



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. STE 03286-2021

NJ DEMOCRATIC STATE COMMITTEE,

Petitioner,

v.

ROGER BACON,

Respondent.

Rajiv D. Parikh, Esq., for petitioner (Genova Burns LLC, attorneys)

Roger Bacon, respondent appearing pro se

Record Closed: April 12, 2021

Decided: April 13, 2021

BEFORE **JOANN LASALA CANDIDO**, ALAJ:

STATEMENT OF THE CASE

This matter is a challenge by petitioner the New Jersey State Democratic Committee, to the validity of the nominating petitions for the 2021 Primary Election filed by respondent Roger Bacon to become the candidate of the Democratic Party for the Office of the Governor of the State of New Jersey. In order to participate in the primary election, respondent must submit 1,000 valid signatures from registered voters of the same party affiliation. Petitioner has challenged numerous signatures of the 1290ⁱsignatures submitted by respondent and not already stricken by the Division of Elections.

For the reasons set forth below and as supported by the appendices attached hereto, I **FIND** that Roger Bacon garnered fewer than the requisite 1,000 signatures on his nominating petitions. Accordingly, I **CONCLUDE** that Bacon's petition to be nominated as the Democratic candidate for Governor of the State of New Jersey during the primary election in New Jersey fails, and his name may not be placed on the statewide Democratic primary election ballot.

PROCEDURAL HISTORY

Respondent submitted 1290 signatures (inclusive of those missing a signature) to the Division of Elections within the New Jersey Department of State. On or about March 30, 2021, Bacon filed with the State Division of Elections petitions or booklets of signatures containing the total signatures of persons who supported his nomination as the Democratic candidate for Governor of the State of New Jersey in the primary election to be held in the State of New Jersey on June 8, 2021.

On April 9, 2021, the State Democratic Committee filed a formal objection to the nominating petitions of Bacon pursuant to N.J.S.A. 19:23-8. The Attorney General transmitted the matter to the Office of Administrative Law on April 9, 2021, for determination as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. The hearing was held on April 12, 2021, and the record closed on that date.

The hearing took place via Zoom. At the hearing, Brittany Giampola, Division of Elections representative was sworn in and testified to the verification of petition signatures on the Statewide voter registration database accessed electronically from her computer. In this matter, as discussed below, it was the sole source of verification of the signatures or upholding of the challenges.

FINDINGS OF FACT

The State Democratic Committee presented the name of the voter identified for challenge, the reason for the challenge, and the book and page of each signature. The challenges fell into these categories: (1) persons not registered to vote; (2) registered voters declared or affiliated with the Republican Party; (3) persons not registered or for whom addresses could not be located as affiliated with the voter's registration; and (4) miscellaneous errors, including, but not limited to, illegible names, duplicates or missing addresses. Because the vast majority of the challenges were grouped under the second category, the hearing focused on verifying those signatures first as republican registered voters. Also present for the hearing on behalf of petitioner was Paul Penna of the New Jersey State Democratic Committee.

Brittany Giampola is a System Administrator/System Analyst with the Division of Elections. She was sworn in to conduct objectively and truthfully to the best of her ability the electronic queries of the Statewide Voter Registration System (SVRS or statewide database) demanded by these proceedings.

The fields of information on the SVRS include name, address, party affiliation (if any), election participation history, address history, and date of birth. A scanned image of the voter's signature is also maintained in the database, if any has been submitted by the voter or created during registration or voting events. A person who is registered stays in the database forever even if she or he does not vote for several election cycles. From time to time, election officials send out confirmation postcards to inactive voters. If these are not sent back, then those voters will be marked as "inactive" after two federal election cycles. If their names have not been literally purged, when these individuals go to the polls, they will be allowed to vote provided they can prove that they still reside at that address. There is an intentional time lag between designation as "inactive" and actual "purging" but no other action must occur before purging. Party affiliation is indicated in the statewide database on the basis of either a declaration of affiliation at the time of registration, the filing of a change of affiliation on a separate form, or the act of voting at a primary election by a then-unaffiliated voter. In some instances, a voter registration

might appear as “incomplete” which means that not every element has been satisfactorily produced. In those cases, the individual will not show up on the polling books as a registered voter and will not be allowed to vote until the information is completed.

