

IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

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5 EAP 2023

No. 5 EAP 2023

**LARRY KRASNER, in his official capacity as the
District Attorney of Philadelphia,
Appellee,**

v.

**SENATOR KIM WARD, in her official capacity as
Interim President Pro Tempore of the Senate, et al.,
Appellees.**

**APPEAL OF VAMSIDHAR VURIMINDI, POSSIBLE INTERVENOR,
Appellant.**

BRIEF OF APPELLEE DISTRICT ATTORNEY LARRY KRASNER

Appeal from the January 5, 2023 Order of the
Commonwealth Court of Pennsylvania at No. 563 MD 2022

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I. INTRODUCTION

Proposed intervenor Vamsidhar Vurimindi (“Proposed Intervenor”) appeals the Commonwealth Court’s January 5, 2023 Order denying his January 3, 2023 *Nunc Pro Tunc* Petition to Intervene (“Petition to Intervene”). The Commonwealth Court correctly dismissed the Petition to Intervene for multiple reasons.

The Commonwealth Court correctly concluded that the Petition to Intervene was untimely as it was filed three weeks after the case management deadline the court set for intervention applications and after the entry of the Commonwealth Court’s final order. The court also correctly concluded that the Petition to Intervene failed to state any basis for *nunc pro tunc* relief.

Additionally, the Petition to Intervene fails to state a required ground for intervention because this impeachment matter does not implicate Proposed Intervenor (*i.e.*, his liability, property or other interest). *See* Pa. R. Civ. P. 2327. The Petition also fails in the most fundamental way, as it does not include Proposed Intervenor’s proposed pleading or incorporate any existing pleading, in violation of Pa. R. Civ. P. 2328.

To be clear, District Attorney Krasner recognizes that because Proposed Intervenor is *pro se*, the Petition to Intervene should be afforded a liberal construction. But that cannot save the Petition from its multiple, fundamental, fatal

infirmities. The untimely filing identifies no cognizable legal interest of Proposed Intervenor in this impeachment dispute. Instead, it is a misplaced effort to collaterally attack Proposed Intervenor's past criminal convictions, which occurred long before District Attorney Krasner was elected and have nothing to do with the impeachment issues in this matter.

II. COUNTERSTATEMENT OF THE SCOPE AND STANDARD OF REVIEW

“It is well established that a ‘question of intervention is a matter within the sound discretion of the court below and unless there is a manifest abuse of such discretion, its exercise will not be interfered with on review.’” *Wilson v. State Farm Mut. Auto. Ins. Co.*, 517 A.2d 944, 947 (Pa. 1986). Similarly, the denial of *nunc pro tunc* relief is reviewable for an abuse of discretion. *See Freeman v. Bonner*, 761 A.2d 1193, 1194 (Pa. Super. 2000). “An abuse of discretion is not merely an error of judgment but is found where the law is overridden or misapplied, or the judgment exercised is manifestly unreasonable, or the result of partiality, prejudice, bias or ill will as shown by the evidence or the record.” *Id.* (cleaned up).

III. COUNTERSTATEMENT OF THE QUESTIONS INVOLVED

1. Did the Commonwealth Court err in denying *pro se* Proposed Intervenor's untimely Petition to Intervene, which was filed weeks after the court's deadline for applications to intervene and after the court's final order, and where

the Proposed Intervenor fails to satisfy the requirements for *nunc pro tunc* relief or intervention?

Suggested answer: No, as the Commonwealth Court held.

IV. COUNTERSTATEMENT OF THE CASE

A. The Commonwealth Court’s Scheduling Order and the Underlying Litigation

On December 2, 2022, District Attorney Krasner filed in the Commonwealth Court a Petition for Review in the Nature of a Complaint for Declaratory Judgment and an Application for Summary Relief. R.18a, R.54a. The Petition for Review sought a declaration that, *inter alia*, any further proceedings on the Amended Articles of Impeachment adopted by the Pennsylvania House of Representatives of the 206th General Assembly against District Attorney Krasner are unlawful. R.51a. He also filed on that same day an Application for Summary Relief and Expedited Briefing on all counts in the Petition for Review. R.54a. District Attorney Krasner sought expedited review of the application because the Senate had commenced impeachment proceedings against him and summoned him to appear before the Senate of the 207th General Assembly on January 18, 2023.

