

APPENDIX A

IN THE SUPREME COURT OF PENNSYLVANIA MIDDLE DISTRICT

Andrew Ioannidis,	:	No. 56 MAP 2021
Appellant	:	
	:	Appeal from the
v.	:	Order of the
	:	Commonwealth
Tom Wolf, in his official	:	Court at No. 635
Capacity as Governor of	:	MD 2020 dated
the Commonwealth of	:	July 8, 2021
Pennsylvania and	:	
Veronica Degraffenreid,	:	
in her official capacity	:	
as Acting Secretary of	:	
the Commonwealth of	:	
Pennsylvania,	:	
Appellees	:	

ORDER

PER CURIAM DECIDED: February 23, 2022

AND NOW, this 23rd day of February, 2022,
the Order of the Commonwealth Court is
AFFIRMED.

Justice Brobson did not participate in the
consideration or decision of this matter.

Judgment Entered 02/23/2022

(1a)

APPENDIX B

**IN THE COMMONWEALTH COURT OF
PENNSYLVANIA**

Andrew Ioannidis,	:	
Petitioner	:	
	:	No. 635 M.D. 2020
v.	:	Argued: June 7, 2021
	:	
Tom Wolf, in his official	:	
Capacity as Governor of	:	
the Commonwealth of	:	
Pennsylvania and	:	
Veronica Degraffenreid,	:	
in her official capacity	:	
as Acting Secretary of	:	
the Commonwealth of	:	
Pennsylvania,	:	
Respondents	:	

BEFORE:

HONORABLE RENEE COHN JUBELIRER, Judge
HONORABLE MICHAEL H. WOJCIK, Judge
HONORABLE ELLEN CEISLER, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION BY JUDGE WOJCIK

FILED: July 8, 2021

Before the Court is the Application for Summary Relief in the Form of a Motion to Dismiss Amended Petition for Review as Moot (Application to Dismiss) and Preliminary Objections to Amended Petition for Review (POs) of Tom Wolf, in his official capacity as Governor of the Commonwealth of Pennsylvania (Governor); and Veronica Degraffenreid, in her official capacity as Acting Secretary of the Commonwealth of Pennsylvania (Secretary) (collectively, Respondents), to the Amended Petition for Review in the Nature of a Petition and Complaint in Equity (Petition) filed by Andrew Ioannidis (Petitioner) in our original jurisdiction seeking declaratory and injunctive relief, and an audit and recount of the results of the November 3, 2020 General Election (2020 General Election) relating to the election of electors of President and Vice-President of the United States. We grant the Application to Dismiss, dismiss the Amended Petition as moot, and overrule the POs as moot.

On December 6, 2020, Petitioner filed a Petition for Review in the Nature of a Petition for Preliminary Injunctive Relief, Writ of Mandamus, and Declaratory Judgment (12/6/20 Petition) in our original jurisdiction, asking this Court "to immediately enter an Order Declaring the 2020 General Election to be contested;" to order "an immediate hearing to establish an expedited discovery schedule;" to issue "a writ of mandamus in his favor and against Respondents compelling Respondents to decertify the 2020 General Election results and compelling the Respondents to conduct a full audit and recount

whereby only the legal votes are counted;" and to issue an "injunction that prohibits [] Respondents from taking official action to tabulate, compute, canvass, certify, or otherwise finalize the results of the [2020 General] Election as to the federal offices" under the relevant enumerated provisions of the Pennsylvania Election Code (Election Code).¹ 12/6/20 Petition at 8-9.

On December 10, 2020, Petitioner filed an Amended Petition for Review in the Nature of a Petition for a Writ of Mandamus and Request for Preliminary and Permanent Injunctive Relief (12/10/20 Amended Petition) in our original jurisdiction, asking this Court to "issue a Writ of Mandamus directing [the Governor] to withdraw the certification of the 2020 [General Election];" "to withdraw the certificates of election issued to the Democratic electors as a result thereof;" to direct[the Secretary] to satisfy her duties under the Election Code and conduct a full audit of the 2020 General Election whereby only the legal votes are counted;" and to issue preliminary and permanent injunctions "to prevent the substantial injury and immediate and irreparable harm that Petitioner would suffer if Respondents are permitted to violate the laws of the Commonwealth of Pennsylvania and the United States Constitution" based on "their obligation to enforce and comply with" the Election Code. 12/10/20 Amended Petition at 7-8.

¹ Act of June 3, 1987, P.L. 1333, as amended, 25 P.S. §§2600-3591

On December 11, 2020, Petitioner filed an Application for Emergency Writ of Mandamus and for Emergency Preliminary Injunction (12/11/20 Application) asking this Court to "issue an Immediate Emergency Writ of Mandamus directing [the Governor] to withdraw the certification of the 2020 [General Election];" "to withdraw the certificates of election issued to the Democratic electors as a result thereof;" to "preliminarily enjoin [the Secretary] from laying the returns before [the Governor];" to "enjoin [the Governor] from enumerating and ascertaining the number of votes given for each person so voted for;" to "enjoin [the Governor] from causing any certificate of election to be delivered to any presidential electors;" and to "immediately schedule a preliminary hearing." 12/11/20 Application at 24-25. By December 14, 2020 order,² this Court denied the 12/11/20 Application

² On December 14, 2020, the Pennsylvania Electors of President and Vice-President of the United States, who were elected in the 2020 General Election, executed the Certificate of Votes for President and Vice-President for Joseph Biden and Kamala Harris, respectively. *See* <https://www.archives.gov/files/electoral-college/2020/vote-pennsylvania.pdf> (last visited May 28, 2021); Amended Petition 160, 161 ("[The Governor] signed the Certificate of Ascertainment for the slate of electors for Joseph R. Biden as President and Kamala D. Harris as Vice-President of the United States[, and] Respondents issued certificates of election to Democrat[ic] Presidential Electors."). *See also* U.S. Const. art. II, §1, cl. 2 ("Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may

based on the reasons set forth by this Court in *Metcalfe v. Wolf* (Pa. Cmwlth., No. 636 M.D. 2020, filed December 9, 2020), for denying the petitioners' emergency motion therein seeking to compel the Governor to withdraw the certification of the results of the 2020 General Election and to withdraw the certificates of election issued to the Democratic Presidential and Vice-Presidential Electors.

Subsequently, Petitioner filed yet another amended petition for review and three additional emergency applications seeking to decertify the results of the 2020 General Election. By January 8, 2021 and February 11, 2021 orders, this Court denied

be entitled in the Congress[.]" U.S. Const. amend. XII ("The Electors shall meet in their respective states and vote by ballot for President and Vice-President [...]; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate[.]"); Electoral Count Act of 1887, 3 U.S.C. §9 ("The electors shall make and sign six certificates of all the votes given by them, each of which certificates shall contain two distinct lists, one of the votes for President and the other of the votes for Vice-President, and shall annex to each of the certificates one of the lists of the electors which shall have been furnished to them by direction of the executive of the State.").

the emergency applications, struck the amended petitions for review, and prohibited Petitioner from filing additional applications for emergency relief or amended petitions for review without leave of court. Nevertheless, in our February 11, 2021 order, this Court directed Respondents to file responsive pleadings to the instant Amended Petition, which was filed on January 19, 2021.

In the 12-count Amended Petition, Petitioner alleges the violation of a number of his constitutional rights with respect to the conduct of the 2020 General Election. As Petitioner explains, in order to vindicate these rights:

Counts I through X of Petitioner's [Amended Petition] pray for preliminary and permanent injunctive relief, declaratory relief, non-discriminatory investigation and enforcement of violations, an Order requiring Respondents to satisfy their duties under the law; an Order requiring Respondents to effectuate a full audit and recount of Pennsylvania's 2020 Presidential Election, and any other relief provided by law.

Petitioner's Answer and Brief in Opposition to Respondents' Application to Dismiss (Answer) at 12-13. In Count XI, Petitioner asks this Court to "issue a Writ of Mandamus directing [the Governor] to withdraw the certification of the 2020 Presidential election;" directing him "to withdraw the certificates issued to the Democratic electors as a result thereof;"

and to "direct [the Secretary] to satisfy her duties under the law and conduct a full audit and recount of the 2020 General Election whereby only legal votes are counted." Amended Petition at 28. Finally, in Count XII, Petitioner asks this Court to issue "[a]n emergency preliminary injunction and permanent injunction [because they] are necessary to prevent immediate and irreparable harm to Petitioner that cannot be compensated by damages" based on the purported improprieties with respect to the conduct of the 2020 General Election. *Id.* at 29.

On February 19, 2021, Respondents filed the Application to Dismiss, asserting, *inter alia*, that Joseph Biden and Kamala Harris were inaugurated as President and Vice-President of the United States on January 20, 2021,³ and that

courts have held that election claims, including those requesting injunctive relief, are moot after an inauguration is held. *See Sablosky v. McConnell* [(D.D.C., Civil Action No. 16-2528, filed April 3, 2017), slip op. at 1 n.1] (denying request for injunction as moot because electoral vote was counted and former

³ *See* U.S. Const. amend. XX, § 1 ("The terms of the President and Vice-President shall end at noon on the 20th day of January, ... and the terms of their successors shall then begin.").

President Trump's inauguration had been held); *Conant v. Brown*, 248 F. Supp. 3d 1014, 1019 (D. Or. 2017) [, *aff'd*, 726 F. App'x 611 (9th Cir. 2018)] (holding constitutional claims regarding state's processes for voting in presidential elections were moot because 2016 election had been held); *Newdow v. Bush*, 391 F. Supp. 2d 95, 107 (D.D.C. 2005) (holding constitutional claims with respect to inauguration moot because inauguration had been held).

Application to Dismiss ¶8: Moreover, "Pennsylvania's election results have long since been certified, its electors voted and the Inauguration held. *See Sibley v. Alexander*, 916 F. Supp. 2d 58, 62 (D.C. Cir. 2013) (holding elections claims seeking to enjoin electors from casting their ballots moot after ballots were cast)." *Id.* ¶10. Finally, Respondents assert that "Petitioner's claims are moot for the independent reason that the relief [that he] seeks, even assuming it could be granted, would not change the results of the election." *Id.* ¶11. Specifically, the "final Electoral College votes count was 306 for Joseph Biden and 232 for Donald Trump [see <https://www.archives.gov/electoral-college/2020> (last visited May 28, 2021)]," so that "any change in Pennsylvania's 20 electoral votes could not alter the election of President Biden and Vice-President [Harris]." *Id.* (footnote omitted).

In his Answer, Petitioner contends that the instant matter is not moot because this matter is not an election contest as he "is not alleging violations of

the Election Code" but, rather, "Petitioner has unequivocally invoked the First and Fourteenth Amendments to the United States Constitution and alleged violations thereof," "and in respect to Petitioner's Count in Mandamus, whether Respondents' conduct was arbitrary, fraudulent, or based on a mistaken view of the law." Answer at 3, 4. In support, in the Amended Petition, Petitioner set forth specific allegations⁴ relating to the conduct of the 2020 General Election through which his foregoing constitutional rights were purportedly abridged. *See* Amended Petition at 4-15, 15-16, 16-17, 17-18, 19, 20, 21-22, 23, 24, 25, 26-27, 28, 29.⁵

⁴ As this Court has explained:

Pennsylvania is a fact-pleading state and [Pa. R.C.P. No.] 1019(a) provides that "[t]he material facts on which a cause of action or defense is based shall be stated in a concise and summary form." Specifically, a plaintiff is required "to plead all the facts that he must prove in order to achieve recovery on the alleged cause of action." Legal conclusions and general allegations of wrongdoing, without the requisite specific factual averments or support, fail to meet the pleading standard.

McCulligan v. Pennsylvania State Police, 123 A.3d 1136, 1141 (Pa. Cmwlth. 2015) (citations omitted).

