

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2012-009302

06/21/2012

HONORABLE ARTHUR T. ANDERSON

CLERK OF THE COURT
R. Aguilera
Deputy

BAHNEY DEDOLPH

ANDREW S GORDON

v.

LOIS JEAN MCDERMOTT, et al.

KORY A LANGHOFER

MICHELE LEE FORNEY
J KENNETH MANGUM

MINUTE ENTRY

A clerical error having been made and the signature line having been inadvertently omitted from the Court's June 19, 2012 Minute Entry Ruling,

IT IS ORDERED correcting this Court's minute entry dated June 19, 2012 to reflect the addition of the signature line.

IT IS FURTHER ORDERED that the signature line be added for appellate purposes to the Court's June 19, 2012 Minute Entry Ruling. Additionally, the entire June 19, 2012 Ruling is repeated herein to allow the addition of the signature line and to read as follows:

RULING

The Court has had under advisement Plaintiff's Motion for Preliminary and Permanent Injunction. Having read and considered the briefing and having heard oral argument, the Court issues the following ruling.¹

¹ Preliminarily, the Court finds Defendant's untimeliness argument to be without merit. "[E]xcluding Saturday, Sunday and other legal holidays" continues to modify the phrase "ten days," the 2003 amendment clearly being intended to add a 5 p.m. filing deadline. A.R.S. § 16-351(A); cf. *Bohart v. Hanna*, 213 Ariz. 480, 482 n.2 (2006). Both the Maricopa County Superior Court and the Maricopa County Elections Department indicated that the filing deadline for a primary election nomination petition challenge would be June 13, 2012 at 5 p.m.

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Plaintiff seeks an order enjoining the name “Lois Jean McDermott” or “Jean Chevront-McDermott” from appearing on the August 28, 2012 primary election ballot. *See* A.R.S. § 16-351; Ariz. R. Civ. P. 65. Plaintiff argues that the nomination paper filed by Defendant Lois Jean McDermott violates A.R.S. § 16-311(G) because it lists her surname as “Chevront-McDermott.” The Court agrees.

A.R.S. § 16-311(G) provides:

The nomination paper shall include the exact manner in which the candidate desires to have the person's name printed on the official ballot and ***shall be limited to the candidate's surname and given name or names, an abbreviated version of such names or appropriate initials*** such as “Bob” for “Robert”, “Jim” for “James”, “Wm.” for “William” or “S.” for “Samuel”. ***Nicknames are permissible***, but in no event shall nicknames, abbreviated versions or initials of given names suggest reference to professional, fraternal, religious or military titles. ***No other descriptive name or names shall be printed on the official ballot, except as provided in this section. Candidates' abbreviated names or nicknames may be printed within quotation marks. The candidate's surname shall be printed first, followed by the given name or names.***

(Emphasis added.)

The Court finds that on her nomination paper, Defendant listed her surname (*i.e.*, her last name) as “Chevront-McDermott.” It is undisputed that “Chevront-McDermott” is not Defendant’s surname, even though she might be known to others as “Ms. Chevront” or “Ms. Chevront-McDermott.”² (*See* Resp. at 5-6.) In this regard, Defendant asserts that “Chevront” is a nickname. Although § 16-311(G) permits a candidate to list a nickname, the Court does not construe this section to permit a nickname to be listed *in lieu of or a part of* a candidate’s surname. Assuming without deciding that “Chevront” is in fact Defendant’s nickname³, her assertion would have more merit had she listed her surname as “McDermott” and her given name and nickname as “Jean Chevront.”

² The Court disagrees with Defendant that § 16-311(G) does not require her to list her legal name. (Resp. at 5.) That section directs a candidate to list in the exact manner the name she desires to have printed on the ballot, which desire “*shall be limited to the candidate’s surname and given name or names....*” (Emphasis added.)

³ Defendant ran successfully for precinct committeewoman in 1998, 2002, 2004, and 2006 as “Lois Jean McDermott.”

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Defendant argues she should not be excluded from the ballot because her petition was in substantial compliance with statutory requirements. The issue is whether the listing of her surname as “Cheuvront-McDermott” was a mere technical departure from form, or whether it could confuse or mislead voters. *See Bee v. Day*, 218 Ariz. 505, 507 (2008). The issue is not whether Defendant could campaign under the “Cheuvront” name or otherwise make it known to voters that she is a “Cheuvront.” By listing her surname as “Cheuvront-McDermott,” Defendant’s contended-nickname, “Cheuvront,” will appear first, reading left to right. (Resp. at 6.) The Court finds that this violates the plain language of the statute.

Furthermore, to the extent “Cheuvront” is urged as a “descriptive nickname” or “surname nickname” these unique formulations do not satisfy the plain language of the statute or bring this petition into substantial statutory compliance.

The Court finds that Defendant’s petition is not in substantial compliance with the statute.

Accordingly,

IT IS ORDERED granting an injunction precluding the name “Cheuvront-McDermott, Jean” (name requested to appear on the ballot) or Jean McDermott (candidate signature) from appearing on the August 28, 2012 primary election ballot.

IT IS FURTHER ORDERED signing this minute entry as a final appealable Order of the Court.

DATE: 6-21-12

/ s / HON. ARTHUR T. ANDERSON
HONORABLE ARTHUR T. ANDERSON
JUDICIAL OFFICER OF THE SUPERIOR COURT

ALERT: The Arizona Supreme Court Administrative Order 2011-140 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.