

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D16208
O/hu

_____AD3d_____

Argued - August 21, 2007

A. GAIL PRUDENTI, P.J.
PETER B. SKELOS
ROBERT A. LIFSON
EDWARD D. CARNI
RUTH C. BALKIN, JJ.

2007-07429

DECISION & ORDER

In the Matter of Margaret Grumbach, etc.,
et al., appellants, v Orange County Board of
Elections, et al., respondents, Steven M.
Neuhaus, et al., respondents-respondents.

(Index No. 7225/07)

In a proceeding pursuant to Election Law § 16-102, inter alia, to invalidate a petition designating Steven M. Neuhaus, Alexander J. Jamieson, and David S. Bell as candidates in a primary election to be held on September 18, 2007, for the nomination of the Republican Party as its candidates for the public offices of Supervisor of the Town of Chester, Council Member of the Town of Chester, and Superintendent of Highways of the Town of Chester, respectively, the petitioners appeal from a final order of the Supreme Court, Orange County (Owen, J.), dated August 9, 2007, which denied the petition and dismissed the proceeding.

ORDERED that the final order is affirmed, without costs or disbursements.

The Supreme Court correctly found that the appellants failed to establish by clear and convincing evidence that the petition designating Steven M. Neuhaus, Alexander J. Jamieson, and David S. Bell as candidates in the primary election to be held on September 18, 2007, was permeated with fraud and should be invalidated (*see Matter of Perez v Galarza*, 21 AD3d 508; *Matter of Fonvil v Michel*, 308 AD2d 424; *Matter of Norman v Sunderland*, 253 AD2d 729; *Matter of Miller v Boyland*, 143 AD2d 237). Contrary to the appellants' contention, the inclusion of David S. Bell's

August 22, 2007

Page 1.

MATTER OF GRUMBACH v ORANGE COUNTY BOARD OF ELECTIONS

name on the designating petition, without his consent, did not amount to a fraud on the signatories because he had already consented to run for the public office of Superintendent of Highways on the endorsed Republican slate of candidates with Neuhaus and Jamieson (*cf. Matter of Richardson v Luizzo*, 64 AD2d 942).

PRUDENTI, P.J., SKELOS, LIFSON, CARNI and BALKIN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court