

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

PENNSYLVANIA DEMOCRATIC PARTY, et al.)	
)	ELECTION MATTER
)	
Petitioners,)	
)	Docket No. 407 MD 2020
vs.)	
)	
)	
KATHY BOOCKVAR, in her capacity)	
As Secretary of the Commonwealth of)	
Pennsylvania, et. al.,)	
)	
Respondents.)	

RESPONSE TO APPLICATION FOR AN EXPEDITED DISCOVERY SCHEDULE AND EVIDENTIARY HEARING

Respondent, Northampton County Board of Election (“Northampton County”), by and through its undersigned counsel, files this Response to the Application for An Expedited Discovery Schedule and Evidentiary Hearing pursuant to Order of this Court dated July 21, 2020:

1. On July 10, 2020, Petitioners filed a “Petition for Declaratory and Injunctive Relief” seeking: (1) a declaration that Respondents are not limited to

solely a central office for ballot collection, may use secure drop-boxes for ballots, and an injunction requiring Respondents to encourage and facilitate the return of mail-in ballots; (2) an injunction that mail-in and absentee ballots postmarked by 8 p.m. on Election Day and received by 5 p.m. on Tuesday November 10, 2020, be counted; (3) an injunction requiring Respondents to contact voters who return defective ballots and providing an opportunity to cure defects; (4) an injunction prohibiting Respondents from invalidating “Naked Ballots” (described by Petitioners as ballots returned to an election board not properly inserted into an official election ballot envelope); and (5) a declaration that the state’s poll watcher residency requirement found at 25 Pa. C.S. 2687 does not violate the United States Constitution or Pennsylvania Constitution.

2. Along with the Petition for Declaratory and Injunctive Relief, on July 10, 2020, Petitioners filed an “Application for Special Relief in the Nature of an Expedited Motion for Alternative Service” and an “Application for an Expedited Discovery Schedule and Evidentiary Hearing.”

3. On July 15, 2020, this Court entered an Order denying the Petitioner’s Application for Special Relief in the Nature of an Expedited Motion for Alternative Service and noted that the Petition for Review must be served on each Respondent in person or by certified mail and on the Office of the Agency General.

4. On July 21, 2020, this Court entered an Order directing Respondents to file and serve an answer to the Application for an Expedited Discovery Schedule and Evidentiary Hearing no later than July 27, 2020.

5. With respect to the request for an expedited evidentiary hearing, Northampton County does not take the position that a speedy resolution of this matter is unwarranted.

6. Northampton County believes it is critical that this Court bring this matter to a final resolution sufficiently in advance of the November 3, 2020 election so that Northampton County is able to ensure a fair and free process.

7. However, the Petitioners' request for expedited discovery is unwarranted and premature.

8. The issues raised in Petitioner's "Petition for Declaratory and Injunctive Relief" request this Court to review provisions of Pennsylvania's Election Code which implicate matters of policy and do not require discovery from answering Respondent.

9. There are no specific allegations concerning Northampton County which support a need for any discovery from Northampton County.

10. Petitioners did not sufficiently identify or limit their requests for expedited discovery in their Application.

11. Requiring Northampton County to identify and produce unspecified amounts of documents in a short period of time will cause undue hardship, be overly burdensome, onerous, and redundant.

12. It is likely that much of what Respondents require for an evidentiary record in this case will be publicly available on or before August 3, 2020, pursuant to 71 P.S. §279.6, titled “Report on implementation of 2020 general primary election.”

13. Petitioners’ request for expedited discovery is premature as the August 3, 2020, report from the Department of State may satisfy Respondents’ need for discovery.

14. Petitioners have not established any basis for information beyond what will be reported by the Department of State which would be reasonable grounds for discovery.

15. Petitioners did not provide any information concerning what discovery requests it intends to make leaving Northampton County open to the possibility of overly broad, unduly burdensome, and redundant discovery requests.

WHEREFORE, Northampton County respectfully requests that this Court establish a scheduling order for an evidentiary hearing that brings this matter to a final resolution sufficiently in advance of the November 3, 2020 Election to allow

Northampton County to conduct a fair and free election process, and deny
Petitioners' request for expedited discovery without prejudice.

Respectfully Submitted,

Date: July 27, 2020

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