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In re: Waters

IN RE: PETITION OBJECTING TO THE NOMINATION PETITIONS AND/OR PAPERS OF MICHAEL S. WATERS
Court of Common Pleas of the 39th Judicial District of Pennsylvania,
Franklin County Branch
No. 2009-1196

Petition to Set Aside Nomination Petition – Signatures – Duplicate Signatures

1. The Pennsylvania Election Code governs petitions challenging nomination petitions.
2. The petition must be filed within seven days after the last day for filing the nomination petition, the petition must specifically set forth the objections, the petition must set forth a prayer that the nomination paper be set aside, and the petition must be served upon the officer with whom the nomination petition was filed.
3. The Election Code requires 100 valid signatures on a nomination petition in order for a candidate for magisterial district judge to have his name placed on the ballot for the primary election.
4. Generally, each signer of a nomination petition shall sign but one such petition for each office to be filled, and shall declare therein that he is a registered and enrolled member of the party designated in such petition.
5. If a person shall sign any nomination petitions or papers for a greater number of candidates than he is permitted..., if said signatures...bear different dates, they shall be counted in the order of their priority of date, for only so many persons as there are candidates to be nominated or elected.
6. Duplicate signatures may be stricken from the nomination petition.

Appearances:

Michael S. Waters, *Respondent*

Adrienne R. Redding and Patrick J. Redding, *Petitioners*

OPINION

Walsh, J., March 27, 2009

Facts

On March 17, 2009, Adrienne Redding and Patrick Redding filed a Petition Objecting to the Nomination Petitions and/or Papers of Michael S. Waters^[1] challenging the nomination petition of Michael S. Waters, a prospective candidate for Magisterial District Court Judge in Franklin County District #39-3-03. The petitioners sought to have the Court issue an order declaring "that the candidate, Michael S. Waters name shall not appear on the ballots for the Democratic or the Republican party at the May 19th, 2009 primary election." See Petition. On March 20, 2009, the Court signed an order setting a hearing to review the Republican and Democratic nomination petitions of Michael S. Waters. In that scheduling order, the Court required the parties to meet and reach a stipulation with respect to the total number of signatures submitted; the total number of uncontested signatures submitted; the total number of signatures challenged; and every

signature to which there is an objection, identified by page number and line number and the basis for the objection.^[2] The parties met prior to the hearing on March 26, 2009 and submitted a stipulation ^[3] that comported with the Court's order and established the outlines of the dispute. The Democratic nomination petition of Michael Waters had 105 signatures, 20 of these were challenged for facial invalidity, and Waters did not identify any that he intended to rehabilitate. The Republican nomination petition of Michael Waters had 109 signatures, 27 of these were being challenged as facially invalid, and, again, Waters failed to identify any signatures that he intended to rehabilitate. The challenges to the signatures included objections based on duplicate signatures, improper party registration, and lack of voter registration. In this Opinion, the Court has analyzed only the duplicate signatures because their number is fatal to Waters' petition.

Discussion

The Pennsylvania Election Code governs challenges to nomination petitions. 25 P.S. 2937. The petition must be filed within seven days after the last day for filing the nomination petition, the petition must specifically set forth the objections, the petition must set forth a prayer that the nomination petition be set aside, and the petition must be served upon the officer with whom the nomination petition was filed. *Id.* Here, the petitioners have satisfied all of the formalities, so the Court will address their petition on the merits.

The Election Code requires 100 valid signatures on a nomination petition in order for a candidate for magisterial district judge to have his name placed on the ballot for the primary election. 25 P.S. §2872.1(32). Generally, "each signer of a nomination petition shall sign but one such petition for each office to be filled, and shall declare therein that he is a registered and enrolled member of the party designated in such petition."^[4] 25 P.S. §2868. "If a person shall sign any nomination petitions or papers for a greater number of candidates than he is permitted..., if said signatures...bear different dates, they shall be counted in the order of their priority of date, for only so many persons as there are candidates to be nominated or elected." 25 P.S. §2937. Duplicate signatures may be stricken. *In re: Nomination Petition of Elliot*, 362 A.2d 468 (Pa. Commw. 1976).

Here, Petitioners challenge both the Republican and the Democratic nomination petitions of Michael Waters. Waters' Democratic petition has a total of 105 signatures; however eight are invalid because the individuals had already signed Democratic nomination petitions for Carol Redding or Dave Plum respectively. See Signature Table. ^[5] Accordingly, the Court will strike these signatures, which leaves Waters' Democratic petition at less than the required 100 valid signatures. So, Michael S. Waters name shall not appear on the ballot for the Democratic Party at the May 19th, 2009 primary election. Similarly, Waters' Republican petition has a total of 109 signatures, but seventeen are invalid because the person had previously signed the Republican nomination petition for Carol Redding. See Signature Table. Thus, the Court will strike these seventeen invalid signatures, leaving Waters' Republican petition at less than 100 valid signatures. Thus, Michael S. Waters name shall not appear on the ballot for the Republican Party at the May 19th, 2009 primary election.

Conclusion

In conclusion, the Court will issue an order granting the relief Petitioners have sought. Michael Waters' Democratic nomination petition has fewer than 100 valid signatures, and his Republican nomination petition also lacks 100 valid signatures. Accordingly, Michael S. Waters' name shall not appear on the ballots for either the Democratic Party or the Republican Party at the May 19th, 2009 primary election.

ORDER OF COURT

March 27, 2009, upon consideration of the Petition Objecting to the Nomination Petitions and/or Papers of Michael S. Waters, the record, the stipulations, and the law, it is ordered that the Petition Objecting to the Nomination Petitions and/or Papers of Michael S. Waters is granted and Michael S. Waters' name shall not appear on the ballots for either the Democratic Party or the Republican Party at the May 19th, 2009 primary election.

[1]The Court is treating this as a petition to set aside a nomination petition.

[2]The Court adopted this procedure from the practice of the Commonwealth Court which employs a standardized order requiring counsel to meet and to stipulate to the information mandated in the Court's order.

[3]A copy of the stipulation has been attached to this Opinion and Order, and Respondent agreed to the stipulation on the record.

[4]Although it does not apply to Waters' situation, a party may sign as many petitions as he can vote for candidates for the office. 25 P.S. §2868.

[5]The Court has attached a table indexing the challenged signatures with the petitions from which they came and indicating which particular signing is valid.