

**IN THE  
COMMONWEALTH COURT OF PENNSYLVANIA**

LEAGUE OF WOMEN VOTERS OF : No. 578 M.D. 2019  
PENNSYLVANIA and LORRAINE :  
HAW, :

*Petitioners* :

v. :

KATHY BOOCKVAR, THE :  
ACTING SECRETARY OF THE :  
COMMONWEALTH, :

*Respondent* :

**APPLICATION FOR SUMMARY RELIEF OF  
RESPONDENT PARTY INTERVENORS, SHAMEEKAH MOORE,  
MARTIN VICKLESS, KRISTIN JUNE IRWIN AND KELLY WILLIAMS**

1. Respondent Party Intervenors, Shameekah Moore, Martin Vickless, Kristin June Irwin and Kelly Williams, hereby file this Application for Summary Relief pursuant to Pa.R.A.P. 123(a) and 1532(b).

## **Statement of Undisputed Facts of Record**

2. Joint Resolution 2019-1, or Marsy's Law, proposing as a constitutional amendment a new Article IX, § 1, creating a crime victims' bill of rights (the "Proposed Amendment"), was first introduced into the Pennsylvania General Assembly as Senate Bill 1011 ("SB 1011") during the 2017-2018 legislative session.

3. On March 21, 2018, the Senate approved SB 1011.

4. The House Judiciary Committee voted to amend SB 1011, and the full House of Representatives took up the amended bill on June 20, 2018, and approved the amended version of SB 1011.

5. On June 21, 2018, the Senate approved the amended version of SB 1011.

6. During the 2019-2020 legislative session, a Joint Resolution that was identical to the amended version of SB 1011 was introduced as House Bill 276 ("HB 276").

7. On April 8, 2019, the House passed HB 276.

8. On June 19, 2019, the Senate passed HB 276, which is also known as Joint Resolution 2019-1. (*See* Petition for Review at Exhibit "A" thereto.)

9. The Attorney General prepared a Plain English Statement to accompany Joint Resolution 2019-1. (*See* Petition for Review at Exhibit “A” thereto.)

10. Respondent, Kathy Boockvar, the Acting Secretary of the Commonwealth (the “Secretary”), drafted the text of the ballot question to present Joint Resolution 2019-1 to the Pennsylvania electorate (the “Ballot Question”). (*See* Petition for Review at Exhibit “A” thereto.)

11. The Secretary certified the Ballot Question to the county boards of elections on September 11, 2019, for inclusion on the 2019 General Election ballot.

12. During the months of August, September and October of 2018, the Department of State advertised in newspapers across the Commonwealth the Proposed Amendment in its joint resolution form (Joint Resolution 2019-1; SB 1011).

13. During the months of August, September and October of 2019, the Department again advertised the Proposed Amendment in its joint resolution form (Joint Resolution 2019-1; SB 1011), in addition to the text of the Ballot Question itself and the Attorney General’s Plain English Statement.

14. On October 10, 2019, Petitioners, the League of Women Voters of Pennsylvania and Lorraine Haw, filed an Original Jurisdiction Petition for Review in the Commonwealth Court, naming the Secretary as Respondent and seeking a

declaratory judgment and permanent injunctive relief based on allegations that: (1) the Proposed Amendment violates the single subject requirement of Article XI, § 1 of the Pennsylvania Constitution (Count I); (2) the text of the Ballot Question prepared by the Secretary, to be submitted to the electorate for a vote on the Proposed Amendment, violates Article XI, § 1 of the Pennsylvania Constitution because the ballot question does not contain the entire text of the Proposed Amendment (Count II); and (3) the Ballot Question violates the electorate's right to be fully informed on the Proposed Amendment because the Ballot Question does not fairly, accurately and clearly apprise the electorate of the question on which to be voted (Count III).

15. Also on October 10, 2019, Petitioners filed in the Commonwealth Court an "Application for Special Relief in the Form of a Preliminary Injunction under Pa.R.A.P. 1532", seeking to enjoin the Secretary from submitting the ballot question on the Proposed Amendment to Pennsylvania voters in the November 2019 General Election.

16. Petitioner the League of Women Voters of Pennsylvania is the state chapter of the League of Women Voters.

17. Petitioner Lorraine Haw is a resident and registered voter in the Commonwealth.

18. On October 18, 2019, the Secretary filed an Answer in Opposition to the Application for Special Relief in the Form of a Preliminary Injunction.

19. By *per curiam* Order entered October 22, 2019, the Commonwealth Court granted intervention applications of Respondent Party Intervenors and also of Ronald L. Greenblatt, Esquire as an intervenor principally aligned with Petitioners (“Intervenor Greenblatt”).

20. Respondent Party Intervenor Shameekah Moore is a qualified elector of the Commonwealth of Pennsylvania, residing in Philadelphia County at 2106 East Cambria Street, Philadelphia, PA 19134, and is registered to vote as a member of the Democratic Party.

21. Respondent Party Intervenor Shameekah Moore’s son was murdered.

22. Respondent Party Intervenor Martin Vickless is a qualified elector of the Commonwealth of Pennsylvania, residing in Allegheny County at 3930 Dalewood Street, Pittsburgh, PA 15227, and is registered to vote as a member of the Republican Party.

23. Respondent Party Intervenor Martin Vickless is an advocate for survivors of crime, and his current wife was the victim of domestic violence in a prior relationship.

24. Respondent Party Intervenor Kristin June Irwin, is a qualified elector of the Commonwealth of Pennsylvania, residing in Allegheny County at 5450

North Broad Street, South Park, PA 15129, and is registered to vote as a member of the Republican Party.

25. Respondent Party Intervenor Kristin June Irwin is a sexual assault survivor who was not notified of her assailant's criminal court proceedings.

