

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
PENNSYLVANIA**

SAMUEL DeMARCO III, in his official capacity as an At-Large Member of the Allegheny County Council and Allegheny County Board of Elections; DAVID J. MAJERNIK; TODD W. McCOLLUM; ROBERT C. HOWARD, JR.; and KAREN L. KRALIK;

CIVIL DIVISION

No. G.D. 24-003062

Plaintiffs,

v.

SARA INNAMORATO, in her official capacity as County Executive and Member of the Allegheny County Board of Elections; ALLEGHENY COUNTY BOARD OF ELECTIONS; and ALLEGHENY COUNTY,

Defendants.

CONSENT ORDER

AND NOW, this 18^m day of March, 2024, upon the consent of Plaintiffs Samuel DeMarco, III, in his official capacity as an at-large Member of the Allegheny County Council and member of the Allegheny County Board of Elections, David J. Majernik, Todd W. McCollum, Robert C. Howard, Jr., and Karen L. Kralik (collectively "Plaintiffs") and Defendants Sara Innamorato, in her official capacity as County Executive and member of the Allegheny County Board of Elections, the Allegheny County Board of Elections, and Allegheny County (collectively "Defendants"), it is hereby ORDERED as follows:

WHEREFORE, The Pennsylvania Election Code provides that each county shall create a board of elections, which shall have jurisdiction over the conduct of primaries and elections in such county. 25 P.S. § 2641. The Allegheny County Board of Elections is governed by and

vested with the powers set forth in § 2642 of the Pennsylvania Election Code (25 § P.S. 2642), including but not limited to the authority to determine how elections are administered in the County. Allegheny County Administrative Code, § 5-101.02.

WHEREAS, in that regard, the Pennsylvania Supreme Court in *Pennsylvania Democratic Party v. Boockvar*, 238 A.3d 345 (Pa. 2020) concluded that the Election Code permits county boards of election to accept hand-delivered mail-in ballots at locations other than their office addresses, including drop box locations.

WHEREAS, the Allegheny County Board of Elections is currently comprised of three members, County Executive Sara Innamorato, and At-Large County Councilpersons Samuel DeMarco, III and Bethany Hallam.

WHEREAS, it is the practice of the Elections Division of Allegheny County to exercise due diligence and to develop detailed logistical plans for implementation of elections and in 2024 it was directed by the County Executive and County Manager to develop a comprehensive plan consistent with best practices and guidance.

WHEREAS, on or about February 22, 2024, the County Executive Innamorato issued a press release announcing that Allegheny County would be operating Ballot Return Sites for the 2024 Primary Elections ("Press Release"). In this regard, the Press Release stated: "County Executive Sara Innamorato today announced expanded services for Allegheny County voters for the 2024 elections. In addition to ballot drop off and 'over the counter' voting services at the downtown County Office Building (542 Forbes Avenue), the Elections Division will also operate five staffed absentee/mail-in ballot drop off locations around the county."

WHEREAS, prior to issuing the Press Release, and notifying the Department of its proposed plan to open and operate Ballot Return Sites, the County and the office of the County

Executive had not notified the other two members of the Board of Elections, Samuel DeMarco, III and Bethany Hallam of such plans, nor had the Board taken a vote to approve such plan.

WHEREAS, it has been represented that the County Executive had relied on the opinion of legal counsel in directing the Election Division to promulgate and submit a plan to the Department of State, which her office publicized prior to a public meeting being held before the Board.

WHEREAS, Allegheny County issued a letter on March 11, 2024, regarding its plans to open the ballot return sites stating that the plan proposed by Allegheny is consistent with prior operations from 2020, including four elections in 2023.”

WHEREAS, on March 13, 2024, the Defendants notified DeMarco and Hallam of a scheduled meeting for a meeting of the Allegheny County Board of Elections to be held on March 20, 2024, and provided an agenda that indicates that utilizing ballot return sites for the 2024 Primary Elections will be addressed.

WHEREAS, on March 12, 2024, the legal notice of the meeting was submitted for publication in the Post-Gazette, the newspaper of record for the issue dated March 14, 2024, and it in fact was published that date, and further the notice of the meeting was posted on the Allegheny County website on March 14, 2024, including the agenda.

WHEREAS this publication complied with the “Sunshine Act”

WHEREAS, after learning of Allegheny County’s decision to implement ballot return sites for the 2024 Primary Election Plaintiffs filed the instant lawsuit in the Court of Common Pleas of Allegheny County, Pennsylvania, at Docket No. GD-24-003062 (the “Action”).

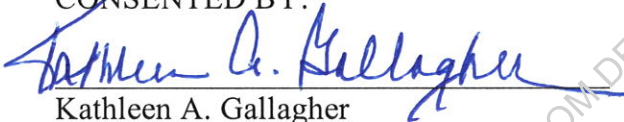
THEREFORE, the parties now wish to amicably resolve the claims being asserted in the Action under the following terms.

1. The parties confirm that for the 2024 Primary Election, as well as for all future elections, the issue of ballot return sites and/or satellite voting sites has been and continues to be within the scope of the Pennsylvania Elections Code Sections 2641, 2642 and 2643 (25 P.S. §§ 2641, 2642 and 2643). As such, decisions on these issues can only be made upon a majority vote of the members of the Allegheny County Board of Elections, on a per election basis.

2. The Board shall consider the above-mentioned agenda item of ballot return sites and shall conduct discussion, entertain motions to adopt or amend the Resolution at the duly advertised March 20, 2024, meeting.

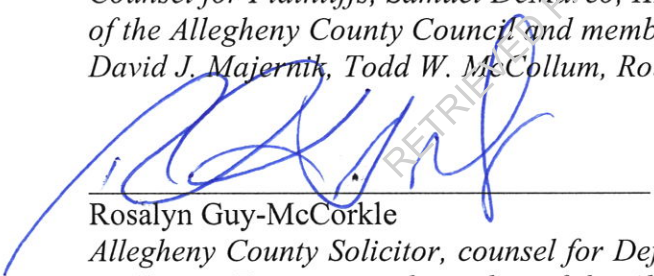
3. Immediately upon conclusion of the Board's March 20, 2024, meeting, scheduled for 11:30 AM, regardless of the outcome of Board action on this or any other issue, Plaintiffs shall dismiss the above cited action.

CONSENTED BY:



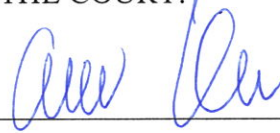
Kathleen A. Gallagher

Counsel for Plaintiffs, Samuel DeMarco, III, in his official capacity as an at-large Member of the Allegheny County Council and member of the Allegheny County Board of Elections, David J. Majernik, Todd W. McCollum, Robert C. Howard, Jr., and Karen L. Kralik


Rosalyn Guy-McCorkle

Allegheny County Solicitor, counsel for Defendants Sara Innamorato, in her official capacity as County Executive and member of the Allegheny County Board of Elections, the Allegheny County Board of Elections, and Allegheny County

BY THE COURT:



J.