⁵ Petitioner first raised the issue regarding the constitutionality of the Electoral Count Act of 1887, 3 U.S.C. §§5 and 15, in his January 8, 2021 Reply and Application for Leave *Nunc Pro Tunc* relating to one of his emergency applications; therefore, as it was not originally raised in his

Pa. R.A.P. 1972(a)(4) states that "[e]xcept as otherwise prescribed by this rule, subject to Pa. R.A.P. 123 [(relating to filing an application for relief)], any party may move ... [t]o dismiss for mootness." This Court has observed:

As a general rule, courts will not decide moot cases. "[A] case is moot if there is no actual case or controversy in existence at all stages of the controversy." As this Court explained[:]

Mootness problems arise in cases involving litigants who clearly had one or more justiciable matters at the outset of the litigation, but events or changes in the facts or law occur which allegedly deprive the litigant of the necessary stake in the outcome after the suit is underway.

Amended Petition for Review, it is waived. *See, e.g., Pennsylvania Medical Providers Association v. Foster*, 613 A.2d 51, 53 n.3 (Pa. Cmwlth. 1992) ("We make no ruling regarding whether the regulations are themselves vague or inconsistent with the [Motor Vehicle Financial Responsibility Law, 75 Pa. C.S. §§1701-1799.7,] as petitioners argue in their brief, because petitioners have waived that issue by not amending their petition for review to allege any problem with the regulations.").

It is well settled that the courts "do not render decisions in the abstract or offer purely advisory opinions." Judicial intervention "is appropriate only where the underlying controversy is real and concrete, rather than abstract."

As with most rules of general application, there are exceptions to the mootness doctrine for circumstances where "(1) the conduct complained of is capable of repetition yet evading review, or (2) involves questions important to the public interest, or (3) will cause one party to suffer some detriment without the Court's decision." Notwithstanding these exceptions, however, we note that "[c]onstitutional questions are not to be dealt with abstractly." This Court, therefore, should be even more reluctant to decide moot questions which raise constitutional issues. Instead, we "prefer to apply the well-settled principles that [courts] should not decide a constitutional question unless absolutely required to do so."

Costa v. Cortes, 142 A.3d 1004, 1016-17 (Pa. Cmwlth.), *aff'd*, 145 A.3d 721 (Pa. 2016) (citations omitted). *See also Wortex Mills v. Textile Workers of America*, 85 A.2d 851, 857 (Pa. 1952) ("It is only in very rare cases where exceptional circumstances exist or where matters or questions of great public importance are involved, that this court ever decides moot questions or erects guideposts for future conduct

or actions."); *Mistich v. Pennsylvania Board of Probation and Parole*, 863 A.2d 116, 121 (Pa. Cmwlth. 2004) ("[M]ootness, however it may have come about simply deprives us of our power to act; there is nothing for us to remedy, even if we were disposed to do so. We are not in the business of pronouncing that past actions which have no demonstrable continuing effect were right or wrong.") (citation omitted).

Assuming that the allegations contained in the Amended Petition are true, Petitioner may well have asserted a viable claim with respect to the conduct of the 2020 General Election at the inception of this case. However, the subsequent certification of the election results and the inauguration of the new President and Vice-President on January 20, 2021, have rendered any claim moot. *See generally Bognet v. Degraffenreid*, ___ U.S. ___ (U.S., No. 20-740, filed April 19, 2021) ("The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Third Circuit with instructions to dismiss the case as moot. *See United States v. Munsingwear, Inc.*, 340 U.S. 36 (1950)."); *Conant*, 248 F. Supp. 3d at 1019 ("I agree with Defendants that the challenges to the 2016 certified election results and ascertainment of electors are moot because that process is complete, the electors have performed their duties, and the President has been inaugurated.").

Because this Court may not grant Petitioner the injunctive or mandamus relief that he requests, the instant matter is deemed to be moot. *See Graziano Construction Company, Inc. v. Lee*, 444 A.2d 1190,

1193 (Pa. Super. 1982)⁶ ("[W]e cannot enter judgments or decrees to which effect cannot be given. The rule is that where ... pending an appeal, an event occurs which renders it impossible for the appellate court to grant any relief, the appeal will be dismissed.") (citations omitted); 18 Standard Pa. Practice 2d §99.7 (2021) ("Mandamus is unavailable where it would be futile or ineffectual by reason of the respondent's inability to comply therewith. Mandamus also will not lie ... where only a moot question, and no justiciable issue, is presented.") (footnotes omitted).

Moreover, we are not inclined to apply any of the foregoing exceptions to the mootness doctrine in this case because Petitioner failed to avail himself of the statutory remedies provided in the Election Code prior to filing the instant Amended Petition for Review. "[A]n action seeking declaratory judgment is not an optional substitute for established or available remedies and should not be granted where a more appropriate remedy is available." *Pittsburgh Palisades Park, LLC v. Pennsylvania State Horse Racing Commission*, 844 A.2d 62, 67 (Pa. Cmwlth. 2004) (citation omitted).

With regard to any purported impropriety in

⁶ Although the decisions of the Superior Court are not binding upon this Court, they may serve as persuasive authority. *Lerch v. Unemployment Compensation Board of Review*, 180 A.3d 545,550 (Pa. Cmwlth. 2018).

the conduct of the 2020 General Election, as alleged in the Amended Petition for Review, this Court has noted:

To begin, the Pennsylvania Supreme Court has stated that "[o]ur past cases have adhered firmly to the principle that the proper remedies for violations of the Election Code are to be found within the comprehensive legislative framework of the [Election] Code itself." *Brunwasser v. Fields*, 409 A.2d 352, 354 (Pa. 1979). *See also Reese v. County Board of Elections of Lancaster County*, 308 A.2d 154, 158 (Pa. Cmwlth. 1973) ("[E]lection contest' proceedings are wholly statutory and jurisdiction over the subject matter of an election contest petition must be found in the Pennsylvania Election Code by reference."). Section 1711 of the Election Code, 25 P.S. §3291, identifies five "classes of nominations at primaries and elections of public officers which may be contested in this Commonwealth." 25 P.S. §3291. Relevant here are Class II nominations and elections of electors of President and Vice-President of the United States. *Id.* Significantly, a Class II contest must be commenced by the filing of a petition "within twenty days after the day of the primary or election, as the case may be." Section 1756 of the Election Code, 25 P.S. §3456. Thus, the deadline for filing a Class II contest of the November 3, 2020, General Election

was November 23, 2020. Plaintiffs filed their complaint on December 4, 2020, which was 11 days after the statutory deadline. This Court lacks jurisdiction over the contest and, thus, Petitioners cannot prevail on the merits.²

* * *

² The Election Code contains additional specific procedures and requirements for contesting a Class II election. Relevant here, Section 1731 of the Election Code provides that Class II contests "shall be tried and determined by the court, *upon petition of at least one hundred electors* as hereinafter provided." 25 P.S. §3351 (emphasis added). The petition must be verified by the affidavit of at least five of the petitioners. Section 1757 of the Election Code, 25 P.S. §3457. A bond must be filed in every class of election contest, signed by at least five of the petitioners. Section 1759 of the Election Code, 25 P.S. §3459. Petitioners have satisfied none of these requirements.

Metcalfe, slip op. at 2-3 (footnote omitted).⁷

⁷ See Pa. R.A.P. 126(c) ("A reported single-judge opinion in an election law matter filed after October 1, 2013, may be cited as binding precedent only in an election law matter. All other single-judge opinions, even if reported, shall be cited only for persuasive value and not as binding precedent.").

Likewise, in the instant matter, Petitioner utterly failed to avail himself of the foregoing appropriate statutory remedy thereby precluding the grant of the requested declaratory relief.⁸ *See, e.g., Commonwealth v. Dorler*, 588 A.2d 525, 528 (Pa. Super. 1991) ("A method to seek review of the instant claim before it became academic existed, and appellants did not avail themselves of it. Under these circumstances, we find the instant appeal to be moot and decline to address the issues belatedly raised

⁸ In a similar circumstance, the Pennsylvania Supreme Court observed:

[T]he questions involved are of a character properly belonging to an election contest, and, had appellants diligently pursued that remedy instead of the present appeals, they probably would have had ample time, between the date of the certification of the nominations, in May, 1924, and the date of the printing of the ballots for the November election, to obtain any relief to which they might be entitled; whereas the time remaining after the present appeals came before us for decision was so short that, even had we returned the record to the court below to pass upon the evidence offered, it would have been physically impossible to have determined the matter in time for the printing of the ballots, and this in itself would warrant us in dismissing the appeal.

In re Twenty-First Senatorial District Nomination, 126 A. 566, 568 (Pa. 1924) (citations omitted).

herein.") (citations omitted).

Accordingly, the Application to Dismiss is granted, the Amended Petition is dismissed as moot, and the POs are overruled as moot.

A handwritten signature in black ink, appearing to read "MHW".

MICHAEL H. WOJCIK, Judge

IN THE COMMONWEALTH COURT OF
PENNSYLVANIA

Andrew Ioannidis, :
Petitioner :
: No. 635 M.D. 2020
v. :
: Tom Wolf, in his official :
Capacity as Governor of :
the Commonwealth of :
Pennsylvania and :
Veronica Degraffenreid, :
in her official capacity :
as Acting Secretary of :
the Commonwealth of :
Pennsylvania,
Respondents :.

ORDER

AND NOW, this 8th day of July, 2021,
Respondents' Application for Summary Relief in the
Form of a Motion to Dismiss Amended Petition for
Review as Moot is GRANTED; Petitioner's Amended
Petition for Review in the Nature of a Petition and
Complaint in Equity is DISMISSED as moot; and
Respondents' Preliminary Objections to Amended
Petition for Review are OVERRULED as moot.



MICHAEL H. WOJCIK, Judge

APPENDIX C

**IN THE COMMONWEALTH COURT OF
PENNSYLVANIA**

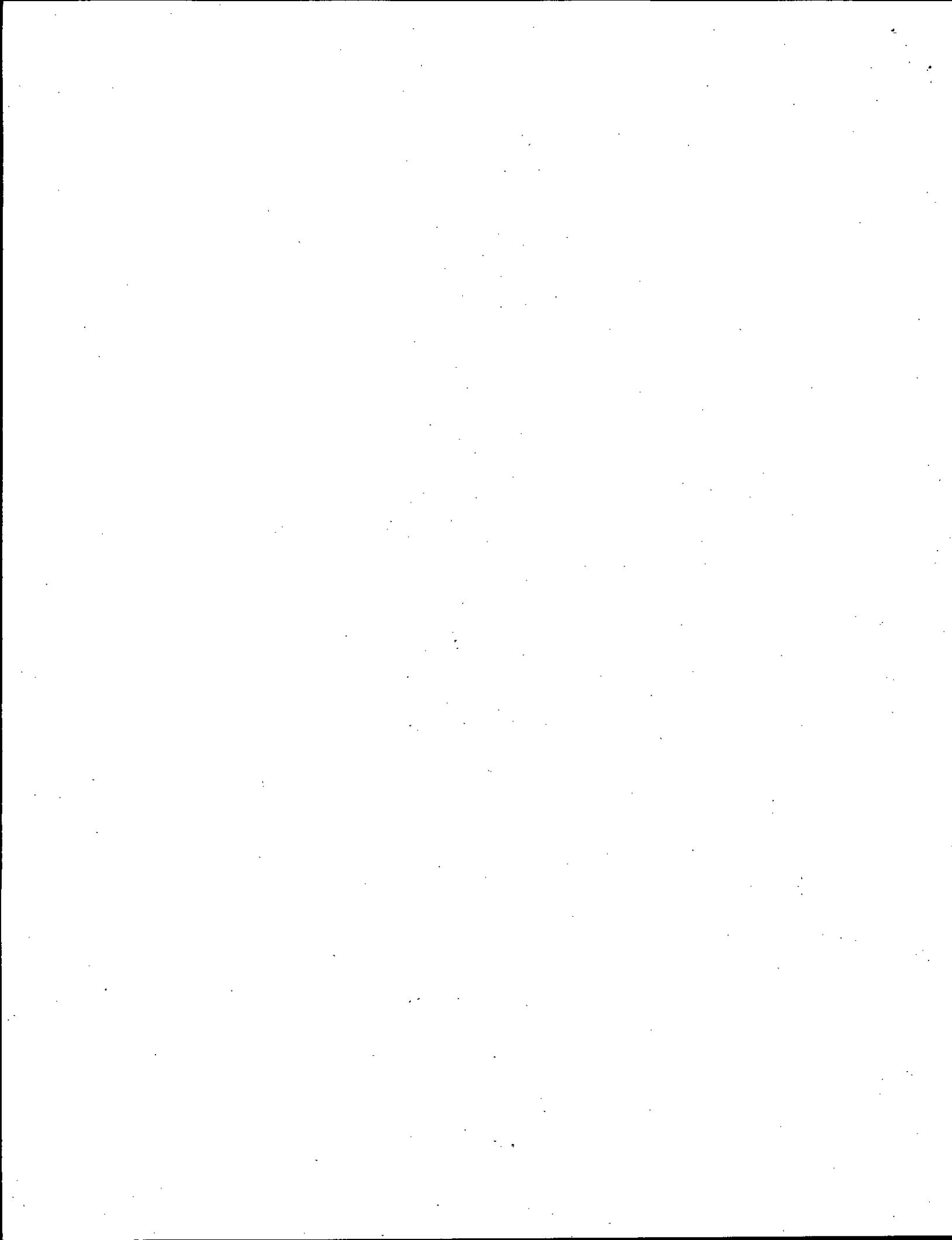
Andrew Ioannidis, :
Petitioner :
: No. 635 M.D. 2020
v. :
:
Tom Wolf, in his official :
Capacity as Governor of :
the Commonwealth of :
Pennsylvania and :
Veronica Degraffenreid, :
in her official capacity :
as Acting Secretary of :
the Commonwealth of :
Pennsylvania, :
Respondents:

ORDER

PER CURIAM

NOW, August 5, 2021, upon consideration
of Petitioner's application for
reconsideration/reargument, and Respondents'
answer in response thereto, the application is
denied.

Order Exit
08/05/2021



APPENDIX D

**IN THE COMMONWEALTH COURT OF
PENNSYLVANIA**

Andrew Ioannidis, :
Petitioner : 635 M.D. 2020
v. :
Tom Wolf, in his official :
Capacity as Governor of :
the Commonwealth of :
Pennsylvania and :
Kathy Boockvar, :
in her official capacity :
as Acting Secretary of :
the Commonwealth of :
Pennsylvania, :
Respondents :

**AMENDED PETITION FOR REVIEW IN THE
NATURE OF A PETITION AND COMPLAINT IN
EQUITY**

INTRODUCTION

1. This lawsuit is not about any political ideology or policy. It is not about money or material gain. It is not about disenfranchising any citizen of this great Commonwealth. This lawsuit is about Petitioner's civil rights; whether the United States Constitution

matters; and by extension, whether Pennsylvania will ever have a free and fair election ever again.

STATEMENT OF JURISDICTION

2. This action is against the Respondents, named in their official capacities, as officers of the government of the Commonwealth of Pennsylvania. Thus, this Honorable court possesses original jurisdiction pursuant to 42 Pa.C.S. §761(a)(1).

3. This case also includes a count in Mandamus which confers this Honorable Court original jurisdiction pursuant to 42 Pa.C.S. §761(c).

PARTY SEEKINGS RELIEF

4. Petitioner, Andrew Ioannidis, is a citizen of the United States of America and the Commonwealth of Pennsylvania, and an unaffiliated voter from York County.

PARTIES WHOSE ACTION IS AT ISSUE

5. Respondent Tom Wolf, named in his official capacity as Governor of the Commonwealth of Pennsylvania, intentionally discriminated against Petitioner, failed to uphold and enforce the law, and illegally certified false election results.

6. Respondent Kathy Boockvar, named in her official capacity as Secretary of the Commonwealth of Pennsylvania, intentionally discriminated against

Petitioner, failed to uphold and enforce the law, and illegally certified false election results.

STATEMENT OF MATERIAL FACTS

7. Petitioner has a fundamental right to vote, which is a legally recognized protectable interest.
8. Petitioner has a fundamental right to freedom of association, which is a legally recognized protectable interest.
9. Petitioner has a Fourteenth Amendment right to equal protection.
10. Petition has a Fourteenth Amendment right to due process.
11. Petitioner has a First Amendment right to freedom of association.
12. By enacting the Election Code, the Pennsylvania State Legislature granted qualified citizens of the Commonwealth of Pennsylvania the right to vote for electors for the President and Vice-President of the United States. 25 P.S. § 3191.
13. In Pennsylvania, Presidential and Vice-Presidential electors are chosen by way of state-wide popular vote.
14. As a Pennsylvania citizen and voter, Petitioner has a direct interest in ensuring that only

lawfully-cast votes are included in Respondent Wolf's enumeration and ascertainment of votes for Presidential and Vice-Presidential electors.

15. As a citizen, Petitioner has a direct interest in ensuring that his Fourteenth Amendment rights to due process and equal protection are not infringed.

16. As a citizen, Petitioner has a direct interest in ensuring that his First Amendment right to freedom of association is not infringed.

17. Respondents intentionally discriminated against Petitioner.

18. Respondents intentionally violated the law.

19. Respondents purposely subjected Petitioner to disfavored treatment because he is not a Democrat or a Democrat voter.

20. Petitioner civil rights were subjected to an unjustifiable risk of erroneous deprivation by Respondents.

21. Respondents significantly and unjustifiably encroached upon Petitioner's personal liberty.

22. Respondents violated Petitioner's equal protection rights.

23. Respondents violated Petitioner's due process rights.
24. Respondents violated Petitioner's First Amendment right to associate.
25. Respondents violated Petitioner's fundamental right to vote.
26. Respondents infringed on Petitioner's right to advance ideas.
27. Respondents infringed on Petitioner's right to air grievances.
28. Respondents negatively affected Petitioner's ability to vote for, freely associate with, and elect, any candidate for President that was not Joseph R. Biden and any candidate for Vice-President that was not Kamala D. Harris.
29. Respondents favored and afforded the Democrat party preferential treatment and undue political strength.
30. Respondents deprived Petitioner of his natural political strength because he is not a Democrat or a Democrat voter.
31. Pennsylvania's 2020 General Election for President and Vice-President reached the point of patent and fundamental unfairness.

32. The Secretary of the Commonwealth is appointed by, and her power emanates from, the Governor.

33. The Governor retains all the duties and responsibilities of the Secretary pursuant to the Administrative Code.

34. The Secretary is an agent of the Governor.

35. Respondents are required by the United States Constitution to ensure the equal protection of Pennsylvania citizens.

36. Respondents are required by the United States Constitution to ensure free and fair elections.

37. Respondents are required by the Pennsylvania Constitution to ensure the equal protection of Pennsylvania citizens.

38. Respondents are required by the Pennsylvania Constitution to ensure free and fair elections.

39. Respondents are required by federal law to ensure the equal protection of Pennsylvania citizens.

40. Respondents are required by state law to ensure the equal protection of Pennsylvania citizens.

41. Respondents have a duty to comply with, and enforce, the laws of the United States of America.

42. Respondents have a duty to comply with, and enforce, the laws of the Commonwealth of Pennsylvania.

43. Respondents intentionally failed to perform their duties and uphold and enforce the law.

44. Respondents have powers and duties under the Pennsylvania Election Code.

45. Respondents have duties under the Help America Vote Act of 2002 (“HAVA”).

46. HAVA applies to all Federal elections held in the United States of America.

47. Pennsylvania’s General Assembly incorporated HAVA into the Election Code.

48. Respondents are the chief election officers of the Commonwealth and serve as the head of the Executive Branch of the Commonwealth government and the Department of State, and are the central authority for administration of the State HAVA Plan.

49. Respondents are required by HAVA to develop, implement, and administer the State HAVA Plan.

50. Respondents are the custodian of the election returns for Federal, Statewide, legislative, and most judicial offices.

51. Respondents are responsible for examining voting machines and electronic voting systems before they may be used for voting in the Commonwealth.

52. The Secretary is responsible for advising the Governor and local electoral jurisdictions on electoral policies that could result in non-uniform, fragmented, or inequitable electoral decisions.

53. The Secretary administers the campaign expense reporting laws and receives reports from county boards of elections on various issues and is imposed with the power and duty to demand such additional reports on special matters as she might deem necessary.

54. The Secretary is responsible for designing, implementing, and administering SURE and for prescribing regulations thereto.

55. The decision of the U.S. Supreme Court in *Bush v. Gore*, 531 U.S. 98 (2000), where the Court held that elections must be administered by the States in a uniform manner consistent with the right of voters under the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution, has compelled Respondents to assert more direct policy direction and control in an effort to assure that the Commonwealth's elections for offices that cross

county lines are conducted consistent with the requirements of equal protection.

56. Respondents are required by Pennsylvania's HAVA plan to ensure equal protection of, and non-discrimination toward, Pennsylvania voters.

57. The Commonwealth's State HAVA plan was written with the goal of ensuring that citizens of the Commonwealth are provided the most fair and equitable election system possible.

58. Respondents violated the United States Constitution.

59. Respondents violated the Pennsylvania Constitution.

60. Respondents violated HAVA.

61. Respondents violated the Commonwealth's State HAVA Plan.

62. Respondents are required by HAVA to maintain accurate voter registration records, maintain them, and update them regularly.

63. Respondents are required by state law to maintain accurate voter registration records, maintain them, and update them regularly.

64. Respondents have ignored requests to investigate the circumstances surrounding Pennsylvania's 2020 General Election.

65. Respondents have intentionally failed and refused to perform their respective legal obligations under the law, including, but not limited to, their obligations to enforce and comply with the same.

66. Respondents issued discriminatory guidance to county boards of election.

67. Respondents argued for discriminatory policies in litigation.

68. Petitioner voted in person for President and Vice President of the United States of America in the General Election that occurred on November 3, 2020.

69. Petitioner did not vote for Democrat Presidential candidate Joseph R. Biden and Democrat Vice Presidential candidate Kamala D. Harris.

70. Democrat voters did vote for Democrat Presidential candidate Joseph R. Biden and Democrat Vice Presidential candidate Kamala. D. Harris.

71. Petitioner does not share the political beliefs of the Democrat Party.

72. Petitioner is not affiliated with the Democrat Party.

73. Petitioner did not vote by mail-in or absentee ballot.

74. Petitioner does not live in an urban area.

75. Petitioner became a Pennsylvania citizen and registered to vote in 2017.

76. Petitioner signed a poll book on Election Day in order to vote.

77. Petitioner's vote was subject to signature verification and disqualification.

78. Petitioner's vote was subject to third-party challenge and disqualification.

79. Mail-in and absentee voter's votes were not subject to signature verification and disqualification.

80. Mail-in and absentee voters' votes were not subject to third-party challenge and disqualification.

81. Petitioner used a voting system that was certified by the Commonwealth of Pennsylvania and Respondents.

82. Mail-in and absentee voters were granted more time to vote than Petitioner.

83. Mail-in and Absentee voters' votes were not disqualified for failure to fill out and/or sign and/or date outer envelopes, to benefit of Democrat voters.

84. Observers and watchers were not permitted to meaningfully observe and challenge the pre-canvassing and canvassing of the mail-in and absentee ballots to the benefit of Democrat voters.

85. Mail-in and absentee ballots received after the statutorily prescribed date and time were counted to the benefit of Democrat voters.

86. Mail-in and absentee ballots with illegible postmarks were deemed timely and counted to the benefit of Democrat voters.