During the process of querying the statewide database for each challenged signature, I entered findings on the record at each instance. All 305 challenged signatures were not scrutinized during this process. Because this was not the total number of signatures challenged,¹ the fact-finding hearing continued only until sufficient signatures were verified in favor of one party, as set forth below.

In order to permit a fair opportunity to the candidate, the statewide database for each alleged unregistered signature was searched more than one way – first by name and then by address. In addition, insofar as many of the individuals who signed his petition had ambiguous handwriting, the database was often queried with both the fewest and the most identifiable letters in the names. For example, if Susan Smith of 10 Main St., Smallville, NJ, had a signature that was hard to decipher and the petitioner had challenged Ms. Smith on grounds that she was not a registered voter, we searched for “Susan Smith” statewide, then “S Smi” statewide, and then for anyone at 10 Main St., Smallville. At times, another signer on the petition or the address provided clues as to spelling or location. I **FIND** that this permitted the widest chance of finding the person on the registered voter rolls. Similarly, these search protocols often confirmed that a Smith family lived on Main St., Smallville, but Susan Smith was not amongst the registered voters in the household.

Accordingly, as set forth on the attached Appendix, I **FIND** that eleven of the signatures challenged on the basis that they were unregistered voters were sustained by the petitioner by the preponderance of the evidence and must be deducted from the valid signatures relied upon by respondent in support of his candidacy. I also **FIND** that six signatures were illegible and four with no address and must also be deducted from the valid signatures relied upon by respondent in support of his candidacy.

¹ Petitioner had approximately eighty more challenges.

As set forth on the attached Appendix, I **FIND** that petitioner sustained challenges to 281 of the voters challenged as registered voters but affiliated with the Republican Party by the preponderance of the credible evidence and must be deducted from the valid signatures relied upon by respondent in support of his candidacy. Additionally, I **FIND** that one of the voters challenged as registered voters but affiliated with the libertarian party by the preponderance of the credible evidence and must be deducted from the valid signatures relied upon by respondent in support of his candidacy.

As set forth on the attached Appendix, I **FIND** that two of the voters challenged as invalid signatures on the respondent's petition because they identified themselves as residing outside of New Jersey were in fact not registered in the State of New Jersey and must be deducted from the valid signatures relied upon by respondent in support of his candidacy.

In total, we reviewed 305 signatures of the signatures challenged during the hearing, with that total being found by me to be invalid. Accordingly, the Bacon petitions must be reduced by the 305 signatures, bringing the total number of presumably valid signatures 1290 (although few with no signature at all) to 985.

LEGAL ANALYSIS AND CONCLUSION

Election laws should be construed liberally “to allow the greatest scope for public participation in the electoral process, to allow candidates to get on the ballot, to allow parties to put their candidates on the ballot, and, most importantly, to allow the voters a choice on Election Day,” and voters should not be deprived of their franchise “for technical reasons.” Catania v. Haberle, 123 N.J. 438, 448 (1991); see also Kilmurray v. Gilfert, 10 N.J. 435, 440-41 (1952); Wene v. Meyner, 13 N.J. 185, 197 (1953). They should not be construed so as to deprive voters of their franchise or to render an election void for technical reasons. Generally, it is in the public interest to submit to the electorate a ballot bearing the names of candidates of all qualifying groups and parties. Kilmurray, at 441. Statutes providing requirements for a candidate's name to appear on the ballot will not be construed so as to deprive the voters of the opportunity to make a choice. N.J.

Democratic Party, Inc. v. Samson, 175 N.J. 178 (2002).

With respect to a candidate for nomination of a political party during a statewide primary election for position as governor of the State of New Jersey, the statute requires 1,000 voters to sign the nominating petitions. N.J.S.A. 19:23-8. Specifically, “[c]andidates to be voted for at the primary election for the general election shall be nominated exclusively by the members of the same political party by petition in the manner herein provided.” N.J.S.A. 19:23-5. Accordingly, signers must be qualified Democratic or unaffiliated voters. Additionally, a signer who has signed petitions for different candidates for the same office is disqualified from signing the nominating petition. N.J.S.A. 19:23-10.

