

**IN THE SUPREME COURT OF PENNSYLVANIA**

COUNTY OF FULTON, *et al.*,

Petitioners/Appellees,

v.

SECRETARY OF THE COMMONWEALTH,

Respondent/Appellant

and

DOMINION VOTING SYSTEMS, INC.,

Respondent/Intervener.

No. 277 MD 2021

No. 3 MAP 2022

---

**FULTON COUNTY'S CLOSING ARGUMENTS AND OBJECTIONS  
(CORRECTED)**

---

## INTRODUCTION

Undersigned counsel for Fulton County provides the following closing summary and argument, including objections, as follows.

The matter of a neutral third-party vendor to take possession of voting machines owned by Fulton County is pending due to the request that a prior Pennsylvania Supreme Court order be expanded against Fulton County because Fulton County filed a breach of contract action against Dominion. It's Fulton County's position that the Pennsylvania Supreme Court erroneously expanded its prior order to enjoin inspections where it had only previously ordered to enjoin a Pennsylvania governmental body (the Senate) from performing a hearing and committee investigation as to voting machines in the entire state. It's Fulton County's position that it had legal and constitutional authority to perform separate inspections and consider potential litigation against Dominion on its own Dominion machines that it possessed. The breach of contract action revealed that the election machines (mothballed Dominion machines) had an unconsented to, malicious python script installed, were communicating internationally with Canada, and failed to follow federal standards (NIST, CISA, DISA).

What resulted are these proceedings and testimony concerning the custodial control of the Fulton County Dominion Voting Machines (Voting Machines) revealed incontrovertible evidence of a conflict of interest that should disqualify Pro V&V from having custodial control of the Voting Machines. First, Pro V&V

testified that Intervener Dominion (the manufacturer of the Voting Machines) resides in the same physical location where Pro V&V is headquartered. Moreover, Pro V&V's part-owner owns the building and profits from payments from Dominion, which is a lessee. (**Exhibit A**, Transcripts of Proceedings).

Testimony from the hearings revealed that Pro V&V receives substantial funds from Dominion; that Dominion employees are in Pro V&V facilities touching and manipulating election machines; that a contract between Dominion and Pro V&V exists that was not produced showing that potential foreign money is being provided from Dominion Canada to Pro V&V; that Pro V&V does not certify election machines but merely recommended to EAC whether machines should be certified (the same machines touched and manipulated by Dominion); that the EAC has refused to produce witnesses properly subpoenaed; and that, even if EAC produced these witnesses, they would not provide any transparent testimony and therefore we would be unable to explore the relationship between Pro V&V, Dominion and EAC. Additionally, it was testified that former Dominion employees currently work at the EAC. (**Exhibit A**, Transcripts; **Exhibit B**, EAC Termination Act, **Exhibit C**, EAC's Subpoena Receipt and Communications Regarding Same; **Exhibit D**, Dominion's Website Showing Foreign Address)

This provides obvious inextricable financial profit and quid-pro-quo incentives by and between Pro V&V (the proposed custodian to keep the Voting Machines "secure" and free from tampering) and Dominion (who seeks to hide the internal

workings and functioning of their product at all cost). The latter is shocking in light of the fact we now know that the Dominion Voting Machines can easily be tampered with and that they can be accessed remotely and data wiped or manipulated once they are in the hands of those who would wish to hide their security deficiencies and defects.

Moreover, the so-called “Election Assistance Commission” (EAC) also resides in the same location and has a financial and public interest in protecting the fictitious appearance that Dominion Voting Machines are safe and secure. The EAC has direct and functional control over what equipment is used and how elections are run and operated because it has funding capacity to election officials. These funds provide incentives to state and local election officials to use electronic voting machine equipment and to run and operate elections in a certain manner. (**Exhibit B**, EAC Termination Act). Certainly, the EAC wants to preserve its own bureaucratic existence and appear that it is serving a purpose. *Id.*

Moreover, the United States Government has an interest in hiding the latter as well. It was further discovered during the proceedings that Robert Wygul is married to an employee of the Department of Justice (DOJ). The DOJ is fully complicit in the fabrication that voting machines and particularly Dominion Voting Machines are safe and effective in protecting democratic processes. While nothing could be further from the truth, the inherent conflict of interests and opportunities for collusion, mishandling, and manipulation that exist are undeniable and irreparable.

Pro V&V cannot be the “neutral” third-party custodian that the Secretary claims. Fulton County has revealed this through the elicited testimony.

While Fulton County does not condone the social media posts of its proposed neutral vendor, there is no danger of an incentive or financial gain in allowing the it to be a neutral third-party custodian. They have been shown to be fully competent and capable of keeping the Voting Machines secure and free from any outside or external influences, both in physical (geographical) proximity or any incentive to access the machines to change or destroy information and data.

Fulton County wants it to be known that other contractors, despite what the Secretary alluded to during testimony, that no other party or person has any influence over who Fulton County uses. It is the commissioners and only the commissioners that have authority to propose third-party vendors.

