

FILED

APR 27 2015

HECTOR A. VELAZQUEZ, P.J. CH.

Prepared by the Court

ERNESTO VASQUEZ, and GINA
MIRANDA-DIAZ,

Plaintiffs,

v.

COMMISSIONER COUNT J. WILEY,
BEATRIZ E. WILEY, THE WEST NEW
YORK BOARD OF EDUCATION, THE
NORTH BERGEN BOARD OF
EDUCATION, ERIN BARILLAS IN
HER OFFICIAL CAPACITY AS CLERK
OF THE TOWNSHIP OF NORTH
BERGEN, and BARBARA A.
NETCHERT IN HER OFFICIAL
CAPACITY AS HUDSON COUNTY
CLERK,

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY

DOCKET NO: HUD-L-001385-15

Civil Action

ORDER

This matter having been opened to the Court by and through Mcelroy, Deutsch,
Mulvaney & Carpenter, LLP, attorneys for Plaintiffs Ernesto Vasquez and Gina Miranda-
Diaz, and Julio C. Morejon Esq. appearing for Defendants Count J. Wiley and Beatriz E.
Wiley and Chasan Leyner & Lamparello P.C., attorneys for Erin Barillas, and a plenary
hearing having been held on April 23, 2015; and after considering the testimony of the
witnesses presented, and reviewing the exhibits submitted by the parties, and after
considering the arguments of Counsel for all the parties:

IT IS on this 27th day of April, 2015

ORDERED that Plaintiffs' request for preliminary injunctive relief is denied, and all
claims which challenge Beatriz E. Wiley's eligibility and qualifications to run for office
are hereby dismissed; and it is further

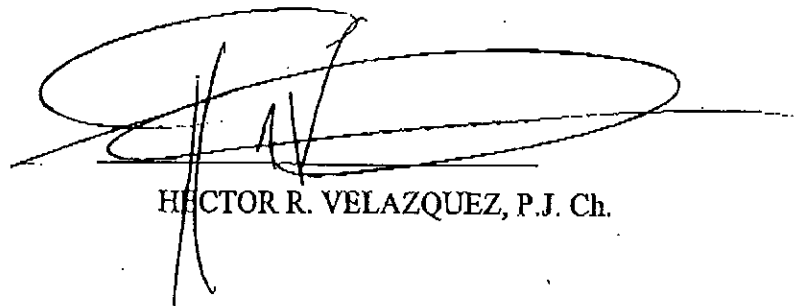
ORDERED that Plaintiffs' request for an order vacating the Hudson County Clerk's and North Bergen Clerk's certification of Beatriz E. Wiley as eligible and qualified to run for the office of Democratic County Committeewoman in the 2015 primary election is denied; and it is further

ORDERED that Plaintiffs' request for an order enjoining and restraining the Clerks' from including Beatriz E. Wiley on the 2015 primary ballot as a candidate for Democratic County Committeewoman is denied; and it is further

ORDERED that Plaintiffs' request for an order enjoining and restraining the Clerks' from drawing ballot positions and commencing the mailing of vote by mail ballots and sample ballots for the 2015 primary elections that include Beatriz E. Wiley's name is denied; and it is further

ORDERED that this Court's order of April 24, 2015 enjoining the Defendants, including the Hudson County Clerk, from printing ballots for Ward 4, District 5 in North Bergen, N.J. is hereby vacated; and it is further

ORDERED that a copy of this order shall be served on all parties within 5 Days from the entry of this order.



HECTOR R. VELAZQUEZ, P.J. Ch.

Plaintiffs Ernesto Vasquez and Gina Miranda-Diaz, residents by way of Order to Show Cause and Verified Complaint, seek a preliminary injunction:

- (a) Vacating the North Bergen and Hudson County Clerks' certification of Beatriz Wiley as eligible and qualified to run for the office of Democratic County Committeewoman in 2015 primary election;
- (b) Enjoining and restraining the Clerks from including Beatriz Wiley on the 2015 primary ballot as a candidate for Democratic County Committeewoman;
- (c) Enjoining and restraining the Clerks from drawing ballot positions and commencing the mailing of Vote by mail ballots and sample ballots for the 2015 primary elections that include Beatriz Wiley's name.

