IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Senator Jay Costa, Senator Anthony H. Williams, Senator Vincent J. Hughes, Senator Steven J. Santarsiero and Senate Democratic Caucus, Petitioners	:	**CASES CONSOLIDATED**
v.	:	
Senator Jacob Corman III, Senate President Pro Tempore, Senator Chris Dush and Senate Secretary-Parliamentarian Megan Martin, Respondents	:	No. 310 M.D. 2021
Commonwealth of Pennsylvania, Pennsylvania Department of State, and Veronica Degraffenreid, Acting Secretary of the Commonwealth of Pennsylvania, Petitioners	:	
v.	:	
Senator Chris Dush, Senator Jake Corman, and The Pennsylvania State Senate Intergovernmental Operations Committee, Respondents	:	No. 322 M.D. 2021
Arthur Haywood Julie Haywood, Petitioners	:	
v.	:	
Veronica DeGraffenreid Acting Secretary of State Commonwealth of Pennsylvania, Respondent	:	No. 323 M.D. 2021

MEMORANDUM ORDER

Before this Court is an Application for Leave to Intervene (Application to Intervene) filed by eight registered voters,[1] The League of Women Voters of Pennsylvania, Common Cause Pennsylvania, and Make the Road Pennsylvania (collectively, Proposed Intervenors), and Senators Corman, Dush, and the Senate Intergovernmental Operations Committee's (collectively, the Senate Committee) Answer thereto. Proposed Intervenors seek leave to intervene as petitioners in the matter docketed at 322 M.D. 2021 (the Commonwealth matter). The court conducted a hearing on the Application to Intervene on October 22, 2021.

Intervention is governed by the Pennsylvania Rules of Civil Procedure. Rule 2327 states as follows:

> 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
>
> (1) the entry of a judgment in such action or the satisfaction of such judgment will impose any liability upon such person to indemnify in whole or in part the party against whom judgment may be entered; or
>
> (2) such person is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof; or
>
> (3) such person could have joined as an original party in the action or could have been joined therein; or
>
> (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.

[1] The eight registered voters are Roberta Winters, Nichita Sandru, Kathy Foster-Sandru, Robin Roberts, Kierstyn Zolfo, Michael Zolfo, Phyllis Hilley, and Ben Bowens.

Pa. R.Civ.P. 2327. The corollary rule on intervention is found at Rule 2329, which sets forth reasons for denying intervention. Rule 2329 provides:

> Upon the filing of the petition and after hearing, of which due notice shall be given to all parties, the court, if the allegations of the petition have been established and are found to be sufficient, shall enter an order allowing intervention; but an 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. This Court has explained the interplay between Rules 2327 and 2329 as follows:

> 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. Equally, if the petitioner does not show himself to be within one of the four classes described in Rule 2327, intervention must be denied, irrespective of whether any of the grounds for refusal in Rule 2329 exist. Thus, the court is given the discretion to allow or to refuse intervention only where the petitioner falls within one of the classes enumerated in Rule 2327 and only where one

> of the grounds under Rule 2329 is present which authorizes the refusal of intervention.

Larock v. Sugarloaf Township Zoning Hearing Board, 740 A.2d 308, 313 (Pa. Cmwlth. 1999) (internal citations omitted).

The Senate Committee concedes that Proposed Intervenors satisfy the standards for intervention under Rule 2327. Committee's Answer at 4 n.1 ("the [Senate] Committee will assume that [Proposed Intervenors] meet one of the qualification categories for intervention under Rule 2327."). Nevertheless, the Senate Committee asks this Court to exercise its discretion to refuse intervention under Rule 2329 because Proposed Intervenors' interests are adequately represented by the existing parties and intervention would unduly delay the instant litigation.

The Court declines to refuse intervention on either basis. First, the interests of Proposed Intervenors are not adequately represented in this matter because they seek relief from both the Acting Secretary – a petitioner – and the Senate Committee – a respondent. Second, intervention at this juncture will not unduly delay the adjudication of these consolidated matters because Proposed Intervenors have assured the Court they can meet any briefing deadlines for this matter scheduled by this Court.

Accordingly, the Court hereby enters the following Order:

ORDER

AND NOW, this 26th day of October, 2021, the Application of Roberta Winters, Nichita Sandru, Kathy Foster-Sandru, Robin Roberts, Kierstyn Zolfo, Michael Zolfo, Phyllis Hilley, Ben Bowens, The League of Women Voters of

Pennsylvania, Common Cause Pennsylvania, and Make the Road Pennsylvania (Intervenors) for Leave to Intervene (Application to Intervene) is **GRANTED**.

The Prothonotary is directed to separately docket Intervenors' Petition for Review, which appears as an attachment to the Application to Intervene, at the lead docket No. 310 M.D. 2021. All further filings by Intervenors shall use the caption set forth above and be made at docket No. 310 M.D. 2021.

MARY HANNAH LEAVITT, President Judge Emerita

Order Exit
10/26/2021