

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

D35922  
G/kmb

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - August 14, 2012

PETER B. SKELOS, J.P.  
RUTH C. BALKIN  
LEONARD B. AUSTIN  
SANDRA L. SGROI, JJ.

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2012-07414

DECISION & ORDER

In the Matter of Ernest Skinner, et al., appellants,  
v Clara Nelson, et al., respondents-respondents,  
et al., respondent.

(Index No. 700010/12)

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In a proceeding pursuant to Election Law § 16-102, inter alia, to invalidate a petition designating certain of the respondents as candidates in a primary election to be held on September 13, 2012, for the party positions of Male and Female Members of the Democratic County Committee, 42nd Assembly District, and as its candidate for the party position of Delegate to the Democratic Judicial Convention for certain Election Districts in the 42nd Assembly District, the petitioners appeal from so much of a final order of the Supreme Court, Kings County (Weston, J.), dated August 9, 2012, as, after a hearing, granted the petition only to the extent of invalidating the designating petition as to the respondents Dieuseul Taillefer, Zev Kramer, Fannie Manning, Judith Morgan, Clara Nelson, Njeri Joseph, and Tamar Apfeldorf as candidates for the party positions of Male and Female Members of the Democratic County Committee for certain Election Districts in the 42nd Assembly District, and as to the respondent Margarett Troppas as candidate for the party position of Delegate to the Democratic Judicial Convention, 42nd Assembly District, and directing that those names be stricken from the ballot.

ORDERED that the final order is modified, on the law, by adding thereto a provision invalidating the sheets of the subject designating petition which contain the names of any or all of the respondents Dieuseul Taillefer, Zev Kramer, Fannie Manning, Judith Morgan, Clara Nelson, Njeri Joseph, and Tamar Apfeldorf as candidates for the party positions of Male and Female Members of the Democratic County Committee for certain Election Districts in the 42nd Assembly District; as so modified, the final order is affirmed insofar as appealed from, without costs or disbursements, and the matter is remitted to the Supreme Court, Kings County, for a determination of the sufficiency of the number of signatures in the subject designating petition in light of our

August 15, 2012

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determination.

While we disagree with the petitioners' contention that the entire designating petition should be invalidated due to the inclusion therein of names of candidates who did not give their consent to be so included, the Supreme Court should have invalidated those sheets of the designating petition which contained the names of any or all of the respondents Dieuseul Taillefer, Zev Kramer, Fannie Manning, Judith Morgan, Clara Nelson, Njeri Joseph, and Tamar Apfeldorf (*see Matter of Richardson v Luizzo*, 64 AD2d 942, *aff'd* 45 NY2d 789; *Matter of Hunt v Payton*, 218 AD2d 774; *Matter of Berman v Venturini*, 64 AD2d 940).

The petitioners' remaining contentions are without merit.

SKELOS, J.P., BALKIN, AUSTIN and SGROI, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court