

No. 24-363

IN THE
Supreme Court of the United States

PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,

Petitioners,

v.

AL SCHMIDT,
SECRETARY OF PENNSYLVANIA, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

**RESPONSE OF THE LEHIGH COUNTY
BOARD OF ELECTIONS TO THE
PETITION FOR WRIT OF CERTIORARI**

CATHARINE M. ROSEBERRY
Counsel of Record
LEHIGH COUNTY BOARD OF ELECTIONS
COUNTY OF LEHIGH, DEPARTMENT OF LAW
17 South Seventh Street
Allentown, PA 18101
(610) 782-3180
catharineroseberry@lehighcounty.org

Counsel for Respondent
Lehigh County Board of Elections

120170



COUNSEL PRESS

(800) 274-3321 • (800) 359-6859

In accordance with this Court’s letter dated November 12, 2024, which requested that certain respondents file a response to the writ of certiorari, Respondent Lehigh County Board of Elections (“Lehigh”) hereby submits the following Response.

Lehigh does not oppose the writ of certiorari, based on and consistent with its stipulation to Petitioners at the beginning of the case. The stipulation was approved by the trial court on January 5, 2023, and a copy is reprinted at App. 1a. In pertinent part, Lehigh stipulated that it would not object to and agreed to not contest or appeal the declaratory and injunctive relief requested by the Plaintiffs who are now Petitioners before this Court.

Furthermore, Lehigh subsequently elected by letter dated December 20, 2023 not to participate in the appeal before the Third Circuit Court of Appeals, which letter is reprinted at App. 22a.

Therefore, Respondent Lehigh County Board of Elections does not oppose the Petition for a Writ of Certiorari filed in this matter.

Respectfully submitted,

CATHARINE M. ROSEBERRY
Counsel of Record
LEHIGH COUNTY BOARD OF ELECTIONS
COUNTY OF LEHIGH, DEPARTMENT OF LAW
17 South Seventh Street
Allentown, PA 18101
(610) 782-3180
catharineroseberry@lehighcounty.org

Counsel for Respondent
Lehigh County Board of Elections

APPENDIX

TABLE OF APPENDICES

	<i>Page</i>
APPENDIX A — STIPULATION OF THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA, FILED JANUARY 5, 2023. . . .	1a
APPENDIX B — LETTER FROM THE COUNTY OF LEHIGH, DEPARTMENT OF LAW, FILED DECEMBER 20, 2023.	22a

1a

**APPENDIX A — STIPULATION OF THE
UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA,
FILED JANUARY 5, 2023**

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF PENNSYLVANIA

Case No. 1:22-cv-00339-SPB

PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,

Plaintiffs,

v.

LEIGH M. CHAPMAN, IN HER OFFICIAL
CAPACITY AS ACTING SECRETARY
OF THE COMMONWEALTH, *et al.*,

Defendants.

Filed January 5, 2023

STIPULATION

Plaintiffs and the undersigned County Election Boards, by their undersigned counsel, hereby stipulate as follows:

1. The undersigned County Election Boards desire a prompt resolution of this case in order to have direction on how to properly proceed in future elections. Accordingly, while the undersigned County Election Boards neither admit nor deny the allegations of the Amended Complaint,

Appendix A

the undersigned County Election Boards do not object to, and stipulate and agree to not contest or appeal, the declaratory and injunctive relief requested by Plaintiffs in this action. The forgoing does not prohibit the undersigned County Election Boards from joining an appeal of a decision of this Court denying Plaintiffs' requested declaratory and injunctive relief or from appealing a decision of the Court imposing sanctions on the undersigned County Election Boards.

2. In the absence of any further agreed-upon extension by Plaintiffs, the undersigned County Election Boards stipulate and agree: that they shall not unreasonably impede discovery in this action; that they will, by January 20, 2023, answer and respond fully and completely to the written interrogatories, document requests, and requests for admission served upon them by Plaintiffs on December 14, 2022, limiting objections to the extent reasonably possible to those concerning privilege; and that they will produce to Plaintiffs' counsel all requested non-privileged items and documents.

3. In exchange for the undersigned County Election Boards' stipulation and cooperation in discovery as stated in the other paragraphs of this Stipulation, Plaintiffs stipulate and agree: to forgo any claim for attorneys' fees and costs against only the undersigned County Election Boards; to refrain from seeking the entry of any default or seek any further response from the undersigned County Election Boards in this case; and to forgo any other relief in this case against the undersigned County Election Boards other than the injunctive and declaratory relief sought in Plaintiffs' Amended Complaint.

Appendix A

4. To the extent the deposition testimony or other sworn statement of the undersigned County Election Boards shall be reasonably necessary for evidentiary purposes, Plaintiffs and the undersigned County Election Boards stipulate and agree to reasonably cooperate with each other to provide such testimony or statement in the least burdensome manner.