A plenary hearing was conducted on April 23, 2014 on the request for preliminary injunctive relief. After reviewing the testimony of the witnesses presented and the documents submitted into evidence, and after considering the arguments of counsel, I make the following findings of fact:

1. Plaintiff Ernesto Vazquez ("Vazquez") is a resident and registered voter in West New York, New Jersey.
2. Plaintiff Gina Miranda-Diaz ("Diaz") is a resident and registered voter in North Bergen, New Jersey. She resides in Ward 3, District 1.
3. Defendant Count J. Wiley ("Mr. Wiley") is a resident of West New York, an elected member of the governing body of West New York, and a candidate for Mayor of West New York. He is married to the Defendant Beatriz E. Wiley.
4. Defendant Erin Barillas is the Municipal Clerk of North Bergen, New Jersey.
5. Defendant Barbara A. Netchert is the County Clerk for Hudson County.
6. Defendant Beatriz E. Wiley ("Mrs. Wiley") is a Hudson County Democratic County Committeewoman representing Ward 4, District 5 of North Bergen. She has been a committeewoman since 2003. She is also an employee of the Township of North Bergen.
7. Mrs. Wiley has resided in North Bergen for approximately 18 years. In 2001, she and her first husband purchased a one family home located at 1615 80th Street in North Bergen New Jersey. In 2005, she divorced her first husband, and as part of the divorce

settlement was granted sole ownership and possession of the marital home. She lived in this property on a full time basis with her three daughters until June of 2014, when she rented part of the premise to her best friend. She and her daughters have maintained possession and occupancy of the basement from June 2014 to the present time.

8. In 2009, Mrs. Wiley married Count J. Wiley, then a resident and a registered voter in West New York, New Jersey. Mrs. Wiley did not immediately move in with her husband, and instead continued to spend most nights with her daughters in the North Bergen property. However, in 2010, Mrs. Wiley gave birth to a son and shortly thereafter commenced spending most of her time in the West New York property with her husband. Since the birth of her son, she sleeps in the North Bergen home only intermittently. However, since the birth of her son in 2010, she visits the North Bergen property on a daily basis, to visit with her daughters, walk the dog, and to otherwise maintain the property.
9. The property in North Bergen is a one-family home consisting of a kitchen, dining room and bathroom on the first floor, three bedrooms and a bathroom on the second floor, an attic and a basement. The basement is a large room with two beds. It has a bathroom but no kitchen. At the present time, the tenant occupies the entire property except for the basement, which is occupied primarily by Mrs. Wiley's oldest daughter, Katherine Cano. However, it is important to note that Mrs. Cano also spends a few days a week in her boyfriend's home.
10. Mrs. Wiley and her daughters retain personal items on the property, including clothing and various pieces of furniture. They have also stored many personal items in the garage and in the attic.
11. Mrs. Wiley, although primarily staying with her husband and son in West New York, maintains her North Bergen address on all of her important personal documents, including her driver's license, and credit cards. In 2013, she filed a joint tax return with her husband which listed the family residence as 6010 Monroe Place, West New York, New Jersey. She is a registered voter in North Bergen, and has always voted in her North Bergen district.
12. Mrs. Wiley has been a committeewoman since 2003. On January 31, 2011, while being legally married to Mr. Wiley, a resident of West New York, New Jersey, Mrs. Wiley

executed a nominating petition to be placed on the ballot for the position of Democratic County Committeewoman representing Ward 4, District 5 of North Bergen. In this petition, Mrs. Wiley declared she was legally qualified to hold office in part due to her residency at 1615 80th Street North Bergen, New Jersey. Mrs. Wiley has subsequently filed multiple nominating petitions declaring her residency in North Bergen notwithstanding the fact that she has been married to Mr. Wiley, a resident of West New York, New Jersey. Throughout this period, Mrs. Wiley has also executed other election documents declaring her residency as 1615 80th Street North Bergen, New Jersey, including multiple ELEC Form D-1's naming her as an officer for her husband's various election campaigns.

