

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Gene Stilp, Citizen, Pro se

Petitioner

vs.

No. 1 MD 2024

Scott Perry

and

Albert Schmidt
Pennsylvania
Secretary of State

Respondents

PETITION FOR REVIEW

(In the nature of a complaint and a request for declaratory relief)

Gene Stilp, Pro Se
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January 2, 2024

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NOTICE TO PLEAD

Respondents are hereby notified pursuant to the Pennsylvania Rules of Appellate Procedure to plead in this Petition for Review within 30 days from service hereof or a default judgment may be entered against you.

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January 2, 2024

Jurisdictional Statement

1. This Court has original jurisdiction over this petition pursuant to 42 Pa. C.S. Sect. 761. This petition for review is addressed to the Court's original jurisdiction and is in the nature of a complaint seeking declaratory and equitable relief.

Party Seeking Review and Relief

2. Petitioner, pro se, is Gene Stilp, an adult individual and a registered voter in the 10th Congressional District of Pennsylvania.

Name of Government Unit and Indispensable Parties

3. Respondent Scott Perry is currently the Representative in Congress for the 10th Congressional District of Pennsylvania and a current announced candidate for the 2024 Pennsylvania Primary scheduled for April, 2024.

4. Respondent Albert Schmidt is Secretary of State for Pennsylvania and oversees the Pennsylvania Bureau of Elections.

Statement of Material Facts

5. The Pennsylvania Department of State Secretary has the duty to decide who can be on the election ballot in Pennsylvania. The Bureau of Elections in that Department dispenses the rules and regulations that candidates must meet to obtain access to be on the Pennsylvania ballot. If the potential candidate meets the requirements then that person becomes a candidate and can be placed on the ballot. If a potential candidate cannot meet the rules and requirements then that potential candidate cannot be on the ballot.

6. In certain circumstances the Pennsylvania Secretary of State has the duty of applying certain constitutionally mandated standards in reviewing who can and who cannot be on the Pennsylvania ballot. These constitutional mandated standards, rules and regulations include the state and federal constitutions.

7. The United States Constitution has certain constitutional restraints as to who can and who cannot be on certain ballots.

8. The United States Constitution, Amendment Fourteen, Section Three, has certain requirements that have been in force since 1868 and are still in force today.

9. The Fourteenth Amendment, Section Three states: *"No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken*

an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.”

9. *The Pennsylvania Secretary of State has to determine if a person who wants to be on the ballot has “engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof.”*

10. While the action of thousands of violent people at the U.S. Capitol on January 6, 2021 amounted to a visible, violent insurrectionist type action, it is not necessary for insurrectionist activities to be violent, as visible as a riot, or successful. Insurrection can be orchestrated in other ways, as long as those ways oppose or obstruct the execution of the laws of the United States or impede the course of justice under those laws in specific circumstances.

11. In order to have the Fourteenth Amendment, Section Three disqualification apply to an individual seeking one of the offices listed in Section Three, it is not necessary for a criminal conviction to occur.

12. Scott Perry's has been in Congress since 2013. Scott Perry as a member of Congress took and oath to support the Constitution of the United States. As a member of the military Scott Perry swore an oath to support the Constitution of the United States. Scott Perry as member of the Pennsylvania legislature took an oath to support the Constitution of the United States.

13. Besides his title as congressman, Scott Perry also serves as the leader of the so called Freedom Caucus which is a group of congressmen and congresswomen who have a specific agenda for the future of the United States including proving that the 2020 election was stolen and that President Biden is not the truly elected president. Scott Perry is a leading proponent of the theory that the 2020 Presidential election was stolen by voter fraud in many states across the United States including among others, Pennsylvania, Michigan, Georgia, Arizona.

14. Scott Perry was a leading proponent of using the January 6, 2021 Congressional presidential election certification process to disrupt the transfer of presidential administrations from Trump to Biden.

15. Scott Perry believes that Donald Trump won the 2020 presidential election.

16. Scott Perry is currently engaged in a continuing legal battle to stop the Federal Bureau of Investigation from accessing his full cell phone records. Part of Scott Perry's cell phone records were released in December of 2023.

17. Courts have reviewed Scott Perry's cell phone records using the limits imposed by law to determine which phone records were legislative business and which records were non-legislative in nature.

18. Released records from the cell phone of Scott Perry that are not related to congressional

business show certain patterns and certain contacts.

19. A two phase pattern emerges in Scott Perry's actions that was apparent even without his phone records.

20. Phase one was to support, defend, publicize, and widen the network of filed cases of alleged election fraud across the United States in the presidential election working with Trump officials, attorneys, and media outlets.

21. The second phase was the interfering with the Constitutionally mandated certification of the election on January 6, 2021. This grew out of the same group of Perry associates that had run the voter fraud cases in many states.

22. In regard to the first phase, after the election of 2020 in which Joe Biden received the majority of votes, efforts were begun to file cases in various states to prove that voter fraud existed in the 2020 election.

23. According to an analysis of phone records, Scott Perry and others were deeply involved in trying to orchestrate legal cases proving voter fraud in many states.

24. Scott Perry had communications with many people involved with fraud cases including Rudy Giuliani, Sidney Powell, Jenna Ellis, Cleta Mitchell other attorneys or individual connected with many lawsuit alleging election fraud in the 2020 presidential election or seeking to challenge the results of the 2020 presidential election are noted.

25. Scott Perry was very active in his search for voter fraud in Pennsylvania and communicated with many in Pennsylvania about finding fraud and overturning the 2020 vote.

26. Scott Perry's communications with various Pennsylvania State legislators refer to purported electoral fraud in the 2020 election in Pennsylvania and efforts in that State to challenge and undo the results of that election.

27. According to the phone records from the court case, on November 12, 2020, Rep. Perry texted Alex Cannon with his "thoughts" on an audit of the 2020 presidential election in Pennsylvania and actions the Trump Campaign should take to challenge the validity of that election, including, "We need to see if any addresses had high numbers of mail-in ballots DELIVERED to them. . . If there'[s] a coordinated AND provable fraud that would be the big flag."

28. November 15, 2020, Rep. Perry texted Julie Strauss Levin about securing whistleblower protection for someone in the Pennsylvania Department of State. ...

29. Scott Perry's phone records in the category of "Pennsylvania State legislators" include communications with Pennsylvania House of Representatives Members Mike Jones, Dawn Keefer, Seth Grove, and staff in that legislative body, and Pennsylvania State Senate Members Cris Dush, Kristin Hill, and Doug Mastriano."

30. On November 12, 2020, Rep. Perry texted Alex Cannon with his "thoughts" on an audit of the 2020 presidential election in Pennsylvania and actions that the Campaign should take to challenge the validity of that election.

31. Scott Perry noted a resolution introduced in the Pennsylvania State House of Representatives on or about November 30, 2020.

32. Scott Perry received, via text message from Rep. Thompson, as part of a group conversation with Republican House Members from Pennsylvania, a draft letter to be sent from them to the Governor, Attorney General, and Secretary of State for Pennsylvania, concerning “how the commonwealth has handled the [2020] general election” and urging those state officials to take certain election-related actions.

33. On December 1, 2020, Rep. Perry texted Rep. Roy about working with some Senators’ general counsels to assist with an election-related lawsuit.

34. Scott Perry, exchanged text messages with Pete Morocco and James Waldron, a purported private sector cybersecurity expert “working with Sidney Powell technical expert, to “show me what you have” and agreed to “fast track any questions/answers right to the leadership in the pa state legislature...” and stating “[w]e’ll need a connection in the other states.

35. On November 12, 2020, Scott Perry emailed Rich Higgins, describing an “incredibly spooky” story about how the U.S. Army had purportedly confiscated election software servers in Germany used by Dominion Voting Systems and noting that “the Agency is covering its tracks.

36. Scott Perry in his effort to find non-existent voter fraud introduced Jeff Clark from the Department of Justice (DOJ) to Trump. Jeff Clark was also an election denier. Perry wanted Trump to install Clark as the head of the DOJ to do voter fraud investigations and to see what the Department of Justice already had on voter fraud.

37. Clark has been identified as one of the six unnamed co-conspirators in the indictment by Special Counsel Jack Smith charging Trump with seeking to illegally overturn the results of the 2020 election and block the peaceful transfer of power to the current President Joe Biden. Jeffery Clark has also been indicted in the RICO case in Georgia.

