
IN THE SUPREME COURT OF PENNSYLVANIA

MELINDA DELISLE; JACQUES DELISLE; ADAM DELISLE; BRYAN IRWIN; CHARLES CELLA; DEBORAH CELLA; MARY CAY CURRAN; ELIZA HARDY JONES; KRISTA NELSON; EILEEN MCGOVERN; CEDRIC HARDY,

Petitioners,

v.

KATHY BOOCKVAR, IN HER CAPACITY AS SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA; AND JESSICA MATHIS, IN HER CAPACITY AS DIRECTOR OF THE BUREAU OF ELECTION SERVICES AND NOTARIES OF THE PENNSYLVANIA DEPARTMENT OF STATE,

Respondents.

No. 95 MM 2020

**PETITIONERS' ANSWER TO
RESPONDENTS' PRELIMINARY OBJECTIONS**

Petitioners submit this Answer to Respondents' Preliminary Objections and request that the Court overrule the Preliminary Objections. Petitioners' grounds for opposing these Preliminary Objections are set forth below and in Petitioners' Brief in Support of this Court's Jurisdiction over the Petition for Review, or in the Alternative, Requesting this Court's Exercise of King's Bench or Extraordinary Jurisdiction, filed earlier today.

I. Procedural History and Factual Background

1. Admitted to the extent the Secretary is responsible for implementing Act 77 and Pennsylvania's system for voting by mail. *See Act 77; see also 25 P.S. § 3260.* After reasonable investigation, Petitioners are without knowledge or information sufficient to form a belief as to the truth of the remaining averments in this paragraph. By way of further answer, Petitioners refer to their Brief in Support of this Court's Jurisdiction over the Petition for Review, or in the Alternative, Requesting this Court's Exercise of King's Bench or Extraordinary Jurisdiction.

2. Admitted. By way of further answer, Petitioners refer to their Brief in Support of this Court's Jurisdiction over the Petition for Review, or in the Alternative, Requesting this Court's Exercise of King's Bench or Extraordinary Jurisdiction.

3. Admitted.

4. Admitted that Petitioners are challenging the "received-by" deadline set forth in 25 P.S. §§ 3146.6(c), 3146.8(g)(1)(ii), 3150.16(c). Denied to the extent the averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

5. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

6. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

7. Admitted in part; denied in part. Petitioners admit that they seek relief with respect to both the primary election, scheduled for June 2, 2020, and the general election, scheduled for November 3, 2020. The remaining averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

8. Admitted.

9. After reasonable investigation, Petitioners are without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph.

10. Admitted in part; denied in part. Petitioners admit that the General Assembly postponed the primary election date from April 28, 2020 to June 2, 2020. The remaining averments in this paragraph and the accompanying footnotes 3 and 4 contain conclusions of law to which no responsive pleading is required.

To the extent a response is required, this paragraph and the accompanying footnotes 3 and 4 purport to summarize legislation. Petitioners refer to the legislation for its full and complete contents and deny anything inconsistent therewith.

11. After reasonable investigation, Petitioners are without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and the accompanying footnote 5.

12. Petitioners admit that the Department has received “thousands of telephone requests for absentee and mail-in ballot applications.” After reasonable investigation, Petitioners are without knowledge or information sufficient to form a belief as to the truth of the remaining averments in this paragraph and the accompanying footnote 6.

13. After reasonable investigation, Petitioners are without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph and the accompanying footnotes 7 and 8.

14. Denied. To the extent that the averments in this paragraph purport to summarize the Petition, Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith. To the extent that the averments in this paragraph purport to summarize the May 22, 2020 declaration of Deputy Secretary Jonathan Marks, it is a writing which speaks for itself, and

Petitioners refer to Exhibit A of their Emergency Application for Special Relief in the Nature of a Preliminary Injunction for its full and complete contents and deny anything inconsistent therewith. The remaining averments in this paragraph and the accompanying footnote 9 contain conclusions of law to which no responsive pleading is required. By way of further answer, Petitioners refer to their Brief in Support of this Court's Jurisdiction over the Petition for Review, or in the Alternative, Requesting this Court's Exercise of King's Bench or Extraordinary Jurisdiction.

15. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

16. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

17. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

18. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith. By way of further answer, Petitioners refer

to their Brief in Support of this Court’s Jurisdiction over the Petition for Review, or in the Alternative, Requesting this Court’s Exercise of King’s Bench or Extraordinary Jurisdiction.

19. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

II. Answers to Preliminary Objections

A. Answer to First Preliminary Objection (Joinder of Necessary Parties)

20. Paragraphs 1–19 above are incorporated by reference as if fully set forth herein.

21. The averments in this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, this paragraph is denied. By way of further answer, Petitioners refer to their Brief in Support of this Court’s Jurisdiction over the Petition for Review, or in the Alternative, Requesting this Court’s Exercise of King’s Bench or Extraordinary Jurisdiction.

22. The averments in this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, this paragraph is denied. By way of further answer, Petitioners refer to their Brief in Support of this Court’s Jurisdiction over the Petition for Review, or in the

Alternative, Requesting this Court's Exercise of King's Bench or Extraordinary Jurisdiction.

23. The averments in this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, this paragraph is denied. By way of further answer, Petitioners refer to their Brief in Support of this Court's Jurisdiction over the Petition for Review, or in the Alternative, Requesting this Court's Exercise of King's Bench or Extraordinary Jurisdiction.

24. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

25. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

26. Denied. The averments in this paragraph and the accompanying footnote 10 purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

27. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith. The remaining averments in this paragraph

contain conclusions of law to which no responsive pleading is required. To the extent a response is required, this paragraph is denied. By way of further answer, Petitioners refer to their Brief in Support of this Court's Jurisdiction over the Petition for Review, or in the Alternative, Requesting this Court's Exercise of King's Bench or Extraordinary Jurisdiction.

28. The averments in this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, this paragraph is denied. By way of further answer, Petitioners refer to their Brief in Support of this Court's Jurisdiction over the Petition for Review, or in the Alternative, Requesting this Court's Exercise of King's Bench or Extraordinary Jurisdiction.

29. The averments in this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, this paragraph is denied. By way of further answer, Petitioners refer to their Brief in Support of this Court's Jurisdiction over the Petition for Review, or in the Alternative, Requesting this Court's Exercise of King's Bench or Extraordinary Jurisdiction.

WHEREFORE, Petitioners respectfully request that this Court overrule Respondents' First Preliminary Objection.

B. Answer to Second Preliminary Objection (Sovereign Immunity)

30. Paragraphs 1–29 above are incorporated by reference as if fully set forth herein.

31. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

32. The averments in this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, this paragraph is denied. By way of further answer, Petitioners refer to their Brief in Support of this Court’s Jurisdiction over the Petition for Review, or in the Alternative, Requesting this Court’s Exercise of King’s Bench or Extraordinary Jurisdiction.

33. The averments in this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, this paragraph is denied. By way of further answer, Petitioners refer to their Brief in Support of this Court’s Jurisdiction over the Petition for Review, or in the Alternative, Requesting this Court’s Exercise of King’s Bench or Extraordinary Jurisdiction.

WHEREFORE, Petitioners respectfully request that this Court overrule Respondents’ Second Preliminary Objection.

Dated: May 28, 2020

Respectfully submitted,

/s/ Benjamin D. Geffen

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Pro hac vice motion to be filed.

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[PROPOSED] ORDER

AND NOW, this _____ day of _____, 2020, upon consideration of
Petitioners' Petition for Review, Respondents' Preliminary Objections, and
Petitioners' Answer thereto, it is hereby **ORDERED** that the Preliminary
Objections are **OVERRULED**.

BY THE COURT:
