

[J-51-2014]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

IN RE: NOMINATION PETITION OF	: No. 35 MAP 2014
MICHAEL W. BEYER, CANDIDATE FOR	:
THE DEMOCRATIC NOMINATION FOR	: Appeal from the order of the
THE OFFICE OF REPRESENTATIVE IN	: Commonwealth Court at No. 150 MD
THE GENERAL ASSEMBLY FOR THE	: 2014, dated April 17th 2014.
131ST LEGISLATIVE DISTRICT	:
	: SUBMITTED: April 24, 2014
	:
APPEAL OF: DAVID EISENHAUER AND	:
LINDA EISENHAUER	:
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ORDER

PER CURIAM

AND NOW, this 5th day of May, 2014, the Order of the Commonwealth Court is **REVERSED**. The Commonwealth Court erred in construing Candidate’s knowing and material misrepresentation of “occupation” on his nomination petition as neither a defect nor, assuming *arguendo* it were a defect, one knowingly made and material to the nomination process. Pursuant to Section 977 of the Election Code, 25 P.S. § 2937, if the court finds that a nomination petition is defective pursuant to Section 976 of the Election Code, 25, P.S. § 2936, the petition must be set aside. In re Nomination Petition of Driscoll, 847 A.2d 44, 49 (Pa. 2004). This Court has held, however, that defects arising from good faith mistakes may be amendable such that they do not require striking the candidate’s name from the ballot. In re Nomination of Paulmier, 937 A.2d

364 (Pa. 2007). In listing his present occupation as “lawyer” when he was a law school graduate who had neither taken nor passed the bar and who was not presently engaged in working with the law in any way, Candidate’s knowing and material misrepresentation cannot be characterized as the product of a good faith mistake. Electors were materially misled by the defect to the effect of potentially defeating their right to nominate on fair information.

It is further **ORDERED** that Michael W. Beyer’s name is to be **STRICKEN** from the primary ballot for the Democratic Party nomination for the Office of Representative in the General Assembly for the 131st Legislative District.

Opinion(s) to follow.

Mr. Justice Saylor Concurs in the Result and Mr. Justice Baer files a Dissenting Statement.