

No. 20-599

In The
Supreme Court of the United States

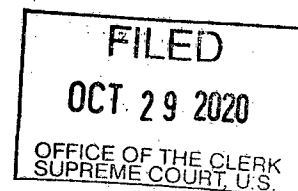
HIRSH SINGH, PRO SE.,

Petitioner,

HONORABLE PHILIP D. MURPHY, IN HIS OFFICIAL CAPACITY
AS GOVERNOR OF NEW JERSEY, HONORABLE TAHESHA WAY,
IN HER OFFICIAL CAPACITY AS NEW JERSEY SECRETARY OF
STATE, ET AL.,

Respondents.

**On Petition For Writ Of Certiorari
To The Supreme Court Of New Jersey**



PETITION FOR A WRIT OF CERTIORARI

QUESTIONS PRESENTED

- i. Does the New Jersey Governor's Executive Order taking over the powers of the state legislature to make election related laws and the primary election conducted according to this Executive Order violate the Due Process Clause and Elections Clause (Article 1, Section 4) of the United States Constitution?
- ii. Does the mail-in ballot system for the manner of voting created through an Executive Order of the Governor of New Jersey (and which is separate from the previously existing absentee ballot system) violate federal laws such as the Freedom of the Information Act when the newly created mail-in ballot system is not subject to federal laws that govern the absentee ballot system?

PARTIES TO THE PROCEEDING

Petitioner is Hirsh Singh, a candidate who ran in the primary election of 2020 to nominate the Republican Party candidate for the United States Senator representing New Jersey, the election for which will be conducted on November 3, 2020. Respondents are Philip D. Murphy in his official capacity as Governor of New Jersey, Tahesha Way in her official capacity as New Jersey Secretary of State, each of the County clerks of the twenty one counties of New Jersey, the twenty one County Boards of Elections, and the twenty one County Boards of Canvassers.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Hirsh Singh respectfully petitions for a writ of certiorari to be granted to review the judgment of the New Jersey Supreme Court in this time-sensitive case related to the election on November 3, 2020, and requests that this be treated as an emergency. There are no material facts in dispute. Given that the matter is an emergency, and all arguments and facts are in front of the court, Petitioner would also be agreeable to a final ruling on this matter without further filings.

OPINIONS BELOW

The brief order of the New Jersey Supreme Court denying Petitioner's Motion to reverse the judgment of the Superior Court of New Jersey, Appellate Division against Petitioner is available at Pet. App. 1. The opinion and order of the Superior Court of New Jersey, Appellate Division ruling against Petitioner and in favor of the position that the Governor's emergency powers permitted him to take over the functions of the legislature's functions to make election-related laws is available at Pet. App. 2.

JURISDICTION

The New Jersey Supreme Court entered its judgment on October 27, 2020, and Petitioner has filed this petition in a timely manner. The jurisdiction of this Court is based on 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND FEDERAL PROVISIONS INVOLVED

Article 1, Section 4 of the United States Constitution ("Elections Clause") provides, "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators."

Section 1 of the Fourteenth Amendment of the United States Constitution provides, "[N]or shall any State deprive any person of life, liberty, or property, without due process of law..."

5 U.S. Code § 552 ("Freedom of Information Act" or "FOIA") provides in section (a)(3)(A), "[E]ach agency, upon request for records... shall make the records promptly available to any person." 5 U.S. Code § 552 (a)(1) requires each agency to make available information to the public related to the procedure for obtaining information and records.

STATEMENT OF THE CASE

This lawsuit is brought by Republican Primary Candidate for the U.S. Senate seat in New Jersey, Hirsh Singh who has standing both as a voter and as a candidate as he ran in the primary election held on July 7, 2020 for the aforementioned seat. The candidate was injured by the fact that while he was in the midst of campaigning as a candidate participating in a lawfully created election, the Governor of New Jersey created a parallel illegitimate election, the manner of voting for which was created by Executive Order 144 ("EO 144") in violation of Article 1, Section 4 of the United States Constitution. App.4, page 9.