87. Mail-in and absentee ballots with no postmark were deemed timely and counted to the benefit of Democrat voters.

88. Mail-in and absentee ballots were collected by drop box to the benefit of Democrat voters.

89. Mail-in and absentee ballots were collected by satellite office to the benefit of Democrat voters.

90. County Boards of Election pre-canvassed mail-in and absentee ballots prior to the statutorily prescribed time date and time to the benefit of Democrat voters.

91. Mail-in and absentee ballots were cured and counted to the benefit of Democrat voters.

92. Naked mail-in and absentee ballots were counted to the benefit of Democrat voters.

93. Petitioner was classified as a non-Democrat voter, in effect, by the Commonwealth and Respondents.

94. Petitioner was classified as a non-mail-in voter and non-absentee voter, facially and in effect, by the Respondents.

95. Petitioner was classified as a non-urban voter, in effect, by the Respondents.

96. Petitioner was classified as a non-Democrat, in effect, by the Respondents.

97. Respondents allowed funds to be granted to County Boards of Election by non-government organization(s) associated with Google and Facebook Billionaire Mark Zuckerberg for election administration to the benefit of urban and Democrat voters.

98. Respondents allowed County Boards of Election to accept funds from non-government organization(s) associated with Google and Facebook Billionaire Mark Zuckerberg for election

administration to the benefit of urban and Democrat voters.

99. Respondents facilitated the granting of funds to County Boards of Election from non-government organization(s) associated with Google and Facebook Billionaire Mark Zuckerberg for election administration to the benefit of urban and Democrat voters.

100. The grants provided by these non-government organization established a two-tiered election system whereby urban voters, who are predominantly democrat voters, received substantial benefits relating to voter registration and voting, whereas the rest of the Commonwealth did not.

101. Respondents allowed non-government organization(s) to have direct access to the Commonwealth's SURE system to the benefit of urban and Democrat voters.

102. Respondents provided access to the SURE system to non-government organization(s) to the benefit of urban and Democrat voters.

103. Respondents accorded Petitioner, as a voter, less dignity than Democrat voters.

104. Respondents accorded Petitioner less dignity than mail-in and absentee voters.

105. Respondents accorded Petitioner less dignity than urban voters.

106. Respondents accorded Petitioner's vote less weight than a Democrat voter's vote.

107. Respondents debased and diluted Petitioner's vote.

108. Respondents substantially interfered with Petitioner's right to vote.

109. Respondents substantially disadvantaged Petitioner's right to vote.

110. Respondents substantially deterred Petitioner's right to vote.

111. Respondents made the exercise of Petitioner's right to vote materially more difficult.

112. Respondents substantially interfered with Petitioner's right to associate.

113. Respondents substantially disadvantaged Petitioner's right to associate.

114. The Commonwealth and Respondents substantially deterred Petitioner's right to associate.

115. Respondents made the exercise of Petitioner's right to associate materially more difficult.

116. Respondents' conduct will not withstand strict scrutiny.

117. The Commonwealth and Respondents' conduct was intentional.

118. The Commonwealth and Respondents' conduct was reckless.

119. The Commonwealth and Respondents' conduct was negligent.

120. Respondents deprived Petitioner of his right to associate.

121. Respondents deprived Petitioner of his right to vote.

122. Respondents do not have adequate justification for their conduct.

123. Respondents do not have adequate justification for depriving Petitioner of his rights.

124. Respondents illegally certified voting systems that were used in Pennsylvania's 2020 General Election for President and Vice-President of the United States of America.

125. Respondents illegally certified voting systems that changed votes to the benefit of Democrat voters.

126. Respondents illegally certified voting systems that weighted votes to the benefit of Democrat voters.

127. Respondents illegally certified voting systems that falsely recorded votes to the benefit of Democrat voters.

128. Respondents illegally certified voting systems that allowed for the manipulation of votes to the benefit of Democrat voters.

129. Respondents illegally certified false election results for President and Vice-President of the United States of America.

130. Respondents certified false election results that included illegally cast votes to the benefit of Democrat voters.

131. Respondents certified false election results that included illegally counted votes to the benefit of Democrat voters.

132. Respondents certified false election results that included illegally altered votes to the benefit of Democrat voters.

133. Respondents certified false election results that included illegally weighted votes to the benefit of Democrat voters.

134. Respondents certified false election results that included illegally cured votes to the benefit of Democrat voters.

135. Respondents certified false election results in which counties and/or precincts illegally treated and counted votes differently to the benefit of Democrat voters.

136. Respondents certified false election results that included votes that were illegally altered by voting systems to the benefit of Democrat voters.

137. Respondents certified false election results that included votes that were illegally weighted by voting systems to the benefit of Democrat voters.

138. Respondents certified false election results that included votes that were falsely recorded by voting systems to the benefit of Democrat voters.

139. Respondents are affiliated with the Democrat Party.

140. Mail-in and absentee voters are predominantly Democrat voters.

141. Democrat voters predominantly voted by mail-in and absentee ballot.
142. Urban voters are predominantly Democrat voters.
143. Respondents conferred benefits to voters who they classified as Democrat voters, to the exclusion of non-Democrat voters.
144. Respondents conferred benefits to voters who they classified as Democrat voters, to the exclusion of Petitioner.
145. Respondents imposed burdens on voters who they classified as non-Democrat voters, to the exclusion of Democrat voters.
146. Respondents imposed burdens on Petitioner, to the exclusion of Democrat voters.
147. Respondents conferred benefits to voters who they classified as mail-in and absentee voters, to the exclusion of non-mail-in and non-absentee voters.
148. Respondents conferred benefits to voters who they classified as mail-in and absentee voters, to the exclusion of Petitioner.
149. Respondents imposed burdens on voters who they classified as non-mail-in and non-absentee

voters, to the exclusion of mail-in and absentee voters.

150. Respondents imposed burdens on Petitioner, to the exclusion of mail-in and absentee voters.

151. Respondents conferred benefits to voters who they classified as urban voters, to the exclusion of non-urban voters.

152. Respondents conferred benefits to voters who were classified as urban voters, to the exclusion of Petitioner.

153. Respondents imposed burdens on voters who they classified as non-urban voters, to the exclusion of urban voters.

154. Respondents imposed burdens on Petitioner, to the exclusion of urban voters.

155. Respondents conferred benefits to citizens who they classified as Democrats, to the exclusion of non-Democrats.

156. Respondents conferred benefits to citizens who they classified as Democrats, to the exclusion of Petitioner.

157. Respondents imposed burdens on citizens who they classified as non-Democrats, to the exclusion of Democrats.

158. Respondents imposed burdens on Petitioner, to the exclusion of non-Democrats.

159. Respondent Boockvar laid before Respondent Wolf the certificates of election for President and Vice-President of the United States.

160. Respondent Wolf signed the Certificate of Ascertainment for the slate of electors for Joseph R. Biden as President and Kamala D. Harris as Vice-President of the United States.

161. Respondents issued certificates of election to Democrat Presidential Electors.

COUNT I

Fourteenth Amendment
U.S. Const. Amend. XIV
Equal Protection – Right to Vote
Signature Verification

162. Petitioner incorporates the foregoing paragraphs as if fully set forth at length herein.

163. Petitioner is a qualified voter in Pennsylvania.

164. Petitioner voted in-person in the 2020 General Election for President and Vice-President of the United States.

165. Petitioner signed a poll book in order to vote.

166. Petitioner's vote was subject to signature verification by the election officer in charge of the poll book.

167. If the election officer deemed Petitioner's signature to be not authentic, Petitioner's vote would have been disqualified unless he produced the evidence required by law.

168. Petitioner's vote was subject to disqualification and Petitioner was subject to disenfranchisement.

169. Petitioner was classified by Respondents, facially and in effect, as a non-mail-in and non-absentee voter.

170. Respondents conferred mail-in and absentee voters the benefit of not having their vote subject to signature verification and disqualification, to the exclusion of Petitioner.

171. Respondents imposed upon Petitioner the burden of having his vote subject to signature verification and disqualification, to the exclusion of voters classified by the Respondents as mail-in and absentee voters.

172. Respondents' discriminatory conduct was intentional.

173. Respondents denied Petitioner equal protection under the law.

WHEREFORE, Petitioner respectfully requests this Honorable Court grant preliminary and permanent injunctive relief; declare that Petitioner's Fourteenth Amendment right to equal protection was violated by the Commonwealth of Pennsylvania and Respondents; Order non-discriminatory investigation and enforcement of the equal protection violations; Order Respondents to satisfy their duties under the law; Order Respondents to effectuate a full audit and recount of Pennsylvania's 2020 Presidential Election whereby only the legal votes are counted; grant any other relief provided by law; and, grant the relief requested herein, and any other relief deemed appropriate by this Honorable Court.

COUNT II
Fourteenth Amendment
U.S. Const. Amend. XIV
Equal Protection – Right to Vote
Third-Party Challenges

174. Petitioner incorporates the foregoing paragraphs as if fully set forth at length herein.

175. Petitioner's vote was subject to third-party challenge and disqualification.

176. Petitioner was classified by Respondents, facially and in effect, as a non-mail-in and non-absentee voter.

177. Voters who were classified by Respondents as mail-in and absentee voters were conferred the benefit of not having their vote subject to third-party challenge and disqualification, to the exclusion of Petitioner.

178. Respondents imposed upon Petitioner the burden of having his vote subject to third-party challenge and disqualification, to the exclusion of voters who they classified as mail-in and absentee voters.

179. Respondents' discriminatory conduct was intentional.

180. Respondents denied Petitioner equal protection under the law.

WHEREFORE, Petitioner respectfully requests this Honorable court grant preliminary and permanent injunctive relief; declare that Petitioner's Fourteenth Amendment right to equal protection was violated by the Commonwealth of Pennsylvania and Respondents; Order non-discriminatory investigation and enforcement of the equal protection violations; Order Respondents to satisfy their duties under the law; Order Respondents to effectuate a full audit and recount of Pennsylvania's 2020 Presidential Election whereby only the legal votes are counted; grant any other relief provided by law; and, grant the relief requested herein, and any other relief deemed appropriate by this Honorable Court.

COUNT III
Fourteenth Amendment
U.S. Const. Amend. XIV
Equal Protection – Right to Vote
Debasement and Dilution

181. Petitioner incorporate the foregoing paragraphs as if fully set forth at length herein.
182. Petitioner did not vote for Democrat Presidential candidate Joseph R. Biden and Vice-Presidential candidate Kamala D. Harris.
183. Democrat voters did vote for Democrat Presidential candidate Joseph R. Biden and Vice-Presidential candidate Kamala D. Harris.
184. Respondent classified petitioner, in effect, as a non-Democrat voter.
185. Voters that Respondents classified as Democrat voters were conferred the benefit of having their vote concentrated, to the exclusion of Petitioner.
186. Respondents imposed on Petitioner the burden of having his vote debased and diluted, to the exclusion of Democrat voters.
187. Illegally cast votes were counted to the benefit of Democrat voters.

188. Illegally counted votes inured to the benefit of Democrat voters.

189. Illegally altered votes were counted to the benefit of Democrat voters.

190. Illegally weighted votes were counted to the benefit of Democrat voters.

191. Illegally cured votes were counted to the benefit of Democrat voters.

192. Counties and/or precincts illegally counted votes differently to the benefit of Democrat voters.

193. Pennsylvania voting system(s) illegally weighted votes to the benefit of Democrat voters.

194. Respondents facilitated the counting of illegal votes to the benefit of Democrat voters.

195. Respondents certified false election results that included illegal votes to the benefit of Democrat voters.

196. Respondents' discriminatory conduct was intentional.

197. Respondents denied Petitioner equal protection under the law.

WHEREFORE, Petitioner respectfully request this Honorable Court grant preliminary and permanent injunctive relief; declare that Petitioner's Fourteenth Amendment right to equal protection was violated by the Commonwealth of Pennsylvania and Respondents; Order non-discriminatory investigation and enforcement of the equal protection violations; Order Respondents to satisfy their duties under the law; Order Respondents to effectuate a full audit and recount of Pennsylvania's 2020 Presidential Election whereby only the legal votes are counted; grant any other relief provided by law; and, grant the relief requested herein, and any other relief deemed appropriate by this Honorable Court.

