

**[J-77-2007]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**EASTERN DISTRICT**

IN RE: NOMINATION PETITION OF : No. 172 EAL 2007  
GREG PAULMIER FOR THE OFFICE OF :  
CITY COUNCIL OF THE CITY OF : Appeal from the Order of the  
PHILADELPHIA DEMOCRATIC : Commonwealth Court entered April 9,  
PRIMARY MAY 2, 2007 : 2007 at No. 570 CD 2007, which affirmed  
: the Order of the Court of Common Pleas,  
OBJECTION OF: CINDY BASS : Philadelphia County, Civil Division entered  
: on March 22, 2007 at No. 1172 March  
: Term, 2007.  
PETITION OF: GREG PAULMIER :  
: :  
: SUBMITTED: APRIL 12,2007

**CONCURRING OPINION**

**MR. JUSTICE CASTILLE**

**FILED: December 28, 2007**

I join the Majority Opinion in its entirety. I do so because it adopts the position I have maintained since the Court's affirmance of the Commonwealth Court's opinion in In re Nom. Petition of Anastasio, 820 A.2d 880 (Pa. Cmwlth. 2003), *aff'd per curiam without opinion*, 827 A.2d 373 (Pa. 2003). Specifically, today's Majority, construing the Ethics Act and the Election Code together, holds that: "the fatality rule announced in Section 1104 of the Ethics Act was intended by the Legislature to bar only those candidates from the ballot who fail to file statements of financial interests or who file them in an untimely manner." Majority Slip Op. at 8. This construction is consonant with the position I set forth in my Concurring Opinion in In re Nom. Petition of Benninghoff, 852 A.2d 1182, 1192 (Pa. 2004) (Castille, J., joined by Eakin, J., concurring) ("Given the occasion for the amendment [to the Ethics Act which added the "fatal defect" language], I would conclude that fatal defects are

limited to **untimely** filings. Mere defects or omissions in **timely** filings, such as the ones at issue here, should be subject to amendment.”) (noting agreement with Petition of Cioppa, 626 A.2d 146, 148-49 (Pa. 1993) (Opinion Announcing Judgment of Court by Nix, C.J.). I agree with the Majority that our holding today necessitates overruling and/or disapproving Anastasio and the line of cases which have relied upon its *per se* rule.<sup>1</sup>

I also write to note that, although the Majority approves the “rationale” of the Benninghoff case to the extent it recognized, where Anastasio did not, the necessity of aligning the Ethics Act and the Election Code, today’s holding does not adopt Benninghoff’s “substantial compliance” rule. The fashioning of that rule was made necessary by the effect of the unfortunate Anastasio line. The Court having eradicated the Anastasio cancer, the half-cure of Benninghoff has outlived its usefulness.

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<sup>1</sup> I have joined decisions applying Anastasio and/or Benninghoff strictly on grounds of *stare decisis*. See, e.g., In Re Nom. Petition of Littlepage, 909 A.2d 1235 (Pa. 2006). Accord id. at 1241 (Eakin, J., concurring).

While *stare decisis* serves invaluable and salutary principles, it is not an inexorable command to be followed blindly when such adherence leads to perpetuating error. See Mayle [v. Pa. Dept. of Highways], 388 A.2d [709,] 720 [(Pa. 1978) (“[T]he doctrine of stare decisis is not a vehicle for perpetuating error, but rather a legal concept which responds to the demands of justice and, thus, permits the orderly growth processes of the law to flourish.”)].

Stilp v. Commonwealth, 905 A.2d 918, 967(Pa. 2006). The experience of the last few election cycles, where it became apparent that the Anastasio approach had become a potent political weapon, resulting in the courts being inundated with election challenges premised upon supposed “fatal defects,” and candidates being removed for a variety of minor perceived “infractions,” reaffirmed my belief that such was not the General Assembly’s intention and that Anastasio, which was affirmed by this Court without explanation, required revisiting.