

Silly Season Election Law Update

News April 29, 2019

It's that time of the year again, known to political professionals as "silly season." Candidates gathering signatures. Names being placed on ballots – and – legal gimmicks by one party trying to knock the other out before the voters get their shot.

For this "silly season" update, we turn to Delaware County, where a tax collector race made itself all the way to the Supreme Court.

In the matter of *Reuther v. Delaware County Bureau of Elections*, Judge Wecht wrote for the court in holding that a write-in candidate should not have their name stricken from the ballot for failure to submit a Statement of Financial Interests.

The parties agreed that write-in candidates must file statements of financial interest, but disagreed as to what the consequences were if a write-in candidate should fail to do so. The party challenging the write-in candidate (objector) argued that the write-in candidate must comply with Ethic Commission regulations requiring the filing of the statement, or the write-in candidate should be stricken from the ballot. The Supreme Court acknowledged that in Pennsylvania, there are different methods by which a party obtains access to the ballot. The write-in candidate argued that since the legislature provided for these different methods of access, the failure to file a statement prior to being placed on the ballot should not cause the individual's name to be stricken from the ballot. The state Ethics Act required candidates who gained access to the ballot by petition and signatures to attached a statement with the filing of their petitions. The failure to attached the statement is a fatal defect that can cause the name to be stricken from the ballot. 65 Pa. C.S. 1104(b)(3).

The Supreme Court explained further that although the Ethics Act generally applies to write-in candidates, the requirement of filing a statement prior to placement on the ballot could not apply, but rather there was a specific requirement for write-in candidates to file statements within 30 days of certification of the election.

In summary, the *Rossi*, the write-in candidate, was permitted to remain the ballot and the "fatal defect" rule that applied to normal candidates petitioning to be placed on the ballot, did not apply.

For additional information contact Kevin Hall.