

**SUPREME COURT OF THE STATE OF NEW YORK**  
*Appellate Division, Fourth Judicial Department*

**846.1**

**CAE 13-01433**

PRESENT: SCUDDER, P.J., SMITH, FAHEY, AND PERADOTTO, JJ.

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IN THE MATTER OF THOMAS V. DADEY, JR.,  
PETITIONER-RESPONDENT,

V

MEMORANDUM AND ORDER

IAN HUNTER, ERNEST D. MORROW, RANDOLPH F.  
POTTER, RESPONDENTS-APPELLANTS,  
ONONDAGA COUNTY BOARD OF ELECTIONS, BY HELEN  
KIGGINS WALSH AND DUSTIN M. CZARNY, COMMISSIONERS,  
CONSTITUTING THE ONONDAGA COUNTY BOARD OF  
ELECTIONS, RESPONDENT-RESPONDENT.

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JAMES OSTROWSKI, BUFFALO, FOR RESPONDENTS-APPELLANTS.

THOMAS RUSSELL SCHEPP, II, MANLIUS, FOR PETITIONER-RESPONDENT.

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Appeal from an order (denominated order and judgment) of the Supreme Court, Onondaga County (Donald A. Greenwood, J.), entered August 15, 2013 in a proceeding pursuant to Election Law article 16. The order invalidated the joint designating petition of respondents Ian Hunter, Ernest D. Morrow and Randolph F. Potter.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: Petitioner commenced this proceeding pursuant to Election Law article 16 seeking to invalidate the joint designating petition of Ian Hunter, Ernest D. Morrow, and Randolph F. Potter (respondents), by which Hunter sought to be designated as a candidate for the office of Mayor of the City of Syracuse and Morrow and Potter sought to be designated as candidates for the office of Councilor at Large in the City of Syracuse in the primary election of the Onondaga County Republican Party scheduled for September 10, 2013. For reasons set forth in the decision at Supreme Court, we conclude that the court properly determined that respondents waived any objection to petitioner's standing to commence this proceeding (*see e.g. Wells Fargo Bank Minn., N.A. v Mastropaolo*, 42 AD3d 239, 242-243), and the court had sufficient evidence before it to determine that the five signatures challenged by petitioner were invalid and thus that the joint designating petition is void and of no effect because it contains an insufficient number of valid signatures. Finally, we conclude that the court properly rejected respondents' contention that the alleged defects in the service of the petition could not be waived

(see *Matter of Gregory v Gill*, 59 NY2d 668, 670).

Entered: September 3, 2013

Frances E. Cafarell  
Clerk of the Court