

## Silly Season Election Law Update Track 3

Articles February 12, 2020

In this version of the Election Law Update, we review a somewhat older decision of the Philadelphia Court of Common Pleas regarding indicted candidate, Willie Singletary, who once served as judge of the Philadelphia Traffic Court.

*In re: Singletary*, the Philadelphia Court of Common Pleas determined that Mr. Singletary was ineligible to serve as a candidate for Democratic at large city councilperson because he had violated Article 2, Section 3 of the Pennsylvania Constitution. Singletary had filed a nomination petition after which an objector had petitioned to set the nomination aside. In the objections, the Petitioner argued that the candidate's affidavit stating the candidate was eligible for office was false because the candidate had, in fact, been convicted of violating 18 U.S.C. Section 1001. That conviction related to charges of corruption that occurred while Singletary was a Traffic Court judge. Singletary was found guilty of two counts of making false statements to the FBI and was sentenced to a term of incarceration of 20 months followed by supervised release.

The Court initially reviewed whether the objections were timely filed. After concluding that although the objections were not timely filed, the Court had discretion to extend the time period for filing those objections due to the fact that the time period had been set by the court, the court then went on to review the substantive claims of the accuracy of the candidate's affidavit and the candidate's eligibility for office under the Pennsylvania Constitution.

Article 2, Section 7 of the Pennsylvania Constitution provides that no person hereinafter convicted of embezzlement of public monies, bribery, perjury or other infamous crimes shall be. . . capable of holding any office of trust or profit in this Commonwealth. The main contention of Mr. Singletary was that the Constitution applied only to statewide office and not to local offices. Nevertheless, the court reviewed a series of cases including *In re: Petition of Hughes*, 105 Pa. Commw. 508 (1987) and most recently, *Com. Ex rel. Kearney v. Rambler*, 613 Pa. 32 (2011) in which the courts had applied that provision of the Pennsylvania Constitution to remove a candidate from the ballot. The court next reviewed whether the conviction was sufficient under Article 2, Section 7. The court noted that the Pennsylvania Supreme Court had held that crime is infamous if its underlying facts establish a felony, some type of *crimen falsi* defense or something that involves the charge of falsehood and the public administration of justice.

The court went on to note that the Pennsylvania Supreme Court has rejected a bright line standard that extra jurisdictional felony convictions are considered *de facto* infamous crimes, but rather such crimes must be reviewed on a case by case basis.

In this instance, the court determined that although Mr. Singletary honestly believed that he was eligible for the office of city council and had not lied on his candidate affidavit, he was not, in fact, eligible due to the fact that he had been convicted of two counts of perjury.

Kevin L. Hall has regularly assisted candidates through the legal process with their nomination petitions. The Pennsylvania primary will take place on April 28, 2020.