Fulton County wants it known that it does not consent to waiver of attorney-client privilege. The county commissioners were charged with the responsibility of selecting a neutral third-party escrow agent. The Commissioners had the opportunity to discuss the escrow agent at length with counsel. Commissioners decided to propose Cerberus Dynamic Solution (“Cerberus”) as the escrow agent. Additionally, Fulton County asked the Court for more time to present additional custodians, but this request was denied. As such, and in light of the court’s ruling, at this point Fulton County continues to propose Cerberus as the third-party escrow due to its extensive security certifications, credentials and chain of custody experience,

which were outlined in his testimony and Resume. Mr. Sabia has superior qualifications. Additionally, Fulton County finds that the Secretary of the Commonwealth and Dominion's proposed third-party escrow agent troubling in light of apparent conflicts of interest with Pro V&V.

### **OBJECTIONS**

Over Fulton County's objections the court made several rulings denying Fulton County certain access to witnesses and other legal determinations that are subject to review.

Fulton County subpoenaed witnesses from Election Assistance Commission (EAC) and Intervener Dominion to testify concerning the propriety of having Pro V&V serve as the custodian of the Dominion Voting Machines held by Fulton County and concerning which the Supreme Court has required be placed into protective custody with a *neutral* third party.

During testimony in these proceedings, it was revealed that Pro V&V resides in the same location as EAC. As a result, counsel for Fulton County issued subpoena to EAC employees.

Fulton County also subpoenaed the CEO of Intervener Dominion. Dominion's CEO has testified that the data in the Dominion Voting Machines can be connected, accessed, transmitted, and handled and manipulated when used by third parties; parties such as Pro V&V.

EAC acknowledged service but would not communicate with its own general counsel and cooperate with Fulton County . EAC served the subpoena again and EAC acknowledged service again, but stated that they would not produce witnesses. See attached documentation of service and acknowledgment. (**Exhibit C**, EAC Response and Communications). The EAC stated that even if they did that they would not provide the sought testimony seeking transparency. The EAC is essentially stating that there is no process by which transparency in our election systems can be obtained.

Likewise, Dominion alleges that they did not receive service. But they did receive the subpoena.

The testimony sought from these witnesses bears directly on the conflict of interest inherent in the fact that Pro V&V resides in the same location as the subpoenaed witnesses employers and that there was and is a real conflict of interest in allowing Pro V&V to house or control the Fulton County Dominion Voting Machines where EAC and Dominion have been shown to have a direct physical location.

Fulton County wanted to establish foreign contributions from Dominion to Pro V&V and to the EAC. Some of these contributions potentially are from foreign sources. (**Exhibit D**, Dominion Voting Machines Webpage showing its office location in Canada). It is obvious that EAC has an inherent conflict of interest, and/or that the witnesses could testify to this to clarify and/or dispel the notion.

Ben Cotton was present and ready to testify as an expert regarding his affidavit previously filed that Pro V&V failed to follow industry standards regarding the handling and imaging of voting equipment and could potentially allow the equipment to be modified. (**Exhibit E**, Cotton Affidavit). His affidavit states that Pro V&V failed to use a “write blocker” which prevents election data from being manipulated and is basic industry standard to be followed. *Id.*

Fulton County has previously explained that Congress has delegated authority to the individual states regarding time, place, *and manner*, for conducting national elections. U.S. Const. Art. I, section 4, clause 1. See also, *United States Term Limits v. Thornton*, 514 U.S. 779, 804-05, 115 S. Ct. 1842, 1855, 131 L.Ed.2d 881, 901 (1995) (“the Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof.” Art. I, § 4, cl. 1.).

Pursuant to this delegated authority, the Pennsylvania General Assembly redelegated authority to Pennsylvania’s counties, and particularly to county boards of elections, to conduct these elections. As part of that delegation, Section 2642 of the Pennsylvania Election Code, delegates to County Boards of Elections the following:

The county boards of elections, within their respective counties, shall exercise, in the manner provided by this act, all powers granted to them by this act, and shall perform all the duties imposed upon them by this act, which shall include the following:

\*\*\*



(c) *To purchase, preserve, store and maintain primary and election equipment of all kinds, including voting booths, ballot boxes and voting machines, and to procure ballots and all other supplies for elections.*

\*\*\*

(f) *To make and issue such rules, regulations and instructions, not inconsistent with law, as they may deem necessary for the guidance of voting machine custodians, elections officers and electors.*

(g) *To instruct election officers in their duties, calling them together in meeting whenever deemed advisable, and to inspect systematically and thoroughly the conduct of primaries and elections in the several election districts of the county to the end that primaries and elections may be honestly, efficiently, and uniformly conducted.*

\*\*\*

(i) *To investigate election frauds, irregularities and violations of this act, and to report all suspicious circumstances to the district attorney. 25 Pa. Stat. Ann. § 2642.*

### **CONCLUSION**

Allowing Pro V&V to have custody and control over the Dominion Voting Machines held by Fulton County will unconstitutionally usurp the constitutional delegation of authority to Fulton County. Further, without the compelled testimony, Fulton County will be deprived of its rights to substantive and procedural due process because it will be deprived of the right to examine these witnesses, whose testimony bears directly on the propriety of having the conflicted party, Pro V&V take control and custody of the Dominion Voting Machines.

Respectfully submitted by:

/s/ Thomas J Carroll

Attorney ID: 53296

Attorney for Petitioners

LAW OFFICE OF THOMAS J CARROLL

224 King Street

Pottstown, PA, 19464

(610)419-6981

tom@thomasjcarrolllaw.com

Date: September 5, 2023