

**IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

CAROL ANN CARTER, MONICA
PARRILLA, REBECCA POYOUROW,
WILLIAM TUNG, ROSEANNE MILAZZO,
BURT SIEGEL, SUSAN CASSANELLI, LEE
CASSANELLI, LYNN WACHMAN,
MICHAEL GUTTMAN, MAYA FONKEU,
BRADY HILL, MARY ELLEN BALCHUNIS,
TOM DEWALL, STEPHANIE MCNULTY
AND JANET TEMIN,

Petitioners

v.

LEIGH M. CHAPMAN, IN HER OFFICIAL
CAPACITY AS THE ACTING SECRETARY
OF THE COMMONWEALTH OF
PENNSYLVANIA; JESSICA MATHIS, IN
HER OFFICIAL CAPACITY AS DIRECTOR
FOR THE PENNSYLVANIA BUREAU OF
ELECTION SERVICES AND NOTARIES,

Respondents.

PHILIP T. GRESSMAN; RON Y. DONAGI;
KRISTOPHER R. TAPP; PAMELA GORKIN;
DAVID P. MARSH; JAMES L.
ROSENBERGER; AMY MYERS; EUGENE
BOMAN; GARY GORDON; LIZ MCMAHON;
TIMOTHY G. FEEMAN; AND GARTH
ISAAK,

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v.

No. 7 MM 2022

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FOR THE PENNSYLVANIA BUREAU OF :
ELECTION SERVICES AND NOTARIES,

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**APPLICATION FOR INTERVENTION AND APPLICATION TO
RECONSIDER OR AMEND THE MARCH 2, 2022, ORDER SETTING
COUNTY POLITICAL COMMITTEE NOMINATION PETITION
SCHEDULE**

Petitioners, Dauphin County Republican Committee (“DCRC”) Republican Committee of Lancaster County (“RCLC”), and York County Republican Committee (“YCRC”) (collectively “Intervenors”) respectfully submit this narrowly tailored Application for Intervention for the limited purpose of applying for reconsideration of that portion of this Court’s March 2, 2022 Order requiring nomination petitions for Local Committees to be filed on or before March 15, 2022.

1. On February 24, 2022, Respondents to this action, Leigh M. Chapman (Acting Secretary of the Commonwealth) and Jessica Mathis (Director for the Pennsylvania Bureau of Election Services and Notaries) (collectively “Respondents”) applied for “Clarification” regarding, specifically at issue in this application, the circulation and filing

deadlines of nomination petitions relating to Local Committees. Resp'ts App., ¶4.

2. The basis for Respondents' request was: (a) that neither *Carter* February 23 Order nor *LRC* February 23 Order specifically addressed the election calendar for party offices, including local committees, (b) the election calendar for the party offices was previously stayed by this Court's February 9, 2022 Order and (c) the statutory deadline for party office for circulation and filing of nomination petitions had passed. *Id.*, ¶3.

3. Respondents proposed that the candidates for local committee should be required to follow the same schedule as the proposed state legislative for various reasons. *Id.*, ¶5

4. On February 25, 2022, the Delaware County Board of Elections ("Board") submitted an Application for Intervention to oppose Respondents' Application for "Clarification."

5. The Board claimed that any delay in receiving "precinct level party offices" nomination petitions would "create logistical chaos" and "severely impact precinct level candidates" in the November 2022 Election. Board's Opposition, ¶9 and ¶11 .

6. On March 2, 2022, this Court issued an order aligning the local committee nomination petition processes with those for congressional and statewide offices, commencing the petition circulation period for all local committees immediately, and requiring the submission of nomination petitions for local committees on or before March 15, 2022. Order, 3/2/2022.

7. Respondents and Board do not adequately represent the possessions and interests of local committees *for all political parties*.

I. **THE COURT SHOULD GRANT THE COMMITTEES APPLICATION TO INTERVENE FOR THE LIMITED PURPOSE OF APPLYING FOR A MODIFICATION OF THE COURT’S MARCH 2, 2022 ORDER.**

8. Under Pa. R. Civ. P. 2327:

“At any time during the pendency of an action, a person not a party thereto shall be permitted to intervene therein, subject to these rules if . . .

(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.”

