

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

1267.1

CAE 17-01781

PRESENT: CARNI, J.P., LINDLEY, DEJOSEPH, TROUTMAN, AND WINSLOW, JJ.

IN THE MATTER OF IRENE RILEY, CITIZEN OBJECTOR,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

ANTHONY M. NEDDO, CANDIDATE FOR WATERTOWN
CITY COURT JUDGE UPON INDEPENDENT NOMINATING
PETITION FOR THE LAW AND ORDER PARTY FILED
AUGUST 16, 2017, AND JUDE R. SEYMOUR AND
BABETTE M. HALL, COMMISSIONERS OF AND
CONSTITUTING THE JEFFERSON COUNTY BOARD OF
ELECTIONS, RESPONDENTS-RESPONDENTS.

DOUGLAS WALTER DRAZEN, BINGHAMTON, FOR PETITIONER-APPELLANT.

YOUNG LAW OFFICE, PLLC, LOWVILLE (MICHAEL F. YOUNG OF COUNSEL), FOR
RESPONDENT-RESPONDENT ANTHONY M. NEDDO, CANDIDATE FOR WATERTOWN
CITY COURT JUDGE UPON INDEPENDENT NOMINATING PETITION FOR THE LAW AND
ORDER PARTY FILED AUGUST 16, 2017.

DAVID J. PAULSEN, COUNTY ATTORNEY, WATERTOWN, FOR
RESPONDENTS-RESPONDENTS JUDE R. SEYMOUR AND BABETTE M. HALL,
COMMISSIONERS OF AND CONSTITUTING THE JEFFERSON COUNTY BOARD OF
ELECTIONS.

Appeal from an order of the Supreme Court, Jefferson County
(James P. McClusky, J.), entered October 2, 2017 in a proceeding
pursuant to the Election Law. The order dismissed the petition and
directed the Jefferson County Board of Elections to place respondent
Anthony M. Neddo on the November ballot under the Law and Order Party
designation for the office of Watertown City Court Judge.

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 independent
nominating petition for Anthony M. Neddo (respondent) for the office
of Watertown City Court Judge. On August 16, 2017, respondent filed
his independent nominating petition as a candidate for that office on
behalf of the Law and Order Party with the Jefferson County Board of
Elections. Insofar as relevant to this appeal, petitioner sought to
invalidate respondent's independent nominating petition on the ground
that respondent himself had improperly witnessed the vast majority of

signatures thereon because he had previously signed his own Republican designating petition naming him as a candidate for that same office. Supreme Court denied petitioner's requested relief and determined that respondent could properly sign as a witness his "Law and Order Party petition[] after he signed his own Republican Party petition." We affirm.

Election Law § 6-140 (1) (b) provides that "[t]here shall be appended at the bottom of each sheet [of the independent nominating petition] a signed statement of a witness *who is a duly qualified voter of the state*" (emphasis added). Contrary to petitioner's contention, the statute does not contain any prohibition against respondent signing as a witness his own independent nominating petition after he had previously signed his own Republican designating petition. We see no reason to " 'resort to extrinsic material' " to interpret the statute inasmuch as the wording of the statute itself is clear and unambiguous (*Matter of Harris v Seneca Promotions, Inc.*, 149 AD3d 1508, 1510 [4th Dept 2017]; see *Matter of Rochester Community Sav. Bank v Board of Assessors of City of Rochester*, 248 AD2d 949, 950 [4th Dept 1998], *lv denied* 92 NY2d 811 [1998]; see also McKinney's Cons Laws of NY, Book 1, Statutes § 76).

Petitioner's reliance on *Matter of Rue v Hill* (287 AD2d 781 [3d Dept 2001], *lv denied* 97 NY2d 602 [2001]) is misplaced. *Rue* was decided before Election Law § 6-140 (1) (b) was amended in 2009 and, given the nature of the amendment, we conclude that the holding of *Rue* is not applicable to the case before us.

We have considered petitioner's remaining contentions and conclude that they are without merit.