

[J-127A-D-2012]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

ROBINSON TOWNSHIP, WASHINGTON : No. 63 MAP 2012
COUNTY, PENNSYLVANIA, BRIAN :
COPPOLA, INDIVIDUALLY AND IN HIS : Application for Reargument or
OFFICIAL CAPACITY AS SUPERVISOR : Reconsideration of the Opinions and
OF ROBINSON TOWNSHIP, TOWNSHIP : Order entered by this Court on
OF NOCKAMIXON, BUCKS COUNTY, : December 19, 2013
PENNSYLVANIA, TOWNSHIP OF :
SOUTH FAYETTE, ALLEGHENY :
COUNTY, PENNSYLVANIA, PETERS :
TOWNSHIP, WASHINGTON COUNTY, :
PENNSYLVANIA, DAVID M. BALL, :
INDIVIDUALLY AND IN HIS OFFICIAL :
CAPACITY AS COUNCILMAN OF :
PETERS TOWNSHIP, TOWNSHIP OF :
CECIL, WASHINGTON COUNTY, :
PENNSYLVANIA, MOUNT PLEASANT :
TOWNSHIP, WASHINGTON COUNTY, :
PENNSYLVANIA, BOROUGH OF :
YARDLEY, BUCKS COUNTY, :
PENNSYLVANIA, DELAWARE :
RIVERKEEPER NETWORK, MAYA VAN :
ROSSUM, THE DELAWARE :
RIVERKEEPER, MEHERNOSH KHAN, :
M.D. :

v. :

COMMONWEALTH OF PENNSYLVANIA, :
PENNSYLVANIA PUBLIC UTILITY :
COMMISSION, ROBERT F. POWELSON, :
IN HIS OFFICIAL CAPACITY AS :
CHAIRMAN OF THE PUBLIC UTILITY :
COMMISSION, OFFICE OF THE :
ATTORNEY GENERAL OF :
PENNSYLVANIA, KATHLEEN KANE, IN :
HER OFFICIAL CAPACITY AS :
ATTORNEY GENERAL OF THE :
COMMONWEALTH OF PENNSYLVANIA, :
PENNSYLVANIA DEPARTMENT OF :
ENVIRONMENTAL PROTECTION AND :
E. CHRISTOPHER ABRUZZO, IN HIS :
OFFICIAL CAPACITY AS SECRETARY :

OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION

APPEAL OF: PENNSYLVANIA PUBLIC UTILITY COMMISSION, ROBERT F. POWELSON, IN HIS OFFICIAL CAPACITY AS CHAIRMAN OF THE PUBLIC UTILITY COMMISSION & PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND E. CHRISTOPHER ABRUZZO, IN HIS OFFICIAL CAPACITY AS SECRETARY OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION

ROBINSON TOWNSHIP, WASHINGTON COUNTY, PENNSYLVANIA, BRIAN COPPOLA, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS SUPERVISOR OF ROBINSON TOWNSHIP, TOWNSHIP OF NOCKAMIXON, BUCKS COUNTY, PENNSYLVANIA, TOWNSHIP OF SOUTH FAYETTE, ALLEGHENY COUNTY, PENNSYLVANIA, PETERS TOWNSHIP, WASHINGTON COUNTY, PENNSYLVANIA, DAVID M. BALL, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS COUNCILMAN OF PETERS TOWNSHIP, TOWNSHIP OF CECIL, WASHINGTON COUNTY, PENNSYLVANIA, MOUNT PLEASANT TOWNSHIP, WASHINGTON COUNTY, PENNSYLVANIA, BOROUGH OF YARDLEY, BUCKS COUNTY, PENNSYLVANIA, DELAWARE RIVERKEEPER NETWORK, MAYA VAN ROSSUM, THE DELAWARE RIVERKEEPER, MEHERNOSH KHAN, M.D.,

Cross Appellants

v.

No. 72 MAP 2012

Application for Reargument or Reconsideration of the Opinions and Order entered by this Court on December 19, 2013

COMMONWEALTH OF PENNSYLVANIA,
PENNSYLVANIA PUBLIC UTILITY
COMMISSION, ROBERT F. POWELSON,
IN HIS OFFICIAL CAPACITY AS
CHAIRMAN OF THE PUBLIC UTILITY
COMMISSION, OFFICE OF THE
ATTORNEY GENERAL OF
PENNSYLVANIA, KATHLEEN KANE, IN
HER OFFICIAL CAPACITY AS
ATTORNEY GENERAL OF THE
COMMONWEALTH OF PENNSYLVANIA,
PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION AND
E. CHRISTOPHER ABRUZZO, IN HIS
OFFICIAL CAPACITY AS SECRETARY
OF THE DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Appellees