13. On March 31, 2015, Mrs. Wiley filed with the North Bergen Clerk, a nominating petition to be placed on the ballot for the position of Democratic County Committeewoman representing Ward 4, District 5 of North Bergen. In this petition, Mrs. Wiley declared she was legally qualified to hold office in part due to her residency at 1615 80th Street North Bergen, New Jersey.
14. On April 9, 2015 the North Bergen Clerk certified to the Hudson County Clerk the names of the candidates, including Mrs. Wiley, who filed petitions for the 2015 Primary Election.
15. On April 10, 2015, the Hudson County Clerk transmitted a certification of all candidates, including Mrs. Wiley, to be placed on the 2015 Primary Election ballot to the North Bergen Clerk and other clerks in Hudson County.
16. On April 17, 2015, the Plaintiffs filed an Order to Show Cause and Verified Complaint seeking among other things, an order vacating the Clerks' certification of Mrs. Wiley as eligible and qualified to run for the office of Democratic County Committeewoman in 2015 primary election; enjoining and restraining the Clerks from including Mrs. Wiley on the 2015 primary ballot as a candidate for Democratic County Committeewoman; and enjoining and restraining the Clerks from drawing ballot positions and commencing the mailing of Vote by mail ballots and sample ballots for the 2015 primary elections that include Mrs. Wiley's name.

LAW OF THE CASE:

Preliminary Injunctive Relief

Deciding a preliminary injunction application "involves a prediction of the probable outcome of the case" based on each party's initial proofs, usually limited to documents. *Rinaldo v. RLR Inv., LLC*, 387 N.J. Super. 387, 397, (App.Div.2006). The court is not deciding which party will ultimately win or lose, but rather "whether the applicant has made 'a preliminary showing of a reasonable probability of ultimate success on the merits.'" *Id.* at 397, (quoting *Crowe v. De Gioia*, 90 N.J. 126, 133, (1982)).

The burden is on the party seeking preliminary injunctive relief to show that he or she has "a reasonable probability of success on the merits; that a balancing of the equities and hardships favors injunctive relief; that the movant has no adequate remedy at law and that the irreparable injury to be suffered in the absence of the injunctive relief is substantial and imminent; and that the public interest will not be harmed." See *Waste Mgmt. v. Union County Utils.*, 399 N.J. Super. 508, 519-520, (App.Div.2008) (citing *Crowe, supra*, 90 N.J. at 132-34,); *Zon. Bd. of Adj. v. Serv. Elec. Cable T.V.*, 198 N.J. Super. 370, 379, (App.Div.1985).

While each of the above factors "must be clearly and convincingly demonstrated," a court "may take a less rigid view than it would after a final hearing when the interlocutory injunction is merely designed to preserve the status quo." (citing *Gen. Elec. Co. v. Gem Vacuum Stores, Inc.*, 36 N.J. Super. 234, 236-37, (App.Div.1955)). In exercising their equitable powers, courts "may, and frequently do, go much farther both to give and withhold relief in furtherance of the public interest than they are accustomed to go when only private interests are involved." *Id.* at 520-21, (quoting *Yakus v. United States*, 321 U.S. 414, 441, 64 S. Ct. 660, 675, 88 L. Ed. 834, 858 (1944)). In acting only to preserve the status quo, the court may "place less emphasis on a particular *Crowe* factor if another greatly requires the issuance of the remedy."

Election Laws

When considering issues relating to elections, our courts have expressed a particular concern to safeguard the integrity of the electoral process. See: *Smith v. Renta* 81 N.J. 65, 72 (1979); *In re*

Holmes 346 N.J. Super 372, 377 (App. Div. 2002). Although courts are required to liberally construe the election laws, voting must remain subject to certain conditions, including State imposed conditions that are "reasonably necessary to prevent election fraud and to facilitate the administration of the electoral process." *Lesniak v. Budzash* 133 N.J. 1, 7 (1993). "Like general elections, primary elections are of public concern. They afford the means by which political parties choose their candidates for public office; and, since the purpose to be served is public in its nature, the proceedings attending the selection of candidates are subject to regulation in the exercise of the police power." *Lesniak*, supra 133 N.J. at 7. In an effort to safeguard the integrity of the electoral process, our legislature has enacted various statutes that regulate the manner in which a person can qualify to stand as a candidate for nomination as a member of the county committee of a political party, including the following:

N.J.S.A. 19:23-7 sets forth the required content of a party-nomination petition. The statute provides, in pertinent part:

Each such petition shall set forth that the signers thereof are qualified voters of the State, congressional district, county, or county election district, municipality, ward or election district, as the case may be, in which they reside and for which they desire to nominate candidates; that they are members of a political party (naming the same), and that they intend to affiliate with that political party at the ensuing election; that they indorse the person or persons named in their petition as candidate or candidates for nomination for the office or offices therein named, and that they request that the name of the person or persons therein mentioned be printed upon the official primary ballots of their political party as the candidate or candidates for such nomination. *The petition shall further state the residence and post-office address of each person so indorsed, and shall certify that the person or persons so indorsed is or are legally qualified under the laws of this State to be nominated, and is or are a member or members of the political party named in the petition.*

Accompanying the petition, *each person indorsed therein shall file a certificate, stating that he is qualified for the office mentioned in the petition, that he is a member of the political party named therein, that he consents to stand as a candidate for nomination at the ensuing primary election of such political party, and that, if nominated, he consents to accept the nomination, to*

which shall be annexed the oath of allegiance prescribed in R.S. 41:1-1, duly taken and subscribed by him before an officer authorized to take oaths in this State.

N.J.S.A. 19:5-3 sets forth the requirements for selecting and electing the members of county committees. The statute provides, in pertinent part:

“The members of the county committees of political parties shall be elected at the primary for the general election in the manner provided in this Title for the selection of party candidates to be voted for at the general election by voters of a municipality at such intervals as shall be provided in the bylaws of the county committee. The county committee shall consist of one male and one female member from each unit of representation in the county. The male receiving the highest number of votes among the male candidates and the female receiving the highest number of votes among the female candidates shall be declared elected. *Members of the county committee shall actually reside in the districts or units which they respectively represent.* The county committee shall determine by its bylaws the units into which the county shall be divided for purpose of representation in the county committee.”

These statutes require that members of a party's county committee reside in the district which they represent, and be otherwise qualified for the office they seek. For local elected officials and voters, the term resident is equated to "domicile." See: *N.J.S.A. 40A:9-1.11* and 1.13 (residence of candidates for local elections requires "a place of abode . . . not adopted for any mere special or temporary purpose" and one's "domicile"); *State v. Benny*, 20 N.J. 238, 252-54, (1955) (noting that requirement of residence for purposes of *N.J.S.A. 19:4-1*, governing voting rights, is equal to domicile. While a person can have multiple residences, he or she can have only one true domicile. See: *Caballero v. Martinez*, 186 N.J. 548, 558, 897 A.2d 1026 (2006).

“Domicile has been variously defined as the place where a person has his true, fixed, permanent home, and principal establishment, and to which, whenever he is absent, he has the intention of returning, or the habitation fixed in any place, without any present intention of removing therefrom.” *Benny, supra*, at 250 .

In determining domicile, the Court should consider several factors, including telephone bills; gas and electric bills; place from which taxes are filed; mailing address; membership in local clubs;

driver's license and automobile registration addresses; place where person spends the greater amount of time; newspaper subscriptions; and location of schools attended by children. *See: Benny, supra*, 20 N.J. at 240-49, 255. The standard of proof of domicile in election matters is a preponderance of the evidence. *In re Gen. Election of Nov. 5, 1991 for Office of Twp. Comm. of Maplewood*, 255 N.J. Super. 690, 702-03, (Law Div. 1992).

Plaintiffs' contentions:

Plaintiffs Vazquez and Diaz move before this court seeking preliminary injunctive relief and an order vacating the Clerks' certification of Mrs. Wiley as eligible and qualified to run for the office of Democratic County Committeewoman in 2015 primary election; enjoining and restraining the Clerks from including Mrs. Wiley on the 2015 primary ballot as a candidate for Democratic County Committeewoman; and enjoining and restraining the Clerks from drawing ballot positions and commencing the mailing of Vote by mail ballots and sample ballots for the 2015 primary elections that include Mrs. Wiley's name.

