

Wills v Hankerson

2025 NY Slip Op 31555(U)

April 22, 2025

Supreme Court, New York County

Docket Number: Index No. 154866/2025

Judge: Jeffrey H. Pearlman

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. JEFFREY H. PEARLMAN PART 44M

Justice

-----X

RUBEN W WILLS,

Petitioner,

- v -

TRINA M HANKERSON, BOARD OF ELECTIONS IN THE CITY OF NEW YORK

Respondent.

-----X

INDEX NO. 154866/2025

MOTION DATE 04/16/2025

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 5, 9, 10, 11, 12, 13

were read on this motion to/for ELECTION LAW - VALIDATE PETITION

Background

The instant special proceeding, pursuant to Election Law § 16-102, seeks to validate a petition purporting to designate petitioner/aggrieved candidate Ruben W Wills ("Wills" or "Petitioner") as candidate for the Democratic Party nomination for the public office of Member of the City Council from the 28th Council District. In the Democratic Primary Election ("Primary"), to be held on June 24, 2025.

On April 17, 2025 Respondent-Objector Trina M. Hankerson ("Respondent-Objector") moved by notice of motion to transfer the Ruben W. Wills v. Trina H. Hankerson & Board of Elections in the City of New York to Queens County. Respondent – Objector argues that under CPLR §510 Queens County Supreme Court is the proper venue for this case to be heard.

Petitioner Ruben W Wills objects to the transfer Queens County. Petitioner contends that New York County is proper because the Board of Elections' principal office is located in New York County.

Discussion

Respondent-Objector objects to New York County hearing this case and believes that Queens County is the proper venue for this case due to New York City's 28th City Council District is located in Queens. Respondent-Objector has the burden of proof to change the venue to Queens County.

Generally, "(u)nless otherwise prescribed in subdivision (b) or in the law authorizing the proceeding, a special proceeding may be commenced in any county within the judicial district where the proceeding is triable." CPLR §506. The special rules for Election law proceedings state that

(a) All applications to the Supreme Court, or to a judge thereof, pursuant to the Election Law, shall be made at the special part designated for such proceedings, and where there is no special part, before the judge to whom the proceeding is assigned. As far as practicable, the application shall be brought in the county in which it arose.

22 NYCRR §202.64.

In this instant case, Petitioner's claims arise out of Queens County. While Petitioner argues that venue is proper because the Board of Election's main office is located at 32 Broadway, New York, NY 10004, that New York County is the proper venue. However, there are also local offices of the Board of Election in every county. Petitioner argues that *Matter of Lucchese v Rotella*, 97 AD2d 645 [3d Dept 1983], *affd*, *Matter of*, 60 NY2d 815 [1983] should apply to this case, and that makes venue proper in New York County. However, this instant case is distinguishable from *Lucchese* in that in *Lucchese* the aggrieved party did not seek to transfer the matter, while in this instant Respondent-Objector is seeking to transfer the case. Petitioner also cites to CPLR 506(b). Under 506(b),

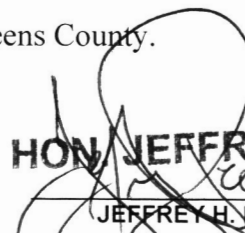
A proceeding against a body or officer shall be commenced in any county within the judicial district where the respondent made the determination complained of or refused to perform the duty specifically enjoined upon him by law, or where the

proceedings were brought or taken in the course of which the matter sought to be restrained originated, or where the material events otherwise took place, or where the principal office of the respondent is located
However, this provision is not proper for this instant proceeding is not an Article 78 proceeding, and is a proceeding under Article 16 of the New York State Election Law. Thus, CPLR 506(a) is the proper provision of that statute to apply. See, *Smith v Kennedy*, 83 Misc 3d 1239(A) [Sup Ct 2024].

In addition, under CPLR §510 the Court can change the place of a trial to occur. Petitioner has failed to show that venue is proper in New York County. Petitioner’s argument that New York County is proper because the Board of Election’s main office is located in New York County is improper, because under that logic every election case for New York City could be brought in New York County. That would put an inordinate amount of strain on this Court’s resources and an inordinate strain for the space needed to review election matters that are actually occurring in New York County.

Respondent-Objector has met their burden to show why a change of venue should be made. See *Cartwright v Kennedy*, 84 Misc 3d 497, 503 [Sup Ct, Dutchess County 2024]. This Court finds that Queens County is the proper venue for this case since the election district at hand is located in Queens County.

Upon the foregoing documents, it is **ORDERED** that Respondent-Objector’s petition is granted to the extent that this case be transferred to Queens County.


HON. JEFFREY H. PEARLMAN
J.S.C.
JEFFREY H. PEARLMAN, J.S.C.

4/22/2025
DATE

CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION	
	<input checked="" type="checkbox"/> GRANTED	<input type="checkbox"/> DENIED	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input checked="" type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE