

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

ECO-015-E

No. 23-3166

PENNSYLVANIA STATE CONFERENCE OF NAACP BRANCHES; LEAGUE OF WOMAN VOTERS OF PENNSYLVANIA; PHILADELPHIANS ORGANIZED TO WITNESS EMPOWER AND REBUILD; COMMON CAUSE PENNSYLVANIA; BLACK POLITICAL EMPOWERMENT PROJECT; MAKE THE ROAD PENNSYLVANIA; BARRY M. SEASTEAD; MARLENE G. GUTIERREZ; AYNNE MARGARET PLEBAN POLINSKI; JOEL BENCAN; LAURENCE M. SMITH

v.

SECRETARY COMMONWEALTH OF PENNSYLVANIA; ADAMS COUNTY BOARD OF ELECTIONS; ALLEGHENY COUNTY BOARD OF ELECTIONS; ARMSTRONG COUNTY BOARD OF ELECTIONS; BEAVER COUNTY BOARD OF ELECTIONS; BEDFORD COUNTY BOARD OF ELECTIONS; BERKS COUNTY BOARD OF ELECTIONS; BLAIR COUNTY BOARD OF ELECTIONS; BRADFORD COUNTY BOARD OF ELECTIONS; BUCKS COUNTY BOARD OF ELECTIONS; BUTLER COUNTY BOARD OF ELECTIONS; CAMBRIA COUNTY BOARD OF ELECTIONS; CAMERON COUNTY BOARD OF ELECTIONS; CARBON COUNTY BOARD OF ELECTIONS; CENTRE COUNTY BOARD OF ELECTIONS; CHESTER COUNTY BOARD OF ELECTIONS; CLARION COUNTY BOARD OF ELECTIONS; CLEARFIELD COUNTY BOARD OF ELECTIONS; CLINTON COUNTY BOARD OF ELECTIONS; COLUMBIA COUNTY BOARD OF ELECTIONS; CRAWFORD COUNTY BOARD OF ELECTIONS; CUMBERLAND COUNTY BOARD OF ELECTIONS; DAUPHIN COUNTY BOARD OF ELECTIONS; DELAWARE COUNTY BOARD OF ELECTIONS; ELK COUNTY BOARD OF ELECTIONS; ERIE COUNTY BOARD OF ELECTIONS; FAYETTE COUNTY BOARD OF ELECTIONS; FOREST COUNTY BOARD OF ELECTIONS; FRANKLIN COUNTY BOARD OF ELECTIONS; FULTON COUNTY BOARD OF ELECTIONS; GREENE COUNTY BOARD OF ELECTIONS; HUNTINGDON COUNTY BOARD OF ELECTIONS; INDIANA COUNTY BOARD OF ELECTIONS; JEFFERSON COUNTY BOARD OF ELECTIONS; JUNIATA COUNTY BOARD OF ELECTIONS; LACKAWANNA COUNTY BOARD OF ELECTIONS; LANCASTER COUNTY BOARD OF ELECTIONS; LAWRENCE COUNTY BOARD OF ELECTIONS; LEBANON COUNTY BOARD OF ELECTIONS; LEHIGH COUNTY BOARD OF ELECTIONS; LUZERNE COUNTY BOARD OF ELECTIONS; LYCOMING COUNTY BOARD OF ELECTIONS; MCKEAN COUNTY BOARD OF ELECTIONS; MERCER COUNTY BOARD OF ELECTIONS; MIFFLIN COUNTY BOARD OF ELECTIONS; MONROE COUNTY BOARD OF ELECTIONS; MONTGOMERY COUNTY BOARD OF