38. The result of the myriad of possible election fraud cases was about sixty-one cases brought by different entities across many states. Sixty of the cases were dismissed. The election fraud case phase was basically over.

39. The phase two of the push to overturn the 2020 presidential election focused on the certification of the election in the House of Representatives on January 6, 2021. The time leading up to the day of certification is where Scott Perry crosses the line and enters into attempts at election interference.

40. Trump colleague attorney Kenneth Cheseboro has issued a memo that suggested that alternative sets of electors from various states could be utilized to affect the outcome of the certification process.

41. Scott Perry's activities in phase 2 elevated the plan to interfere with the certification process to overturn the results of the presidential election.

42. Certification of the 2020 election was to take place on January 6, 2021.

43. 3 U.S. Code section 15 describes the process for counting electoral votes in Congress. Section (a) says that Congress shall be in session on the sixth day of January succeeding every meeting of the electors. The Senate and the House of Representatives shall meet in the Hall of the Representatives at the hour of 1 o'clock in the afternoon...

44. 3 U.S. Code section 15 (2) says that certain powers are explicitly denied. The President of the Senate shall have no power to solely determine, accept, reject, or otherwise adjudicate or resolve disputes over the proper certification of ascertainment of appointment of electors, the validity of electors, or the votes of the electors.

45. According to Judge Howell's opinion, Rep. Perry's communications with Executive Branch officials, as reflected in the responsive records, demonstrate that he welcomed, rather than resisted, and indeed often initiated these communications to relay information or urge consideration of a strategy by the White House or specific action to be taken by the White House, the Trump Campaign, or DOJ. His efforts to engage with Executive Branch officials about election fraud and procedural mechanisms, including during the ECA process, to overturn the election result were proactive, persistent, and protracted. Besides the general list of offices above, Scott Perry was also in touch with Jenna Ellis, Boris Epshteyn, Julie Strauss Levin, Alex Cannon, and Justin Clark.

46. Scott Perry was trying to change the procedures for the January 6, 2021 certification. During the period of December 30, 2020, to January 5, 2021, Rep. Perry exchanged texts with official Gasaway, who suggested that the rule limiting Member debate during the ECA process "does not preclude the ability of the President of the Senate (Vice President Pence) to admit testimony before commencing the debate" by convening the "Senate or House . . . as committee of the whole" to hear "sworn statements from persons who are willing to offer evidence and views who are NOT members of Congress," and Rep. Perry agreed to "sell[] the idea" with a call to John Eastman, the President, and Vice President, but Rep. Perry later alerted Gasaway that "Mark Short from the Vice Presidents office will not allow access" to the Vice President.

47. In order to change the outcome of the votes that would be certified by the United States Congress on that day, January 6, 2021, an effort was set underway to provide sets of alternative electors from various states in order to change the outcome of the certified votes.

48. Scott Perry was engaged with a group of election deniers that were engaged in efforts to provide false sets of electors so that the election results would be overturned.

49. Scott Perry was engaged in efforts in Pennsylvania to present an alternative set of electors to the January 6, 2021 certification process.

50. A number of the Trump conspirators that engaged in efforts to overturn the election through the fake elector conspiracy have been prosecuted in Fulton County, Georgia by the Georgia's Attorney General.

51. Some of Perry's colleagues were indicted in a Georgia case. Donald Trump and 18 others were indicted on charges that they attempted to overturn the 2020 election. Among other charges was a charge that the defendants tempted to install a new group of Georgia electors favorable to Trump.

52. In the Georgia case, Perry colleague Sidney Powell, an attorney, pleaded guilty to charges the day before jury selection.

53. In the Georgia case, defendant Kenneth Cheseboro, an attorney, pleaded guilty to charges the days before jury selection

54. In the Georgia case attorney Jenna Ellis pleaded guilty.

Scott Perry exchanged texts on December 12, 2020 with Republican National Committee Chairwoman Ronna McDaniel on efforts to challenge the 2020 election results.

55. Scott Perry was instrumental in asking Trump to issue Jeffrey Clark a presidential security clearance so Clark would have access to the latest Department of Justice information gathering on voter fraud for use by the election deniers.

