

IN THE COURT OF COMMON PLEAS OF NORTHAMPTON COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

IN RE: THE NOMINATION PETITIONS OF)
WILLIAM ROWE FOR NORTHAMPTON)
COUNTY COUNCIL)

No. C-48-CV-2023-01566

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NORTHAMPTON COUNTY, PA

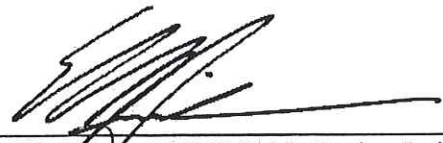
ORDER

AND, NOW, this 8th day of April, 2023, upon consideration of Petitioner Steven R. Topp's Petition to Set Aside Nominating Petitions of William Rowe for Northampton County Council, said Petition having been filed on March 13, 2023; hearing thereon on March 15, 2023; the order and memorandum opinion of the Commonwealth Court at No. 266 C.D. 2023, on April 6, 2023; a telephone conference with counsel, Lawrence M. Otter, Esquire, on behalf of Petitioner Steven R. Topp, and Victor Scomilio, Esquire, on behalf of Respondent William Rowe, on April 7, 2023; and for the reasons set forth in the memorandum opinion filed concurrently with this Order;

IT IS ORDERED said Petition to Set Aside Nominating Petitions of William Rowe for Northampton County Council is Granted.

IT IS FURTHER ORDERED the nomination petitions of William Rowe for Northampton County Council be set aside and his name not appear on the 2023 Republican Primary Ballot for nomination as a member of the Northampton County Council.

BY THE COURT:



EDWARD D. REIBMAN, Senior Judge,
Specially Presiding

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MEMORANDUM OPINION

Petitioner Steven R. Topp ("Objector") filed a petition on March 13, 2023, to set aside the nomination petitions of Respondent William Rowe ("Candidate") for Northampton County Council. Hearing thereon was held on March 15, 2023. The court, by order dated March 17, and filed on March 20, 2023, dismissed the petition on the basis the Objector lacked standing to bring the petition. By order and memorandum opinion of April 6, 2023, the Commonwealth Court, at No. 266 C.D. 2023, concluded Objector had standing to bring the petition, vacated the court's order and remanded this matter to address by April 10, 2023, "whether Candidate timely filed his SOFI pursuant to Section 1104(b) of the Public Official and Employee Ethics Act (Ethics Act), 65 Pa.C.S. § 1104(b)."

On remand, the court held a telephone conference on April 7, 2023, with counsel, Lawrence M. Otter, Esquire, on behalf of Objector, and Victor Scamilio, Esquire, on behalf of Candidate, to afford them the opportunity to augment the record or argument.

As noted in the Commonwealth Court's memorandum opinion:

On March 7, 2023, Candidate timely filed his Nomination Petition. That same day, Candidate filed his SOFI [Statement of Financial Interest] with the Northampton County Office of Elections and Voter Registration (Elections Office) and submitted it electronically to the State Ethics Commission (Ethics Commission). See Original Record, Notes of Testimony, March 15, 2023 (N.T.) at 13.

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* * *

On March 14, 2023, Candidate filed his SOFI with the County Council office. *See* N.T. at 10-15.

Slip. Op. at 2.

In pertinent part, § 1104(b) of the Ethics Act provides:

* * *

(2) Any candidate for county-level or local office shall file a statement of financial interests for the preceding calendar year with the governing authority of the political subdivision in which he is a candidate on or before the last day for filing a petition to appear on the ballot for election. A copy of the statement of financial interests shall also be appended to such petition.

(3) No petition to appear on the ballot for election shall be accepted by the respective State or local election officials unless the petition has appended thereto a statement of financial interests set forth in paragraphs (1) and (2). Failure to file the statement in accordance with the provisions of this chapter shall, in addition to any other penalties provided, be a fatal defect to a petition to appear on the ballot.

65 P.C.S. §1104(b)(2) and (3).

Thus, Candidate was required to file his SOFI with “the governing authority of the political subdivision in which he is a candidate” and with his nomination petition “on or before the last day for filing a petition to appear on the ballot for election.”


The last day for Candidate to have filed his nomination petition was March 7, 2023. As of that date, he had filed his SOFI with his nomination petition, but he had not filed his SOFI with the County Council office. He eventually filed it with the County Council office on March 14, 2023, seven days after the March 7 deadline.

The defect is, in the words of the statute, “fatal.” *See, In Re Guzzardi*, 99 A.3d 381 (Pa. 2014); *In the Matter of: The Nomination Petitions of David J. Prosperino Candidate for Magisterial District Judge*, 972 A.2d 92 (Comwlth. Ct. 2009).

Accordingly, Candidate's nomination petitions must be set aside and his name not appear on the 2023 Republican Primary Ballot for nomination as a member of the Northampton County Council.

BY THE COURT:

April 8, 2023


EDWARD D. REIBMAN, Senior Judge,
Specially Presiding