COUNT IV
Fourteenth Amendment
U.S. Const. Amend. XIV
Equal Protection – Right to Vote
More Time to Vote

198. Petitioner incorporates the foregoing paragraphs as if fully set forth at length herein.

199. If Petitioner was not at the polling place by 8 p.m. on election day, Petitioner would not have been able to vote, and would have been disenfranchised.

200. Respondents classified Petitioner, in effect, as a non-mail-in and non-absentee voter.

201. Respondents conferred mail-in and absentee voters the benefit of having more time to vote, to the exclusion of Petitioner.

202. Respondents imposed upon Petitioner the burden of having less time to vote, to the exclusion of mail-in and absentee voters.

203. Respondents' discriminatory conduct was intentional.

204. Respondents denied Petitioner equal protection under the law.

WHEREFORE, Petitioner respectfully requests this Honorable Court grant preliminary and permanent injunctive relief; declare that Petitioner's Fourteenth Amendment right to equal protection as violated by the Commonwealth of Pennsylvania and Respondents; Order non-discriminatory investigation and enforcement of the equal protection violations; Order Respondents to satisfy their duties under the law; Order Respondents to effectuate a full audit and recount of Pennsylvania's 2020 Presidential Election whereby only the legal votes are counted; grant any other relief provided by law; and, grant the relief requested herein, and any other relief deemed appropriate by this Honorable Court.

COUNT V
Fourteenth Amendment
U.S. Const. Amend. XIV
Equal Protection – Right to Vote
Opportunity and Ease of Registering to Vote

205. Petitioner incorporates the foregoing paragraphs as if fully set forth at length herein.
206. Petitioner does not live in an urban area.
207. Respondents classified Petitioner, in effect, as a non-urban voter.
208. Respondents conferred urban voters the benefit of having increased opportunity and ease of registering to vote, to the exclusion of Petitioner.
209. Respondents imposed upon Petitioner the burden of decreased opportunity and ease of registering to vote, to the exclusion of urban voters.
210. Respondents allowed funds to be granted to County Boards of Election by non-government organization(s) associated with Google and Facebook Billionaire Mark Zuckerberg for election administration to the benefit of urban voters.
211. Respondents allowed County Boards of Election to accept funds from non-government organization(s) associated with Google and Facebook Billionaire Mark Zuckerberg for election administration to the benefit of urban voters.

212. Respondents facilitated the granting of funds to County Boards of Election from non-government organization(s) associated with Google and Facebook Billionaire Mark Zuckerberg for election administration to the benefit of urban voters.

213. Respondents allowed non-government organization(s) to have direct access to the Commonwealth's SURE system to the benefit of urban voters.

214. Respondents provided access to the SURE system to non-government organization(s) to the benefit of urban voters.

215. Respondents' discriminatory conduct was intentional.

216. Respondents denied Petitioner equal protection under the law.

WHEREFORE, Petitioner respectfully requests this Honorable Court grant preliminary and permanent injunctive relief; declare that Petitioner's Fourteenth Amendment right to equal protection was violated by the Commonwealth of Pennsylvania and Respondents; Order non-discriminatory investigation and enforcement of the equal protection violations; Order Respondents to satisfy their duties under the law; Order Respondents to effectuate a full audit and recount of Pennsylvania's 2020 Presidential Election whereby only the legal votes are counted; grant any other relief provided by law;

and, grant the relief requested herein, and any other relief deemed appropriate by this Honorable Court.

COUNT VI
Fourteenth Amendment
U.S. Const. Amend. XIV
Equal Protection – Right to Vote
Opportunity and Ease of Voting

217. Petitioner incorporates the foregoing paragraphs as if fully set forth at length herein.

218. Petitioner was classified by Respondents as a non-urban voter.

219. Respondents conferred urban voters the benefit of having increased opportunity and ease of voting, to the exclusion of Petitioner.

220. Respondents imposed upon petitioner the burden of having decreased opportunity and ease of voting, to the exclusion of urban voters.

221. Respondents allowed funds to be granted to County Boards of Election by non-government organization(s) associated with Google and Facebook Billionaire Mark Zuckerberg for election administration to the benefit of urban voters.

222. Respondents allowed County Boards of Election to accept funds from non-government organization(s) associated with Google and Facebook

Billionaire Mark Zuckerberg for election administration to the benefit of urban voters.

223. Respondents facilitated the granting of funds to County Boards of Election from non-government organization(s) associated with Google and Facebook Billionaire Mark Zuckerberg for election administration to the benefit of urban voters.

224. Respondents allowed non-government organization(s) to have direct access to the Commonwealth's SURE system to the benefit of urban voters.

225. Respondents provided access to the SURE system to non-government organizations to the benefit of urban voters.

226. Respondents' discriminatory conduct was intentional.

227. Respondents denied Petitioner equal protection under the law.

WHEREFORE, Petitioner respectfully requests this Honorable Court grant preliminary and permanent injunctive relief; declare that Petitioner's Fourteenth Amendment right to equal protection was violated by the Commonwealth of Pennsylvania and Respondents; Order non-discriminatory investigation and enforcement of the equal protection violations; Order Respondents to satisfy their duties under the law; Order Respondents to effectuate a full

audit and recount of Pennsylvania's 2020 Presidential Election whereby only the legal votes are counted; grant any other relief provided by law; and, grant the relief requested herein, and any other relief deemed appropriate by this Honorable Court.

COUNT VII
Fourteenth Amendment
U.S. Const. Amend. XIV
Equal Protection – Freedom of Association

228. Petitioner incorporates the foregoing paragraphs as if fully set forth at length herein.

229. Petitioner is not a Democrat and does not share the political beliefs of the Democrat Party.

230. Respondents classified Petitioner, in effect, as a non-Democrat.

231. Respondents deprived Petitioner of his ability to band together with other citizens to promote among the electorate candidates who espouse political views that differ from those of the Democrats.

232. Respondents purposely subjected Petition to disfavored treatment because he is a non-Democrat and does not share the political beliefs of the Democrats.

233. Respondents conferred Democrats the benefit of being able to elect a candidate that will

advance their political beliefs, to the exclusion of Petitioner.

234. Respondents imposed upon Petitioner the burden of being unable to elect a candidate who will advance his political beliefs, to the exclusion of Democrats.

235. Respondents intentionally discriminated against Petitioner.

236. Respondents used classifications to burden Petitioner's representational rights.

237. Respondents denied Petitioner equal protection under the law.

WHEREFORE, Petitioner respectfully requests this Honorable Court grant preliminary and permanent injunctive relief; declare that Petitioner's Fourteenth Amendment right to equal protection was violated by the Commonwealth of Pennsylvania and Respondents; Order non-discriminatory investigation and enforcement of the equal protection violations; Order Respondents to satisfy their duties under the law; Order Respondents to effectuate a full audit and recount of Pennsylvania's 2020 Presidential Election whereby only the legal votes are counted; grant any other relief provided by law; and, grant the relief requested herein, and any other relief deemed appropriate by this Honorable Court.

COUNT VIII
Fourteenth Amendment
U.S. Const. Amend. XIV
Due Process – Right to Vote

238. Petitioner incorporates the foregoing paragraphs as if fully set forth at length herein.
239. The manner in which the Commonwealth and Respondents conducted the 2020 General election deprived Petitioner of his fundamental right to vote.
240. The Commonwealth and Respondents expressed unjustifiable partiality toward Democrat voters and Democrats.
241. Pennsylvania's 2020 General Election practices reached the point of patent and fundamental unfairness.
242. Respondents removed all meaningful safeguards in Pennsylvania's 2020 General Election.
243. The integrity of the election itself violated Petitioner's right to due process.
244. Respondents intentionally discriminated against Petitioner.
245. Respondents denied Petitioner due process under the law.

WHEREFORE, Petitioner respectfully requests this Honorable Court grant preliminary and permanent injunctive relief; declare that Petitioner's Fourteenth Amendment right to due process was violated by the Commonwealth of Pennsylvania and Respondents; Order non-discriminatory investigation and enforcement of the equal protection violations; Order Respondents to satisfy their duties under the law; Order Respondents to effectuate a full audit and recount of Pennsylvania's 2020 Presidential Election whereby only the legal votes are counted; grant any other relief provided by law; and, grant the relief requested herein, and any other relief deemed appropriate by this Honorable Court.

COUNT IX

Fourteenth Amendment

U.S. Const. Amend. XIV

Due Process – Freedom of Association

246. Petitioner incorporates the foregoing paragraphs as if fully set forth at length herein.

247. Respondents deprived Petitioner of his First Amendment right to freedom of association because he expressed political vies that differ from the Democrat party.

248. Respondents expressed unjustifiable partiality toward Democrat voters and Democrats.

249. Respondents deprived Petitioner of his ability to band together with other citizens to

promote among the electorate candidates who espouse political views that differ from those of Democrats.

250. Respondents enacted, interpreted, or enforced laws with the purpose and effect of depriving Petitioner of his representational rights because he is not affiliated with, and does not share the views of the Democrat Party.

251. Respondents used political classifications to deprive Petitioner of his representational rights.

252. Respondents deprived Petitioner of his representational rights by reason of ideology, belief, or political association

253. Respondents intentionally discriminated against petitioner

254. Respondents denied Petitioner due process under the law.

WHEREFORE, Petitioner respectfully requests this Honorable Court grant preliminary and permanent injunctive relief, declare that Petitioner's Fourteenth Amendment right to due process was violated by the Commonwealth of Pennsylvania and Respondents; Order non-discriminatory investigation and enforcement of the equal protection violations; Order Respondents to satisfy their duties under the law; Order Respondents to effectuate full audit and recount of Pennsylvania's 2020 Presidential Election

whereby only the legal votes are counted; grant any other relief provided by law; and, grant the relief requested herein, and any other relief deemed appropriate by this Honorable Court.

COUNT X
First Amendment
U.S. Const. Amend. I
Freedom of Association

255. Petitioner incorporates the foregoing paragraphs as if fully set forth at length herein.
256. Respondents penalized Petitioner because of his participation in the electoral process.
257. Respondents deprived Petitioner of his First Amendment right to freedom of association because he expressed political views that differ from the Democrat party.
258. Respondents penalized Petitioner because he is not associated with the Democrat Party.
259. Respondents penalized Petitioner because of his expression of his political views.
260. Respondents infringed on Petitioner's ability to band together with other citizens to promote among the electorate candidates who espouse political views that differ from those of Democrats.

261. Respondents enacted laws with the purpose and effect of subjecting Petitioner to disfavored treatment by reason of his views.

262. Respondents interpreted laws with the purpose and effect of subjecting Petitioner to disfavored treatment by reason of his views.

263. Respondents enforced laws with the purpose and effect of subjecting Petitioner to disfavored treatment by reason of his views

264. Respondents enacted, interpreted, or enforced laws with the purpose and effect of burdening Petitioner's representational rights as a voter because he is not affiliated with, and does not share the views of, the Democrats.

265. Respondents used political classifications to burden Petitioner's representational rights.

266. Respondents burdened Petitioner's representational rights by reason of ideology, belief, or political association.

267. Respondents intentionally discriminated against Petitioner.

268. Respondents denied Petitioner his right to associate.

WHEREFORE, Petitioner respectfully requests this Honorable Court grant preliminary and permanent injunctive relief; declare that Petitioner's First Amendment right to freedom of association was violated by the Commonwealth of Pennsylvania and Respondents; Order non-discriminatory investigation and enforcement of the equal protection violations; Order Respondents to satisfy their duties under the law; Order Respondents to effectuate a full audit and recount of Pennsylvania's 2020 Presidential Election whereby only the legal votes are counted; grant any other relief provided by law; and, grant the relief requested herein, and any other relief deemed appropriate by this Honorable Court.

