d Dept 1986); *Matter of Young v. Thalmann*, 286 A.D.2d 550 (3d Dept 2001); *Matter of Neal v. Liscum*, 164 A.D.3d 1540 (3d Dept 2018).

The Court should grant review to decide whether a Board may remove a candidate from the ballot while disregarding its own proof-of-service rules.

V. The Court-Controlled Delay in Signing and Uploading the Order to Show Cause Further Burdened Petitioner's Court Access and Ballot Access

Petitioner filed her papers in advance. However, she could not serve the Order to Show Cause until the court signed and uploaded it.

The burden was not caused by Petitioner's lack of diligence. Petitioner filed the Election Law papers in advance and could not begin service until the court signed and uploaded the Order to Show Cause. In an Election Law matter, the signed Order to Show Cause controls the method, timing, and papers required for service. Until the signed order is issued, a pro se litigant cannot know exactly what the court requires.

When a court signs an Order to Show Cause late in the day, a pro se indigent litigant must immediately print the papers, assemble the required documents, locate a nonparty adult or process server, arrange service, complete service, and file proof of service before strict deadlines expire.

When the court delays signing and uploading the order until late in the day, the court consumes the time the litigant needs to comply. A represented party may still be able to use staff, office equipment, and process-server contacts. A pro se indigent candidate must print the signed order, assemble all papers, find a legally qualified nonparty or process server, arrange service, complete service, and prepare proof of service before the deadline expires.

Petitioner raised this as a recurring issue in the Court of Appeals filings, stating that late signing and late uploading of Orders to Show Cause has occurred in prior elections in which Petitioner was a candidate. This recurring pattern raises a due

process and ballot-access question because a candidate should not lose judicial review due to service difficulties created or compounded by court-controlled delay.

This creates a severe barrier to court access and ballot access. A pro se candidate should not be penalized for service difficulties created or compounded by court-controlled delay.

VI. The Board's Refusal to Hear Petitioner's Abuse-of-Process Claim Raises a Recurring Due Process Issue

Petitioner argued that the objection process was being used to harass and target her campaign. Petitioner raised the history of harassment involving Respondent-Objector Seamus Campbell, including prior cease-and-desist demands and similar conduct during this election season.

Petitioner's abuse-of-process claim was not separate from the ballot-access proceeding. Petitioner argued that the objection process itself was being used as a tool to harass and target her campaign.

The Board refused to meaningfully hear that claim.

The Board's refusal to hear that claim denied Petitioner a meaningful opportunity to be heard on the fairness of the objection process. If objection procedures are being used for harassment, retaliation, or selective targeting, the Board's refusal to consider that issue allows ballot-access rules to become tools of exclusion rather than neutral election administration.

This case therefore presents a recurring due process question: whether a candidate may be removed from the ballot after the Board refuses to hear a claim that the objection process itself is being abused.

This violated due process because the claim went directly to the fairness of the objection process and whether the Board was allowing its procedures to be used for improper purposes.

Ballot-access procedures should not be used as tools of harassment, retaliation, or selective targeting.

VII. The Sanctions and Protective-Relief Issue Warrants Review Because the Appellate Division Should Have Treated the Filing as a CPLR 5704(a) Application

Petitioner sought an Order to Show Cause for sanctions and protective relief after Respondent-Objector's counsel allegedly approached her immediately before the Election Law hearing, attempted to speak with her outside the courtroom, followed her after she refused, and loudly berated her in the courtroom.

The Supreme Court declined to sign the Order to Show Cause without a hearing.

Respondent argued that the proper mechanism was CPLR 5704(a). Petitioner was advised by court staff to file the matter in the same manner as an appeal and relied on that instruction in good faith.

Petitioner was advised by court staff to file the matter in the same manner as an appeal and relied on that instruction in good faith. A pro se litigant should not be

prejudiced for following procedural instructions given by court personnel, especially in an emergency Election Law matter where delay can effectively deny relief.

The substance of the filing was clear. Petitioner sought review of the Supreme Court's refusal to sign an Order to Show Cause for sanctions and protective relief. CPLR 5704(a) exists for review of a refusal to sign an order. If Petitioner's filing was labeled or processed as an appeal because she followed staff instructions, the Appellate Division should have treated the filing according to substance rather than caption.

The issue is important because the proposed Order to Show Cause sought protective relief arising from conduct that allegedly occurred in the courthouse immediately before the Election Law hearing. The application affected Petitioner's ability to participate safely and fairly in the proceeding. Treating the filing as procedurally defective elevated form over substance and denied meaningful review.

The Appellate Division should have treated the filing according to its substance, as a CPLR 5704(a) application, rather than rejecting it based on form.

This issue matters because pro se candidates must be able to participate safely and fairly in expedited Election Law proceedings.

VIII. Counsel's Prior Adversarial History With Petitioner Reinforced the Need for Protective Relief

Petitioner also raised that Respondent-Objector's counsel had a prior adversarial history with Petitioner, including a prior attorney complaint filed by Petitioner against him. Petitioner alleged that the prior complaint arose from harmful Election Law advice during Petitioner's first campaign for public office, when Petitioner had prepared a validation petition in advance but was advised to "file on the last day." Petitioner further alleged that counsel failed to explain strict Election Law service requirements, which caused prejudice in that prior ballot-access matter.

This history matters because counsel later accepted representation adverse to Petitioner in the present Election Law matter. Petitioner submits that the prior history should have been disclosed to the court, especially because Petitioner was pro se and the matter involved strict, expedited Election Law deadlines. Counsel's failure to disclose that history, combined with the alleged courthouse conduct, created at minimum an appearance of retaliation, intimidation, conflict, and unfairness.

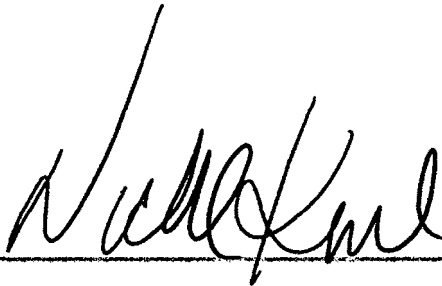
A pro se candidate should not be required to litigate ballot access against counsel with an undisclosed prior adversarial history while also being subjected to direct confrontation immediately before a hearing. At minimum, the courts should have considered whether protective relief was necessary to preserve fairness and due process.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

Dated: May 20, 2026
Brooklyn, New York

A handwritten signature in black ink, appearing to read "Nickie Kane", is written over a horizontal line.

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