In Lesniak v. Budzash, 133 N.J. 1, 12 (1993), the New Jersey Supreme Court clarified that a voter must be registered in order to be considered “qualified” to sign a party-nomination petition within the meaning of this statute. Emphasizing the importance of political parties to our electoral system, the Court held that the registration requirement “is a legitimate, reasonable, and constitutional regulation of the primary process.” *Id.* Moreover, Lesniak acknowledged that “the only expeditious manner of determining who is eligible to sign the nomination petition is to consult the registration list,” *id.* at 19, and that a “[v]oter must be registered in order to sign a nominating petition.” *Id.* at 12. This language underscores that the public and election officials are entitled to rely on the current registration list in determining eligibility to vote or sign nominating petitions.

Voter signatures need not be in the form identical with that appearing on the registration records. Many people have more than one “signature.” Once the matter reaches a judicial tribunal, a signature consistent with that of the registered voter, of one residing in the recorded address of the registrant, must be deemed prima facie that of the registered voter, and the burden is on any challenger to show the contrary. Stone v. Wyckoff, 102 N.J. Super. 26, 34 (App. Div. 1968), cert. denied. 52 N.J. 254 (1968).

Applying the statutory standard to the facts of this case, the outcome depends on a straightforward mathematical computation. A signature must be invalidated if the signer

is a registered Republican or is not a registered voter. Notwithstanding the clear requirement that addresses and printed names be included, I permitted validation of signatories whenever sufficient collateral, verifying information was available on the statewide database to permit that conclusion. Kilmurray, 10 N.J. at 440. Thus, if less leeway had been afforded the candidate, even more signatories would have been invalidated. Nevertheless, based upon the preponderance of the credible evidence, I **CONCLUDE** that more than sufficient number of improper signatures had to be eliminated as invalid. Thus, I **CONCLUDE** that the nominating petition of Roger Baron does not have 1,000 valid signatures.

ORDER

It is hereby **ORDERED** that Roger Bacon's name not be placed on the ballot for the 2021 Democratic primary election for Governor of the State of New Jersey.

I hereby **FILE** my initial decision with the **SECRETARY OF STATE** for consideration.

This recommended decision may be adopted, modified or rejected by the **SECRETARY OF STATE**, who by law is authorized to make a final decision in this matter. If the Secretary of State does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Any party may file exceptions with the **DIRECTOR OF THE DIVISION OF ELECTIONS, DEPARTMENT OF STATE**, by facsimile transmission at (609) 777-1280 within two hours of receipt of the initial decision. A hard copy shall be mailed within twenty-four hours of the facsimile transmission to the **DIRECTOR OF THE DIVISION OF ELECTIONS, DEPARTMENT OF STATE, 225 West State Street, 5rd Floor, PO Box 304, Trenton, New Jersey 08625-0304**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.



April 13, 2021

DATE

JOANN LASALA CANDIDO, ALAJ

Date Received at Agency:

April 13, 2021

Date Mailed to Parties:

April 13, 2021

APPENDIX

Name	pdf page	line	Basis for Exclusion	Count		
First Electronic Packet						
					KEY	
					R = Registered Republican	
Donald Lander	7	22	Not Registered	1		
Alitah Lead	7	24	Illegible	1		
Karene Nebel	7	26	R	1		
Mary West	7	28	R	1		
Liz Kemper	7	29	No Address	1		
Francis Gallagher	8	52	R	1		
Paul Liscio	8	54	Not Registered	1		
Christine Dewire	8	57	Not Registered	1		
Russell Stephan	8	58	R	1		
Anthony Nawni	8	59	R	1		
Michael Penyak	8	60	No Address	1		
Marty Krohn	9	81	R	1		
Yasmine Barto	9	82	R	1		
Dara Rossi	9	83	R	1		
Carlinne Penrose	9	84	L	1		
Sal LaDerca	9	85	No Address	1		
Lori Cassar	9	86	R	1		
Bret Cassar	9	88	R	1		
Haly Iahasan	9	89	No Address	1		
Todd ??	10	21	Illegible	1		
Gregory Noah	10	23	R	1		
Charles Hasen	10	24	Not Registered	1		
Ken Nowrocki	10	29	R	1		
Danel Gollusu	11	73	R	1		
Jill Whitehead	11	74	R	1		
Samy Dawood	11	76	R	1		
William Hibler	11	78	R	1		
James Bunting	11	79	R	1		
Leslie Titus	12	52	R	1		
Michael Rossi	12	53	R	1		
Roger Doll	13	31	R	1		
David Cramer	13	33	R	1		
Doug Muessing	13	35	R	1		
Jeffery Kays	13	37	R	1		
Brett Trippet	13	38	Out of State	1		

