

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

1234.2

CAE 03-02130

PRESENT: PIGOTT, JR., P.J., PINE, HURLBUTT, KEHOE, AND HAYES, JJ.

MATTER OF HOWIE HAWKINS, PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

EDWARD J. SZCZESNIAK AND HELEN M. KIGGINS, COMMISSIONERS,
CONSTITUTING ONONDAGA COUNTY BOARD OF ELECTIONS, AND
DUSTIN M. CZARNY, RESPONDENTS-RESPONDENTS.

MARK DAVID BLUM, MANLIUS, FOR PETITIONER-APPELLANT.

ANTHONY P. RIVIZZIGNO, COUNTY ATTORNEY, SYRACUSE (JOANNA GOZZI OF
COUNSEL), FOR RESPONDENTS-RESPONDENTS EDWARD J. SZCZESNIAK AND HELEN
M. KIGGINS, COMMISSIONERS, CONSTITUTING ONONDAGA COUNTY BOARD OF
ELECTIONS.

GREEN & SEIFTER, ATTORNEYS, PLLC, SYRACUSE (DAFNI S. KIRITSIS OF
COUNSEL), FOR RESPONDENT-RESPONDENT DUSTIN M. CZARNY.

Appeal from an order of Supreme Court, Onondaga County (Centra,
J.), entered October 7, 2003, which dismissed the petition for lack of
personal jurisdiction.

It is hereby ORDERED that the order so appealed from be and the
same hereby is unanimously affirmed without costs.

Memorandum: Petitioner appeals from an order dismissing his
petition in this Election Law proceeding for lack of personal
jurisdiction, based on improper service of the order to show cause and
petition. Petitioner commenced this proceeding seeking to set aside
the determination of respondent Onondaga County Board of Elections
invalidating his independent nominating petition as a candidate for
Councilor-at-Large on the City of Syracuse Common Council. Petitioner
himself personally served the order to show cause and petition upon
respondents. On appeal, petitioner contends that personal service by
a party to the action is a mere irregularity that does not deprive
Supreme Court of personal jurisdiction over respondents. We disagree,
and conclude that the court properly dismissed the petition as
jurisdictionally defective (see CPLR 2103 [a]; *Matter of Wein v*
Thomas, 78 AD2d 611, *affd* 51 NY2d 862; *Miller v Bank of New York*, 226
AD2d 507; *Kedzielawa v Smolinski*, 133 AD2d 517, *lv denied* 70 NY2d
604).

Entered: October 20, 2003

JOANN M. WAHL
Clerk of the Court