

**Williams v Barry**

2023 NY Slip Op 31490(U)

May 1, 2023

Supreme Court, Suffolk County

Docket Number: Index No. 609712/2023

Judge: Jerry Garguilo

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SHORT FORM ORDER

INDEX NOS. 609712/2023  
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**SUPREME COURT - STATE OF NEW YORK  
I.A.S. TERM, PART 47 - SUFFOLK COUNTY**

**PRESENT:**

**HON. JERRY GARGUILO  
SUPREME COURT JUSTICE**

\_\_\_\_\_  
GREGORY L. WILLIAMS,

Petitioner,

**ALL PARTIES VIA NYSCEF  
(FULL PARTICIPATION RECORDED)**

-against-

RENE BARRY,

Respondent-Objector,

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And

**MOTION SEQ#001  
MOTION: REFERRED TO HEARING**

SUFFOLK COUNTY BOARD OF ELECTION,

Respondents.

\_\_\_\_\_  
CATHERINE L. STARK, Candidate-Aggrieved,

Petitioner,

-against-

**INDEX NO. 610306/2023**

GREGORY L. WILLIAMS, Candidate,

And

**MOTION SEQ#001 & 002  
MOTION: REFERRED TO HEARING**

BETTY MANZELLA AND JOHN ALBERTS,  
Commissioners constituting the Suffolk County  
Board of Elections,

Respondents.  
\_\_\_\_\_

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In rendering a determination, the Court has considered all submissions and entertained oral argument on April 25th and April 28th of 2023. The submissions are found/filed at index number 609712/2023 and 610306/2023 and are as follows:

Index number 609712/2023.

1. Petitioner-candidate, Gregory L. Williams Order to Show Cause to validate designating petition dated April 19th, 2023;
2. Petition;
3. Emergency Affirmation; and
4. Affirmation/Affidavit of Service.

Index number 610306/2023.

1. Petitioner-aggrieved, Catherine L Stark's Order to Show Cause with Verified Petition dated April 23rd, 2023. (Invalidating petition);
2. Emergency Affirmation;
3. Notice of Motion;
4. Affirmation;
5. Affirmation/Affidavit of Service;
6. Exhibit Affidavit of Service on John Alberts;
7. Exhibit Affidavit of Service on Betty Manzella;
8. Exhibit Affidavit of Service on Respondent-Candidate;
9. Affirmation/Affidavit of Service;
10. Amended Petition dated April 27th, 2023;
11. Affirmation In Opposition to Respondent-Candidate Williams Motion to Dismiss; and
12. Respondents, Betty Manzella and John Alberts as Commissioners, Verified Answer to Amended Petition.

The dispute or more particularly the issue of whether or not Catherine L. Stark and Gregory L. Williams will or will not be primary opponents for the public office of Suffolk County legislature, First Legislative District. Parenthetically, the Suffolk County Board of Elections, a nominal party takes no position concerning the dispute.

The issue of personal jurisdiction is raised by Williams, claiming service as directed by the Court was a failure. Upon consideration of the relevant affidavits of service, the

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Court denies that relief. However, Williams may inquire at the hearing scheduled hereinafter the bona fides of the affidavits.

At a conference of April 25th, 2023, the Court heard oral applications. Williams, through counsel, protested the lack of particularization of the alleged acts of "permeated fraud". In other words, what is it that Williams is accused of doing? In response and pursuant to direction, Stark submits an amended petition (see number 5 hereinbefore) alleging:

15. That upon information and belief the designation petition of Respondent-Candidate Williams is permeated with fraud and must be found invalid, as certain facts and representations sworn to and subscribed on petition sheets are false and fraudulent. As a result, the designating petitions of Respondent-Candidate must be invalidated. *See Matter of Haygood v. Hardwick*, 110 AD3d 931(2<sup>nd</sup> Dept 2013); *Matter of Felder v. Storobin*, 100 AD3d 11 (2<sup>nd</sup> Dept 2012)

16. Specifically, Respondent-Candidate Williams Knowingly engaged in acts of fraud by collecting signatures from voters on his designating petition, and then having those signatures submitted by a person who claimed to be a witness to the signatures, yet never collected them. Respondent-Candidate Williams willfully permitted false and fraudulent documents to be submitted to the very government agency entrusted with the integrity of elections in the County of Suffolk, the Suffolk County Board of Elections. Indeed, Respondent-Candidate Williams orchestrated and permitted the violation of the Election Law and other laws by witnessing as well as gathering signatures of voters on his designating petition, and then allowing those signatures to be submitted as if they had been witnessed by another individual.

17. The act of permitting, planning and, as here, planning the submission of false and misleading documents, particularly when done by a Candidate, causes a designating petition to be permeated by fraud. In such an instance, the designating petition at issue must be deemed invalid.

18. That, in accordance with the Election Law and prior decisions of this and other Courts, Petitioner retains the right to submit proof establishing the invalidity of the designating petition submitted by and on behalf of Respondent-Candidate, for reasons not heretofore specified, and Petitioner intends to exercise such right.

At oral argument of April 28th, 2023, in furtherance of particularizing her claim,

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Stark served (in court) a witness list naming: James P Montgomery, Jamesport, New York. Daniel Bruno, Mattituck, New York. Peter Young, Mattituck, New York. Catherine Simichich, Mattituck, New York. And Kathleen Markowsky, Laurel, New York.

In anticipation of the hearing, all parties may note the determination of the Appellate Division, Second Department, *In the Matter of Charles Ragusa et al., v. Sandra Roper, et al.*, 286 A.D.2d 516, 729 N.Y.S.2d 647 (Mem), 2001 N.Y. Slip Op. 06924 where the court determined:

As a general rule, a candidate's designating petition will be invalidated on the ground that some signatures have been obtained by fraud only if there is a showing that the entire designating petition is permeated with that fraud (*Matter of Ferraro v McNab*, 60 NY2d 601, 603; *Matter of Proskin v May*, 40 NY2d 829, 830; *Matter of Aronson v Power*, 22 NY2d 759, 760). However, even where the designating petition is not permeated with fraud, when the candidate has participated in or is chargeable with knowledge of the fraud, the designating petition will generally be invalidated (*see, Matter of Flower v D'Apice*, 104 AD2d 578, *affd* 63 NY2d 715; *Matter of Layden v Gargiulo*, 77 AD2d 933, 934; *Matter of MacDougall v Board of Elections*, 133 AD2d 198).

The Court directs the parties and witnesses to appear for a hearing before it on Tuesday May 2nd, 2023, at 11 a.m. to present proofs.

The foregoing constitutes the decision and **ORDER** of this Court.

**Dated: May 1, 2023**

  
HON. JERRY GARGUILO, JSC