John Musick	13	39	R	1		
Elden Mills	13	40	R	1		
Kyle Varin	14	52	R	1		
Donald Borwid	14	53	R	1		
Tim Evanchick	15	92	R	1		
William Kresge	15	98	R	1		
Daniel Kappol	15	100	R	1		
Cara Stramaglia	16	83	R	1		
Zachary Noli	16	85	R	1		
Domenic Foti	17	61	Not Registered	1		
John Vos	17	65	R	1		
Adam Schwarz	17	66	R	1		
Robert Morkis	17	67	R	1		
Meghan Mutchelr	17	69	R	1		
	17	70	Illegible	1		
Ralph Bowlby	18	31	R	1		
Rebrecca Grover	18	32	R	1		
Christine Furino	18	33	R	1		
Christopher Acquire	18	39	R	1		
Matt Acquire	18	40	R	1		
	19	43	Illegible	1		
Dave Dempsey	19	44	R	1		
	19	45	Illegible	1		
James Elwell	19	48	R	1		
Ivy Blasingame	19	49	R	1		
Ashley Johnson	20	74	R	1		
Steve Kolmins	20	77	R	1		
Roger Bacon	20	79	Not Registered	1		
Phil Oh	20	80	R	1		
Debra Stefano	21	94	R	1		
Rebecca Przepadlo	21	97	R	1		
Vincent Carluca	21	99	R	1		
Stephanie Welli	22	82	R	1		
Joseph Ippolito	22	83	R	1		
James Learn	22	86	R	1		
Sandy Zacharis	22	89	Not Registered	1		
William Delesky	23	11	R	1		
Nacole Gitto	23	13	R	1		
Tom Adelbock	23	16	R	1		
Linda Frustaci	23	17	R	1		
Michael Mc Peek	23	18	R	1		
Lori Miller	23	19	R	1		
Steven Verdi	24	71	R	1		
Shani Kately	24	73	R	1		

Michael Manzo	24	74	R	1		
Rebecca	24	76	R	1		
Shawn Patton	24	77	R	1		
Matt Linaberry	25	92	R	1		
Rich Hoffman	25	96	R	1		
Jennifer Coper	25	97	R	1		
Mike May	25	98	R	1		
	25	100	Illegible	1		
Trevor Eldred	32	15	R	1		
John Georginis	32	16	R	1		
Natalie Melore	32	17	R	1		
Samantha Palmasano	32	18	R	1		
Jon-Luke DeStefano	32	20	R	1		
Mike Vandevere	33	3	R	1		
John Deleasa	33	4	R	1		
Veronica Deleasa	33	5	R	1		
Chris Zifer	33	10	R	1		
Sharon Higgins	34	15	R	1		
Steven Higgins	34	16	R	1		
Tiffany Merritt	34	20	R	1		
Matthew Merritt	34	19	R	1		
Linda Black	35	2	R	1		
Michael Fahy	35	3	R	1		
Patricia Fahy	35	4	R	1		
Lauren Ackerman	35	9	R	1		
Michael Esposito	35	7	R	1		
Amanda Esposito	35	8	R	1		
Patti Carlen	35	10	R	1		
Ullysses Suarez	36	81	R	1		
C Dalton	36	82	R	1		
Jack Dalton	36	83	R	1		
Harry Lehman	36	85	R	1		
Louis Polanco	36	86	R	1		
David Jones	36	87	R	1		
Charles Black	36	89	R	1		
Renee Smith	36	90	R	1		
Erin Williams	37	32	R	1		
Vicki Kowalski	37	33	R	1		
Robert Kowalski	37	34	R	1		
Caroline McCormack	37	35	R	1		
Chris McCormack	37	36	R	1		
Greg Houghtaling	37	37	R	1		
	38	41	R	1		
Katherine Fox	38	42	R	1		