ELECTIONS; MONTOUR COUNTY BOARD OF ELECTIONS; NORTHAMPTON COUNTY BOARD OF ELECTIONS; NORTHUMBERLAND COUNTY BOARD OF ELECTIONS; PERRY COUNTY BOARD OF ELECTIONS; PHILADELPHIA COUNTY BOARD OF ELECTIONS; PIKE COUNTY BOARD OF ELECTIONS; POTTER COUNTY BOARD OF ELECTIONS; SCHUYLKILL COUNTY BOARD OF ELECTIONS; SNYDER COUNTY BOARD OF ELECTIONS; SOMERSET COUNTY BOARD OF ELECTIONS; SULLIVAN COUNTY BOARD OF ELECTIONS; SUSQUEHANNA COUNTY BOARD OF ELECTIONS; TIOGA COUNTY BOARD OF ELECTIONS; UNION COUNTY BOARD OF ELECTIONS; VENANGO COUNTY BOARD OF ELECTIONS; WARREN COUNTY BOARD OF ELECTIONS; WASHINGTON COUNTY BOARD OF ELECTIONS; WAYNE COUNTY BOARD OF ELECTIONS; WESTMORELAND COUNTY BOARD OF ELECTIONS; WYOMING COUNTY BOARD OF ELECTIONS; YORK COUNTY BOARD OF ELECTIONS

REPUBLICAN NATIONAL COMMITTEE; NATIONAL
REPUBLICAN CONGRESSIONAL COMMITTEE;
THE REPUBLICAN PARTY OF PENNSYLVANIA,
Appellants

(Intervenors in D.C.)

(W.D. Pa. No. 1-22-cv-00339)

Present: JORDAN and SHWARTZ, Circuit Judges

1. Motion by Richard Marino to Proceed as Intervenor in Support of Appellants
2. Motion by Appellants and Proposed Intervenor Richard Marino to Stay District Court's Order Pending Appeal
3. Response in Opposition by Appellees' Joel Bencan, Black Political Empowerment Project, Common Cause Pennsylvania, Marlene G. Gutierrez, League of Woman Voters of Pennsylvania, Make the Road Pennsylvania, Pennsylvania State Conference of NAACP Branches, Philadelphians Organized to Witness Empower and Rebuild, Aynee Margaret Pleban Polinski, Barry M. Seastead and Laurence M. Smith to Motion to Proceed as Intervenor
4. Response in Opposition by Appellees' Joel Bencan, Black Political Empowerment Project, Common Cause Pennsylvania, Marlene G. Gutierrez, League of Woman Voters of Pennsylvania, Make the Road Pennsylvania, Pennsylvania State Conference of NAACP Branches, Philadelphians Organized to Witness Empower and Rebuild, Aynee Margaret Pleban Polinski, Barry M. Seastead and Laurence M. Smith to Motion for Stay

5. Response by Appellee Chester County Board of Elections to Motion for Stay
6. Response in Opposition by Appellee Philadelphia County Board of Elections to Motion for Stay
7. Response in Opposition by Appellee Secretary Commonwealth of Pennsylvania to Motion for Intervene and Motion to Stay.
8. Response in Opposition by Appellee Bucks County Board of Elections to Motion for Stay
9. Response in Opposition by Appellee Montgomery County Board of Elections to Motion for Stay
10. Response in Opposition by Appellee Montgomery County Board of Elections to Motion to Proceed as Intervenor of Richard Marino
11. Reply by Appellants to Responses

Respectfully,
Clerk/kr

ORDER

PER CURIAM

The foregoing motion to intervene is granted.

The foregoing motion to stay the order entered November 21, 2023 is granted. While we need not and do not conclude here that the movants' likelihood of winning on appeal is more likely than not, we do conclude that the movants have satisfied the requisites for a stay. See *In re Revel AC, Inc.*, 802 F.3d 558, 568–69 (3d Cir. 2015). The issues warrant full merits briefing on an expedited basis. The Clerk shall assign the case to a merits panel and set a briefing schedule. Nothing herein constitutes a ruling on the certification of any election. In their merits briefing, the parties should address the effect, if any, of certification on the jurisdiction of this court.

Dated: December 13, 2023

cc: All Counsel of Record



A True Copy:

Patricia A. Dodszeit

Patricia S. Dodszeit, Clerk