

**IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA  
CIVIL DIVISION**

Christine A. Reuther and	:	No.: 2017-007902
Ani Marie Diakatos	:	
	:	
v.	:	
	:	
Delaware County Bureau of Elections and	:	
Christine Rossi	:	

**OPINION**

Petitioners appeal from this Court's Order dated September 19, 2017, which denied their Emergency Petition for Relief which sought to strike Respondent, Christine Rossi, from the ballot for the November 7, 2017, General Election as a Republican Candidate for the office of Tax Collector in Nether Providence Township.

The record in the matter establishes that Respondent Rossi won the Republican nomination for the office of Tax Collector in Nether Providence Township in the May, 2017, Primary Election as a write-in candidate. She had not filed a Nomination Petition to appear on the ballot. On September 13, 2017, Petitioners filed their Emergency Petition for Relief seeking to strike Respondent from the General Election ballot on the basis that Respondent violated the Pennsylvania Public Official and Employee ethics Act, 5 PA.C.S.A. §1101 et seq., by failing to file a Statement of Financial Interest with Nether Providence Township within thirty (30) days of the certification of the results of the Primary Election.

By Order dated September 15, 2017, the Court scheduled a hearing on Petitioners' Petition and following the hearing, the Court, by Order dated September 19,

2017, denied Petitioners' Petition. It is from this Order that Petitioners now have filed a Notice of Appeal to the Commonwealth Court of Pennsylvania.

Petitioners contend that Respondent should be stricken from the Election ballot because she failed to comply with the requirement of Section 1104(b) of the Ethics Act that a candidate file a Statement of Financial Interest with the governing authority of the political subdivision in which she is a candidate. The record established that Respondent Rossi did file the Statement of Financial Interest with the township on September 14, 2017, but Petitioners contend the filing was untimely and that this constitutes a fatal defect under Section 1104(b)(3) of the Ethics Act.

Section 1104(b)(3) provides as follows:

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 as 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.

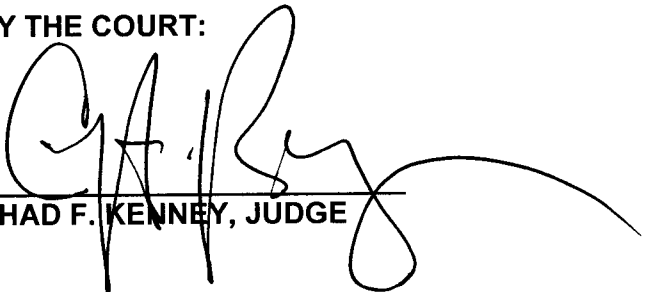
By its express language, §1104(b)(3) specifically applies to a petition to appear on the ballot. In the instant case, Respondent Rossi never filed a petition to appear on the ballot. Instead, her name is to appear on the November General Election ballot as a result of the vote of the Republican Primary Electorate and not the filing of a nomination petition. Accordingly, the fatal defect provision of the section 1104(b)(3) does not apply

to the Respondent's filing of the Statement of Financial Interest. The Judiciary should act with the restraint in the election arena subordinate to the express statutory directives of the Pennsylvania General Assembly. In RE: Nomination Petition of Guzzardi, 627 Pa.1, 99 A.3d 381 (2014).

Thus in the absence of any statutory provision making Respondent Rossi's filing of her Statement of Financial Interest either improper or a fatal defect to her candidacy, the Court denied Petitioners' Emergency Petition to Strike Respondent from the General Election Ballot, and it is submitted that this decision is supported by the record and the applicable legal authority.

October 3, 2017

BY THE COURT:



CHAD F. KENNEY, JUDGE