On December 6, 2022, the Commonwealth Court entered a scheduling order, which it amended later that day, granting District Attorney Krasner’s request for expedited briefing. R.57a. Among other things, the Amended Order set December 12, 2022, at 3:00 p.m. as the deadline to file and serve “Applications for Leave to

Intervene, complete with proposed filings and a memorandum of law in support thereof (3 copies).” R.57a, at ¶ 1. The Order stated: “No extensions of these deadlines will be granted.” R.59a. The Order set a prompt schedule for the parties’ briefs and scheduled oral argument for December 29, 2022. R.58a, at ¶ 7.

B. The Underlying Litigation Was Widely Publicized

The Commonwealth Court pleadings and orders, including the December 6 Amended Order and District Attorney Krasner’s Petition for Review and Application for Summary Relief and Expedited Briefing, were posted on the Unified Judicial System of Pennsylvania’s “Cases of Public Interest” website, making them readily available to any member of the public who wished to review them. *See* Unified Judicial System of Pennsylvania, *Cases of Public Interest, Krasner v. Ward 563 MD 2022*, <https://www.pacourts.us/news-and-statistics/cases-of-public-interest/krasner-v-ward-563-md-2022> (last accessed May 9, 2023) [hereinafter, *Cases of Public Interest*]. The litigation also received public news coverage and was the subject of media releases.¹ The fact that the House of Representatives was considering impeachment and then adopted Articles of

¹ *See* Robert Moran, *Krasner Asks Court to Declare Impeachment Unlawful*, PHILA. INQUIRER (Dec. 2, 2022), <https://www.inquirer.com/news/larry-krasner-impeachment-pa-senate-philadelphia-district-attorney-commonwealth-court-20221202.html>; Philadelphia District Attorney’s Office, Release, *DA Krasner Files Legal Actions Against Unlawful Senate Impeachment Proceedings* (Dec. 5, 2022), <https://phillyda.org/news/da-krasner-files-legal-actions-against-unlawful-senate-impeachment-proceedings/>.

Impeachment against District Attorney Krasner was also widely disseminated in the media.²

C. The Commonwealth Court Entered a Final Order Before the Petition to Intervene Was Filed

Following oral argument before the court *en banc*, on December 30, 2022, the Commonwealth Court entered an Order disposing of all claims in the Petition for Review. R.65a. Among its rulings, the Commonwealth Court declared that “none of the Amended Articles of Impeachment satisfy the requirement imposed by Article VI, Section 6 of the Pennsylvania Constitution that impeachment charges against a public official must allege conduct that constitutes what would amount to the common law crime of ‘misbehavior in office’” R.68a. Thereafter, the Commonwealth Court (Ceisler, J.) issued an opinion supporting the December 30 Order on January 12, 2023. *See Krasner v. Ward*, No. 563 M.D. 2022, 2023 WL 164777 (Pa. Commw. Ct. Jan. 12, 2023). Concurring and dissenting opinions were also filed on that date. *See id.* at *26 (Wojcik, J., concurring); *id.* at *22 (McCullough, J., dissenting).

² *See, e.g.*, Jacey Fortin, *Pennsylvania House Votes to Impeach Philadelphia’s Progressive D.A.*, N.Y. TIMES (Nov. 16, 2022), available at <https://www.nytimes.com/2022/11/16/us/krasner-impeached-pennsylvania.html>; Scott Calvert, *Philadelphia District Attorney Larry Krasner Impeached by Pennsylvania House*, WALL ST. J. (Updated Nov. 16, 2022), available at <https://www.wsj.com/articles/philadelphia-district-attorney-larry-krasner-faces-impeachment-vote-in-pennsylvania-house-11668604729>; Mark Scoloro, *Pennsylvania House Impeaches Philly Prosecutor over Policies*, ASSOCIATED PRESS (Nov. 16, 2022), available at <https://apnews.com/article/crime-pennsylvania-philadelphia-impeachments-government-and-politics-ecf663668f12422de42ba5cb5eaaeed7>.

The December 30 Order is a final order. The parties then filed consolidated appeals from that Order, docketed as Nos. 2, 3, and 4 EAP 2023.

