

**[J-77-2005]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**EASTERN DISTRICT**

IN RE NOMINATION PETITION OF : No. 241 EAL 2005  
ALBERT LITTLEPAGE, JR., AS :  
CANDIDATE FOR THE DEMOCRATIC : Order of the Commonwealth Court  
NOMINATION FOR TRAFFIC COURT IN : entered April 21, 2005 at 658 CD 2005,  
PHILADELPHIA COUNTY : reversing the Philadelphia Court of  
: Common Pleas Order entered March 28,  
APPEAL OF: ALBERT LITTLEPAGE, JR. : 2005 at March Term 2005, No. 1452  
:  
: SUBMITTED: May 5, 2005  
: DECIDED: May 5, 2005

**CONCURRING OPINION**

**MR. JUSTICE EAKIN**

**FILED: November 22, 2006**

I join the majority's decision affirming the Commonwealth Court's order, as it applied existing precedent. However, I write separately to reiterate my view that In re Benninghoff, 852 A.2d 1182 (Pa. 2004), and In re Nomination Petition of Anastasio, 820 A.2d 880 (Pa. Cmwlth. 2003), aff'd per curiam, 827 A.2d 373 (Pa. 2003), are irreconcilable and that "fatal defects [of nomination petitions] are limited to untimely filings." See Benninghoff, at 1190, 1192 (Castille, J., concurring, joined by Eakin, J.). Under this view, Candidate's amended nomination petition would have been allowed, and he would have appeared on the ballot.