

Chou v Nunziato

2024 NY Slip Op 31580(U)

May 2, 2024

Supreme Court, Queens County

Docket Number: Index No. 708973/2024

Judge: Tracy Catapano-Fox

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----X

JOSEPH J. CHOU,

Index No. 708973/2024

Petitioner-Candidate, Aggrieved

Part MDP

Motion Date: May 1, 2024

-against-

Calendar No.

ANTHONY P. NUNZIATO,

Sequence No. 1

Respondent-Objector

-and-

FILED
5/3/2024
COUNTY CLERK
QUEENS COUNTY

THE BOARD OF ELECTIONS IN THE CITY OF
NEW YORK,

Respondent-Board,

For an Order pursuant to Sections 16-100, 16-102, and 16-116 of the Election Law, declaring VALID the Designating Petition which named the Petitioner as a Candidate for the Public Office of Representative in the United States Congress from the 6th Congressional District, Queens County, State of New York, in the Republican Party Primary Election to be held on June 25, 2024, and to order said BOARD OF ELECTIONS to print and place the name of said Candidate upon the official ballots of such Primary Election.

-----X

The following papers numbered EF-1 to EF-12 read on this Petition by Aggrieved Petitioner-Candidate JOSEPH J. CHOU for an Order declaring the subject Designating Petition valid, proper, sufficient, and legally effective, directing, requiring, and commanding Respondent BOARD OF ELECTIONS to print and/or place Petitioner's name as candidate for the Public Office of Representative in Congress from the 6th Congressional District, New York State in the Republican Primary Election to be held on June 25, 2024 and on all of the official ballots to be used at the Republican Primary Election to be held on June 25, 2024, and enjoining and restraining Respondent BOARD OF ELECTIONS from printing, issuing, or distributing any and all official

ballots used in the subject election upon which Petitioner’s name does not appear as a candidate for the Public Office of Representative in Congress from the 6th Congressional District, New York State.

Papers
Numbered

Petition, Order to Show Cause, Affirmation, Exhibits.....	EF1-EF10
Answer.....	EF11
Reply Affirmation.....	EF12

Upon the foregoing papers, it is ordered that this Petition is determined as follows:

Aggrieved Petitioner-Candidate Joseph J. Chou’s application for an Order declaring the subject Designating Petition valid, proper, sufficient, and legally effective, directing, requiring, and commanding Respondent BOARD OF ELECTIONS to print and/or place Petitioner’s name as candidate for the Public Office of Representative in Congress from the 6th Congressional District, New York State in the Republican Primary Election to be held on June 25, 2024 and on all of the official ballots to be used at the Republican Primary Election to be held on June 25, 2024, and enjoining and restraining Respondent BOARD OF ELECTIONS from printing, issuing, or distributing any and all official ballots used in the subject election upon which Petitioner’s name does not appear as a candidate for the Public Office of Representative in Congress from the 6th Congressional District, New York State is denied.

Aggrieved Petitioner-Candidate Joseph J. Chou commenced this proceeding pursuant to Election Law §16-102 to validate a petition designating him as a candidate in the Republican Primary Election on June 25, 2024. Based upon the Petition, the Board of Elections issued a determination removing Petitioner from the ballot. Petition commenced this proceeding thereafter and presents the Clerk’s Report, Exception Report, and pages of the Designating Petition in support of his application.

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. (*Matter of Wagner v. Elasser*, 194 A.D.3d 891, 892 [2d Dept. 2021].) Here, the Validating Petition was not sufficiently particularized to give the Court and parties notice of which determinations were allegedly erroneous or which signatures Petitioner-Candidate claimed were improperly invalidated.

Accordingly, Aggrieved Petitioner-Candidate Joseph J. Chou’s application for an Order declaring the subject Designating Petition valid, proper, sufficient, and legally effective, directing, requiring, and commanding Respondent BOARD OF ELECTIONS to print and/or place

Petitioner's name as candidate for the Public Office of Representative in Congress from the 6th Congressional District, New York State in the Republican Primary Election to be held on June 25, 2024 and on all of the official ballots to be used at the Republican Primary Election to be held on June 25, 2024, and enjoining and restraining Respondent BOARD OF ELECTIONS from printing, issuing, or distributing any and all official ballots used in the subject election upon which Petitioner's name does not appear as a candidate for the Public Office of Representative in Congress from the 6th Congressional District, New York State is denied. The Petition is hereby dismissed.

This constitutes the decision and Order of the Court.

Dated: May 2, 2024



Hon. Tracy Catapano-Fox, J.S.C.

FILED
5/3/2024
COUNTY CLERK
QUEENS COUNTY