IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Judy Leary Wagner, Appellant	:	
v.	:	
Pike County Commissioners, Matthew M. Osterberg, Ronald M. Schmalzle, and Christa L. Caceres	:	No. 1067 C.D. 2025
	:	Argued: October 13, 2026

BEFORE: HONORABLE RENÉE COHN JUBELIRER, President Judge
HONORABLE CHRISTINE FIZZANO CANNON, Judge (P.)
HONORABLE BONNIE BRIGANCE LEADBETTER, Senior Judge

OPINION
BY JUDGE FIZZANO CANNON FILED: November 16, 2026

Judy Leary Wagner (Wagner), one of three elected Auditors of Pike County (County), appeals from a July 23, 2025 order of the Pike County Court of Common Pleas (Trial Court) that sustained a preliminary objection in the form of a demurrer to her civil complaint against the Pike County Commissioners, Matthew M. Osterberg, Ronald M. Schmalzle, and Christa L. Caceres (Commissioners), and dismissed the complaint. After careful review, we affirm the Trial Court's order.

I. Background and Issue

There are no disputed facts, and the legal issue in this case is straightforward. Wagner asserts that as one of three County Auditors, she has legal authority to issue a subpoena to the Commissioners requiring them to produce records she claims are needed for an audit. Neither of the other two Auditors agreed to the issuance of a subpoena. Wagner filed a declaratory judgment action against

the Commissioners, seeking to establish her authority to issue a subpoena to them without the agreement of either of the other two Auditors. Thus, the legal issue is whether a single Auditor, rather than a majority of the County Auditors, may issue a subpoena.

The Commissioners filed several preliminary objections, only one of which is pertinent here. The Commissioners challenged the legal sufficiency of the complaint by demurring pursuant to Rule 1028(a)(4) of the Pennsylvania Rules of Civil Procedure, Pa.R.Civ.P. 1028(a)(4). The Trial Court sustained the demurrer and dismissed the complaint, holding that Wagner lacked authority to act alone in issuing a subpoena. Wagner appealed the dismissal to this Court.

II. Discussion

On appeal,[1] Wagner insists the Trial Court committed "a glaring error of law" in concluding that she could not act alone to issue a subpoena. Wagner Br. at 7. We disagree.

Wagner observes that although there are three Auditors, Section 12901(a) of The County Code[2] allows the County's electors to vote for no more than two Auditor candidates, "intentionally creating a power split between political parties." Wagner Br. at 9; *see* 16 Pa.C.S. § 12901(a). From this premise, Wagner posits that "The County Code would not have created a minority [A]uditor had it intended the minority [A]uditor to have no power absent concurrence with the

[1] "Because the issue on appeal is purely a question of law, our standard of review is *de novo* and our scope of review is plenary." *Watts Twp. Bd. of Auditors v. Raudensky*, 200 A.3d 129, 132 n.7 (Pa. Cmwlth. 2018) (citing *In re Appeal of 2012 Fin. Audit of Greene Twp.*, 113 A.3d 372, 374 n.5 (Pa. Cmwlth. 2015)).

[2] 16 Pa.C.S. §§ 101-17509.

majority [A]uditors." *Id.* Wagner offers no citation of relevant authority for her proposition, and we are unaware of any legal support for her reasoning concerning legislative intent. Moreover, its logical extension would be contrary to or negatively impact other statutory and regulatory provisions that require commissions and other entities to be comprised of politically diverse groups. *See, e.g.*, 25 Pa.C.S. § 1203(b) & (d) (providing that generally, a county's commissioners act as its voter registration commission, but that "there must be minority representation on the commission," such that if all of the commissioners are from the majority party, one member of the commission must be appointed from the minority party, even though acts of the commission are by majority vote); 51 Pa.C.S. § 9809(a)(2) & (3) (providing that the National Guard Youth Challenge Program advisory council shall include three state senate members, two from the majority party and one from the minority party, and three state house members, two from the majority party and one from the minority party); 101 Pa. Code § 7.13 (requiring conference committees established to resolve differences between the two legislative chambers must include three members of the state senate, two from the majority party and one from the minority party, and three state house members, two from the majority party and one from the minority party). By Wagner's reasoning, every member of such a group who is also a member of the minority political party would be free to engage in unconstrained activity contrary to the majority's will. This would be an absurd result. For these reasons, we reject Wagner's argument.

