

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Elizabeth Elkin and Gregory Mazol,	:
Appellants	:
	:
v.	: 1232 CD 2022
	:
The Philadelphia City Commissioners,	:
Lisa M. Deeley, in her official capacity,	:
Omar Sabir, in his official capacity,	:
and Seth Bluestein, in his official	:
capacity	:

INTERVENOR-DEFENDANTS’ RESPONSE IN OPPOSITION TO EMERGENCY APPLICATION FOR INJUNCTION PENDING APPEAL

Intervenor-Defendants PA Democratic Party and Philadelphia Democratic City Committee oppose the application.

In sum, whatever findings the trial court has made¹ in support of its opinion of the proper method of Philadelphia election administration—responsibilities well within the Board’s powers granted to it by the General Assembly under 25 P.S. §2642—the trial court properly deferred to the Board of Elections in concluding that “Given the November 2, 2022 timing of the filing of the Emergency Petition and acknowledged complexities involved with reinstatement and implementation of the removed Poll Book Rendition system as described, the predictable result from this Court's grant of Petitioners' requested form of emergency relief would be detrimental to the efficient administration of the 2022 General Election.” Order at ¶ 69.

¹ Intervenor-Defendants intend to cross-appeal as to the lack of factual basis in the record of many of the trial court’s findings, as well as to whether *any* Plaintiff has standing to pursue relief in the first place.

Further, the Court agreed with the Board of Elections' assertion that such relief "is not remotely feasible at this late date, would "cause harm and hardship to the administration of electoral processes that are being employed within the City and County of Philadelphia in the General Election to be held on November 8, 2022," and "the anticipated harm that would result from the grant of the Petitioners' requested form of emergency reliefs outweighs the positive effects that grant of requested relief could produce." Order at ¶¶ 70-72.

The Board of Elections made a reasonable choice in how to administer this election, in light of its lived experience of five elections under Act 77, fully in compliance with the Election Code. The trial court properly determined that the law required deference to the Board's assessment re-implementing these procedures was impossible at this late hour, and this Court should defer to that judgment as well. The application should be denied.

Dated: November 7, 2022

Respectfully submitted,

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