COUNT XI

Common law
Mandamus

269. Petitioner incorporates the foregoing paragraphs as if fully set forth at length herein.

270. It is well-established that an action in mandamus may lie where the exercise of a public official's discretion is involved.

271. The Commonwealth court has the authority to review a public official's discretion where the official's exercise is arbitrary or, fraudulent, or is based upon a mistaken view of the law. *Nadar v. Hughes*, 643 A.2d 747, 753 (Pa. Cmwlth. 1994), citing: *Garratt v. Philadelphia*, 127 A.2d 738 (Pa. 1956).

272. Petitioner submits that, where the returns of the election of presidential electors laid before Respondent Wolf violates the Election Code, Respondent Wolf has no discretion to determine whether to enumerate and ascertain the illegal returns. Instead, the illegal returns must be rejected.

273. Petitioner has no adequate remedy at law to redress the harm caused by Respondents' violation of Pennsylvania Law and the United States Constitution.

274. Mandamus is necessary to prevent substantial injury and immediate and irreparable harm that Petitioner would suffer if Respondents are permitted to violate the laws of the Commonwealth of Pennsylvania and the United States Constitution.

275. A greater injury would occur in refusing mandamus than granting it because refusing mandamus would uphold the intentional violations of Petitioner's First and Fourteenth Amendment rights and ratify the certification of false election results that ultimately injured said rights.

276. Petitioner will be irreparably harmed if the Commonwealth and the Respondents' certification of false election results, obtained in direct violation of Pennsylvania's Election Code and the United States Constitution, is allowed to stand.

277. Petitioner is likely to succeed on the merits.

WHEREFORE, Petitioner respectfully requests that this Honorable Court issue a Writ of Mandamus directing Respondent Wolf to withdraw the certification of the 2020 Presidential election and, to withdraw the certificates issued to the Democratic electors as a result thereof; and, directing Secretary Boockvar to satisfy her duties under the law and conduct a full audit and recount of the 2020 General Election whereby only the legal votes are counted; and, grant the relief requested herein and any other relief deemed appropriate by the Court.

COUNT XII
Equity
Preliminary and Permanent Injunctive Relief

278. Petitioner incorporates the foregoing paragraphs as if fully set forth at length.

279. An emergency preliminary injunction and permanent injunction is necessary to prevent immediate and irreparable harm to Petitioner that cannot be adequately compensated by damages.

280. A greater injury would result from refusing injunctive relief, including emergency preliminary injunctive relief, than from granting it.

281. The issuance of injunctive relief, including emergency preliminary injunctive relief, will not substantially harm any interest party to these proceedings

282. The issuance of injunctive relief, including emergency preliminary injunctive relief, will restore the parties to their status as it existed immediately prior to the Respondents' wrongful conduct.

283. Petitioner right to relief is clear and the wrong is manifest.

284. Petitioner is likely to prevail on the merits.

285. The issuance of injunctive relief, including emergency preliminary injunctive relief, is reasonably suited to abate the offending activity.

286. The issuance of injunctive relief, including emergency preliminary injunctive relief, will not adversely affect the public interest.

WHEREFORE, Petitioner respectfully requests that this Honorable Court enter a preliminary injunction against Respondents, grant Petitioner's request for injunctive relief, and grant any other relief deemed appropriate by the Court.

Respectfully submitted, this 19th day of January, 2021.

By: /s/ Andrew Ioannidis
IoannidisLaw@gmail.com
908-268-7571
Petitioner
Attorney ID: 326060

IN THE COMMONWEALTH COURT OF
PENNSYLVANIA

Andrew Ioannidis, :
Petitioner :
v. : 635 M.D. 2020
: :
Tom Wolf, in his official :
Capacity as Governor of :
the Commonwealth of :
Pennsylvania and :
Kathy Boockvar, :
in her official capacity :
as Acting Secretary of :
the Commonwealth of :
Pennsylvania, :
Respondents :
VERIFICATION

I verify that the statements contained in the foregoing *Amended Petition for Review in the Nature of a Petition and Complaint in Equity* are true and correct to the best of my knowledge in part and information and belief in part. I understand that false statements made herein are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities.

Respectfully submitted, this 19th day of January, 2021.

By: /s/ Andrew Ioannidis
IoannidisLaw@gmail.com
908-268-7571
Petitioner
Attorney ID: 326060

APPENDIX E

**IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

No. 56 MAP 2021

ANDREW IOANNIDIS,

Appellant,

v.

TOM WOLF, in his official capacity as Governor of
the Commonwealth of Pennsylvania, and

VERONICA DEGRAFFENREID, in her official
capacity as Acting Secretary of the Commonwealth of
Pennsylvania,
Appellees.

On Appeal from the July 8, 2021 Order by the
Commonwealth Court of Pennsylvania, No. 635 M.D.
2020, Dismissing Petitioner's Amended Petition for
Review as Moot

BRIEF FOR APPELLANT

Andrew Ioannidis (Pa I.D. No. 326060)
457 Pleasant View Road
New Cumberland, Pennsylvania 17070
Phone: (908) 268-7571
E-Mail: ioannidisLaw@gmail.com
Petitioner & Appellant

INTRODUCTION

On December 6, 2020, I sued my former boss, Governor Tom Wolf, and the Secretary at the time, Kathy Boockvar, for violating my civil rights. I was 28 years old; I'd been an attorney for barely two years; and I had no experience with election law, or civil rights, or litigating against the government. I'd never been a party to a lawsuit, let alone represented myself in one, and the highest court I'd ever been in was common pleas. I knew that if I did this my life would never be the same, and I did it anyway, because I knew that no one else would.

Last year, on November 25, the day before Thanksgiving, a legislative hearing was held in Gettysburg. I was working from home; I live about 40 minutes away. My office was set up at the kitchen table, my wife was in the kitchen preparing for the following day, and I tuned in to watch the hearing on my phone. Until that point, no evidence of any election fraud, wrongdoing, or irregularities had been presented. The media's position was that there was no evidence, because there was no fraud, and Team Trump was adamant that the election was fraudulent, but weren't willing to present evidence. Even FOX News got tired of hearing about, but never seeing, "The Kraken".

That hearing changed my life. I saw regular citizens from across the Commonwealth step forward and testify to obscene election fraud and irregularities. I've been a civil litigator my entire

career. In law school I worked for a free clinic, and when I graduated, I joined a non-profit and continued representing needy people in domestic violence and family law cases. Then, I joined the Wolf administration and litigated condemnation cases. I knew credible evidence when I saw it, and I was sure that the conversation would change after Gettysburg.¹

I learned how wrong I was in the days that followed. It was essentially a media blackout. It was like the evidence didn't exist. It felt like I was in the twilight zone. Things got worse the following week when, on December 1, a truck driver came forward and testified that he had transported hundreds of thousands of completed mail-in ballots, in bulk, from New York to central Pennsylvania. I realized how serious all of this was; I saw how pathetic the Republicans were; and, I understood that no one was coming to save me.

¹ It took me about a month to prove that the election was stolen. The evidence is damning. *See Petitioner's January 19, 2021 Emergency Application*, which is hereby incorporated by reference. If a PDF link has a hyphen at the end of a line, then the hyphen tends not to copy when the link is pasted into a web-browser. If a link still does not work, or its contents appear modified, please let me know, for I have archived most, if not all, of the information offline.

So, I hatched a plan, and on December 6, I sued my boss. My original petition was far from perfect, but time was of the essence, and I had to learn how to walk and chew gum at the same time. In the weeks that followed, I refined my legal arguments, gathered additional evidence, and filed a series of emergency applications that sought to decertify the election. Meanwhile, I got fired, was repeatedly threatened by the Attorney General, and after January 6, everyone who dared question the election was framed as an insurrectionist. That was a scary time. I had been using the Constitution to negate the Electoral Count Act in an attempt to decertify the election.² Nevertheless, on January 8, I asserted that the Act was unconstitutional, meaning that the congressional vote count is null, and in early February, I asserted that the Biden Administration is illegitimate.³ Sometimes, I wonder why law firms won't hire me.

After the inauguration things slowed down. Respondents continued to ignore the substance of my claims and doubled down on inapplicable procedural technicalities. Anything to avoid accountability. They filed preliminary objections, and a motion to dismiss

² Despite the propaganda, none of the January 6 defendants have been charged with insurrection. Straight from Merrick Garland:

<https://townhall.com/tipsheet/spencerbrown/2021/10/21/ag-garland-debunks-democrat-insurrection-claims-about-january-6th-n2597813>

³ I hereby incorporate my February 3, 2021 Reply by reference.

in mid-February. I responded to their motion in early-March. The Court established a schedule, and Respondents filed their brief in April. I filed mine in May. Oral argument occurred in June. The Court dismissed my petition as moot in early-July. I applied for reconsidering later in July, and the Court denied my application in early-August. I appealed the next day, the Court took forever to transmit the record, and here we are.

This isn't about any political ideology or policy. It isn't about money, and it isn't about disenfranchising anyone. It's about civil rights and whether they actually exist. It's about whether the Constitution matters, and whether we will ever have a free and fair election ever again. I brought ten discrete constitutional claims. Each one prays for any relief provided by law. By dismissing my petition, the Court held that the most important constitutional right is meaningless. That simply can't be the case – for obvious reasons.

STATEMENT OF JURISDICTION

This is an appeal by right from the Commonwealth Court's July 8, 2021 order pursuant to Rule 1101(a)(1) and 341(a) & (b)(1) of the Pennsylvania Rules of Appellate Procedure. This Court has jurisdiction pursuant to 42 Pa.C.S. § 723.

ORDER IN QUESTION

The text of the order from which Petitioner appeals states in pertinent part:

“AND NOW, this 8th day of July, 2021, Respondents’ Application for Summary Relief in the Form of a Motion to Dismiss Amended Petition for Review is GRANTED; Petitioner’s Amended Petition for Review in the Nature of a Petition and Complaint in Equity is DISMISSED as moot; and Respondents’ Preliminary Objections to Amended Petition for Review are OVERRULED as moot.”

See Opinion at p. 13.

STATEMENT OF STANDARD AND SCOPE OF REVIEW

“In contrast to the federal approach, notions of case or controversy and justiciability in Pennsylvania have no constitutional predicate, do not involve a court’s jurisdiction, and are regarded instead as prudential concerns implicating courts’ self-imposed limitations. Justiciability questions are issues of law, over which our standard of review is *de novo* and the scope of review is plenary.” *Robinson Twp. V. Pa. Pub. Util. Comm’n*, 83 A.3d 901, 917 (Pa. 2013) (internal citations omitted).

STATEMENT OF THE QUESTIONS INVOLVED

Did the Commonwealth Court err by holding that Petitioner's claims are moot and granting Respondents' Application for Summary Relief in the Form of a Motion to Dismiss as Moot?

Suggested answer – Yes

Did the Commonwealth Court err by holding that Pennsylvania's Declaratory Relief Act and Election Code apply to Constitutional Equal Protection, Substantive Due Process, and First Amendment claims?

Suggested answer – Yes

Did the Commonwealth Court err by holding that Pennsylvania's Election Code applies to Mootness Exception doctrines?

Suggested answer – Yes

Did the Commonwealth Court err by holding that Petitioner's challenges to the Electoral Count Act of 1887, as amended, are waived?

Suggested answer – Yes

Did the Commonwealth Court err by holding that Petitioner's Constitutional rights are effectively meaningless?

Suggested answer – Yes

STATEMENT OF THE CASE

Form of Action

This is a civil rights case brought by the Appellant, Petitioner below, an unaffiliated voter from York County, to enforce his Fourteenth Amendment rights to equal protection and due process, as well as his First Amendment right to freedom of association. The Appellees, Respondents below, are the Governor and Secretary of the Commonwealth.

