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| Matter of Boucher v Narcisse |
| 2026 NY Slip Op 31937(U) |
| May 4, 2026 |
| Supreme Court, Kings County |
| Docket Number: Index No. 513421/26 |
| Judge: Jill R. Epstein |
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At the Special Election Part 1 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at 360 Adams Street, Brooklyn, New York, on the 4th day of May, 2026.

P R E S E N T:

HON. JILL R. EPSTEIN,

Justice.

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In the Matter of the Application of
OMAR BOUCHER, NORMA WEBLEY
and AUDIA WILLIAMS,

Index No. 513421/26

Petitioner-Objectors,

-and-

MERCEDES NARCISSE,

Petitioner-Aggrieved Candidate,

-AGAINST-

MONIQUE CHANDLER-WATERMAN,

Respondent-Candidate,

-and-

THE BOARD OF ELECTIONS IN THE CITY OF NEW YORK,

Respondent,

for an order, pursuant to sections 16-100, 16-102, and 16-116 of the Election Law, declaring INVALID the designating petition purporting to designate Respondent-Candidate MONIQUE CHANDLER-WATERMAN, for the Party Position of Member of the Democratic State Committee from the 58th Assembly District of New York State, Kings County, in the June 23, 2026 Democratic Party Primary Election, enjoining Respondent BOARD OF ELECTIONS from certifying the name of Respondent-Candidate as an official candidate for said party Position in said Primary Election, and enjoining said BOARD from printing said name on ballots to be used at said Primary Election.

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The following papers read herein:

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| Notice of Motion/Order to Show Cause/ Petition/Cross Motion and Affidavits (Affirmations) Annexed _____ | 1-6, 8-16 |
| Opposing Affidavits/Answer (Affirmations) _____ | 7, 17, 20 |
| Affidavits/ Affirmations in Reply _____ | |
| Other Papers: <u>Parties' Post Trial Memoranda, Petitioners' Exhibits 1-11</u> <u>Respondent's Exhibits D-G</u> | |

Upon the foregoing papers, and after a hearing held on the record before this Court on April 28, 29, and May 1, 2026, in this proceeding commenced pursuant to Election Law § 16-102 to invalidate the designating petition naming respondent-candidate Monique Chandler-Waterman (respondent-candidate) as a candidate for the party office of Member of the Democratic State Committee for the 58th Assembly District, the Court rules as follows.

On or about April 6, 2026, respondent-candidate filed with the Board of Elections of the City of New York (the Board) a designating petition bearing identification numbers KG2600826; KG2600828; KG2600829; KG2600830; KG2600834; KG2600835; and KG2600836 (collectively, the designating petition), purporting to designate respondent-candidate as the Democratic Party candidate for the party position of Member of the Democratic State Committee from the 58th Assembly District in the June 23, 2026 Democratic Party primary election. General objections to said petition were filed by Omar Boucher, Norma Webley and Audia Williams (petitioner-objectors) on April 9, 2026. Thereafter specifications of objections to petition signatures were timely filed with the Board.

On April 15, 2026, petitioner-objectors, along with aggrieved candidate Mercedes Narcisse (collectively, petitioners), commenced the instant proceeding pursuant to Election Law § 16-102 seeking to invalidate the designating petition of the respondent-candidate. Petitioners filed additional candidate aggrieved specifications of objection to the signatures contained in the designating petition for the court's de novo review. On April 16, 2026, respondent-candidate preemptively filed a validating proceeding in anticipation of the challenges to her designating petition (Index No. 513770/26).

On April 23, 2026, petitioners filed a motion seeking to grant their invalidating petition and to strike the respondent-candidate's State Committee candidacy. At the initial return date on April 23, 2026, before Justice Peter P. Sweeney, counsel for petitioners argued that the motion should be granted on the ground that several volumes of the designating petition listed the respondent-candidate as part of a slate with a male candidate, Kevin Parker, for the same party position of Member of the State Committee from the 58th Assembly District (hereinafter, "State Committee candidacy" or "State Committee position") without his consent. Justice Sweeney referred the matter to this Court for a hearing on the issues raised in petitioners' motion.