The result of the legitimate election for which the Petitioner signed up, and the result of the illegitimate election were combined together by the New Jersey Secretary of State. App.4, page 19. Petitioner has shown lower courts that had the result of only the legitimate election been taken into account without adding the ballots from the unconstitutional election based on EO 144, Petitioner would have been the winner of the primary election. App.4, page 25. This determination was based on the numbers provided by thirteen counties which made available the breakdown of mail-in ballots and in-person ballots while eight counties refused to turn over such information. In three of these counties, the result would have been reversed in favor of Petitioner. App.4, page 25.

Additionally, Petitioner's liberty interests related to his Due Process rights were violated as he was deprived of the opportunity to participate both as a candidate and as a voter in a lawfully created primary election because of EO 144. App.4, page 7.

A separate claim seeks to forbid the state from making use of the mail-in ballot system that is not protected by federal and state laws and this claim is separate from the claims that seek to declare

the primary election unconstitutional. During the counting of votes, Petitioner approached officials of the United States Postal Service (USPS) seeking information about the election and discovered that USPS was not only unable to provide records related to those portions of the election process for which it was involved in decision-making, but that it had no procedures in place to provide such information. Thus these portions of the election were in violation of the Freedom of Information Act. App.4, page 16.

I. EXECUTIVE ORDER 144 OF THE NEW JERSEY GOVERNOR, THE PRIMARY ELECTION BASED ON IT, AND THE INCLUSION OF NOMINEES FROM THE PRIMARY ELECTION ON THE BALLOT FOR THE GENERAL ELECTION VIOLATE THE ELECTIONS CLAUSE OF THE UNITED STATES CONSTITUTION

(a) *Provisions in the United States Constitution and the related provisions in New Jersey's Constitution*

Article 1, Section 4 of the United States Constitution provides, "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators." Consequently, the New Jersey Legislature has created laws related to the times, places and manner of holding elections.

Article IV, Legislative Section 1(1) of the New Jersey Constitution clearly states, "The legislative power shall be vested in a Senate and General Assembly" while Article IV, Legislative Section 7(6) of the New Jersey Constitution states, "The laws of this State shall begin in the following style: "Be it enacted by the Senate and General Assembly of the State of New Jersey."" Additionally, Article III of the New Jersey Constitution provides, "No person or persons belonging to or constituting one branch shall exercise any of the powers properly belonging to either of the others, except as expressly provided in this Constitution."

Thus the New Jersey's lawmaking powers related to the elections are completely vested in the legislative branch of the government and there is nothing in the New Jersey Constitution

which expressly provides for the Governor to take over the powers of the legislature with regards to the framing of election laws.

(b) *Executive Order 144, which modified several election related laws related to the time and manner of holding elections, and which transferred the powers of the NJ Legislature to the Secretary of State, and which replaced laws passed by the legislature with guidelines created by the Centers for Disease Control and Prevention and other federal and state government entities, is in violation of the Elections Clause of the United States Constitution*

On May 15, 2020, Governor Phil Murphy signed Executive Order 144 ("EO 144"). By issuing this order, the Governor interfered with and changed several laws related to the time and manner of holding elections including N.J.S.A. 19:8-4, N.J.S.A. 19:63-9, N.J.S.A. 19:63-22, N.J.S.A. 19:63-18, N.J.S.A. 19:6-2, N.J.S.A. 19:8-2, N.J.S.A. 19:52-6, N.J.S.A. 19:14-9, N.J.S.A. 19:23-54, N.J.S.A. 19:29-3, N.J.S.A. 19:23-55, N.J.S.A. 19:28-1, N.J.S.A. 19:52-6, N.J.S.A. 19:53B-21, N.J.S.A. 19:53C-21, and N.J.S.A. 52:14B-1.

EO 144 (1) provides, "All elections that take place on July 7, 2020, shall be conducted primarily via vote-by-mail ballots, which will automatically be sent to all "Active" registered Democratic and Republican voters without the need for an application to receive a vote-by-mail ballot." This is an instance of the Governor determining the manner of conducting elections through the Executive Order.