Procedural History

Petitioner filed an Amended Petition for Review on January 19, 2021. Respondents filed an Application for Summary Relief in the Form of a Motion to Dismiss as Moot, as well as a memorandum of Law, on February 19, 2021. Petitioner filed his brief on May 2, 2021. The Commonwealth Court granted Respondents' Application and Dismissed Petitioner's Amended Petition for Review on July 8, 2021. Petitioner applied for reconsideration on July 18, 2021. Respondents replied to Petitioner's application on July 22, 2021. The Court denied Petitioner's application on August 5, 2021. Petitioner appealed on August 6, 2021.

Judges Whose Decision is to be Reviewed

The trial court Judges are the Honorable Renee Cohn Jubelirer, the Honorable Michael H. Wojcik, and the Honorable Ellen Ceisler. The opinion is not published, but can be found attached hereto as Appendix A.

Statement of Facts

Respondents intentionally violated the law and purposely subjected Petitioner to disfavored treatment because he is not a Democrat or Democrat voter. *RR 005a*. They intentionally discriminated against Petitioner, failed to uphold and enforce the law, and certified false election results. *RR 004a*. They issued discriminatory guidance to county boards of election, and argued for discriminatory policies in litigation. *RR 008a*. They facilitated the granting of funds to county boards of election from non-government organization(s) associated with Google and Facebook Billionaire Mark Zuckerberg to benefit Democrat voters. *RR 010a-011a*. They provided access to Pennsylvania's SURE system to non-government organizations to benefit Democrat voters. *RR 011a*. They illegally certified voting systems that changed, weighted, falsely recorded, and manipulated votes to benefit Democrat voters. *RR 012a*. They facilitated the counting of illegal votes to benefit Democrat voters. *RR 018a*. They removed all meaningful safeguards from the election. *RR 024a*.

Petitioner prayed for injunctive relief, declaratory relief, and any other relief provided by law. *RR 016a-029a*.

Statement of the Determination Under Review

The Commonwealth Court determined that:

1. “[b]ecause this Court may not grant Petitioner the injunctive or mandamus relief that he requests, the instant matter is deemed to be moot.” *Opinion* at p.9;
2. “[a]n action seeking declaratory judgment is not an optional substitute for established or available remedies and should not be granted where a more appropriate remedy is available.” *Opinion* at p.9-10.
3. “Petitioner utterly failed to avail himself of the foregoing appropriate statutory remedy thereby precluding the grant of the requested declaratory relief.” *Opinion* at p.11.
4. “we are not inclined to apply any of the foregoing exceptions to the mootness doctrine in this case because Petitioner failed to avail himself of the statutory remedies provided in the Election Code prior to filing the instant Amended Petition for Review.” *Opinion* at p.9; and,
5. “Petitioner first raised the issue regarding the constitutionality of the Electoral Count Act of 1887, 3 U.S.C. §§ 5 and 15, in his January 8, 2021 Reply and Application for Leave *Nunc Pro Tunc* relating to one of his emergency applications; therefore, as it was not originally raised in his amended Petition for Review, it is waived.” *Opinion* at p.7 n5.

SUMMARY OF ARGUMENT

The Commonwealth Court can grant injunctive relief, including decertification of the election, in addition to declaratory relief, and nominal damages. It went out of its way to flout decades of unequivocal Supreme Court precedent to deny Petitioner relief. It held that Pennsylvania's Declaratory Relief Act and Election Code abridges and ultimately abrogates the United States Constitution. It developed, *sua sponte*, new and erroneous elements to Pennsylvania's mootness exception doctrine. And finally, the Commonwealth Court of Pennsylvania shirked its own precedent, Pennsylvania Supreme Court Precedent, the Rules of Appellate Procedure, and the very foundation of its own opinion, by holding that Petitioner's challenge to the Electoral Count Act was waived.

ARGUMENT

Petitioner's claims are redressable and cannot reasonably be found moot. Petitioner hereby incorporates his May 2, 2021 brief by reference. RR 051a-114a, and more specifically, RR 099a-113a. The Order in question implicates fundamental questions of justiciability in the nature of a demurrer, and thus, all material facts set forth in petitioner's amended Petition for Review should be admitted as true, as well as all inferences reasonably deducible therefrom. *Schemberg v. Smicherko*, 85 A.3d 1071, 1073 (Pa.Super.2014).

I. The Court Held that Petitioner's Claims are Moot

"Because this Court may not grant Petitioner the injunctive or mandamus relief that he requests, the instant matter is deemed to be moot." *Opinion* at p.9.

Petitioner prayed for preliminary and permanent injunctive relief, declaratory relief, non-discriminatory investigation and enforcement of violations, an Order requiring Respondents to effectuate a full forensic audit of the 2020 General Election, and any other relief provided by law. *RR 016a-029a*. "The key inquiry in determining whether a case is moot is whether the Court or agency will be able to grant effective relief and whether he has been deprived of the necessary stake in the outcome of the litigation." *Consol PA Coal Co. v. DEP*, 129 A.3d 28, 39 (Pa. Cmwlth. 2015).

"Redressability is 'easily established in a case where, as here, the alleged injury arises from an identifiable discriminatory policy.' While we cannot predict 'the exact nature of the possible relief . . . without a full development of the facts; an order enjoining the policy and requiring non-discriminatory investigation and enforcement would redress the injury.' *Hassan v. City of New York*, 804 F.3d 277, 290 (3rd Cir. 2015) (internal citations omitted) (emphasis added). Respondents issued discriminatory policies in litigation. *RR 008a*. "Petitioner prayed for declaratory judgment and preliminary and permanent injunctive relief to

remedy past harms. Petitioner prayed for any other relief provided by law, which includes nominal damages. Petitioner's prayer for declaratory, injunctive, and any other relief will also serve to remedy ongoing and future harm, e.g., discriminatory guidance, unconstitutional laws, or illegal certification of voting systems." *RR 070a-071a*.

"[T]he major purpose of the suit may be to obtain a public declaration that they 'are right and were improperly treated,' along with nominal damages that serve as 'symbolic vindication of their constitutional rights.' Given the range of available remedies, redressability is easily satisfied." *Hassan*, 804 F.3d at 293 (emphasis added). "When a right is violated, the violation 'imports damage in the nature of it' and 'the party injured is entitled to a verdict for nominal damages.'" *Uzuegbunam v. Preczewski*, 592 U.S. _ (2021) (slip op., at 9).

An injunction compelling the decertification of an election after a candidate has been sworn-in is an appropriate remedy. It has been granted in similar, but less egregious, circumstances, explicitly on Fourteenth Amendment grounds. *Marks v. Stinson*, 19 F.3d 873 (3rd Cir. 1994), *RR 071a*. Admittedly, *Marks* was a down-ticket race. Nevertheless, the proposition stands and is supported by law, "[t]he President is vested with the executive power of the nation. The importance of his election and the vital character of its relationship to and effect upon the welfare and safety of the whole people cannot be too strongly stated." *Bush v. Gore*, 531 U.S. 98, 112

(2000) (Rehnquist, J., concurring), *RR 138a*.

“Once a right and violation have been shown, the scope of a district court’s equitable powers to remedy past wrongs is broad, for breadth and flexibility are inherent in equitable remedies.”

Swann v. Charlotte-Mecklenburg, 402 U.S. 1, 15 (1971). “[I]t is established practice for this Court to sustain the jurisdiction of federal courts to issue injunctions to protect rights safeguarded by the Constitution, and to restrain individual state officers from doing what the 14th Amendment forbids the state to do. Moreover, where federally protected rights have been invaded, it has been the rule from the beginning that courts will be alert to adjust their remedies so as to grant the necessary relief.” *Bell v. Hood*, 237 U.S. 678, 684 (1946), *RR 139a-140a*. “It is settled beyond peradventure that constitutional promises must be kept. Since *Marbury v. Madison*, 5 U.S. 137, 2L.Ed. 60 (1803), it has been well-established that the separation of powers in our tripartite system of government typically depends upon judicial review to check acts or omissions by other branches in derogation of constitutional requirements.” *William Penn School District v. Dept. of Ed.*, 170 A.3d 414, 418 (Pa. 2017), *RR 139a*.

The Commonwealth Court’s determination that Petitioner’s claims are moot is clearly erroneous.

II. The Court Conflated Pennsylvania's
Declaratory Relief Act and Election Code
with Constitutional Equal Protection, Due
Process, and First Amendment
Jurisprudence

"An action seeking declaratory judgment is not an optional substitute for established or available remedies and should not be granted where a more appropriate remedy is available." *Opinion* at p.9-10. "Petitioner utterly failed to avail himself of the foregoing appropriate statutory remedy thereby precluding the grant of the requested declaratory relief." *Opinion* at p.11.

"[T]he party who brings a suit is master to decide what law he will rely upon, and . . . does determine whether he will bring a suit arising under the Constitution or laws of the United States." *Bell*, 327 U.S. at 681. As shown in the previous subsection, the relief requested by Petitioner has been well-established, is available, and is eminently appropriate. Paradoxically, the Court found that a more appropriate remedy is available, but dismissed the case as moot because there is no available remedy. In so doing, the Court relied upon a case that was decided under the Declaratory Judgment Act, and not the Constitution. *See Pittsburgh Palisades Park, LLC v. Pennsylvania State Horse Racing Commission*, 944 A.2d 62 (Pa.Cmwlth.2004), *RR 140a*. Moreover, the Commonwealth Court ignored Pennsylvania Supreme Court precedent, which holds that injunctive and declaratory relief is

appropriate in equal protection cases. *William Penn School District*, 170 A.3d at 457 & n.3 (also holding that the substance of Pennsylvania's equal protection clause is coterminous with the Fourteenth Amendment), RR 138a.

Similarly, the Court relied upon a case brought pursuant to the Election Code, not the Constitution. *See In re Twenty-Frist Senatorial District Nomination*, 126 A. 556 (Pa.1924). This case was explicitly an election contest brought under the Commonwealth's prior election code, which was of course governed by the law under which it was brought. RR140a. The Court also relied upon a case about an appellant failing to invoke procedural rules to support the proposition that the Election Code abridges and ultimately abrogates the United States Constitution. *Commonwealth v. Dorler*, 588 A.2d 525 (Pa.Super.1991), RR 140a.

The Court applied this logic to each of Petitioner's claims, even though there is no support for the proposition that the Election Code provides any remedy, let alone an appropriate remedy, for Petitioner's signature verification, third-party challenge, more-time-to-vote, voter opportunity, and freedom of association claims. RR 140a. With regard to Petitioner's dilution claim, the Election Code is wholly inappropriate. Petitioner can't petition to open ballot boxes in Philadelphia or Allegheny County under Section 1701, or voting machines under Section 1702. These sections only provide for recanvassing and recounting, which would simply

result in reprocessing illegal ballots, not in notifying and disqualifying them. Section 1731 is not practicable for citizens like Petitioner, who is not affiliated with any political party and not involved in politics. Section 1756 relates only to claims that the Primary or General Election was illegal. The enforcement and penalty provisions of Section 1800 were not pursued and enforced. Finally, the Election Code has been held to be inadequate to address the violation of rights. *Bradway v. Cohen*, 642 A.2d 615 (Pa.Cmwlth.1994), *RR140a*.

"[I]f a constitutional claim is covered by a specific constitutional provision, . . . the claim must be analyzed under the standard appropriate to that specific provision". *U.S. v. Lanier*, 520 U.S. 259, 272 n.7 (1997); *See also, Commonwealth v. Colavita*, 993 A.2d 874, 890 (Pa.2010), *Graham v. Connor*, 490 U.S. 386, 395 (1989). The Election Code does not abridge or abrogate the Constitution. *U.S. Const. Article VI*, §2. Nor does it provide exclusive remedies for constitutional violations. *RR 140a-141a*. The U.S. Supreme Court does not dismiss constitutional civil rights cases for failure to invoke state Election Code procedures. *RR 141a*.