In support of their application, as noted above, petitioners contend that the designating petition is invalid because certain petition volumes include the name of Kevin Parker, for the party position of Male Member of the Democratic State Committee from the 58th Assembly District, who, they assert, did not consent to be designated for that office on respondent-candidate's designating petition. Specifically, of the seven volumes filed by respondent-candidate with the Board for her State Committee candidacy, only three of

them, KG2600828, KG2600829 and KG2600830, are at issue for including Mr. Parker as a candidate for the corresponding State Committee position. These petition volumes also list the respondent-candidate's candidacy for Member of the Assembly for the 58th Assembly District (hereinafter, Member of Assembly candidacy). Petition volume KG2600828 also includes Mr. Parker's candidacy for the State Senate from the 21st Senate District.

Petitioners claim that by placing Mr. Parker's name on her State Committee petition, respondent-candidate presented to signers what appeared to be a coordinated male/female State Committee slate for the 58th Assembly District, despite his lack of consent or authorization. They argue that the challenged designating petition, on its face, improperly depicts such a joint candidacy and thereby constitutes "structural fraud," warranting invalidation of the petition in its entirety rather than the removal of individual signatures. According to petitioners, this alleged misrepresentation was uniform across the petition and affected every signer, as each was presented with the same appearance of a coordinated slate. Petitioners further assert that the inclusion of Mr. Parker's name was intentional and calculated to mislead voters into believing that he and respondent-candidate were running together, thereby inducing signatures that might not otherwise have been obtained. Accordingly, petitioners assert that the alleged fraud permeates the petition on its face and requires wholesale invalidation.

The Court conducted an evidentiary hearing on this matter on April 28, 29, and May 1, 2026, during which it heard testimony from the respondent-candidate; Kevin Parker;

Vaughn Mayer, Mr. Parker's Chief of Staff; and respondent-candidate's campaign staff member, Chinua Duke.

The Court now turns to the applicable legal standards.

It is well settled that “under certain circumstances, the inclusion of an individual on a designating petition without his or her consent has been found to require invalidation of the entire petition” (*Matter of Ruck v Greene County Bd. of Elections*, 65 AD3d 808, 809 [3d Dept 2009]; see *Matter of Green v McNab*, 96 AD2d 918, 918-919 [2d Dept 1983], *affd* 60 NY2d 600 [1983]; *Matter of Richardson v Luizzo*, 64 AD2d 942, 943 [2d Dept 1978], *affd* 45 NY2d 789 [1978]). However, such a “result is not mandated in every case where the consent of a candidate was not obtained” (*Matter of Ruck*, 65 AD3d at 809; see *Matter of Grumbach v Orange County Bd. of Elections*, 43 AD3d 477, 477 [3d Dept 2007]). Rather, the petitioners here bear the burden of demonstrating, by clear and convincing evidence, that the inclusion of Mr. Parker's name rendered the petition “so permeated with fraud [that it must] be invalidated” (*Matter of Grumbach*, 43 AD3d at 477; see *Matter of Bishop v Leahey*, 194 AD3d 1250, 1251-1252 [3d Dept 2021]; *Matter of Thomas v Simon*, 57 NY2d 744, 745 [1982]). Where it is established that the inclusion of a candidate's name, without consent, was intentional and designed to mislead voters, invalidation is warranted (see *Matter of Ariola v Maio*, 195 AD3d 888, 889-890 [2d Dept 2021]; *Matter of Lynch v Duffy*, 172 AD3d 1370, 1373 [2d Dept 2019]; *Matter of Richardson v Luizzo*, 64 AD2d at 943).

Applying the foregoing principles, and upon consideration of the testimony and evidence adduced at the trial, the Court finds that the petitioners have failed to meet their

burden of establishing, by clear and convincing evidence, that Mr. Parker did not consent to the inclusion of his name and State Committee candidacy on respondent-candidate's designating petition. In reaching this conclusion, the Court credits respondent-candidate's testimony that, following a text message exchange with Mr. Parker on January 28, 2026, during which she indicated that she wished to "discuss petitions," she had subsequent verbal conversations with him, including one on or about February 9, 2026, in which Mr. Parker granted her permission to include his name and candidacies - both his State Senate candidacy and his State Committee candidacy - on her petitions for Member of Assembly *as well as State Committee*.¹ Although Mr. Parker acknowledged that he gave consent (to use his name/candidacy for State Senate) in connection with respondent-candidate's Member of Assembly candidacy, he denied granting consent with respect to including his State Committee candidacy on her State Committee petition, and further testified that he had no conversations or communications with respondent-candidate concerning petitions during January and February 2026. However, this testimony is undermined, in part, by the documentary evidence admitted at trial, including the January 28, 2026 text message exchange reflecting that respondent-candidate contacted Mr. Parker to "discuss petitions," to which Mr. Parker responded that same day, in relevant part, that he was "doing petitions strictly through County" and that if respondent-candidate was "doing a separate petition,"