56. Scott Perry was instrumental in the idea that Trump could appoint Jeffrey Clark to head the Department of Justice. When senior Department of Justice officials heard about this possibility, the result was that a large number of senior DOJ personnel would resign if Clark was appointed by Trump.

57. Jeffrey Clark is now a defendant in the Georgia racketeering and organized influence (RICO) case and is an indicted co-conspirator in the Special Counsel Jack Smith case against Donald Trump.

58. Scott Perry was involved in the effort to persuade Vice President Mike Pence to use the vice president's power to change the debate rules around the electoral college vote.

59. Scott Perry was involved in the effort to influence or disrupt the counting of Electoral College votes and communicated with Jeffrey Clark, Ken Klukowski, James Wallace, Donald Trump, Mark Meadows, John Eastman and other individuals associated with the Trump campaign on how to overturn the 2020 election by voter fraud court cases or interference with the aforementioned January 6, 2021 certification process. Scott Perry was intent on using his abilities to overturn, decertify, delegitimize, challenge or question the 2020 election results.

60. Rep. Perry's communications with Executive Branch officials, as reflected in the responsive records, demonstrate that he welcomed, rather than resisted, and indeed often initiated these communications to relay information or urge consideration of a strategy by the White House or specific action to be taken by the White House, the Trump Campaign, or DOJ. His efforts to engage with Executive Branch officials about election fraud and procedural mechanisms, including during the ECA process, to overturn the election result were proactive, persistent, and protracted.

61. Attorney Kenneth Cheseboro in recordings during his testimony in the current Michigan prosecution of fake electors in Michigan relates that fake elector certificates have to get to Vice President Mike Pence in time for the January 6, 2021 certification process but the fake certificates are lost in the mail. Cheseboro and Mike Roman of the White House make "fake" fake elector certifications and wanted to utilize Scott Perry access to the Vice President for delivery which confirms Scott Perry's familiarity with the fake elector scheme.

62. Scott Perry's involvement with Mike Roman and Kenneth Cheseboro brings into focus Perry's relationship with the fake electors scheme. Both Mike Roman and Kenneth Cheseboro have been indicted in the Georgia case with Kenneth Cheseboro pleading guilty. Kenneth Cheseboro is an unindicted coconspirator in the Special Prosecutor Jack Smith case in Washington, D.C.

63. The conclusion related to the second phase of the efforts to overturn the election is that there were a wide range of participants in the effort and that the participants knew many of the other participants and that the efforts were known to a wide range of individuals including Scott Perry. The effort to utilize the fake elector certificates to overturn the certification process and invalidate a Constitution process was an effort to subvert the Constitution for insurrection purposes. And whether one participated directly in the insurrection efforts or if one supports the insurrection efforts, the Fourteenth Amendment, Section Three, disqualification provision applies. In this case it applies to Scott Perry.

Statement of Relief Sought

64. Declare that the United States Constitution, Amendment Fourteen, Section Three, can be utilized in Pennsylvania to determine who can and cannot be on the primary ballot.

65. Declare that the Pennsylvania Secretary of State Albert Schmidt has to make a determination of the eligibility of Scott Perry to be on the primary ballot.

66. Declare that Scott Perry engaged in insurrectionist activity and/or supported insurrectionist activities and that the restrictions of the Fourteenth Amendment, Section Three, apply to Scott Perry thus eliminating Scott Perry from the ballot for representative to Congress.

67. Declare that it is not necessary for a person to be convicted of a crime for the disqualification language in the Fourteenth Amendment, Section Three, to apply.

68. Refer any and all information of any possible criminal activity by Scott Perry or any other party discovered during this case to the Pennsylvania Attorney General for prosecution.

Respectfully submitted,


Gene Stilp

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Verification

I Gene Stilp aver that the statements in the foregoing Petition for Review are true and correct to the best of my knowledge or information or belief. I make this verification subject to 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

Signed


Gene Stilp

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Pennsylvania
Secretary of State

Respondents

Proof of Service

The Petition for Review has been served on the following individuals by United States mail. *First Class*

Scott Perry
2160 Rayburn House Office Building
Washington, D.C. 20515

Albert Schmidt
Pennsylvania Secretary of State
401 North Street Suite 302
Harrisburg, Pa 17120

Signed Gene Stilp

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January 2, 2024