D. The Commonwealth Court Dismissed the Untimely Petition to Intervene

On January 3, 2023, Proposed Intervenor filed a *pro se Nunc Pro Tunc* Petition to Intervene in the Commonwealth Court. R.70a. That was approximately three weeks after the December 12, 2022, deadline and after the court's December 30 final order. The Petition to Intervene does not offer any excuse or justification for its untimeliness. It also fails to attach a copy of a proposed pleading (or state that Proposed Intervenor adopts any pleadings already filed in the action), as required by Pa. R. Civ. P. 2328.

Instead, the Petition to Intervene complains about Proposed Intervenor's prosecutions by the Philadelphia District Attorney's Office ("DAO") prior to District Attorney Krasner's taking office. The Petition addresses Proposed Intervenor's various crimes, including harassment, stalking, and disorderly conduct, alleging that these prosecutions violated his rights against double jeopardy. Proposed Intervenor also says that he wants to be "a witness to prove the Articles of Impeachment" or to assist Respondents in their opposition to District Attorney Krasner's Application for Summary Relief (which had already been decided before he filed his Petition to Intervene). R.71a-R.73a.

The Petition to Intervene does not attach a proposed pleading. Rather, it attaches Proposed Intervenor’s civil complaint in the Court of Common Pleas of Philadelphia County against, among others, the DAO, the U.S. Attorney’s Offices for the Eastern District of Pennsylvania, District of Maryland, Southern District of New York, and Western District of Texas, and the state Attorneys General of Pennsylvania, New York, and Maryland, as well as two private individuals who allegedly were witnesses against him in his stalking trial. R.77a-R.78a, R.80a. The complaint alleges violations of double jeopardy and asserts a series of other collateral attacks on his criminal convictions. R.83a, R.117a, R.119a, R.131a, R.139a.³

On January 5, 2023, the Commonwealth Court entered an order *sua sponte* dismissing the Petition to Intervene, finding that the Petition was filed “well beyond the Court-ordered deadline for Applications to Intervene”, “fails to set forth any grounds that would warrant the grant of *nunc pro tunc* relief”, and that “[t]his matter was decided by Order dated December 30, 2022, before [Proposed Intervenor] filed his Petition.” R.159a. The court dismissed the Petition to Intervene because it “is untimely and fails to set forth grounds that would warrant

³ The civil complaint attaches multiple exhibits, including private criminal complaints against Proposed Intervenor, correspondence with complainants, and his mental health evaluations prepared in connection with his criminal proceedings. Because these contain personal information not relevant to this appeal, these exhibits are not included in the Reproduced Record.

nunc pro tunc relief.” R.159a. The January 5 Order further found that the Petition “would fail on the merits because it does not satisfy any of the grounds for granting intervention set forth in Pa.R.Civ.P. 2327, nor does it satisfy the requirements of Pa.R.Civ.P. 2328.” R.159a, at n.1.

On January 12, 2023, Proposed Intervenor filed a nearly 600-page Application for Reconsideration from Denying [sic] *Nunc Pro Tunc* Petition to Intervene. That application repeated the same (meritless) attacks on District Attorney Krasner as before and included more extensive details about Proposed Intervenor’s past criminal proceedings. R.160a. On January 23, 2023, the Commonwealth Court denied it. R.251a.

On January 31, 2023, Proposed Intervenor filed a Notice of Appeal of the January 5, 2023 Order.

V. SUMMARY OF ARGUMENT

The Commonwealth Court did not abuse its discretion and correctly dismissed the Petition to Intervene, based on multiple, independent, and sound bases. The Petition was untimely because it was filed well beyond the court’s deadline for applications to intervene and after the entry of a final order. It also failed to state any basis for allowing the Petition to be filed timely *nunc pro tunc*.

The Commonwealth Court also correctly concluded that the Petition to Intervene failed to state any basis for Proposed Intervenor’s intervention – *i.e.*, he

had no cognizable interest in this impeachment matter – under the strictures of Pa. R. Civ. P. 2327. And as a final matter, the Commonwealth Court correctly concluded that the Petition to Intervene was deficient in failing to attach a proposed pleading or incorporate another party’s pleading, as required by Rule 2328.

In sum, the Petition to Intervene fails for so many fundamental reasons that even the generous liberal construction afforded a *pro se* litigant’s pleading cannot salvage it. The Commonwealth Court’s Order dismissing the Petition to Intervene should therefore be affirmed.