¹ This finding is supported by the surrounding circumstances, as well as by respondent-candidate's demonstrated course of conduct. In this regard, respondent-candidate testified that, with respect to other candidates, specifically certain congressional candidates, she did not include their names on her State Committee petitions as she had not obtained their consent. The Court finds this testimony probative of her credibility, as it reflects a consistent practice of including other candidates on her petitions only upon obtaining such consent. This course of conduct further supports the conclusion that respondent-candidate acted in a manner consistent with having obtained Mr. Parker's permission in this instance.

he would be “happy to join [her] on that petition,” and directed coordination through his Chief of Staff, Mr. Mayer.

Mr. Parker’s Chief of Staff, Mr. Mayer, testified that he first became aware that Mr. Parker’s name was being circulated on a joint State Committee petition with respondent-candidate on March 15, 2026. In response to his inquiry, he received a text message from respondent-candidate’s campaign staff member, Chinua Duke, attaching PDF proof copies of the State Committee petition volumes at issue.² Although Mr. Mayer testified that he verbally informed Mr. Duke that the petitions were not authorized, Mr. Duke testified that Mr. Mayer merely “liked” the attachment and never expressed any disapproval of the petitions or directed him not to circulate them. The Court credits Mr. Duke’s testimony in this regard, which is corroborated by the March 15, 2026 text message introduced into evidence at trial reflecting a “liked an attachment” notation by Mr. Mayer.

It is not credible that, upon reviewing of the petition on March 15th, not a single word was sent from Mr. Parker’s campaign telling the respondent-candidate to cease circulating the purportedly offending petitions. No text was sent objecting, and nothing was sent to the respondent-candidate’s campaign that would have contradicted the

² The first PDF document lists respondent-candidate’s candidacy for Member of Assembly and State Committee, as well as Mr. Parker’s candidacy for State Senator and State Committee. At the top of the document, in large, shaded lettering the word “PROOF” appears, and at the bottom of the document, the words in the same font, “DRAFT” and “PROOF” appear. The three other PDF petition documents are also blank and list respondent-candidate’s candidacy for both Member of Assembly and State Committee, as well as Mr. Parker’s candidacy for State Committee. The “DRAFT” and “PROOF” lettering does not appear on these documents.

respondent-candidate's understanding that she had permission to circulate a petition with both her name and Mr. Parker's for State Committee.

While a "like" (oftentimes referred to as a "thumbs up") acknowledgement via text may not, standing alone, necessarily constitute an affirmative authorization, it likewise does not constitute a clear and contemporaneous assertion that the subject petition volumes were unauthorized; rather, such acknowledgment reasonably reinforces respondent-candidate's assertion that Mr. Parker consented.

Moreover, there is no documentary evidence in the record of any contemporaneous written communication, follow-up instruction, or formal directive conveyed to the Board, respondent-candidate or her campaign staff indicating that Mr. Parker had not consented, that the petitions were unauthorized, or that their circulation or filing with the Board should cease.³ In this regard, the Court further credits the testimony of respondent-candidate that neither Mr. Parker nor anyone from his office contacted her or her campaign to object to the inclusion of his State Committee candidacy on her petitions prior to them being filed

