

SUPREME COURT OF PENNSYLVANIA

In re Nomination Petition of Robert Jordan (Appeal of Fred Runge)

No. 56 MAP 2022 (Pa. Apr. 19 2022) · No. No. 56 MAP 2022 · Decided July 20, 2022

SUMMARY

The Pennsylvania Supreme Court considered a challenge to Robert Jordan’s nomination petition for State Representative from the 165th Legislative District. The Court held that Jordan would not satisfy the Pennsylvania Constitution’s one-year district-residency requirement before the general election and directed that his name be removed from the ballot. The opinion also addressed whether residency-based eligibility challenges are justiciable under the Pennsylvania Election Code.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice David Wecht; Chief Justice Baer; Justice Todd; Justice Donohue; Justice Dougherty; Justice Wecht; Justice Brobson
JURISDICTION	Pennsylvania
DECIDED	July 20, 2022
DOCKET	No. 56 MAP 2022
DISPOSITION	reversed
PROCEDURAL POSTURE	Objector appealed from the Commonwealth Court's dismissal of his challenge to Robert Jordan's nomination petition for lack of subject matter jurisdiction. The Supreme Court reversed by per curiam order and, because the record was sufficient and the election timetable was pressing, resolved the merits by directing that Jordan's name be removed from the ballot.
STANDARD OF REVIEW	On a challenge to a nomination petition, the Court reverses if the lower court's findings are unsupported by substantial evidence, the court abused its discretion, or the court committed an error of law. Justiciability presents a question of law reviewed de novo with plenary scope of review.
PRECEDENTIAL VALUE	Published majority opinion of the Supreme Court of Pennsylvania; binding Pennsylvania precedent.
PARTIES	Fred Runge, Objector v. Robert Jordan

TOPICS

election law ballot access election administration statutory interpretation separation of powers

PRACTICE AREAS

election law constitutional law appellate procedure statutory interpretation

QUESTIONS PRESENTED

1. Whether a timely challenge to a General Assembly candidate's constitutional age or residency qualifications under Article II, Section 5 of the Pennsylvania Constitution is justiciable under Section 977 of the Pennsylvania Election Code.
2. Whether Jordan satisfied the requirement that a Pennsylvania House candidate be an inhabitant of the respective legislative district for one year next before the election.
3. Whether Jordan's nomination petition was fatally defective because he could not truthfully attest that he was eligible to serve in the office sought.
4. Whether footnote 7 of *In re 1991 Pennsylvania Legislative Reapportionment Commission* waived or rendered inapplicable the one-year residency requirement after late redistricting.

HOLDINGS

1. A timely nomination-petition challenge alleging that a candidate for the General Assembly cannot satisfy Article II, Section 5's constitutional qualifications is justiciable under Section 977 of the Pennsylvania Election Code.
2. A candidate for the Pennsylvania House must have resided within the geographic boundaries of the respective current legislative district for one year next before the election and continuously through Election Day, subject to the constitutional exception for absence on public business.
3. After decennial redistricting, residency is measured by the geographic areas comprising the new district. A candidate who has resided for at least one year within the geographic area that becomes a new district may qualify despite a change in district number; a candidate who moved between geographic areas that are not ultimately combined into the same new district cannot satisfy the one-year requirement.
4. A candidate's good faith or lack of intent to deceive does not cure the absence of a necessary constitutional qualification; a candidate who cannot satisfy the one-year residency requirement is ineligible to run, regardless of whether the eligibility statement was knowingly false.
5. Footnote 7 of *In re 1991 Pennsylvania Legislative Reapportionment Commission* did not waive or suspend Article II, Section 5's residency requirement for Jordan's candidacy.