EO 144 (14) provides that "the ballot-return deadline in N.J.S.A. 19:63-22 shall be suspended" and that "[e]very vote-by-mail ballot that is postmarked on or before July 7, 2020, and that is received by July 14, 2020, at 8:00 p.m. shall be considered valid and shall be canvassed." By suspending the ballot return deadline of 48 hours after the election that is specified in N.J.S.A. 19:63-22, and

extending this deadline by five days, EO 144 (14) extended the time of voting through mail-in-ballots by five days and is hence unconstitutional.

Further, each enumerated point in EO 144 is an unconstitutional action by the Governor that changes either the time or the manner of holding elections, or both the time and manner of conducting elections, by modifying or overriding laws created by the legislative branch which are related to the time and manner of conducting elections.

The Executive Order delegated the power of modifying N.J.S.A. 19:31-21 related to the manner of conducting elections to the Secretary of State when it stated, "The Secretary of State may modify the requirements of N.J.S.A.19:31-21 concerning the use of poll books and the information contained therein as necessary to address the procedure by which the July 7, 2020 Primary Election will be conducted under this Order, and the needs resulting therefrom."

The Executive Order also effectively and illegitimately replaced the powers of the legislature to determine the time and manner of conducting elections by guidelines of bureaucratic departments such as the Centers for Disease Control and Prevention, the State Department of Health, and various county departments of health, when it stated, "Vote-by-mail ballots shall be processed and canvassed in accordance with guidelines provided by the Centers for Disease Control and Prevention, the State Department of Health, and the respective county departments of health."

(c) *New Jersey's Constitution provides the proper manner for the Governor to act whenever public interest shall require such action but the Governor chose to bypass such a method eventually leading to the violation of Article 1 Section 4 of the United States Constitution*

Article IV, Legislative Section 1 (4) of the New Jersey Constitution deals with the manner in which the Governor could have acted during times of emergency without violating the Constitution when it provides: "Special sessions of the Legislature shall be called by the Governor upon petition of a majority of all the members of each house, and may be called by the Governor whenever in his opinion the public interest shall require." If the Governor believed that the public interest required the action of the legislature, nothing stopped him from calling for a special session of the legislature and working with the legislative branch to change the law in accordance with the proper procedure without hijacking the powers of the legislature.

(d) *New Jersey's courts erred in claiming that the emergency powers granted the power to the Governor to take over the functions of the legislature and change election laws; in reality, the only emergency powers granted to the Governor are those which are already part of the Executive branch; further, even if they granted him such powers, it would be unconstitutional*

In ruling against the Petitioner, the New Jersey Superior Court, Appellate Division erroneously held that "the Governor was authorized to exercise those delegated emergency powers and revise customary in-person voting processes in order to protect the public health and safety" and cited N.J.S.A. 26:13-1 to 31 (Emergency Health Powers Act) and N.J.S.A. App. 9-30 to 63 (Civilian Defense and Disaster Control Act) in its support. The New Jersey Supreme Court preserved this ruling. App.2, page 4.

Governor Phil Murphy too, in his Executive Orders 120 and 144 has listed N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A:9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4, and claimed that they grant him emergency powers that allowed him to pass the two Executive Orders.

In reality, nothing in N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A:9-33 et seq., N.J.S.A. 38A:3-6.1, or N.J.S.A. 38A:2-4 can be construed as either transferring the power of the legislature to the Governor in times of emergencies or granting the power to the Governor to unilaterally frame election laws for the state of New Jersey.

N.J.S.A. 26:13-1 deals with the powers of the Commissioner of Health and Senior Services during a public health emergency such as directing health care workers and registered support services personnel, safe disposition of human remains, making a determination to investigate any deaths, and perform similar related functions. The Governor's includes declaring the health emergency, describing the nature of emergency and the geographic area subject to the declaration, impacting reimbursement claims, and exercising the powers of the Commissioner of Health and Senior Services if a disaster has been declared.