³ Although petitioners submitted, with the motion papers, an affidavit from Mr. Parker dated March 18, 2026, denying that he authorized or consented to the use of his name on respondent-candidate's designating petition, no testimony was adduced at trial regarding whether the affidavit was filed with the Board of Elections or communicated to respondent-candidate or her campaign. Moreover, contrary to petitioners' contention, Mr. Parker's affidavit is not dispositive of the issue of consent. The decision in *Matter of Green v McNab* (96 AD2d 918 [2d Dept 1983], *aff'd* 60 NY2d 600 [1983]), upon which petitioners rely, is distinguishable. In *Green*, the court held that an affidavit filed with the Board of Elections by an individual whose name appeared on a designating petition, expressly denying consent, was dispositive of the consent issue in that case. Here, by contrast, the Court heard and credited live testimony from Mr. Parker regarding whether he consented to the inclusion of his State Committee candidacy on respondent-candidate's petitions, and was able to assess that testimony in conjunction with the full evidentiary record. Additionally, the fact that Mr. Parker ultimately pursued his State Committee candidacy through a separate designating petition with a different candidate for the female State Committee position does not establish that he did not initially consent to the inclusion of his name on respondent-candidate's petitions for that office.

with the Board. These circumstances are consistent with, and lend further support to, her testimony that she had obtained his consent to include his State Committee candidacy on the petitions at issue.

The record demonstrates that, upon learning of the joint State Committee petitions on March 15, 2026 through to April 2, 2026, the last day to circulate petitions, neither Mr. Parker nor anyone associated with his campaign took any affirmative steps to disavow or object to their use, or to direct that they not be circulated or filed. In light of the credited testimony and evidence, the Court finds that respondent-candidate obtained Mr. Parker's consent and reasonably understood that such consent was never rescinded; thus, she remained authorized to include Mr. Parker's State Committee candidacy on the petitions at issue.

Based upon the totality of the evidence, the Court finds that petitioners have failed to establish, by clear and convincing evidence, that Mr. Parker did not consent to the inclusion of his State Committee candidacy on respondent-candidate's State Committee petitions. Furthermore, the record does not support a finding that respondent-candidate acted with intent to mislead or to create the false appearance of a coordinated slate. Applying the governing legal standard, petitioners were required to demonstrate by clear and convincing evidence that the inclusion of Mr. Parker's State Committee candidacy on petitions, allegedly without his consent, rose to the level of fraud permeating the petition (*see Matter of Grumbach*, 43 AD3d 477; *Matter of Thomas*, 57 NY2d 744). Courts have held that even where lack of consent is established - which does not appear to be the case here - invalidation is warranted only where the inclusion of a candidate's name was

intentional and designed to mislead voters (*see Matter of Ariola*, 195 AD3d 888; *Matter of Lynch*, 172 AD3d 1370).

Here, petitioners have not met their burden. The credible evidence fails to establish fraud, an intent to mislead, or conduct rendering the petitions “permeated with fraud” within the meaning of controlling precedent (*see Matter of Lutfy v Gangemi*, 35 NY2d 179 [1974]; *Matter of Richardson*, 64 AD2d at 943). Indeed, the record does not demonstrate any intent on the part of respondent-candidate “to mislead or confuse” (*Matter of Petersen v Board of Elections of City of N.Y.*, 218 AD2d 776; *see Matter of Ruck*, 65 AD3d at 810).

To the extent petitioners contend that respondent-candidate’s State Committee petitions were misleading to signers, any such confusion is not attributable to fraudulent conduct or an intent to mislead on the part of respondent-candidate (*see Matter of Ruck*, 65 AD3d at 810).

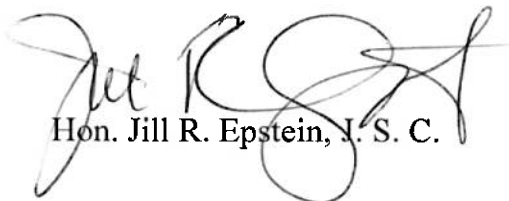
Lastly, to the extent that petitioners have raised other issues of fraud in their bill of particulars, when counsel for respondent-candidate inquired about such issues prior to the hearing, counsel for petitioners represented that they were only going forward on the fraud allegations as they pertained to the lack of Mr. Parker’s consent. Accordingly, any other allegations of fraud are deemed abandoned.

Accordingly, it is hereby

ORDERED that petitioners' motion to invalidate the respondent-candidate's State Committee designating petition on fraudulent grounds and lack of candidate consent is hereby denied.

This constitutes the Decision and Order and of the Court.

ENTER FORTHWITH



Hon. Jill R. Epstein, J. S. C.