ROBINSON TOWNSHIP, WASHINGTON
COUNTY, PENNSYLVANIA, BRIAN
COPPOLA, INDIVIDUALLY AND IN HIS
OFFICIAL CAPACITY AS SUPERVISOR
OF ROBINSON TOWNSHIP, TOWNSHIP
OF NOCKAMIXON, BUCKS COUNTY,
PENNSYLVANIA, TOWNSHIP OF
SOUTH FAYETTE, ALLEGHENY
COUNTY, PENNSYLVANIA, PETERS
TOWNSHIP, WASHINGTON COUNTY,
PENNSYLVANIA, DAVID M. BALL,
INDIVIDUALLY AND IN HIS OFFICIAL
CAPACITY AS COUNCILMAN OF
PETERS TOWNSHIP, TOWNSHIP OF
CECIL, WASHINGTON COUNTY,
PENNSYLVANIA, MOUNT PLEASANT
TOWNSHIP, WASHINGTON COUNTY,
PENNSYLVANIA, BOROUGH OF
YARDLEY, BUCKS COUNTY,
PENNSYLVANIA, DELAWARE
RIVERKEEPER NETWORK, MAYA VAN
ROSSUM, THE DELAWARE
RIVERKEEPER, MEHERNOSH KHAN,
M.D.

No. 64 MAP 2012

Application for Reargument or
Reconsideration of the Opinions and
Order entered by this Court on
December 19, 2013

v.

COMMONWEALTH OF PENNSYLVANIA,
PENNSYLVANIA PUBLIC UTILITY
COMMISSION, ROBERT F. POWELSON,
IN HIS OFFICIAL CAPACITY AS
CHAIRMAN OF THE PUBLIC UTILITY
COMMISSION, OFFICE OF THE
ATTORNEY GENERAL OF
PENNSYLVANIA, KATHLEEN KANE, IN
HER OFFICIAL CAPACITY AS
ATTORNEY GENERAL OF THE
COMMONWEALTH OF PENNSYLVANIA,
PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION AND
E. CHRISTOPHER ABRUZZO, IN HIS
OFFICIAL CAPACITY AS SECRETARY
OF THE DEPARTMENT OF
ENVIRONMENTAL PROTECTION

APPEAL OF: OFFICE OF THE
ATTORNEY GENERAL OF
PENNSYLVANIA, KATHLEEN KANE, IN
HER OFFICIAL CAPACITY AS
ATTORNEY GENERAL OF THE
COMMONWEALTH OF PENNSYLVANIA

ROBINSON TOWNSHIP, WASHINGTON
COUNTY, PENNSYLVANIA, BRIAN
COPPOLA, INDIVIDUALLY AND IN HIS
OFFICIAL CAPACITY AS SUPERVISOR
OF ROBINSON TOWNSHIP, TOWNSHIP
OF NOCKAMIXON, BUCKS COUNTY,
PENNSYLVANIA, TOWNSHIP OF
SOUTH FAYETTE, ALLEGHENY
COUNTY, PENNSYLVANIA, PETERS
TOWNSHIP, WASHINGTON COUNTY,
PENNSYLVANIA, DAVID M. BALL,
INDIVIDUALLY AND IN HIS OFFICIAL
CAPACITY AS COUNCILMAN OF
PETERS TOWNSHIP, TOWNSHIP OF
CECIL, WASHINGTON COUNTY,
PENNSYLVANIA, MOUNT PLEASANT
TOWNSHIP, WASHINGTON COUNTY,
PENNSYLVANIA, BOROUGH OF

No. 73 MAP 2012

Application for Reargument or
Reconsideration of the Opinions and
Order entered by this Court on
December 19, 2013

YARDLEY, BUCKS COUNTY,
PENNSYLVANIA, DELAWARE
RIVERKEEPER NETWORK, MAYA VAN
ROSSUM, THE DELAWARE
RIVERKEEPER, MEHERNOSH KHAN,
M.D.,

Cross Appellants

v.

COMMONWEALTH OF PENNSYLVANIA,
PENNSYLVANIA PUBLIC UTILITY
COMMISSION, ROBERT F. POWELSON,
IN HIS OFFICIAL CAPACITY AS
CHAIRMAN OF THE PUBLIC UTILITY
COMMISSION, OFFICE OF THE
ATTORNEY GENERAL OF
PENNSYLVANIA, KATHLEEN KANE, IN
HER OFFICIAL CAPACITY AS
ATTORNEY GENERAL OF THE
COMMONWEALTH OF PENNSYLVANIA,
PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION AND
E. CHRISTOPHER ABRUZZO, IN HIS
OFFICIAL CAPACITY AS SECRETARY
OF THE DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Appellees

DISSENTING STATEMENT

MR. JUSTICE SAYLOR

FILED: February 21, 2014

I respectfully differ with the majority's decision to deny reconsideration in this matter on the terms requested by the Commonwealth parties. In this regard, I am fully in line with the position that "[f]undamental fairness to a co-equal branch of government, as well as adherence to this Court's precedent and established procedure, mandates

that the [Commonwealth parties] be afforded a reasonable opportunity to present evidence before any judicial proclamation is made about whether Act 13 satisfies the newly-mandated balancing test under Section 27” of Article I of the Pennsylvania Constitution. Application for Reargument at 7; accord Robinson Twp. v. Commonwealth, ___ A.3d ___, ___, 2013 WL 6687290, *85-90 (Pa. Dec. 19, 2013) (Saylor, J., dissenting). The judiciary simply does not possess the ability to divine the consequences of a legislative enactment absent a developed factual record.