Dayon Lee	38	44	R	1		
Jennifer Krip	38	45	R	1		
Sarrin Keleman	38	47	R	1		
David Carlucci	38	48	R	1		
David Pryslak	38	49	R	1		
Amy Pryslak	38	50	R	1		
Glenn Fritts	39	51	R	1		
Diane Fritts	39	52	R	1		
Scott Skeens	39	53	R	1		
Farahlynn Randall	39	54	R	1		
Eugene Lynch	39	55	R	1		
Judy Lynch	39	56	R	1		
Kyle Gravell	39	59	Not Registered	1		
David Thompson	39	60	R	1		
Angela Yunghahn	40	32	R	1		
Amanda Curtis	40	40	Not Registered	1		
Jennifer Weigel	41	21	R	1		
Lisa Ohare	41	22	R	1		
Patricia Wakefield	41	23	R	1		
Sheri Kugelman	41	26	R	1		
Elizabeth PettyBeers	41	27	R	1		
Krystal MacDade	41	28	R	1		
Russell Marion	42	63	R	1		
Cody Horner	42	66	R	1		
Manual Escaleira	42	67	R	1		
Karina Inglin	42	69	R	1		
David Sciabarassi	42	70	R	1		
Stephen O'Brien	43	41	R	1		
Roger Cooper	43	44	Not Registered	1		
Thomas Cannan	43	50	R	1		
Raymon Schick	44	51	R	1		
Suzanne Gannome	44	52	R	1		
Tim Sanderson	44	54	R	1		
Kim DePaola	45	62	R	1		
Walter Baumgarten	45	66	R	1		
Angela Douglas	45	67	R	1		
Hannah Hart	45	69	Out of State	1		
Jamie Wood	46	91	R	1		
Doug North	46	92	R	1		
Kelly Hayes	46	94	R	1		
Charles Archdeacon	46	95	R	1		
Steven Firrello	46	97	R	1		
Christina Whited	47	87	R	1		
Daniel Wyant	47	90	R	1		

Linda S Krutulis	48	75	R	1		
Charles T Krutulis Sr	48	76	R	1		
Henrietta J Herschell	48	77	R	1		
Richard J Geddes	48	79	R	1		
Sharon Greco	49	15	R	1		
Robin Vogel	50	23	R	1		
Joseph Raddi	50	29	R	1		
<u>SECOND ELECTRONIC PACKET</u>						
Stella Price	1	34	R	1		
Bryan Labar	1	37	R	1		
Scott Beshenich	2	44	R	1		
Donna Grogg	3	56	R	1		
Veronica Wenzel	3	58	R	1		
Braydon Lauer	3	60	R	1		
Elaine Pivrotto	4	2	R	1		
George Pivrotto	4	3	R	1		
Jack Edmonds	4	4	R	1		
adeline Dunning	4	5	R	1		
Rosa Dunning	4	6	R	1		
Elmer Dunning	4	7	R	1		
Sherry Cicky	4	9	R	1		
gerald Cevasco	4	10	R	1		
Doris Piatt	5	87	R	1		
Cilia Waters	5	89	R	1		
Kyleigh Mason	6	62	R	1		
Timothy Mehesy	6	63	R	1		
Faith Mehesy	6	64	R	1		
Kelly Price	6	66	R	1		
Eileen Page	7	51	R	1		
Cathrine Willis	7	55	R	1		
John Schutlz	7	56	R	1		
Joseph Trench	7	59	R	1		
Richard Seifat	8	42	R	1		
Erich Zeh	8	43	R	1		
Jeanette Blunt	8	45	R	1		
Joseph Ferri	8	46	R	1		
Paul Kempinski	8	49	R	1		
janet Kempinski	8	50	R	1		
Edwin Morgan	9	38	R	1		
Paul garren	9	39	R	1		
Beth Garren	9	40	R	1		
David Marason	10	22	R	1		