Plaintiffs contend that they are entitled to the injunctive relief requested because Mrs. Wiley is not a resident of North Bergen, and therefore the clerks' certification of Mrs. Wiley as an eligible and qualified candidate to run for the office of Democratic County Committeewoman is improper, and must be vacated.

Defendants' contentions:

Defendants Count J. Wiley, Beatriz E. Wiley and Erin Barillas argue that the request for injunctive relief should be denied and the complaint dismissed because (a) Plaintiffs lack standing to challenge Mrs. Wiley's nominating petitions; (b) Plaintiffs' challenge is untimely and (c) Plaintiffs failed to exhaust administrative remedies available to them.

DISCUSSION:

Before applying the applicable legal principles to the facts of this case, I will address the Defendants' request to dismiss Plaintiffs' First Amended Complaint in its entirety because: (a) it

is untimely; (b) Plaintiff lacks standing to bring suit; and (c) Plaintiffs failed to exhaust the administrative remedies available to them. I will address the standing issue first.

Standing

The concept of "standing" refers to a party's entitlement to maintain an action before the court. See: *N.J. Citizen Action v. Riviera Motel Corp.*, 296 N.J. Super. 402, 409, (App. Div. 1996) (citing *New Jersey State Chamber of Commerce v. New Jersey Election Law Enforcement Com.*, 82 N.J. 57, 67, (1980)); *In re Adoption of Baby T.*, 160 N.J. 332, (1999). As a result, standing is a threshold issue that addresses whether a matter is appropriate for judicial review. It is textbook law that courts will not entertain matters in which plaintiffs do not have sufficient legal standing. See: *N. J. Citizen Action v. Riviera Motel Corp.*, *supra*, 296 N.J. Super. at 411-12. In order to demonstrate standing, a plaintiff must have a "sufficient stake in the outcome of the litigation, a real adverseness with respect to the subject matter, and there must be a substantial likelihood that the plaintiff will suffer harm in the event of an unfavorable decision." *Id.* at 409-10 (citing *N.J. State Chamber of Commerce v. N.J. Election Enforcement Comm'n*, *supra*, 82 N.J. at 67).

New Jersey courts take a broad and liberal approach to the issue of standing. *N.J. Citizen Action v. Riviera Motel Corp.*, *supra*, 296 N.J. Super. at 415. Where "the proceeding serves the public interest" and the plaintiff "is not simply an interloper" the court is likely to find standing. *Ibid.* (citing *In re Quinlan*, 70 N.J. 10, 34-35, (1976)). However, "the jurisdiction of the courts may not be invoked in the absence of an actual controversy." *In re Ass'n of Trial Lawyers of America*, 228 N.J. Super. 180, 183, (App. Div. 1988). Additionally, "[a] substantial likelihood of some harm visited upon the plaintiff in the event of an unfavorable decision is needed for purposes of standing." *In re Adoption of Baby T.*, *supra*, 160 N.J. at 340

In opposing this application for preliminary injunctive relief, the Defendants first argue that the Plaintiffs lack standing to challenge Mrs. Wiley's nominating petitions because neither is a candidate in the primary election, or registered to vote in Mrs. Wiley's district.

The Plaintiffs deny any challenge to Mrs. Wiley's nominating petitions. They contend they challenge only the actions of the North Bergen and Hudson County Clerks. In this regard, the

Defendants argue that as residents of North Bergen and the County of Hudson they “have standing to bring an action in lieu of prerogative writs challenging the North Bergen and Hudson County Clerk’s ministerial action of certifying Beatriz Wiley as a candidate for Hudson County Democratic Committeewoman representing Ward 4, District 5.” I am not persuaded by this argument.

Despite Plaintiffs’ assertion that they are simply challenging the Clerk’s “ministerial action” of certifying Mrs. Wiley as an eligible candidate, a fair reading of the First Amended Verified Complaint demonstrates that the challenge is to the nominating petition itself. A review of the allegations in the complaint reveals that the Plaintiff’s primary claim, as it relates to the request for injunctive relief, is that Mrs. Wiley “[on] numerous occasions, including on the Nominating Petitions filed to get Beatriz Wiley on the 2015 Primary Election ballot for Democratic County Committeewoman... materially represented her residence ...” While Plaintiffs may have chosen to file this matter as an action in lieu of prerogative writ, the appropriate legislative authority for Plaintiffs’ challenge is found in Title 19, specifically N.J.S.A. 19:13-10, N.J.S.A. 19:13-12, and N.J.S.A. 19:29-1.

