



SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION : FOURTH JUDICIAL DEPARTMENT

DECISIONS FILED  
OCTOBER 25, 2023

HON. GERALD J. WHALEN, PRESIDING JUSTICE

HON. NANCY E. SMITH

HON. STEPHEN K. LINDLEY

HON. JOHN M. CURRAN

HON. TRACEY A. BANNISTER

HON. MARK A. MONTOUR

HON. JEANNETTE E. OGDEN

HON. DONALD A. GREENWOOD

HON. HENRY J. NOWAK

HON. SCOTT J. DELCONTE, ASSOCIATE JUSTICES

ANN DILLON FLYNN, CLERK

SUPREME COURT OF THE STATE OF NEW YORK  
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\_\_\_\_\_ 898 CAE 23 01638 MELANIE RIMKUS V COLLEEN ROGERS

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

898

**CAE 23-01638**

PRESENT: LINDLEY, J.P., CURRAN, GREENWOOD, AND DELCONTE, JJ.

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IN THE MATTER OF MELANIE RIMKUS,  
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

COLLEEN ROGERS, ERIE COUNTY BOARD OF ELECTIONS,  
AND RALPH MOHR AND JEREMY ZELLNER, COMMISSIONERS OF  
AND CONSTITUTING THE ERIE COUNTY BOARD OF  
ELECTIONS, RESPONDENTS-RESPONDENTS.

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PETER A. REESE, BUFFALO, FOR PETITIONER-APPELLANT.

LAW OFFICE OF JOSEPH T. BURNS, WILLIAMSVILLE (JOSEPH T. BURNS OF  
COUNSEL), FOR RESPONDENT-RESPONDENT COLLEEN ROGERS.

JEREMY C. TOTH, COUNTY ATTORNEY, BUFFALO, FOR RESPONDENTS-RESPONDENTS  
ERIE COUNTY BOARD OF ELECTIONS, AND RALPH MOHR AND JEREMY ZELLNER,  
COMMISSIONERS OF AND CONSTITUTING THE ERIE COUNTY BOARD OF ELECTIONS.

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Appeal from an order of the Supreme Court, Erie County (Craig D. Hannah, J.), entered August 17, 2023, in a proceeding pursuant to Election Law article 16. The order, inter alia, dismissed the petition.

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

Memorandum: Petitioner commenced this proceeding seeking, inter alia, to validate her independent nominating petition (petition) to place her on the general election ballot as a candidate for the office of Councilmember of the Town of Alden. The petition was invalidated by respondent Erie County Board of Elections (Board), which determined in response to objections filed by respondent Colleen Rogers and after a hearing that the petition did not contain the 205 valid signatures required to place petitioner on the ballot for the office. Petitioner appeals from an order that, inter alia, dismissed her petition.

Supreme Court properly dismissed the petition. Contrary to petitioner's contention, the court properly determined that Rogers's specification of objections substantially complied with the requirements of Election Law § 6-154 (3) (a) (i). Although Rogers failed to specify the volume number for each of her individual objections, we note that she provided the page number and line number for each objection, thus providing the Board and petitioner with "all

the information necessary to identify clearly the [contested signatures] involved" (*Matter of Felsen v Scaringe*, 54 NY2d 932, 934 [1981], *rearg denied* 54 NY2d 1026 [1981]). Indeed, inasmuch as petitioner filed only a single volume, the methodology used by Rogers was susceptible of no other interpretation (see *Matter of Scheidlinger v Power*, 208 Misc 717, 719 [Sup Ct, NY County 1955], *affd* 286 App Div 958 [1st Dept 1955]). We note, in addition, that petitioner failed to allege that any of the contested signatures were valid (see *Matter of Hennessy v Oneida County Bd. of Elections*, 217 AD3d 1452, 1453 [4th Dept 2023]; *Matter of Boniello v Niagara County Bd. of Elections*, 131 AD3d 806, 807 [4th Dept 2015]).

Contrary to petitioner's remaining contention, the court properly declined to issue a declaration that the Board violated the Open Meetings Law (see Public Officers Law § 104). Inasmuch as "[a]n unintentional failure to fully comply with the notice provisions required by [the Open Meetings Law] shall not alone be grounds for invalidating any action taken at a meeting of a public body" (§ 107 [1]; see *Matter of Save Monroe Ave., Inc. v Town of Brighton, N.Y. Off. of the Bldg. Inspector*, 217 AD3d 1389, 1392 [4th Dept 2023]), issuing such a declaration would have had no effect on the rights of the parties (see *Thrun v Cuomo*, 112 AD3d 1038, 1041 [3d Dept 2013], *lv denied* 22 NY3d 865 [2014]; *Mastrangelo v Nassau County*, 102 AD2d 814, 815 [2d Dept 1984], *appeal dismissed* 63 NY2d 944 [1984]; see generally *Wisholek v Douglas*, 97 NY2d 740, 742 [2002]).