VI. ARGUMENT

A. The Petition to Intervene Was Correctly Dismissed Because It Was Filed Three Weeks after the Court’s Case Management Deadline for Applications to Intervene Expired

The January 5 Order dismissed the Petition to Intervene as untimely because it was filed “well beyond the Court-ordered deadline for Applications to Intervene.” R.158a. The scheduling order set a deadline of 3:00 p.m., December 12 for seeking intervention, because of the accelerated schedule for briefing and argument. It provided, “No extensions of these deadlines will be granted”. R.57a-R.59a. The order was also well publicized on the Unified Judicial System’s website for cases of public interest. *See Cases of Public Interest, supra*, <https://www.pacourts.us/news-and-statistics/cases-of-public-interest/krasner-v->

ward-563-md-2022. Indisputably, therefore, the Commonwealth Court correctly found that the Petition to Intervene was filed three weeks after the deadline.

The Commonwealth Court was well within its discretion to set that deadline and enforce it by denying the Petition to Intervene. “The matter of calendar control is best left with the tribunal concerned and [this Court is] ‘loath to interfere’ unless justice demands intervention.” *Dublin Sportswear v. Charlett*, 403 A.2d 568, 571 (Pa. 1979); *see also King v. City of Philadelphia*, 102 A.3d 1073, 1077 (Pa. Commw. 2014).

Pennsylvania courts routinely affirm a trial court’s denial of an intervention motion as untimely, including where, as here, there is no good cause or extraordinary circumstances warranting excusal. *Mack v. Zoning Hearing Bd. of Plainfield Twp.*, 558 A.2d 616, 618 (Pa. Commw. 1989); *Malt Beverages Distributors Ass’n v. Pennsylvania Liquor Control Bd.*, 966 A.2d 1188, 1198 (Pa. Commw. Ct. 2009); *Chairge v. Exeter Borough Zoning Hearing Bd.*, 616 A.2d 1057, 1060 (Pa. Commw. 1992).

Accordingly, the Commonwealth Court did not err in denying the Petition to Intervene as untimely.

B. The Petition to Intervene Was Correctly Dismissed Because It Was Not Filed During the Pendency of the Action

The Petition to Intervene was also late in a second way. As the Commonwealth Court correctly concluded, it was filed after, not “during the

pendency of an action . . .”, as required by Pennsylvania Rule of Civil Procedure 2327.⁴ The Commonwealth Court thus correctly concluded that the action “was decided by Order dated December 30, 2022, before [Proposed Intervenor] filed his Petition.” R.159a.

For purposes of Rule 2327, an action is pending until there is a final adjudication. “After adjudication, a petition to intervene is too late.” *Sch. Dist. of Robinson Twp. v. Houghton*, 128 A.2d 58, 61 (Pa. 1956). “A final adjudication is traditionally embodied in a final order of a court or administrative agency.” *Barasch v. Pennsylvania Pub. Util. Comm’n*, 540 A.2d 966, 970 (Pa. Commw. 1988).

That the Petition for Intervention was filed before the expiration of the 30-day appeal period of the December 30 Order does not salvage the Petition. *Id.* (“The existence of, or lack of, an appeal from that [final] order does not answer the question of whether the order was final.”). The filing of a petition for leave to intervene after the entry of a final order violates Rule 2327 even if the time to appeal has not expired. *See Robinson Twp.*, 128 A.2d at 61; *Hudock v. Saltlick Twp.*, 289 A.3d 553 (Pa. Commw. Ct. 2022) (table) (petition filed after final order

⁴ In Petition for Review original jurisdiction proceedings, Pa. R. App. P. 1531(b) authorizes persons to seek leave to intervene. That Rule does not set forth standards for intervention, and therefore Pa. R. Civ. P. 2327, *et seq.* apply in Commonwealth Court original jurisdiction actions through Pa. R. App. P. 106.

but before appeal filed was untimely); *Wecht v. Roddey*, 815 A.2d 1146, 1153 (Pa. Commw. Ct. 2002) (matter no longer pending after entry of a dispositive order); *In re Est. of Albright*, 545 A.2d 896, 899 (Pa. Super. 1988) (“To petition the court to intervene after a matter has been finally resolved is not allowed by our Rules of Civil Procedure. It is only *during the pendency* of an action that the court may allow intervention.”); *Newberg by Newberg v. Bd. of Pub. Educ.*, 478 A.2d 1352, 1354-55 (Pa. Super. 1984) (same).⁵

Thus, the December 30 Order disposed of all claims and parties and is the final order; and the Petition for Intervention was required to be filed before that date. Because the Petition was filed on January 3, 2023, the Commonwealth Court correctly ruled that it was filed too late, in violation of Rule 2327. R.159a.