Pursuant to N.J.S.A. 19:13-10, any objection to a nomination petition must be made in writing and filed with the clerk’s office. This statute provides in relevant part that “[e]very petition of nomination in apparent conformity with the provisions of this Title shall be deemed to be valid unless objection thereto be duly made in writing and filed with the officer with whom the original petition was filed...”

Pursuant to N.J.S.A. 19:13-12, any candidate in an election can challenge the nominating petitions of another candidate in the same election. The statute provides in relevant part that “[a]ny judge of the Superior Court..., on the application or complaint, duly verified, of any candidate... made on or before the twelfth day after the last day for the filing of petitions, setting forth any invasion or threatened invasion of his rights under the petition of nomination filed with the Secretary of State or with any county clerk, shall hear such application or complaint in a summary way and make such order thereon as will protect and enforce the rights of such candidates...”

Pursuant to N.J.S.A. 19:29-1, “*the voters of any political subdivisions* affected by the nomination of any person to any public office or position [is permitted] to challenge the petition for nomination... [w]hen a petition for nomination is not filed in good faith or the affidavit annexed thereto is false or defective.”

Here, plaintiff never exercised the administrative remedies available to them pursuant to N.J.S.A. 19:13-10. Presumably, they would not have been barred from challenging the petition because they do not reside in Mrs. Wiley’s district. Plaintiffs instead filed this Order to Show Cause and Verified Complaint in the Superior Court. I find procedural deficiencies in this application.

As I have already indicated, while Plaintiffs may have chosen to file this matter as an action in lieu of prerogative writs, the appropriate legislative authority for a court challenge to Mrs. Wiley’s nominating petition is found in N.J.S.A. 19:13-12, and N.J.S.A. 19:29-1. Our legislature has enacted these two statutory schemes to permit challenges to a candidate’s nominating petition on the grounds of fraud or misconduct in the nomination process. After a careful review of the evidence in this case, I find that neither Vazquez nor Diaz satisfy the statutory requirement for challenging Mrs. Wiley’s nomination petition. Vazquez and Diaz are not candidates for the position of Democratic County Committeewoman or Committeeman representing Ward 4, District 5 of North Bergen in the 2015 Primary Election, and neither is registered to vote in said District, the political subdivision that would be affected by Mrs. Wiley’s nomination. The competent evidence demonstrates that Plaintiff Vazquez resides and is registered to vote in the Town of West New York. Plaintiff Diaz, although a resident of North Bergen, resides and is registered to vote in Ward 3, District 1, a political subdivision that would not be affected by Mrs. Wiley’s nomination or election. Accordingly, I find that neither Vazquez nor Diaz have standing to challenge Mrs. Wiley’s nominating petitions under the statutory schemes presently existing.

In support of its application for preliminary injunctive relief, Plaintiffs consistently and vehemently argue that they are not subject to the Title 19 standing requirements because “there is no challenge to a candidate’s nomination and no election has been held...” In support of their standing argument, Plaintiffs cite to *Alongi v. Schatzman* 57 N.J. 564 572-73 (1971). I find Plaintiffs’ reliance on *Alongi* misplaced.

In *Alongi*, the qualifications of a candidate for tax assessor were contested prior to the election, and the plaintiff filed suit to compel the county clerk to remove an unqualified candidate's name from the ballot. Plaintiff *Alongi* alleged that the County clerk should not have certified the candidate because he had not graduated from a four year college as required by statute. The Court in *Alongi* held that although the issue presented concerned the qualifications of a candidate to hold the office of tax assessor, the suit was in the nature of a prerogative writ to compel the county clerk to perform his duty and therefore, the "election law provisions cited by the defendants (*N.J.S.A. 19:13-10; N.J.S.A. 19:13-12; N.J.S.A. 19:29-3*) were not applicable." *Id.* at 573. In reviewing the time periods for filing the action, the Court applied the forty-five-day time period applicable to prerogative writs as opposed to the time limitations imposed by the election law provisions. *Ibid.* I find that the facts in this case are clearly distinguishable from those in *Alongi*.