26. Respondent Party Intervenor Kelly Williams is a qualified elector of the Commonwealth of Pennsylvania, residing in Blair County at 2702 Maple Ave, Altoona, PA 16601, and is registered to vote as a member of the Republican Party.

27. Respondent Party Intervenor Kelly Williams is a sexual assault survivor and an advocate for sexual assault survivors.

28. Petitioner Party Intervenor Greenblatt is a criminal defense attorney, licensed to practice law in the Commonwealth of Pennsylvania.

29. On October 23, 2019, a preliminary injunction hearing was held in the Commonwealth Court, before the Honorable Ellen Ceisler.

30. At the outset of the hearing, Petitioners withdrew their request that the Secretary be enjoined from submitting the Ballot Question on the Proposed Amendment to the electorate in the November 2019 General Election, and sought as alternate relief that the Secretary be enjoined from certifying the votes on the Proposed Amendment pending disposition of the Petition for Review on the merits.

31. By Memorandum Opinion and Order entered October 30, 2019, the Commonwealth Court, per Judge Ceisler, granted Petitioners' request for

preliminary injunctive relief and preliminarily enjoined the Secretary from tabulating and certifying the electorate's vote on the Ballot Question on the Proposed Amendment.

32. On October 31, 2019, Respondent Party Intervenors and the Secretary separately filed timely notices of appeal from the Commonwealth Court's October 30, 2019 Order to the Supreme Court, which appeals were docketed at Nos. 83 M.D.A. 2019 and 84 M.D.A. 2019, respectively.

33. By *per curiam* Order entered November 4, 2019, the Supreme Court affirmed the October 30, 2019 Order of the Commonwealth Court, with Chief Justice Saylor filing a dissenting statement in which Justices Dougherty and Mundy joined.

34. On November 5, 2019, the electorate cast votes in the General Election on, *inter alia*, the Ballot Question on the Proposed Amendment.

35. In full compliance with the Commonwealth Court's October 30, 2019 Order, as affirmed by Supreme Court, the Secretary has not tabulated and certified the electorate's November 5, 2019 vote on the Ballot Question on the Proposed Amendment.

36. On November 11, 2019, the Secretary and Respondent Party Intervenors each separately timely filed an Answer and New Matter to the Petition for Review.

37. On November 13, 2019, Petitioners timely filed separate Answers to the Secretary's and Respondent Party Intervenors' New Matter.

38. As of November 13, 2019, the pleadings are now closed.

39. On December 3, 2019, the parties filed in the Commonwealth Court a Joint Application for Approval of Scheduling Order, therein proposing a schedule order for the filing of cross applications for summary relief and briefing in the Commonwealth Court, which Joint Application was granted by Commonwealth Court Order, per Judge Ceisler, on December 4, 2019.

#### **Request for Summary Relief**

40. There are no material facts in dispute.

41. For the reasons set forth in Respondent Party Intervenors' Brief in Support of Application for Summary Relief being filed contemporaneously herewith and incorporated herein by reference, Respondent Party Intervenors respectfully request that this Honorable Court deny Count I of the Petition for Review, which contains Petitioners' request for a declaratory judgment that the ballot question violates the single subject requirement of Article XI, § 1 of the Pennsylvania Constitution, and also deny Petitioners' ancillary request for a permanent injunction invalidating any votes cast for or against the November 2019 ballot question.

42. Respondent Party Intervenors' right to relief on Count I is clear.



43. Respondent Party Intervenors are entitled to summary relief on Count I as a matter of law.

44. For the reasons set forth in Respondent Party Intervenors' Brief in Support of Application for Summary Relief being filed contemporaneously herewith and incorporated herein by reference, Respondent Party Intervenors respectfully request that this Honorable Court deny Count II of the Petition for Review, which contains Petitioners' request for a declaratory judgment that the ballot question violates the requirement of Article XI, § 1 of the Pennsylvania Constitution that the "proposed amendment or amendments shall be submitted to the qualified electors of the State", and also deny Petitioners' ancillary request for a permanent injunction invalidating any votes cast for or against the November 2019 ballot question.

45. Respondent Party Intervenors' right to relief on Count II is clear.

46. Respondent Party Intervenors are entitled to summary relief on Count II as a matter of law.

47. For the reasons set forth in Respondent Party Intervenors' Brief in Support of Application for Summary Relief being filed contemporaneously herewith and incorporated herein by reference, Respondent Party Intervenors respectfully request that this Honorable Court deny Count III of the Petition for Review, which contains Petitioners' request for a declaratory judgment that the

ballot question violates the “electorate’s right to be fully informed of the question to be voted on because it does not fairly, accurately, and clearly apprise voters of the issue”, and also deny Petitioners’ ancillary request for a permanent injunction invalidating any votes cast for or against the November 2019 ballot question.

48. Respondent Party Intervenors’ right to relief on Count III is clear.

49. Respondent Party Intervenors are entitled to summary relief on Count III as a matter of law.

WHEREFORE, Respondent Party Intervenors, Shameekah Moore, Martin Vickless, Kristin June Irwin and Kelly Williams, respectfully request that this Honorable Court GRANT Summary Relief in favor of Respondent Party Intervenors pursuant to Pa.R.A.P. 1532(b), and DENY the requests for declaratory judgments and ancillary permanent injunctive relief of Petitioners, the League of Women Voters of Pennsylvania and Lorraine Haw.

Respectfully submitted,

**LAMB McERLANE PC**

Dated: December 13, 2019

By: /s/ Scot R. Withers

Scot R. Withers

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**PUBLIC ACCESS POLICY CERTIFICATE OF COMPLIANCE**

It is hereby certified by the undersigned 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.

**LAMB McERLANE PC**

Dated: December 13, 2019

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