C. The Petition to Intervene Was Correctly Dismissed Because It Failed to State a Basis for *Nunc Pro Tunc* Relief

The Commonwealth Court correctly dismissed the Petition to Intervene because it “fails to set forth any grounds that would warrant the grant of *nunc pro tunc* relief.” R.159a.

The grant of *nunc pro tunc* relief is reserved for “certain extraordinary circumstances,” none of which are present here. *See Criss v. Wise*, 781 A.2d 1156,

⁵ Proposed Intervenor relies upon several dissenting opinions, including Justice Musmanno’s dissent in *Robinson*, for the proposition that an action is pending until the record is removed for appeal. Proposed Intervenor’s Opening Br., Apr. 11, 2023, at 16. But that is not the law, it is a dissent. And the Opinion of the *Robinson* Court expressly rejected that proposition.

1159 (Pa. 2001). It may be available where “a party failed to file [] timely ... as a result of fraud or a breakdown in the court’s operations”; or where “(1) the [document] was filed late as a result of non-negligent circumstances, either as they relate to the [movant] or the [movant’s] counsel; (2) the [movant] filed the [document] shortly after the expiration date; and (3) the [adverse party] was not prejudiced by the delay.” *Id.* at 1159-60. *Nunc pro tunc* relief is only available in “unique and compelling cases in which the [movant] has clearly established that she attempted to [take timely required action], but unforeseeable and unavoidable events precluded her from actually doing so.” *Id.*

The Petition to Intervene fails to allege any of these narrow grounds. No alleged fraud or breakdown in the Commonwealth Court’s operations is alleged; nor is any other basis. Proposed Intervenor’s assertion that he did not know about the litigation is no basis for *nunc pro tunc* relief. *E.g., W.W. Grainger, Inc. v. W. C. Ruth & Son*, 161 A.2d 644, 646 (Pa. Super. 1960) (lack of knowledge or diligence insufficient to allow appeal *nunc pro tunc*).

As the Superior Court has explained, “[t]he grant of *nunc pro tunc* relief is not designed to provide relief to parties ... [who] ha[ve] not followed proper procedure in preserving [their] rights.” *Lenhart v. Cigna Companies*, 824 A.2d 1193, 1197-98 (Pa. Super. 2003). Here, the litigation concerning the Amended Articles of Impeachment was very much in the news and the court proceedings

were highlighted on the court’s website. *See Cases of Public Interest, supra; see also supra* Note 1. Proposed Intervenor’s alleged grievances against the DAO were also longstanding, according to allegations of the Petition to Intervene (R.70a) and his brief in this appeal (at pp. 5-8).

Accordingly, the Commonwealth Court correctly concluded that the Petition to Intervene failed to allege any basis for *nunc pro tunc* relief.

D. The Petition to Intervene Fails to Satisfy the Requirements for Intervention

The Petition to Intervene further fails because, as the Commonwealth Court correctly concluded, it “does not satisfy any of the grounds for granting intervention set forth in Pa.R.Civ.P. 2327, nor does it satisfy the requirements of Pa.R.Civ.P. 2328.” R.159a, at n.1.

1. The Petition to Intervene Fails to Satisfy Pa. R. Civ. P. 2327 Because Proposed Intervenor Has No Cognizable Interest in the Impeachment Litigation or Other Basis for Intervention

Pennsylvania Rule of Civil Procedure 2327 limits who may intervene. It provides that a “person not a party thereto shall be permitted to intervene therein, subject to these rules if:

- (1) the entry of a judgment in such action or the satisfaction of such judgment will impose any liability upon such person to indemnify in whole or in part the party against whom judgment may be entered; or

(2) such person is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof; or

(3) such person could have joined as an original party in the action or could have been joined therein; or

(4) the determination of such action may affect any legally enforceable interest of such person whether or not such person may be bound by a judgment in the action.”

