

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

C.N., B.L., and minor child B.K.L.N.;  
J.A.R., E.G.M., and minor child J.G.;  
M.N., P.M., and minor child H.M.N.;  
M.C., G.S.C., and minor children G.R.S.C.  
and N.B.T.; M.E.L., E.O.E., and minor  
child J.O.E.,

Appellants

v.

Pennsylvania Department of Human  
Services,

Appellee

No. 268 MD 2020

**JURISDICTIONAL STATEMENT**

Petitioners C.N., B.L., and minor child B.K.L.N.; J.A.R., E.G.M., and minor child J.G.; M.N., P.M., and minor child H.M.N.; M.C., G.S.C., and minor children G.R.S.C. and N.B.T.; M.E.L., E.O.E., and minor child J.O.E. respectfully submit this Jurisdictional Statement in support of their Notice to Appeal.

**I. INTRODUCTION**

This appeal arises from the July 22, 2020 Order from the Honorable Michael H. Wojcik of the Commonwealth Court of Pennsylvania denying Petitioners' Motions for Post-Trial Relief. (See Order attached as Exhibit A). Petitioners file

this Jurisdictional Statement in support of their Notice of Appeal seeking review and reversal of the July 22, 2020 Order.<sup>1</sup>

## **II. REFERENCE TO OPINIONS OF THE COURT BELOW**

Petitioners appeal the Court’s July 22, 2020 Order denying Petitioners’ Motions for Post-Trial Relief, a copy of which is attached as Exhibit A.

## **III. BASIS OF JURISDICTION**

The Supreme Court has jurisdiction over appeal of this Order pursuant to Pa. R.A.P. 1101, as this matter was originally commenced in the Commonwealth Court and was not an appeal from another court, magisterial district judge or another government unit.

## **IV. PROCEDURAL HISTORY**

Petitioners, young children and their parents detained in the custody of Immigration and Customs Enforcement at the Berks County Residential Center (“BCRC”) during the COVID-19 pandemic, filed an Emergency Petition for Issuance of a Writ of Mandamus on April 23, 2020.<sup>2</sup> Petitioners sought an order

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<sup>1</sup> Petitioners simultaneously file a separate Notice of Appeal of the Court’s July 7, 2020 Memorandum Opinion and Order entering a verdict against Petitioners.

<sup>2</sup> Petitioners initially filed an application for extraordinary relief in the Supreme Court of Pennsylvania, under the Court’s King’s Bench jurisdiction. *See C.N., et al. v. Pennsylvania Department of Human Services* (Pa., 76 MM 2020). On April 16, 2020, the Supreme Court issued an order, *per curiam*, denying Petitioners’ application without prejudice to file an action in this Court or with the Department of Human Services itself. That order further directed that if filed in the Commonwealth Court, the Court “shall establish an expedited schedule for such matter and shall move expeditiously to resolve the matter so as to prevent further potential harm to Petitioners.” (Supreme Ct. April 16, 2020 Order pp. 1-2.)

directing the Pennsylvania Department of Human Services (“Department”) to issue an emergency order removing them from BCRC due to the imminent risk to their life or health posed by COVID-19.<sup>3</sup> The Commonwealth Court held a non-jury trial on May 26, 27, and 29, 2020, via WebEx.

After post-trial briefing, on July 7, 2020, the Court issued a Memorandum Opinion and Order entering a verdict in favor of the Department and against Petitioners. On July 17, 2020, Petitioners filed Motions for Post-Trial Relief, which were denied by the Court in its Order of July 22, 2020.

## **V. QUESTIONS PRESENTED FOR REVIEW**

1. Whether the Court erred in failing to grant a new trial based on improper exclusion of relevant material evidence, namely the testimony of Petitioners’ expert witness and Attorneys Cambria and Donohoe.

2. Whether the Court erred in failing to grant a new trial based on after-acquired evidence that BCRC has resumed detaining new families since the Court’s July 7, 2020 Order, a fact which impacts Petitioners’ ability to practice social distancing and which is highly relevant to the Court’s analysis of whether Petitioners have a legal right to an ERO.

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<sup>3</sup> Petitioners simultaneously filed an application for special relief in the nature of an application for peremptory judgment in mandamus. On May 6, 2020, the Commonwealth Court issued a memorandum and order denying Petitioners’ application, finding that there remained genuine issues of material fact.

Dated: August 4, 2020

Respectfully submitted,



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*Counsel for Petitioners*

## CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Dated: August 4, 2020

  
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Karen Hoffmann, Esq.

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Jurisdictional Statement on all parties of record in this proceeding by PACFile:

Thomas Joseph Car  
Edward Gerard Cherry  
Matthew John McLees  
Megan Ann Rubenstein  
Kenneth J. Serafin  
Office of General Counsel  
Department of Human Services  
3rd Fl. West, Health & Welfare Building  
Seventh & Forster Streets  
Harrisburg, PA 17120

Dated: August 4, 2020

  
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Karen Hoffmann, Esq.

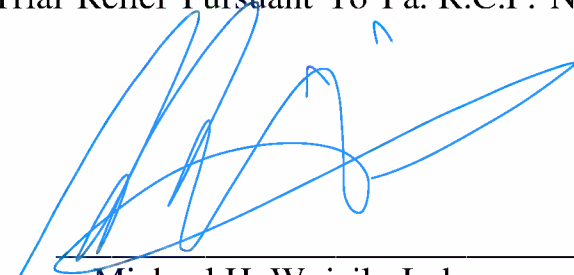
# EXHIBIT A

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

C.N., L.B., and minor child B.K.L.N.;	:	
J.A.R., E.G.M., and minor child J.G.;	:	
M.N., P.M., and minor child H.M.N.;	:	
M.C., G.S.C., and minor children	:	
G.R.S.C. and N.B.T., M.E.L., E.O.E.,	:	
and minor child J.O.E.,	:	
Petitioners	:	
	:	
v.	:	
	:	
Pennsylvania Department of	:	
Human Services,	:	No. 268 M.D. 2020
Respondent	:	

**ORDER**

AND NOW, this 22nd day of July, 2020, upon consideration, Petitioners' Motions For Post-Trial Relief Pursuant To Pa. R.C.P. No. 227.1, are hereby **DENIED**.

  
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Michael H. Wojcik, Judge