The Commonwealth Court's decision to conflate inapplicable state law with well-established constitutional jurisprudence is clearly erroneous.

III. The Court Conflated the Election Code with Mootness Exception Doctrines

"[W]e are not inclined to apply any of the foregoing exceptions to the mootness doctrine in this case because Petitioner failed to avail himself of the statutory remedies provided in the Election Code prior to filing the instant Amended Petition for Review." *Opinion at p.9.*

As demonstrated in previous subsections, this is another example of the Commonwealth Court abridging the Constitution with state law, and conflating discrete doctrines in order to deprive Petitioner of remedies. To avoid belaboring the point, Petitioner incorporates his July 18, 2021 Application for Reconsideration by reference. *RR 136a:145a.*

Again, the Commonwealth Court relied upon an entirely inapplicable case: *Metcalfe v. Wolf*, (Pa.Cmwlth., No. 636 MD 2020). The Plaintiffs in Metcalfe were political and alleged Election Code violations. Petitioner has alleged constitutional violations. The Pennsylvania Supreme Court has not held that their past cases have firmly adhered to the principle that the proper remedies for violations of the Constitution are to be found within the comprehensive legislative framework of the Pennsylvania Election Code. *RR 141a.*

Pennsylvania's mootness exception doctrine is detailed in Petitioner's May 2 brief. *RR 106a-111a.* The Commonwealth Court created and applied a new

mootness exception doctrine, *sua sponte*, that is entirely inappropriate.

IV. The Court Deemed Petitioner's Challenges to the Electoral Count Act Waived

"Petitioner first raised the issue regarding the constitutionality of the Electoral Count Act of 1887, 3 U.S.C. §§ 5 and 15, in his January 8, 2021 Reply and Application for Leave *Nunc Pro Tunc* relating to one of his emergency applications; therefore, as it was not originally raised in his Amended Petition for Review, it is waived." *Opinion* at p.7 n.5.

First, Petitioner challenged the Electoral Count Act explicitly in his December 11, 2020 emergency application, and in every single emergency application filed thereafter. *RR 112a*. All of which, he incorporates herein by reference.

Second, Petitioner may challenge the ECA because it relates to his claims. The Court can "pronounce any statute, either of a State or of the United States, void, because irreconcilable with the Constitution" when "it is called upon to adjudge the legal rights of litigants in actual controversies." *Brouillette v. Wolf*, 213 A.3d 341, 351 (Pa.Cmwlth. 2019).

Third, the case relied upon by the Court is characteristically inapplicable. It was decided on a motion for summary judgment, not mootness. The issue in that case concerned a regulation

promulgated during the course of litigation that clarified the statute that Plaintiffs were alleging to be unconstitutionally vague. When the regulation was issued clarifying the statute, the bottom of the claim fell out. The Plaintiffs' claim was predicated upon the statute itself being unconstitutionally vague. The Court held that Plaintiffs couldn't then pivot to the regulation being unconstitutionally vague because the claim itself evaporated. There were no legal rights for the Court to adjudge. *See Pennsylvania Medical Providers Association v. Foster*, 613 A.2d 51 (Pa.Cmwlth 1992), RR142a.

Fourth, only preliminary objections require the Court to resolve issues solely on the basis of pleadings. *See Weiley v. Albert Einstein Medical Center*, 51 A.3d 202, 208 (Pa.Super. 2012). Hence, mootness is properly raised via motion. RR 142a.

Fifth, the Commonwealth Court routinely considers matters collateral to the complaint in deciding mootness. *See Hamilton Contracting Co. v. Department of Environmental Resources*, 494 A.2d 516 (Pa.Cmwlth. 1985). So does the Pennsylvania Supreme Court. *See Wiegand v. Wiegand*, 337 A.2d 256 (Pa. 1975) (constitutional challenges collateral to divorce complaint may be raised in trial court).

Sixth, Pa.R.A.P. § 521(a) expressly acknowledges that Petitioner may raise constitutional challenges in pleadings or in other portions of the record, and this proposition is further supported by Pa.R.A.P. § 302(a). Indeed, "[o]ur

Supreme Court has frequently stressed the necessity of raising claims at the earliest opportunity . . .".
Jahanshahi v. Centura, 816 A.2d 1179, 1189 (Pa.Super.2003), *RR 143a*.

And finally, it is well settled that changes in facts or law outside of the complaint are relevant in determining mootness. *In re: Gross*, 382 A.2d 116, 119 (Pa. 1978), *RR 143a*. Perplexingly, the Commonwealth Court held that it was impermissible to consider material outside of the Amended Petition, and then decided that the case was moot, because of the inauguration, which isn't in the Amended Petition.

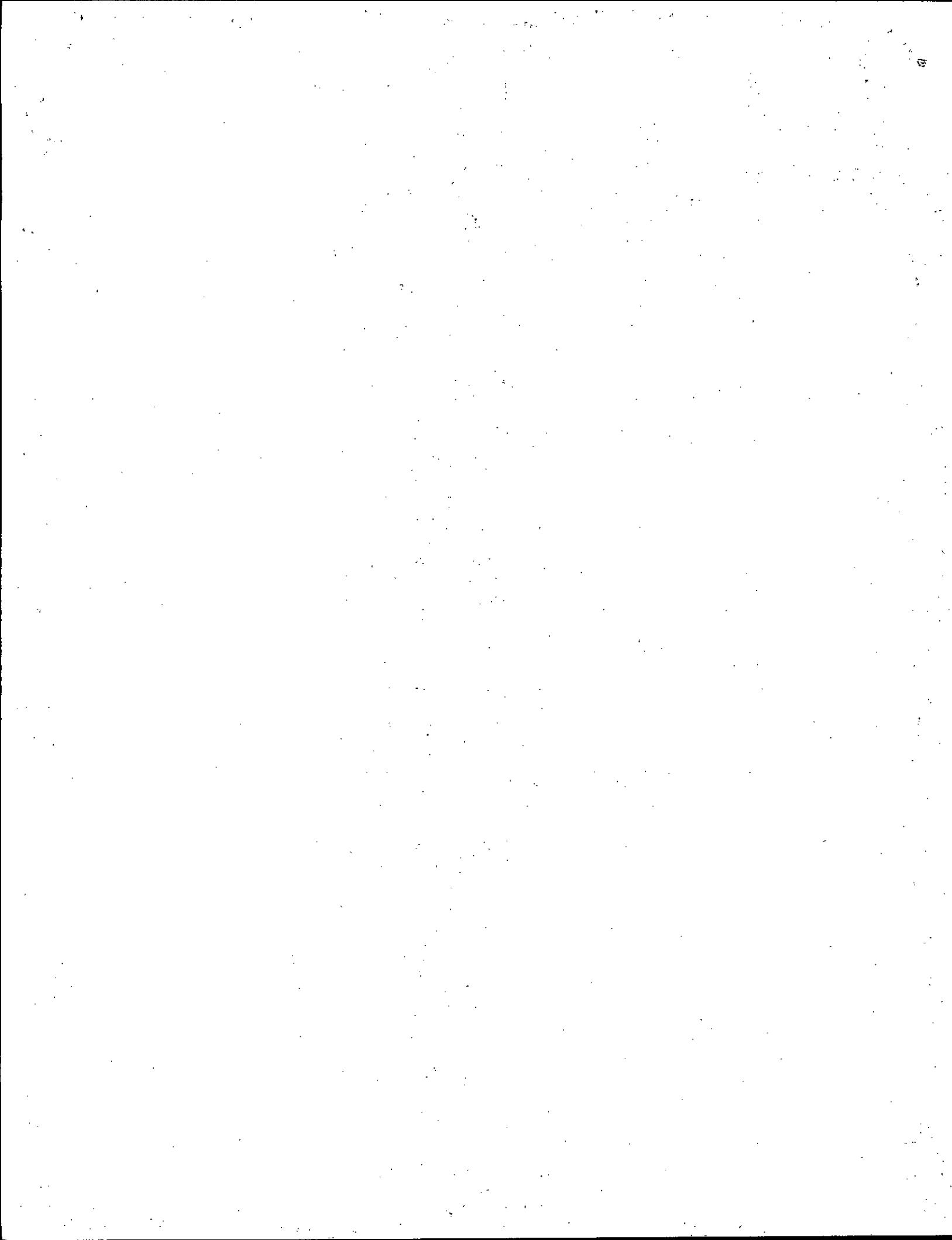
CONCLUSION

My case is anything but moot. The Court should reverse the decision of the Commonwealth court and remand with explicit instructions to proceed to discovery without further delay.

Respectfully submitted,

By: /s/ Andrew Ioannidis
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New Cumberland, PA 17070
908-268-7571
Pa. I.D. No. 326060
Petitioner/Appellant

Dated November 21, 2021.



APPENDIX F

1. 3 U.S.C. § 5 provides:

If any State shall have provided, by laws enacted prior to the day fixed for the appointment of the electors, for its final determination of any controversy or contest concerning the appointment of all or any of the electors of such State, by judicial or other methods or procedures, and such determination shall have been made at least six days before the time fixed for the meeting of the electors, such determination made pursuant to such law so existing on said day, and made at least six days prior to said time of meeting of the electors, shall be conclusive, and shall govern in the counting of the electoral votes as provided in the Constitution, and as hereinafter regulated, so far as the ascertainment of the electors appointed by such State is concerned.

2. 3 U.S.C. § 15 provides:

Congress shall be in session on the sixth day of January succeeding every meeting of the electors. The Senate and House of Representatives shall meet in the Hall of the House of Representatives at the hour of 1 o'clock in the afternoon

on that day, and the President of the Senate shall be their presiding officer. Two tellers shall be previously appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted according to the rules in this subchapter provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses. Upon such reading of any such certificate or paper, the President of the Senate shall call for objections, if any.

Every objection shall be made in writing, and shall state clearly and concisely, and without argument, the ground thereof, and shall be signed by at least one Senator and one Member of the House of Representatives before the same shall be received. When all objections so made to any vote or paper from a State shall have been received and read, the Senate shall thereupon withdraw, and such objections shall be submitted to the Senate for its decision; and the Speaker of the House of Representatives shall, in like manner, submit such objections to the House of Representatives for its decision; and no electoral vote or votes from any State which shall have been regularly given by electors whose appointment has been lawfully certified to according to section 6 of this title from which but one return has been received shall be rejected, but the two Houses concurrently may reject the vote or votes when they agree that such vote or votes have not been so regularly given by electors whose appointment has been so certified. If more than one return or paper purporting to be a return from a State shall have been received by the President of the Senate, those votes, and those only, shall be counted which shall have been regularly given by the

electors who are shown by the determination mentioned in section 5 of this title to have been appointed, if the determination in said section provided for shall have been made, or by such successors or substitutes, in the case of a vacancy in the board of electors so ascertained, as have been appointed to fill such vacancy in the mode provided by the laws of the State; but in case there shall arise the question which of two or more of such State authorities determining what electors have been appointed, as mentioned in Section 5 of this title, is the lawful tribunal of such State, the votes regularly given of those electors, and those only, of such State shall be counted, whose title as electors the two Houses, acting separately, shall concurrently decide is supported by the decision of such State so authorized by its law; and in such case of more than one return or paper purporting to be a return from a State, if there shall have been no such determination of the question in the State aforesaid, then those votes, and those only, shall be counted which the two Houses shall concurrently decide were cast by lawful electors appointed in accordance with the laws of the State, unless the two Houses, acting separately, shall concurrently decide such votes not to be

the lawful votes of the legally appointed electors of such State. But if the two Houses shall disagree in respect of the counting of such votes, then, and in that case, the votes of the electors whose appointment shall have been certified by the executive the State, under the seal thereof, shall be counted. When the two Houses have voted, they shall immediately again meet, and the presiding officer shall then announce the decision of the questions submitted. No votes or papers from any other State shall be acted upon until the objections previously made to the votes or papers from any State shall have been finally disposed of.