A proposed intervenor must fall within one of these four categories to be permitted to intervene. *In re Pennsylvania Crime Comm’n*, 309 A.2d 401, 408 n.11 (Pa. 1973).

The Proposed Intervenor does not meet any of these bases for intervention. He cannot qualify under subsections (1) and (2) because this impeachment challenge does not concern claims for damages or indemnity or property, let alone any that affect him. Likewise he cannot qualify under subsection (3) because he could not have joined as an original party in the action or been joined to it. Collateral attacks on his criminal proceedings give him no basis to join this litigation concerning the Amended Articles of Impeachment.

Finally, subsection (4) provides Proposed Intervenor no basis to intervene. He has no “legally enforceable interest” that may be affected by the entry of the relief sought by any party. The scope of declarations sought in this impeachment litigation relate to the Amended Articles and the impeachment proceedings; he is not affected by any of that. Rather, his collateral challenges to criminal

proceedings are, if anything, subject to an entirely different set of post-conviction laws and processes.⁶

Accordingly, the Commonwealth Court correctly dismissed the Petition to Intervene because it does not satisfy any ground for intervention. R.159a, at n.1.⁷

2. The Petition to Intervene Fails to Satisfy Pa. R. Civ. P. 2328 Because It Failed to Attach a Proposed Pleading

A petitioner seeking intervention is required to attach a copy of his proposed pleading or to state that he adopts by reference pleadings or parts of pleadings already filed in the action. Pa. R. Civ. P. 2328. As the Commonwealth Court correctly concluded, the Petition to Intervene does neither and therefore should be denied on that basis as well. R.159a, at n.1.

⁶ The civil docket for the complaint attached to the Petition to Intervene shows that the case was dismissed and an appeal is pending before the Superior Court (315 EDA 2023). *See Vurimindi v. Philadelphia District Attorney, et al.*, Case No. 230100026 (Pa. C.P., Phila. Cnty.). Recently, on April 14, 2023, the Superior Court issued a rule to show cause why the appeal should not be transferred to the Commonwealth Court. *See Vurimindi v. Borowski, et al.*, No. 315 EDA 2023 (Pa. Super. Apr. 14, 2023).

⁷ Proposed Intervenor also argues that he should be permitted to intervene because he has standing as a taxpayer, pursuant to *In re Application of Biester*, 409 A.2d 848 (Pa. 1979). That argument fails for multiple reasons, including (1) he has no taxpayer standing because this is not a case involving governmental action that would otherwise go unchallenged, as the underlying impeachment issues in this litigation are fully joined; and (2) his Petition for Intervention fails for multiple other reasons (e.g., filed after deadline and final order; filed without an attached proposed pleading; failure to fulfill requirements of Rule 2327-28). R.158a.

E. This Is Not a Quo Warranto Action and Proposed Intervenor Cannot Transform the Underlying Action into One

Proposed Intervenor argues that he should be permitted to intervene because he could bring a *quo warranto* action to remove District Attorney Krasner and adjudication of this litigation would somehow impair his rights to do that. *See* Proposed Intervenor’s Opening Br., Apr. 11, 2023, at 20-22. That argument, too, is baseless.

First, this litigation is not – and could not be – a *quo warranto* action. *Quo warranto* is a limited proceeding to remove an officer who was not lawfully elected or appointed to, forfeited, or is disqualified from holding, office. They are often appropriately brought by relators who allege they are the rightful officeholders. *See Com. ex rel. Schermer v. Franek*, 166 A. 878, 879 (Pa. 1933). Unlike impeachment, *quo warranto* is not a procedure to remedy past misconduct. As this Court has explained, “[t]he gravamen of the [*quo warranto*] complaint is the right to hold and exercise the powers of the office in contradistinction to an attack upon the propriety of the acts performed while in office.” *Spykerman v. Levy*, 421 A.2d 641, 648 (Pa. 1980). “A *quo warranto* complaint is a vehicle designed to test whether a person exercising authority is legally entitled to do so. It is intended to prevent the exercise of powers that are not conferred by law and is not ordinarily available to regulate the manner of exercising such powers.” *Rastall v. DeBouse*, 736 A.2d 756, 757 (Pa. Commw. Ct. 1999).