Pa. R. Civ. P. 2327(4) (emphasis added)

9. “[A]n application for intervention may be refused, if (1) the claim or defense of the petitioner is not in subordination to and in recognition of the propriety of the action; or (2) the interest of the

petitioner is already adequately represented; or (3) the petitioner has unduly delayed in making application for intervention or the intervention will unduly delay, embarrass or prejudice the trial or the adjudication of the rights of the parties.” Pa. R. Civ. P. 2329.

10. “Considering Rules 2327 and 2329 together, the effect of Rule 2329 is that if the petitioner is a person within one of the classes described in Rule 2327, the allowance of intervention is mandatory, not discretionary, unless one of the grounds for refusal under Rule 2329 is present.” *Larock v. Sugarloaf Twp. Zoning Board*, 740 A.2d 308, 313 (Pa. Comnwlth. 1999)

11. Intervention is appropriate in circumstances where a party could have joined the litigation as an original party or could have been joined into the action or in circumstances where “the determination of such action may affect any legally enforceable interest.” Pa. R. Civ. P.2327.

12. Like Board, Intervenors here could have joined this action as an original party to seek a schedule for circulating and submission of nomination petitions related to local committees.

13. The Committees have an interest in the outcome of this matter and are bound by this Court's March 2, 2022, order.

14. The Committees are affected by this Court's March 2, 2022 Order because the adoption of either the Respondents' proposal or the Board's counter proposal or any hybrid thereof imposes upon the Committees and their members' responsibilities related to their election.

15. The Committees' interest are not adequately represented by Respondents or the Board.

16. Accordingly, the Committees request that this Honorable Court (a) grant intervention for the limited purpose of applying for reconsideration for reconsideration or amendment of the March 2, 2022 Order specifically to extend the submission date for local committee nomination petitions and (b) to issue a modified calendar for elections relating to local committee members extending the current March 15, 2022 deadline until the final day for submission of state legislative office candidates or in the alternative a minimum seven (7) days consistent with the provisions of 25 P.S. §2868.

II. THE COURT SHOULD RECONSIDER AND AMEND ITS MARCH 2, 2022 ORDER TO EXTEND THE DATE FOR SUBMISSION OF NOMINATION PETITIONS FOR LOCAL COMMITTEES.

17. The Court has the power to reconsider its own rulings. *Hutchison by Hutchison v. Luddy*, 417 Pa.Super. 93, 107, 611 A.2d 1280, 1288 (1992)

18. The Respondents and the Board claim that the impact on local committee offices will be relatively low either by staying the election calendar or by enforcing an immediate election calendar.

19. This is incorrect. The Court's March 2, 2022, affects local committee candidates and officer holders by making it more difficult for them to appear on the ballot. It is true that local committee office holders are required to collect only ten (10) signatures for their nomination petition to be submitted, but these office holders are typically volunteers who, unlike congressional and statewide candidates, do not have substantial resources to help gather signatures.

20. Furthermore, this Court's February 9, 2022 Order and February 23, 2022 Order left any local committee officer holders to speculate that their respective petition circulation period would, in fact,

mirror the state legislative offices and they therefore would not begin until after the litigation on reapportionment had been decided.

21. Accordingly, many local committee office holders or candidates have or may have adjusted travel and work schedules so that they would be travelling or otherwise away from their electoral district during the period of nomination petition circulation and therefore unable or only available in a limited basis to gather signatures or prepare the necessary forms that *must* be completed in person by a candidate for that office.

22. Attached hereto as Exhibit "A" is the Declaration of Loretta Radanovic, a specific example of the specific challenges created for local committee candidates in the current election cycle. More instances of this type of challenge are likely to exist but the immediacy with which relief is required precluded a more robust investigation to ascertain additional examples.

23. Relief is required to balance the equities relating to the local committee election calendar currently in place.

24. The Board's Opposition rightly states that the local committee office holders and candidates are statutorily afforded twenty-one (21)

days to complete their nomination petition circulation and submission.
Board Opp'n, ¶10.

25. Because this period is statutory, it is predictable and affords local committee office holders and candidates the ability to plan their work and personal schedules accordingly to obtain the necessary signatures and complete the necessary forms for office.

26. Respondents and Board fail to adequately discuss the impact that shortening the period to gather signatures and the lack of predictability from immediately commencing a truncated petition circulation period will have on the ability on local committee office holders and candidates to circulate their petitions and submit the necessary forms.

27. The Committees remain concerned that this shortened process may preclude or otherwise have a “chilling effect” on certain Local Committee candidates seeking office in this cycle, *from either party*.

