

the County ("County"), Luzerne County  
County Bureau of Elections ("County  
Bureau"), through their counsel, Drew P. McLaughlin  
("County Counsel"), move to dismiss the complaint of Plaintiff  
("Plaintiffs"), pursuant to Federal Rule of Civil Procedure 12(b)(6).

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(Judge Mannion)

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**DEFENDANTS'**

**TO DISMISS COMPLAINT PURSUANT TO**

**RULE OF CIVIL PROCEDURE**

County ("County"), Luzerne County

County Bureau of Elections ("

their counsel, David B. Mc

Defendants Luzerne County ("County"), Luzerne County Board of Elections ("Board"), and Luzerne County Bureau of Elections ("Bureau")(collectively, "Defendants"), by and through their counsel, Drew P. McLaughlin and the firm of Elliott Greenleaf, P.C., move to dismiss the complaint of Plaintiffs William French and Melynda Anne Reese ("Plaintiffs"), pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief may be granted. In support of their motion, Defendants state the following:

1. On March 28, 2023, Plaintiffs filed a civil rights action against Defendants, pursuant to the First and Fourteenth Amendments of the United States Constitution and 42 U.S. § 1983. (See Doc. 1, generally).

2. In their Complaint, Plaintiffs assert that their right to vote was infringed and denied during the November of 2022 election. (See Doc. 1, Counts I-IV).

3. Specifically, Count I of Plaintiffs' Complaint alleges that a paper shortage during the last election denied Plaintiffs their right to vote, pursuant to the First and Fourteenth Amendments. (See Doc.1, at ¶ 108).

4. Count II of Plaintiffs' Complaint purports to allege a First and Fourteenth Amendment violation on the basis of failure to train election staff. (Id. at ¶ 114).

5. Count III of Plaintiffs' Complaint purports to allege a Fourteenth Amendment Equal Protection violation. (Id. at ¶¶ 127-130).

6. Count IV of Plaintiffs' Complaint purports to allege a Fourteenth Amendment Procedural Due Process violation. (Id. at ¶ 133).

**A. Motion to Dismiss Plaintiffs' First and Fourteenth Amendment Claim Alleged in Count I of Complaint For Failure to State A Claim Upon Which Relief Can Be Granted.**

7. The preceding paragraphs of this motion are incorporated herein by reference, as if fully set forth herein.

8. Plaintiffs' First and Fourteenth Amendment claim that inadequate supplies denied them the right to vote, alleged in Count I of Plaintiffs' Complaint, fails to state a claim upon which relief can be granted against the Defendants. (*Id.* at ¶ 108).

**WHEREFORE**, Defendants Luzerne County, Luzerne County Board of Elections, and Luzerne County Bureau of Elections request that this Honorable Court grant their motion to dismiss Plaintiffs' complaint, for any or all of the foregoing reasons, as well as all other relief that the Court deems just and proper.

**B. Motion to Dismiss Plaintiffs' First and Fourteenth Amendment Claim Alleged in Count II of Complaint For Failure to State A Claim Upon Which Relief Can Be Granted.**

9. The preceding paragraphs of this motion are incorporated herein by reference as if fully set forth herein.

10. Plaintiffs' claim that Defendants' alleged failure to train election staff violated the First and Fourteenth Amendments, alleged in Count II of Plaintiffs' Complaint, fails to state a claim upon which relief can be granted against the Defendants. (*Id.* at ¶ 114).

**WHEREFORE**, Defendants Luzerne County, Luzerne County Board of Elections, and Luzerne County Bureau of Elections request that this Honorable Court grant their motion to dismiss Plaintiffs' complaint, for any or all of the foregoing reasons, as well as all other relief that the Court deems just and proper.

**C. Motion to Dismiss Plaintiffs' Fourteenth Amendment Claim Alleged in Count III of Complaint For Failure to State A Claim Upon Which Relief Can Be Granted.**

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11. The preceding paragraphs of this motion are incorporated herein by reference as if fully set forth herein.

12. Plaintiffs' Fourteenth Amendment claim alleging an equal protection violation, Count III of Plaintiffs' Complaint, fails to state a claim upon which relief can be granted against the Defendants. (Id. at ¶¶ 127-130).

**WHEREFORE**, Defendants Luzerne County, Luzerne County Board of Elections, and Luzerne County Bureau of Elections request that this Honorable Court grant their motion to dismiss Plaintiffs' complaint, for any or all of the foregoing reasons, as well as all other relief that the Court deems just and proper.

**D. Motion to Dismiss Plaintiffs' Fourteenth Amendment Claim Alleged in Count IV of Complaint For Failure to State A Claim Upon Which Relief Can Be Granted.**

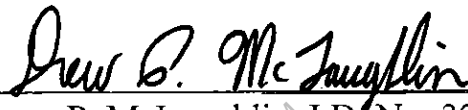
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13. The preceding paragraphs of this motion are incorporated herein by reference as if fully set forth herein.

14. Plaintiffs' Fourteenth Amendment claim alleging procedural due process violations, Count IV of Plaintiffs' Complaint, fails to state a claim upon which relief can be granted against the Defendants. (Id. at ¶ 133).

**WHEREFORE** Defendants Luzerne County, Luzerne County Board of Elections, and Luzerne County Bureau of Elections, request that this Honorable Court grant their motion to dismiss Plaintiffs' complaint, for any or all of the foregoing reasons, as well as all other relief that the Court deems just and proper.

Respectfully submitted,



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Attorneys for Defendants

DATED: May 2, 2023

Attorneys for Plaintiffs

  
Drew P. McLaughlin

Date: May 2, 2023

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