Proposed Intervenor, however, does not challenge District Attorney Krasner's qualifications to hold office (nor could he.) Instead, he alleges grievances regarding his past criminal proceedings, none of which is a basis for *quo warranto* relief.

Second, *quo warranto* actions are subject to specific requirements and procedures, including restrictions on venue. *See* Pa. R. Civ. P. 1100, *et seq.*; 42 Pa. C.S. § 761. Proposed Intervenor has complied with none of those requirements and procedures.

Finally, Proposed Intervenor lacks standing to bring a *quo warranto* action. If “a private person has a special right or interest, as distinguished from the right or interest of the public generally, or he has been specially damaged, he may have standing to bring a *quo warranto* action.” *Spykerman*, 421 A.2d at 649; *see also Franek*, 166 A. at 879. Proposed Intervenor, however, has no special interest conferring standing. He is no longer a resident of Philadelphia (R.70a, R.74a, R.82a), his prosecutions occurred long before District Attorney Krasner was elected (R.71a-R.72a), and there is no alleged ongoing proceeding against him that would confer standing. There is no connection between the harm he alleges he suffered in his past prosecutions and District Attorney Krasner's right to hold public office. *See Loc. 22, Philadelphia Fire Fighters' Union, Int'l Ass'n of Fire*

Fighters, AFL-CIO by Yost v. Com., 613 A.2d 522, 526 (Pa. 1992) (requiring causation for standing in *quo warranto*).

F. The Commonwealth Court Was Not Required to Hold a Hearing

Proposed Intervenor argues that the Commonwealth Court erred by declining to hold a hearing on the Petition to Intervene. That, too, is no basis for reversing the Commonwealth Court.

As demonstrated above, the Petition to Intervene was, on its face, multiply fatally untimely and deficient. “[W]here a court no longer has power to permit intervention because a matter has been finally adjudicated, a hearing on a petition to intervene would be pointless.” *In re Est. of Albright*, 545 A.2d 896, 899 (Pa. Super. 1988); *Santangelo Hauling, Inc. v. Montgomery Cnty.*, 479 A.2d 88, 89 (Pa. Commw. 1984) (“Therefore, if an action is no longer pending, a court would have no power to permit intervention; and, a hearing on the petition would be a futile exercise.”).

Accordingly, the Commonwealth Court did not err and its Order should not be reversed because it did not hold a hearing.

G. Pro Se Status Does Not Excuse Proposed Intervenor’s Failure to Comply with a Court Order or Expand His Rights

Courts understandably may liberally construe a *pro se* litigant’s pleading. *See, e.g., Commonwealth v. Eller*, 807 A.2d 838, 845 (Pa. 2002). But liberalism has its limits. This Court is clear that a *pro se* litigant such as Proposed Intervenor

is not entitled to any greater procedural rights than a represented litigant and is obligated to comply with court orders just like a represented person. *See Vann v. Unemployment Compensation Board of Review*, 494 A.2d 1081, 1086 (Pa. 1985) (“[A]ny layperson choosing to represent himself in a legal proceeding must, to some reasonable extent, assume the risk that his lack of expertise and legal training will prove his undoing.”); *Commonwealth v. Abu–Jamal*, 555 A.2d 846, 852 (Pa. 1989); *Peters Creek Sanitary Auth. v. Welch*, 681 A.2d 167, 170-71 n.5 (Pa. 1996); *Smathers v. Smathers*, 670 A.2d 1159, 1160 (Pa. Super. 1996) (“While this court is willing to liberally construe materials filed by a pro se litigant, we note that appellant is not entitled to any particular advantage because she lacks legal training.”); *accord Faretta v. California*, 422 U.S. 806, 834 n.46 (1975).

Accordingly, even a liberal reading of the Petition to Intervene cannot save it. The Commonwealth Court correctly dismissed it for the multiple, well-founded reasons discussed above.

VII. CONCLUSION

For the foregoing reasons, the Commonwealth Court's January 5, 2023 Order denying Proposed Intervenor's Petition to Intervene should be affirmed.

Respectfully submitted,

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Dated: May 10, 2023

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CERTIFICATION REGARDING PUBLIC ACCESS POLICY

In compliance with Pennsylvania Rule of Appellate Procedure 127, I certify 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: May 10, 2023

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