First, prior to filing suit, *Alongi*, pursuant to *N.J.S.A. 19:13-10* filed an objection with the County Clerk, and the County Tax Board seeking to have the candidate's name removed from the ballot because of his ineligibility. When his objection was rejected, *Alongi* promptly filed suit in the Superior Court challenging the decision of the County Clerk and the Tax Board. Because *Alongi* had exhausted its administrative remedies, the Supreme Court found the suit was not filed to contest the Candidates nominating petition but was in the nature of a prerogative writ to compel the county clerk to perform his duty. The Supreme Court rightfully held that because there was no challenge to the nominating petition itself, the "election law provisions cited by the defendants (*N.J.S.A. 19:13-10; N.J.S.A. 19:13-12; N.J.S.A. 19:29-3*) were not applicable. Here, Plaintiffs never filed objections with the County or municipal clerk deciding instead to file an action in the Superior Court. Again, I repeat that despite Plaintiffs' assertion that they are simply challenging the Clerk's "ministerial action" of certifying Beatriz Wiley as a candidate, a fair reading of the First Amended Verified Complaint demonstrates that the challenge is to the nominating petition itself and Mrs. Wiley's alleged fraud in representing that she resides in North Bergen. Another factual distinction between the cases, as the Defendant correctly points out, is that the defendant in *Alongi* was a candidate for Tax assessors who are nominated via Primary Elections and via petition. Since the candidate in *Alongi* was never nominated via petition, the Supreme Court correctly ruled that *NJSA 19:29-3* did not apply.

Finally and most importantly, Plaintiff Alongi had standing to prosecute his prerogative writ action. Alongi, unlike the Plaintiffs in this case, was a candidate for the same office that the defendant was seeking. He was also a citizen and tax payer of the political subdivision in which the defendant candidate was running. Here, it is undisputed that neither Plaintiff is a candidate for the office held by Mrs. Wiley, nor does either one of them reside in her Ward or district.

Accordingly, I find that the *Alongi* case is inapplicable here and does not provide precedential support for Plaintiffs' request for preliminary injunctive relief. As previously indicated, I find that the challenge presented in Plaintiffs' Verified Complaint is governed by the election laws of Title 19, and pursuant to said laws I find that neither Vazquez nor Diaz have standing to challenge Mrs. Wiley's nominating petitions.

Timeliness of the Complaint

Defendants next argue that the complaint should be dismissed because the complaint is untimely. Because I have found that Plaintiffs have no standing to prosecute this action against Mrs. Wiley, I see no need to address the timeliness of the complaint at this time. The request to dismiss is denied without prejudice. The Defendants shall retain the right to re-visit this issue at a later date.

Exhaustion of Administrative Remedies.

Lastly, the Defendants argue that the complaint should be dismissed because Plaintiffs failed to exhaust administrative remedies available to them. Again, because I have found that Plaintiffs have no standing to prosecute this action against Mrs. Wiley, I see no need to address this issue at this time. The request to dismiss for failure to exhaust administrative remedies is denied without prejudice. The Defendants shall retain the right to re-visit this issue at a later date.

CONCLUSION:

Plaintiffs Ernesto Vasquez and Gina Miranda-Diaz lack standing to challenge Beatriz E. Wiley's eligibility and qualifications to run for the office of Democratic County Committeewoman in the 2015 primary election. Accordingly, all claims asserted in the Verified Complaint which seek

such relief are hereby dismissed. All other Counts in the complaint are unaffected by this decision.

Plaintiffs request for injunctive relief and for an order (a) vacating the Hudson County Clerk's and North Bergen Clerk's certification of Beatriz E. Wiley as eligible and qualified to run for the office of Democratic County Committeewoman in 2015 primary election; (b) enjoining and restraining the Clerks' from including Beatriz E. Wiley on the 2015 primary ballot as a candidate for Democratic County Committeewoman; and (c) enjoining and restraining the Clerks' from drawing ballot positions and commencing the mailing of Vote by mail ballots and sample ballots for the 2015 primary elections that include Beatriz E. Wiley's name, is **DENIED**.