KEY QUOTATIONS

“Accordingly, channeling the Jones dissenters, we hold that nomination challenges predicated upon allegations that a candidate for the General Assembly cannot meet the qualification requirements set forth in Article II, Section 5 of the Pennsylvania Constitution are justiciable—not by dint of implicit constitutional

authority standing alone, but per the implicit legislative prerogative embodied by Section 977 of the Election Code.” (at 25)

“Because a candidate either is or is not constitutionally eligible to run for office, the absence of a necessary qualification (here, Jordan’s inability to satisfy the local residency requirement by Election Day) cannot be cured by amendment.” (at 33)

“Because he moved from Broomall (Old HD-165) to Swarthmore (Old HD-161) before the LRC’s Final Plan took effect, whether Jordan’s one-year residency clock reset this cycle depended upon whether the LRC subsequently fashioned New HD-165 to encompass both Jordan’s Broomall and Swarthmore addresses.” (at 37)

FACTUAL BACKGROUND

Jordan resided and was registered to vote in Broomall, Delaware County, within Old House District 165, beginning in April 2020. Before November 8, 2021, he agreed to purchase and construct a home in Swarthmore Borough, then located in Old House District 161; the home became available for occupancy on February 7, 2022, and Jordan moved there before March 16, 2022. The 2021 reapportionment plan later placed Swarthmore in New House District 165, but Jordan had not lived within the geographic boundaries of New House District 165 for one year before the November 8, 2022 general election.

PROCEDURAL HISTORY

Runge challenged Jordan's nomination petition, asserting that Jordan could not satisfy Article II, Section 5's one-year residency requirement for a Pennsylvania House seat and that Jordan's affidavit improperly qualified his eligibility statement. The Commonwealth Court dismissed the residency challenge as nonjusticiable and rejected the affidavit challenge. The Supreme Court held that the challenge was justiciable, determined that Jordan could not satisfy the constitutional residency requirement, and ordered removal of his name from the ballot.

DISPOSITION

reversed

REMAND INSTRUCTIONS

No remand was ordered. The Supreme Court had previously reversed the Commonwealth Court by per curiam order and directed the Secretary of the Commonwealth to remove Robert Jordan's name from the ballot.

CASES CITED

- Nomination Petition of Jones, 476 A.2d 1287 (Pa. 1984)
- Nomination Petition of Prendergast, 673 A.2d 324 (Pa. 1996)
- Nomination Petition of Pippy, 711 A.2d 1048 (Pa. Cmwlth. 1998)
- Nomination Petition of Pippy, 709 A.2d 905 (Pa. 1998) (per curiam)
- Nomination Petition of Street, 516 A.2d 791 (Pa. Cmwlth. 1986)

- Nomination Petition of Hughes, 532 A.2d 298 (Pa. Cmwlth. 1987)
- In re 1991 Pennsylvania Legislative Reapportionment Commission, 609 A.2d 132 (Pa. 1992)
- Nomination Petition of Driscoll, 847 A.2d 44 (Pa. 2004)
- In re Lesker, 105 A.2d 376 (Pa. 1954)
- Nomination Petition of Vidmer, 442 A.2d 1203 (Pa. Cmwlth. 1982)
- Nomination Petition of Flaherty, 770 A.2d 327 (Pa. 2001)
- Baker v. Carr, 369 U.S. 186 (1962)
- Rucho v. Common Cause, 139 S. Ct. 2484 (2019)
- Robinson Twp. v. Commonwealth, 83 A.3d 901 (Pa. 2013)
- Nomination Petition of deYoung, 903 A.2d 1164 (Pa. 2006)
- Fried v. Fried, 501 A.2d 211 (Pa. 1985)
- Zemprelli v. Daniels, 436 A.2d 1165 (Pa. 1981)
- Commonwealth v. Tilghman, 673 A.2d 898 (Pa. 1996)
- Commonwealth v. Pelzer, 222 A.3d 368 (Pa. 2019)
- Chalfin v. Specter, 233 A.2d 562 (Pa. 1967)
- Powell v. McCormack, 395 U.S. 486 (1969)
- Spykerman v. Levy, 421 A.2d 641 (Pa. 1980)
- Shambach v. Bickhart, 845 A.2d 793 (Pa. 2004)