

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

D20889
G/kmg

_____AD3d_____

Argued - October 16, 2008

STEVEN W. FISHER, J.P.
HOWARD MILLER
MARK C. DILLON
RANDALL T. ENG, JJ.

2008-07887

DECISION & ORDER

In the Matter of Gregory John Fischer, appellant,
v Suffolk County Board of Elections, et al., respondents.

(Index No. 28653/08)

In a proceeding pursuant to Election Law § 16-102, inter alia, to validate a petition designating Gregory John Fischer as the candidate of the Democratic Party for the public office of State Senator for the 1st Senatorial District, the petitioner appeals from a final order of the Supreme Court, Suffolk County (Weber, J.), entered August 19, 2008, which, among other things, denied the petition to validate and dismissed the proceeding.

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

The Supreme Court properly determined that the appellant's petition to validate was insufficiently pleaded as a matter of law. A validating petition must specify the individual determinations of a board of elections that the candidate claims were erroneous, including the signatures that the candidate claims were improperly invalidated (*see Matter of Krueger v Richards*, 59 NY2d 680, 682; *Matter of Jennings v Board of Elections of City of N.Y.*, 32 AD3d 486; *Matter of Green v Mahr*, 231 AD2d 480). Here, since the appellant's validating petition was not sufficiently particularized to give the Supreme Court and the parties notice of the determinations of the Suffolk County Board of Elections which were claimed to be erroneous or the signatures that the appellant claimed were improperly invalidated (*see CPLR 3013*), the petition to validate was properly denied by the Supreme Court (*see Matter of Jennings v Board of Elections of City of N.Y.*, 32 AD3d at 486-487; *Matter of Jannaccio v Board of Elections of City of N.Y.*, 297 AD2d 355; *Matter of Green v Mahr*, 231 AD2d at 480-481).

October 16, 2008

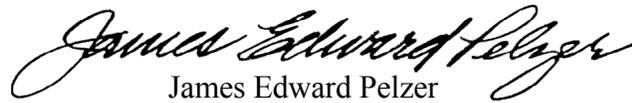
Page 1.

MATTER OF FISCHER v SUFFOLK COUNTY BOARD OF ELECTIONS

In light of this determination, we do not reach the appellant's remaining contentions.

FISHER, J.P., MILLER, DILLON and ENG, 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