N.J.S.A. App. A:9-33 describes the objective of the civilian defense act and disaster control act using the words, "The purpose of this act is to provide for the health, safety and welfare of the people of the State of New Jersey and to aid in the prevention of damage to and the destruction of property during any emergency." Elections have nothing to do with property damage or destruction, and nothing in the portions that follow this statement of purpose grant to the Governor the rights of changing election laws or taking over the functions of the legislature. An example of powers under N.J.S.A. App. A:9-33 would be for the Governor to determine the control and direction of the flow of vehicular traffic on any State or Interstate highway, and its access roads, including the right to detour, reroute or divert any or all traffic, and to prevent ingress or egress from any area to which the declaration of emergency applies, but there is nothing to let the Governor change the law to determine the time and manner in which elections prescribed by the United States Constitution are conducted.

N.J.S.A. 38A:3-6.1 grants the power to “order to active duty, with or without pay, in State service, such members of the New Jersey National Guard, that in his judgment are necessary to provide aid to localities in circumstances which threaten or are a danger to the public health, safety or welfare” and to “authorize the employment of any supporting vehicles, equipment, communications or supplies as may be necessary.”

N.J.S.A. 38A:2-4 is the power to order militia to active duty.

None of the other statutes cited by the New Jersey court grant the power to the Governor. In fact, any emergency power designated to the Governor is a power that is already with the Executive branch.

(e) *Supreme Court Precedent (Arizona State Legislature v. Arizona. Independent Redistricting Commission) supports case for declaring the Governor’s actions unconstitutional and ruling in favor of the Petitioner*

In *Arizona State Legislature v. Arizona. Independent Redistricting Commission*, 576 US _ (2015) the Supreme Court citing *Smiley v. Holm* stated:

Lawmaking, we further noted, ordinarily “must be in accordance with the method which the State has prescribed for legislative enactments.”

The Supreme Court further added:

Nothing in the Elections Clause, we said, “attempt[ed] to endow the legislature of the State with power to enact laws in any manner other than that in which the constitution of the State ha[d] provided that laws shall be enacted.” *Id.*, at 368.

The State of New Jersey has not prescribed lawmaking to be in the form of arbitrary decrees issued by the Governor based on his own imagination. Nor do New Jersey's emergency powers allow him to usurp the powers of the legislature and change the election laws. The provisions of the Constitution of New Jersey listed earlier [Article III, Article IV 1(1), Article IV 7(6)] clearly draw the boundaries between various branches of the government and designate the law making powers to the Legislative branch.

(f) *Recent Supreme Court Ruling in Democratic National Committee et al. v. Wisconsin State Legislature, et al. supports Petitioner's position to rule Executive Order 144 unconstitutional*

In *Democratic National Committee et al. v. Wisconsin State Legislature, et al. On Application to Vacate Stay*, 592 U. S. ____ (2020), Gorsuch, J., concurring, noted, "The Constitution provides that state legislatures—not federal judges, not state judges, **not state governors**, not other state officials—bear primary responsibility for setting election rules. Art. I, §4, cl. 1. And the Constitution provides a second layer of protection too. If state rules need revision, Congress is free to alter them. *Ibid.* (emphasis added)

(g) *New Jersey Appellate Court erred in focusing on the time of the election which was never challenged, and in claiming that Petitioner could have filed the lawsuit prior to injury having occurred*

In its ruling, the New Jersey Appellate Court made multiple errors which were not fixed by the New Jersey Supreme Court. First, the appellate court stated that "Plaintiff took advantage of the extended opportunity to campaign and attract voters for the primary

election and did not attempt to halt the process." *See* App. 2, page 41. This case was not about the extended time but the manner of election. The extended time was based on a legitimate law created by the legislature and had never been challenged by the Petitioner. However, the New Jersey Appellate court, right from the time it took over the case, has erroneously described this case as a challenge against Executive Order 120 which changed the time of the election in addition to a challenge against Executive Order 144. *See* App. 3, page 1. Executive Order 120 became moot as the same change in the date of the election was codified by the legislature.

