



Anthony G. Forlini

Macomb County Clerk
Register of Deeds

Kathy Smith
Chief Deputy Clerk

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Deputy Register of Deeds

May 7, 2024

Staff Report Concerning Disposition of Challenges Filed Against Macomb County Probate Judge – New Judgeship Petitions

Prior to the filing deadline, three individuals (Jevona Fudge, Aaron Hall, and Benjamin Schock) filed to be a candidate for the Macomb County Probate Court – New Judgeship position.

After canvassing their respective nominating petitions, the Macomb County Election Department sent notification to each of the three candidates on April 29, 2024 that each one had submitted a sufficient number of signatures to be placed on the August 6, 2024 election ballot as a candidate for that office.

Subsequently, petition challenges were filed against all three candidates. After reviewing the challenges and discussing the matter with our Corporation Counsel's Office, whose opinion is attached to this report, I have determined that Jevona Fudge, Aaron Hall, and Benjamin Schock should be certified to be on the ballot at the August 6, 2024 election.

Sincerely,

Anthony G. Forlini
Macomb County Clerk

Attachment: Corporation Counsel opinion

Macomb County Election Department

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MEMORANDUM

TO: Anthony Forlini, Macomb County Clerk/Register of Deeds

FROM: Frank Krycia, Assistant Corporation Counsel

DATE: May 7, 2024

RE: Nominating Petition Challenges

You have asked me to review the objections to the nominating petitions filed on behalf of Aaron J. Hall, Benjamin A. Schock and Jevona Cheri' Fudge for the new probate court judge position as part of your investigation required by MCL 168.552(2). These objections do not challenge any of the signatures on the petitions. Instead, the objections, in the case of Hall and Schock claim that the nominating petitions are invalid because the area on the petition to identify the district was left blank, and in the case of Fudge, claim the petitions are invalid because Macomb County Probate Court was named as the district.

I will first consider the objections filed to Hall and Schock's petitions. These objections contend that all probate courts are a district and the petitions should have indicated "Macomb" in the blank to identify the district. A response was also filed to the objections to Schock's petitions. The response notes that pursuant to statute there are a limited number of probate court districts and Macomb County is not in a probate court district.

The objections are not supported by law. Michigan law clearly provides that probate court districts only consist of multiple counties as allowed by the legislature and approved by a majority of the electors in the proposed district. Mich Const 1963, Art VI §15. The legislature allowed for several probate districts as identified in MCL 600.807. Macomb County is not identified as being in a probate district. MCL 600.803 further provides that probate districts have one probate judge but that probate courts that are not part of a probate court district may have more than one judge as specified in that section. MCL 600.803(7) provides that Macomb County may have more than one probate judge.

Therefore, it is clear that all probate courts are not in a district and that Macomb County is not part of a probate court district since it is not specified in MCL 600.807 and Macomb County Probate Court has more than one probate judge. The objections'

reliance on *Aiello v. Sabaugh*, unpublished Mich Ct App (Docket No. 333461, June 21, 2016) is irrelevant since the district number may be left blank if there is no district number. In fact, the petition states “district, if any”. Since Macomb County is not part of a probate court district the space for district on the petitions was properly left blank.

The objections also refer to samples, some included in a Secretary of State guideline for reviewing petitions but fails to note the sample that was suggested to be invalid for failing to indicate the district was for a district court judge position and all district courts are numbered and that number is required on a petition for a district court judge position.

The objections’ claim that the nominating petitions did not adequately state the name of the position sought is also without merit. This issue was discussed in another unpublished Court of Appeals opinion that dealt with affidavits of identity which are reviewed under the same standards as nominating petitions. In *Davis v. Wayne County Election Commission*, unpublished Mich Ct App (Docket No. 361546, June 2, 2022), the Court found that stating “Circuit Court” and then checking a box for new judgeship was sufficient to identify the office of Circuit Court Judge.

Hall and Schock’s petitions clearly indicate that they are only for Macomb County and that the candidates seek the office of probate judge, new position. As such, the petitions strictly comply with the applicable law.

The objection to Fudge’s petitions claims that the petitions are misleading because they erroneously indicate that Macomb County is in a probate court district and residents could be confused into thinking that Macomb County Probate Court covers other counties. While Macomb County is not part of a probate court district, Fudge’s petitions accurately indicate that the candidate is seeking the new judgeship in Macomb County Probate Court. There is no reference to any other county on Fudge’s petitions. Accordingly, the reference to Macomb County Probate Court in the space for “district, if any” is merely redundant and does not invalidate the petitions.

All of the objections lack merit and if there are sufficient signatures, the candidates should be certified to be on the ballot for the August 6, 2024 primary.