Ron Byerlee	10	23	R	1		
Alfred Ardowski	10	24	R	1		
Tamara Wollman	10	26	R	1		
Dia Decker	10	27	R	1		
Ryanne Bigelli	10	28	R	1		
John Palotas	10	30	R	1		
Sylvia Zubek	11	11	Not Registered	1		
Natalia Zubek	11	12	R	1		
Leila Gonzalez	12	4	R	1		
John Amore	12	5	R	1		
Ruthann Amore	12	6	R	1		
Ward Savacool	12	9	R	1		
Emily Kopaciewicz	12	10	R	1		
Joan Baylor	13	97	R	1		
Victor Rotary	14	84	R	1		
John Bee	14	87	R	1		
Frank Congilio	14	88	R	1		
Todd Johnstone	15	75	R	1		
Linda Frey	15	79	R	1		
michelle wydner	16	72	R	1		
John Smith	16	74	R	1		
Chris Dunn	16	75	R	1		
Henry Rahmann	16	77	R	1		
Debbie Werkhensen	16	78	R	1		
Mitchel Cortright	17	91	R	1		
Brian McCatharn	17	95	R	1		
Donna Beers	18	82	R	1		
Amanda Cerwinski	18	84	R	1		
Cornelius Breure	18	85	R	1		
Matthew Roecker	18	87	R	1		
michael bathgate	18	88	R	1		
Duane Redfern	18	90	R	1		
John Henderson	19	4	R	1		
Kyle Kinney	19	6	R	1		
Mary Jane Deutsch	19	9	R	1		
Debra Mcclusky	19	10	R	1		
Carrie Witte	20	1	R	1		
Robert Plenge	20	5	R	1		
Gary Willis	20	8	R	1		
Jeff Gitto	20	10	R	1		
Andrew Tipton	21	71	R	1		
Micheal Reeder	21	72	R	1		
Thomas Macklin	21	74	R	1		
Mark Kotulich	21	77	R	1		

Patricia Paul	22	57	R	1		
Felix Miranda	23	63	R	1		
Edgar Beers	23	66	R	1		
Michael Gunderman	23	70	R	1		
Mark Riedel	24	78	R	1		
Dimitrios Vouloumanos	24	79	R	1		
Richard Fass	25	21	R	1		
Robert Ziegler	26	15	R	1		
David Breault	26	17	R	1		
Paul Morgan	26	18	R	1		
Sheryl Morgan	26	19	R	1		
Jehan Vassau	27	2	R	1		
David Musgrave	27	4	R	1		
Henry Sardina	27	5	R	1		
Lawrence Dickson	27	6	R	1		
Steve Tomeo	27	7	R	1		
Sabatino Falgiano	27	9	R	1		
John Lance	28	62	R	1		
Glenn Ehrhardt	28	63	R	1		
John Molmar	28	64	R	1		
James Ballentine	28	66	R	1		
Sal Palmieri	28	67	R	1		
Tina Reina	28	70	R	1		
Virgil Deemer	29	43	R	1		
Thomas Kosakowski	30	3	R	1		
Robert Bork	30	7	R	1		
Sharon Kosensky	31	12	R	1		
Heidi Iktor	31	15	R	1		
Joseph Maso	31	16	R	1		
Matthew Dunaj	31	17	R	1		
Sharon Sutton	31	20	R	1		
Jane Bowers	32	25	R	1		
Daniel Vella	32	27	R	1		
Michael Iuliano	32	28	R	1		
Patrick Certain	33	34	R	1		
Bruce Gardner	33	40	R	1		
Rich Lencsak	34	46	R	1		
Brook Newman	34	49	R	1		
David Jayne	34	50	R	1		
Daniel Shortway	35	61	R	1		
Tyler Graff	35	64	R	1		
Michael Lopez	35	68	R	1		
Debra Sayer	36	1	R	1		
Alicia Stadler	36	3	R	1		

Fred Stadler	36	4	R	1		
Lisa Norton	36	5	R	1		
Virginia Frechette	36	6	R	1		
Leo Frechette	36	7	R	1		
Richard Deldonna	37	12	R	1		
Evan Gould	38	46	R	1		
John Scandlin	38	47	R	1		
Brandon Greening	38	48	R	1		
Samuel Whalen	39	43	R	1		
TOTAL EXCLUDED				305		

ⁱ Petitioner contends there are 1271 signatures. This is the unofficial number on the Division's website.

