

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

REPUBLICAN NATIONAL	:	No. 447 MD 2022
COMMITTEE, <i>et al.</i> ,	:	
Petitioners	:	
	:	
vs.	:	
	:	
LEIGH M. CHAPMAN, in her official	:	
capacity as Acting Secretary of the	:	
Commonwealth, <i>et al.</i> ,	:	
Respondents.	:	

**RESPONDENT NORTHAMPTON COUNTY BOARD OF ELECTIONS' ANSWER
TO APPLICATION FOR SPECIAL RELIEF IN THE FORM OF A PRELIMINARY
INJUNCTION UNDER PA R.A.P 1532**

Respondent Northampton County Board of Elections files this Answer to the Petition for special relief and requests that this Court deny the Application.

BACKGROUND

1. This is a legal conclusion to which no response is required. To the extent an answer is required, denied. Respondent Northampton County Board of Elections at all times relevant have administered fair, free and accurate elections in accordance with applicable law.

2. This is a legal conclusion to which no response is required. To the extent an answer is required, denied. Respondent Northampton County Board of Elections at all times relevant have administered fair, free and accurate elections in accordance with applicable law.

3. This is a legal conclusion to which no response is required. To the extent an answer is required, Petitioners' characterization of the Pennsylvania Supreme Court decision is denied as the decision is a document which speaks for itself.

4. This is a legal conclusion to which no response is required. To the extent an answer is required, Petitioners' characterization of the Pennsylvania Supreme Court decision is denied as the decision is a document which speaks for itself.

5. After reasonable investigation, Respondent is without sufficient information to form a belief as to the truth of the matter asserted. Strict proof herein is demanded at time of trial. Moreover, proposed bills are not laws.

6. This is a legal conclusion to which no response is required. To the extent an answer is required, denied. Respondent Northampton County Board of Elections at all times relevant have administered fair, free and accurate elections in accordance with applicable law.

7. This is a legal conclusion to which no response is required. To the extent an answer is required, denied. Respondent Northampton County Board of Elections at all times relevant have administered fair, free and accurate elections in accordance with applicable law.

8. This is a legal conclusion to which no response is required. To the extent an answer is required, denied. Respondent Northampton County Board of Elections at all times relevant have administered fair, free and accurate elections in accordance with applicable law.

INJUNCTIVE RELIEF

9. This is a legal conclusion to which no response is required. To the extent an answer is required, denied.

10. This is a legal conclusion to which no response is required. To the extent an answer is required, denied.

11. This is a legal conclusion to which no response is required. To the extent an answer is required, denied. Petitioners fail to establish all of the factors required entitling them to a preliminary injunction.

12. This is a legal conclusion to which no response is required. To the extent an answer is required, denied. Petitioners fail to establish all of the factors required entitling them to a preliminary injunction.

13. This is a legal conclusion to which no response is required. To the extent an answer is required, denied. By way of further response, Petitioners' mischaracterized the nature of the settlement agreement applicable to Respondent Northampton County Board of Elections in their Petition. The settlement agreement indicated that the parties agree it is in the best interests of voters "to provide the opportunity of notice to a voter who returns a mail-in ballot or absentee ballot without a secrecy envelope (known as "Naked Ballots")." There is nothing in the settlement

agreement which indicates that the Northampton County Board of Elections would provide notice to a voter who returns mail-in ballots or absentee ballots lacking a secrecy envelope (“Naked Ballot”) prior to Election Day. The Northampton County Board of Elections agreed during the pre-canvass to create a list of names of voters whose ballots are set aside because they are lacking a secrecy envelope and offer that list of names to parties and candidates who are on-site during the pre-canvass. This does not violate the Election Code as the Northampton County Board of Elections is permitted to open and determine whether a ballot lacks a secrecy envelope beginning at 7:00 a.m. on Election Day during the pre-canvass. The Northampton County Board of Elections is compliant with the Election Code as the disclosure of the names of voters whose ballots were set aside does not constitute the disclosure of “results.” If a voter casts a provisional ballot after receiving notice that the voter’s ballot was set aside on Election Day during the pre-canvass, the Election Code permits a challenge to be made to the provisional ballot. As a result, Petitioner fails to establish the element of immediate an irreparable harm as this matter is not ripe and a process to challenge a provisional ballot is set forth in the Election Code with respect to the process applicable to Respondent Northampton County Board of Elections in the settlement agreement referenced by Petitioners.

With respect to ballots which lack a date or signature, voters who contacted the Election Office have been offered the opportunity to correct the issue prior to Election Day. In the 2021 Municipal Election and 2022 Primary Election, a letter from the Election Office were sent to voters if a mail-in ballot or absentee ballot was returned

without a date or signature. The affected voter would have an opportunity to correct the issue prior to Election Day.

“The purpose of the election laws is to ensure fair elections, including an equal opportunity for all eligible electors to participate in the election process.”

In re Gen. Election-1985, 531 A.2d 836, 839 (Pa. Cmwlth. 1987) (citing In re Mayor, City of Altoona, Blair County, 196 A.2d 371 (Pa. 1964)). This process provides an equal opportunity for all eligible electors to participate in the election process and favors the enfranchisement of voters over the disenfranchisement of voters due to minor issues with a ballot.

14. This is a legal conclusion to which no response is required. To the extent an answer is required, denied. Petitioners fail to establish all of the factors required entitling them to a preliminary injunction.

15. This is a legal conclusion to which no response is required. To the extent an answer is required, denied. Petitioners fail to establish all of the factors required entitling them to a preliminary injunction.

16. This is a legal conclusion to which no response is required. To the extent an answer is required, denied. Petitioners fail to establish all of the factors required entitling them to a preliminary injunction. By way of further response, Respondent Northampton County Board of Elections incorporates by reference the answers of all other Respondents which support denial of the Application.

WHEREFORE, Respondent Northampton County Board of Elections respectfully requests that this Court deny the Application for Special Relief in the Nature of a Preliminary Injunction.

Dated: 09/16/2022

Respectfully submitted,
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