The above position of the court is flawed for a very important reason – there were two elections in progress, and the Petitioner was doing what he could in good faith to ensure that he won the legitimate election. In effect, the court makes the unreasonable argument that the Petitioner should have disrupted his campaigning for the legitimate election and focused on challenging the illegitimate election because any challenge to the illegal election would not have been possible without redirecting resources from the campaigning activities of the legal election. This is clearly an unreasonable expectation on the part of the court that Petitioner take on injury to correct the Governor's unconstitutional actions.

The court also stated, "Plaintiff knew weeks before the July primary what Executive Order 144 said, and that it was allowing citizens to vote by mail without an advance request for a ballot. There was no need to wait for the election to occur in order to bring a challenge to the procedures." *See* App. 2, page 41. This position by the court is flawed not only for the reason stated above but also because no injury to the Petitioner had occurred until after the county officials and the Secretary of State's Office started including the ballots from the illegitimate election based on EO 144 in the final tallies of candidates. The court ignored Petitioner's argument which stated:

"Injury began only after July 7 due to mixing of results from the legal and illegal elections, and fraudulent activities even by the State's own standards occurred, and Petitioner objected to the Secretary of State's Office as early as July 17: Petitioner first objected to the illegitimate activities related to the election by sending emails to the Secretary of State's Office on July 17 but did not receive any response."

See App. 4, page 23. (emphasis original)

The date of Petitioner's first complaint, July 17, 2020, was clearly weeks prior to the election results being declared and certified on August 9th, 2020, and the court's claim that Petitioner's complaint was due to his purported "loss" in the election is clearly flawed. *See App. 4, page 17.* The complaint in the court was the culmination of good faith attempts to get the county officials and Secretary of State's Office to fix their problems after Petitioner started facing injury. The court also ignored Petitioner's information that the request for first recounts had been filed as early as July 24, 2020 when the motion stated:

Petitioner filed for recounts as early as July 24. It was the Attorney General's office that interfered in several counties and blocked this process. It is due to their efforts that the decision on recounts have not been arrived at yet, and Sussex County only gave their decision on August 20. Even after filing this complaint, the Attorney General's office has shown no sense of urgency and has attempted to slow down the process despite claiming that they believe this matter is time sensitive.

See App. 4, page 17.

Petitioner also pointed out to the New Jersey Superior Court, Appellate Division that the traditional estoppel principles favored the Petitioner. *See App. 4, page 21.* However, the court did not address this matter.

(h) *New Jersey judiciary has a history of voiding an election after the election date and could have done so in this case*

The New Jersey judiciary has a history of voiding an election after the election date. *See In re Contest of November 8, 2011 General Election of Office of N.J. General Assembly, Fourth Legislative Dist.*, 427 N.J. Super. 410, 48 A.3d 1164 (N.J. Super. 2012). In that case, the New Jersey court held:

It ensures that the Vacancy Paragraph is fully implemented by legislation. Most importantly, it ensures that in the event of "[a]ny vacancy in the Legislature occasioned otherwise than by expiration of term," an interim successor is appointed to represent a legislative district which might otherwise go without representation and a voice in the State Legislature for a year or more. Again, to interpret it otherwise "would frustrate the clear Legislative design to exclude only those cases where the vacancy, by reason of the expiration of the term of office, would be filled by the electorate in the normal course of events." Application of Moffat, *supra*, 142 N.J. Super. at 229-30, 361 A.2d 74.26

Accordingly, this court accepts this supported and salutary interpretation of N.J.S.A. 19:27-11.2, rather than the Attorney General's position that the Fourth Legislative District's seat in the General Assembly must remain vacant until the next general election.

In this case too, voiding the primary election and the general election for the Senate seat would not result in New

Jersey going unrepresented as the Governor could appoint a Senator for the interim period.

