



DESIGNATING PETITION SHOULD HAVE BEEN VALIDATED, SUPREME COURT SHOULD NOT HAVE INVALIDATED TWO SIGNATURES BECAUSE THE CANDIDATE WAS NOT GIVEN THE OPPORTUNITY TO RESPOND TO THE ALLEGATION, MADE DURING CROSS-EXAMINATION AT A HEARING, THAT THE TWO SIGNATURES WERE INVALID (SECOND DEPT).

The Second Department, reversing Supreme Court, determined Supreme Court should not have invalidated two signatures on a designating petition because the candidate, Alfieri, was not given the opportunity to prepare a response to the claim the signatures were invalid. Those two signatures, combined with correcting a miscalculation of the number of signatures made by Supreme Court, gave Alfieri one more than the 1500 signatures required for a valid designating petition:

“The Supreme Court may entertain specific objections to signatures on a designating petition that were not asserted before a board of elections to the extent the [other party] was given adequate notice of which signatures on his or her designating petition are being challenged and the grounds thereof” Here, the invalidation petitioners served their bill of particulars raising additional objections ..., prior to the commencement of the hearing on the validating and invalidating petitions. Consequently, Alfieri had adequate notice of the invalidation petitioners’ grounds for objecting to the additional signatures identified in their bill of particulars to enable him to prepare his defense

With respect to the challenge of the 2 signatures that first arose during the cross-examination ... , Alfieri was not given any notice that the Supreme Court would consider whether those signatures were made by the same person and then compare those signatures to the voters’ buff cards to determine whether the signatures on the designating petition matched those on the buff cards. Since the lack of notice deprived Alfieri of an opportunity to adequately prepare a response as to the validity of those 2 signatures, the court should not have invalidated those 2 signatures [Matter of Alfieri v Bravo, 2019 NY Slip Op 04159, Second Dept 5-29-19](#)