"Auditors comprise a quasi-judicial body having powers which are statutorily derived from The County Code. . . . These powers enable Auditors to discharge their official duties. . . ." *DeGeorge v. Young*, 892 A.2d 48, 53 n.8 (Pa. Cmwlth. 2006). Wagner acknowledges that Section 12903(d) of The County Code

provides that "[a]ny two [A]uditors when duly convened shall be a quorum for the purpose of transacting business." 16 Pa.C.S. § 12903(d). Wagner suggests that the Trial Court improperly "conflated interpretation" of Section 12903(d) with Section 14925(a) of The County Code, 16 Pa.C.S. § 14925(a), authorizing subpoenas by Auditors, and that the quorum provision of Section 12903(d) is unrelated to the purported authority of one Auditor to act alone in issuing a subpoena pursuant to Section 14925(a). Wagner Br. at 7. This assertion implicates the question of whether issuing a subpoena constitutes "transacting business" within the meaning of Section 12903(d). However, we need not answer that question, as we dispose of this appeal on another basis, as explained below.

Nonetheless, it is notable that the other references to "[A]uditors" in Section 12903 clearly refer to the three Auditors as a group, not just one of them acting alone. *See* 16 Pa.C.S. § 12903(a) (directing that "[t]he [A]uditors shall meet at the county seat on the first Monday of January in each year . . ."); 16 Pa.C.S. § 12903(b) (providing that "[t]he [A]uditors shall meet as necessary for the completion of the audit under subsection (a) by the following July 1. The [A]uditors may petition the court of common pleas for additional time for the completion of the audit and the filing of the report").

Although this is a statutory construction matter, neither the parties nor the Trial Court cited or discussed the statutory provision that actually controls our disposition of this appeal.[3] Section 1905(a) of the Statutory Construction Act of 1972 provides that "[w]ords in a statute conferring a joint authority upon three or

[3] We observe, however, that we may affirm the Trial Court's decision on any basis appearing from the record. *See Washington v. Dep't of Transp., Bureau of Driver Licensing*, 301 A.3d 982, 986 (Pa. Cmwlth. 2023) (citing *Feldman v. Lafayette Green Condo. Ass'n*, 806 A.2d 497, 502 n.3 (Pa. Cmwlth. 2002)).

more public officers or other persons shall be construed to confer authority upon a majority of such officers or persons." 1 Pa.C.S. § 1905(a). We conclude that Section 1905(a) is dispositive of the legal issue Wagner presents.

Section 14925(a) of The County Code provides, in pertinent part, that "[t]he controller or [A]uditors may issue a subpoena to obtain the attendance of an officer whose accounts the controller or [A]uditors are required to adjust, including an executor or administrator of the officer, and of any person whom it may be necessary to examine as a witness. . . ." 16 Pa.C.S. § 14925(a). By its plain language, Section 14925(a) confers joint authority on the County Auditors, of whom there are three. This is also consistent with references to "[A]uditors" in Section 12903(a) and (b), 16 Pa.C.S. § 12903(a) & (b), discussed above, which require the Auditors to meet and which, therefore, would make no sense if one Auditor could act alone, inasmuch as one Auditor cannot "meet" with herself. Thus, we have no difficulty in determining that Section 14925(a) "shall be construed to confer authority upon a majority" of the three Auditors, pursuant to 1 Pa.C.S. § 1905(a). We accordingly conclude that issuing a subpoena requires action by a majority of the Auditors and that Wagner lacks authority to do so acting alone.

III. Conclusion

Based on the foregoing discussion, we affirm the Trial Court's order.

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CHRISTINE FIZZANO CANNON, Judge

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O R D E R

AND NOW, this 16th day of November, 2026, the July 23, 2025 order of the Pike County Court of Common Pleas is AFFIRMED.

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CHRISTINE FIZZANO CANNON, Judge