II. EXECUTIVE ORDER 144 OF THE NEW JERSEY GOVERNOR, THE PRIMARY ELECTION BASED ON IT, AND THE INCLUSION OF NOMINEES FROM THE PRIMARY ELECTION ON THE BALLOT FOR THE GENERAL ELECTION VIOLATE THE DUE PROCESS CLAUSE OF THE UNITED STATES CONSTITUTION

Executive Order 144, by upending the power of the New Jersey Legislature and replacing the election for the offices of the U.S. Senator and the members of the House of Representatives by an election created by the Executive Order, deprived the petitioner from participating as a candidate as well as from voting as a voter in a lawfully created election created by the New Jersey Legislature. The Executive Order, the election it created, and the results of the election violate both the Substantive Due Process rights and the Procedural Due Process rights of the Petitioner and are all unconstitutional. Any inclusion of the results of the primary election on the ballots for the general election to be held on November 3, 2020 would also be unconstitutional. In *Reynolds v. Sims*, 377 U.S. 533 (1964), the U.S. Supreme Court quoted from *United States v. Classic*, 313 U.S. 299, 313 U.S. 315, "Obviously included within the right to choose, secured by the Constitution, is the right of qualified voters within a state to cast their ballots and have them counted." In the current context, the act of casting ballots refers to an election created by the legislature in accordance with the Constitution and that right has been taken away as the primary election of July 7, 2020 was not constitutional.

III. THE MAIL-IN BALLOT SYSTEM VIOLATES THE FREEDOM OF INFORMATION ACT AS IT APPLIES TO THE POSTAL SERVICE WHICH IS A COMPONENT IN WHAT SHOULD BE A TRANSPARENT GOVERNMENT PROCESS, THE NEW JERSEY COURT ERRED BY CLAIMING LACK OF JURISDICTION AND IN IGNORING THE STATE'S ROLE IN USING THE USPS

According to 5 U.S. Code § 552 (a)(4)(B):

On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, **has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records** improperly withheld from the complainant. (emphasis added)

Petitioner never requested the court to enjoin USPS from withholding agency records or to order the production of any agency records. What Petitioner pointed out to the court was that EO 144 made the Respondents in this case utilize USPS which was in violation of FOIA by the mere act of being a participant in New Jersey's new mail-in ballot system which did not have the legal protection of the previously existing absentee ballot system. 5 U.S. Code § 552 (a)(4)(B) does not stop a state court from declaring that the State actors were in furtherance of an action that violated FOIA and to ask the State

actors from stopping such actions. Petitioner's complaint narrowly sought only such relief and did not attempt to get the state court to give directions to USPS.

Specifically, Petitioner sought that the court "Declare the entire system of mail-in ballots except as provided by previously defined procedures for the absentee ballots to be issued to the members of the Armed Forces to be in violation of the Freedom of Information Act" and that the court "Issue an injunction forbidding the use of the mail-in ballot system for the general election of November 3, 2020." App.4, page 29.

The reliefs sought have very strong basis in law as well as facts. While Article II (4) of the New Jersey Constitution grants the legislature the power to provide for absentee voting by members of the armed forces, and while this process is well defined and based on members of the armed forces requesting absentee ballots, the same is not true for the general mail-in-ballot system created through Executive Order 144. These lack proper definition of the entire process from end to end for the mail-in-ballot system, with many unknowns especially when the chain of custody of the ballots passes to the United States Postal System. This means that a large part of the election process is out of control of the state of New Jersey and it is impossible to obtain proper information about the election process. As the United States Postal Service is a federal entity that derives its power from the United States Constitution, the Freedom of Information Act is applicable to it, and New Jersey's use of USPS furthers the violation of FOIA. App.4, page 16.

Unlike in the case of the mail-in ballots which have no federal laws and procedures supporting them, the absentee ballot system is

governed by federal laws that ensure the privacy of voters and also mandate for the ability to track the ballots. The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) was passed in 1986, and expanded significantly in 2009, when Congress passed the Military and Overseas Voter Empowerment (MOVE) Act. The Help America Vote Act of 2002 created the Election Assistance Commission which certifies voting systems and audits election processes. The MOVE Act has a requirement to "allow UOCAVA voters to track the receipt of their absentee ballots through a free access system." None of these federal laws apply to the mail-in ballot system created by the Executive Order 144 or the mail-in ballot system that will be used in the general election of November 3, 2020. App.4, page 26.

