

a rule (Article VI, Section 11) that states:

"Authorizations in a City of one million or more. Notwithstanding any rule or by-law to the contrary, authorizations for all public offices to be elected in a city of one million or more that are made pursuant to section 6-120 of the Election Law, shall be made by the executive committee of the state committee."

Petitioners, chairpersons of the Independence Party County Committees in Kings, New York, Queens and Richmond Counties (the County Committees), brought this proceeding and declaratory judgment action seeking to invalidate this party rule. The County Committees principally argued that the party rule conflicted with Election Law § 6-120(3).

Supreme Court invalidated the rule in its entirety, concluding that it violated Election Law § 6-120(3) because authorizations for citywide offices in New York City (e.g., Mayor) must be issued "by a majority vote of those present at a joint meeting of the executive committee of each of the five county committees of the party." The Appellate Division modified. Recognizing the State Committee's concession that the party rule was inconsistent with Election Law § 6-120(3) for authorizations of candidates for citywide offices in the City of New York, the Appellate Division held that the party rule was invalid to the extent it purported to grant the State Committee such authority. However, the court further held that the State Committee properly exercised its authority to promulgate the party rule vesting in its Executive Committee the power to issue

certificates of authorization for non-citywide public offices in the City of New York. We granted the County Committees leave to appeal and now affirm.

Under Election Law § 6-120(3), a political party may grant the authority to issue certificates of authorization, or Wilson-Pakula certificates, to its state committee (see Matter of Master v Pohanka [decided today]). The statute contains only one exception to this rule: where a "designation or nomination is for an office to be filled by all the voters of the city of New York" (Election Law § 6-120[3]). In such a case, the "authorization must be by a majority vote of those present at a joint meeting of the executive committees of each of the county committees of the party within the city of New York" (id.). Thus, the Independence Party rule at issue does not conflict with Election Law § 6-120(3) insofar as it vests in the Executive Committee of the State Committee the authority to designate or nominate nonparty members for non-citywide public offices in the City of New York.

The County Committees' remaining contention lacks merit.

Accordingly, the order of the Appellate Division should be affirmed, without costs.

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Order affirmed, without costs, in a memorandum. Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided June 10, 2008