28. The Board cites “logistical chaos” and then goes on to inform the Court that the chaos is created in the delay to prepare and scan “test ballots” prior to the primary. Board Opp'n, ¶¶ 9, 11, 13-17.

29. This misapprehends the law and the process because no ballots can be prepared until *all* candidates for *all* offices have been finalized, including the state legislative office candidates, and then the ballots prepared with the Local Committee office candidates being printed at the “*end of the ballot*”. 25 P.S. §2964.1.

30. The claim of “administrative chaos” further misapprehends the process because the Department of State, not the local board of elections, is responsible for the processing of nomination petitions for all congressional, statewide, and state legislative office holders, all of which must be completed, and the information transmitted to the counties so ballots may be prepared.

31. Any concern over further “delay” raised by the Board’s opposition is inevitable due to the ongoing litigation regarding legislative reapportionment of state legislative offices.

32. The Committees acknowledge that the processing of local committee nomination petitions requires effort, but that effort is for the Board to, *at the time of submission* verify each petition has the required number of signatures, has been signed by the circulator and candidate, is either properly notarized or accompanied by an unsworn affidavit and

finally to provide an opportunity for opposing parties to challenge signatures, if they choose.

33. This task is routinely shouldered by boards of elections in both municipal and statewide elections cycles.

34. The Board's concerns are further alleviated inasmuch as Intervenors only request the extension or delay of the final deadline to submit nomination petitions and make this request with the full knowledge that some, if not many, candidates for Local Committee have already submitted the necessary nomination petition to their local Board of Election thereby reducing the risk of "chaos" as raised by the Board.

35. Finally, the Board's opposition over impact on "precinct level candidates in the November 2022 Election" is misplaced because local committee elections are party specific and are therefore will be decided by the May 17, 2022 primary which is why affording local committee candidates more, not less, time and predictability important.

Respectfully submitted,

Dated: March 11, 2022

/s/ J. Matthew Wolfe
J. MATTHEW WOLFE, ESQUIRE
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Exhibit A

DECLARATION OF LORETTA RADANOVIC

I, Loretta Radanovic do hereby certify and depose, subject to 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities, as follows:

- 1.) I am a duly elected Republican Committee woman serving Penn Township, Penryn District in Lancaster County, Pennsylvania
- 2.) It is my intention to circulate nomination petition seeking reelection to this office.
- 3.) Early March 2, 2022, prior to the issuance of this Honorable Court's order, my husband and I departed for out of state travel which will conclude on late March 13, 2022.
- 4.) With the current order imposed, I will have less than forty-eight (48) hours to circulate and submit my nomination petition.
- 5.) Due to the suspension of timelines for all elections on February 9, 2022, and that suspension not being lifted for either state legislative office, state party office or local committee offices in the further order of Court issued on February 23, 2022, I made no adjustments to my travel plans assuming these offices would be subject to a delayed nomination petition circulation which would commence following the outcome of the litigation related to state legislative reapportionment.
- 6.) Prior to departing, I was aware the next deadline related to the legislative reapportionment litigation was March 11, 2022, at 2 p.m. and was the deadline for the submission of the Legislative Redistricting Commission report.
- 7.) I was under the impression, due to those deadlines, petition circulation would not commence prior to March 11, 2022.
- 8.) I was unable to adjust my travel schedule without incurring extraordinary expense and hardship.
- 9.) With adequate advanced notice, I would have otherwise adjusted my travel plans to ensure adequate opportunity to collect the necessary support for my nomination petition.

Date: March 9, 2022

Loretta J. Radanovic

Loretta Radanovic

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[PROPOSED] ORDER

AND NOW, this _____ day of March 2022, upon consideration of Application for Intervention, and any response thereto, it is hereby **ORDERED** as follows:

- 1.)The Limited Application for Intervention is **GRANTED** for the singular purpose of permitting the Committees to present request reconsideration and modification of this Court’s March 2, 2022 order.
- 2.)The Application for Reconsideration is **GRANTED** and the March 15, 2022 deadline for submission of local committee nomination petitions is hereby amended, any nomination petitions for local committee shall be filed in accordance with further order of this Court fixing a date and time where state legislative office candidates shall file and submit nomination petitions.

By the Court:

CERTIFICATION REGARDING PUBLIC ACCESS POLICY

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.

Respectfully submitted,

Dated: March 11, 2022

/s/ J. Matthew Wolfe
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