Petitioner provided information to the court related to visiting and contacting multiple post offices in an attempt to obtain information related to the election process in which the post office played a decision-making role as its personnel informed the county officials which ballots that were postmarked after the deadline that they should count and which ballots they should discard. Petitioner's also showed the court that the post offices were not only unable to provide the information sought from them about the election process but they also had no procedures in place for the public to seek such information. App.4, page 9.

The lack of ability to obtain information and the lack of proper government procedures to obtain such information makes the mail-in voting system an opaque process and hence it is in violation of the Freedom of Information Act. The lack of information on proper procedures to obtain information on how to request records from the Post Office means that the mail-in ballot system violates 5 U.S. Code § 552 (a)(1). The lack of production of records by USPS is a violation of 5 U.S. Code § 552 (a)(3)(A) as all communication with the

postmasters as well as the state representative occurred on July 22, 2020 or prior to that date, and there has been no response from them so far.

Both USPS and the judiciary are now involved in making rules for the election

On October 28, 2020, in Theresa Richardson, et al. v. Donald J. Trump et al., Civil Case No. 20 - cv - 02262 (EGS), the United States District Court for the District of Columbia gave detailed orders to USPS to implement election related actions. For example, one part of the order read:

It is FURTHER ORDERED that by no later than 9:00 AM on October 29, 2020, Defendants shall issue a one-page notice to, or deliver a Stand-Up Talk to, all USPS personnel who may have job responsibilities related in any way to late and extra trips, stating that: "Late and extra trips will be approved to the maximum extent necessary to increase on-time mail deliveries, particularly for Election Mail. Any prior communication that is inconsistent with this should be disregarded. To be clear, late and extra trips will be approved to the same or greater degree than they were performed prior to July 2020 when doing so would increase on-time mail deliveries."

App. 9, page 1.

This case is an example of what the election process should not look like as it not only demonstrates that the USPS was interfering in the election process, but it also shows that the judiciary is now involved in making up rules for the election.

A timely and simple ruling forbidding the use of the new mail-in ballot system until proper procedures and laws are put in place

would put an end to the confusion and ensure an orderly election process. A swift ruling before election day would allow voters to decide to vote in person.

REASONS TO GRANT THE PETITIONER

The New Jersey Court Ruling flies in the face of Supreme Court precedents

The New Jersey court ruling flies in the face of the rulings in *Arizona State Legislature v. Arizona. Independent Redistricting Commission*, 576 US 787 (2015), and *Democratic National Committee et al. v. Wisconsin State Legislature, et al. On Application to Vacate Stay*, 592 U. S. ____ (2020). While the former requires lawmaking to be in accordance with the method which the State has prescribed for legislative enactments, the latter has clearly opposed the Governor from taking over the role of the legislature.

If left unchecked, the United States could unravel as a Constitutional Republic and become a dictatorship

The United States of America is a Constitutional Republic and *fatwas* and unilateral decrees have no place in our system. No matter how painful it might be to the employees of the Secretary of State's Office or the employees of the county boards of elections, this action by the Governor of New Jersey will have very serious ramifications and it must be nipped in the bud. Elections are one of the key components that form the foundation of our Constitutional Republic, and the minor inconveniences caused to the Secretary of State, the Attorney General, and the Governor, must be ignored. If such unilateral actions

such as the Governor of New Jersey delegating unlimited powers to himself and taking over the other branches of the government are left unchecked, it will herald the beginning of the end of our Constitutional Republic.

CONCLUSION

The emergency petition for a writ of certiorari should be granted. As the matter is an emergency, and all arguments and facts have been placed in front of the court, the court could also issue a final ruling on the reliefs sought in the New Jersey court which sought to declare Executive Order 144 and the election based on it unconstitutional, void New Jersey's primary election for U.S. Senator, and on the separate matter of the lack of transparency in the election process, forbid the use of mail-in ballots not adequately protected by federal and state laws (relief sought – App. 4, page 28).

Respectfully submitted,

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