Undersigned counsel for Plaintiffs represents that counsel for all other parties listed below consent to this Stipulation.

Dated: January 4, 2023

Respectfully submitted,

Ari J. Savitzky
Megan C. Keenan
Sophia Lin Lakin
Adriel I. Cepeda Derieux
AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
125 Broad Street,
18th Floor
New York, NY 10004
Tel.: (212) 549-2500
asavitzky@aclu.org
mkeenan@aclu.org
slakin@aclu.org
acepedaderieux@aclu.org

/s/Stephen A. Loney, Jr.
Witold J. Walczak
(PA 62976)
Richard T. Ting
(PA 200438)
AMERICAN CIVIL LIBERTIES
UNION OF PENNSYLVANIA
P.O. Box 23058
Pittsburgh, PA 15222
Tel: (412) 681-7736
vwalczak@aclupa.org
rting@aclupa.org

Appendix A

David Newmann
(PA 82401)

Brittany Armour
(PA 324455)

HOGAN LOVELLS US LLP
1735 Market Street,
23rd Floor

Philadelphia, PA 19103

Tel: (267) 675-4610

david.newmann@

hoganlovells.com

brittany.armour@

hoganlovells.com

Marian K. Schneider

(PA 50337)

Stephen Loney

(PA 202535)

AMERICAN CIVIL LIBERTIES

UNION OF PENNSYLVANIA

P.O. Box 60173

Philadelphia, PA 19102

mschneider@aclupa.org

sloney@aclupa.org

*Counsel for the
Pennsylvania State
Conference of the NAACP,
League of Women Voters
of Pennsylvania,
Philadelphians
Organized to Witness,
Empower and Rebuild,
Common Cause
Pennsylvania, Black
Political Empowerment
Project, Make the Road
Pennsylvania, Jean
Terrizzi, Barry M.
Seastead, Marjorie Boyle,
Marlene G. Gutierrez,
Deborah Diehl, Aynne
Margaret Pleban
Polinski, Joel Bencan,
and Laurence M. Smith*

5a

Appendix A

ADAMS COUNTY
BOARD OF ELECTIONS

Dated: January 4, 2023

/s/Sean A. Mott

Molly R. Mudd

Sean A. Mott

COUNTY OF ADAMS

117 Baltimore Street

Gettysburg, PA 17325

Tel: 717-337-5911

Fax: 717-334-9542

mmudd@adamscounty.us

samott@adamscounty.us

6a

Appendix A

ALLEGHENY COUNTY
BOARD OF ELECTIONS

Dated: January 4, 2023

/s/George M. Janocsko

George M. Janocsko
Virginia Spencer Scott
Frances M. Liebenguth
Lisa G. Michel

ALLEGHENY COUNTY
LAW DEPARTMENT
445 Fort Pitt Blvd, Suite 300
Pittsburgh, PA 15219
Tel: (412) 350-1173
Fax: (412) 350-1174
george.janocsko@
allegHENYcounty.us
virginia.scott@
allegHENYcounty.us
frances.liebenguth@
allegHENYcounty.us
lisa.michel@
allegHENYcounty.us

Allan J. Opsitnick
564 Forbes Avenue,
Suite 1301
Pittsburgh, PA 15219
Tel: (412) 391-3299
aopsitnick@
opsitnickslaw.com

7a

Appendix A

ARMSTRONG COUNTY
BOARD OF ELECTIONS

Dated: January 4, 2023

/s/Andrew J. Sacco
Andrew J. Sacco, Solicitor
ARMSTRONG COUNTY
BOARD OF ELECTIONS
450 Market Street
Kittanning, PA 16201
sslaw@windstream.net

BEAVER COUNTY
BOARD OF ELECTIONS

Dated: January 4, 2023

/s/Garen Fedeles
Garen Fedeles, Esq.
Beaver County Solicitor
810 Third St.
Beaver, Pa 15009
Tel: (724) 770-4445
Fax: (724) 773-7268
gfedeles@
beavercountypa.gov

Appendix A

BLAIR COUNTY BOARD
OF ELECTIONS

Dated: January 4, 2023

/s/Nathan W. Karn, Sr.

Nathan W. Karn, Sr.

BLAIR COUNTY SOLICITOR

401 Allegheny Street

PO Box 415

Hollidaysburg, PA 16648

Tel: 814-695-7581

Fax: 814-695-1750

PACER:

nkarn@eveyblack.com

COMMUNICATION:

nkarn@blairco.org

BUCKS COUNTY BOARD
OF ELECTIONS

Dated: January 4, 2023

/s/Amy Fitzpatrick

Amy Fitzpatrick

COUNTY OF BUCKS

LAW DEPARTMENT

55 E. Court Street, 5th Floor

Doylestown, PA 18901

Tel: (215) 348-6464

amfitzpatrick@

buckscounty.org

9a

Appendix A

Jessica L VanderKam
STUCKERT AND YATES PA
2 North State Street
Newtown, PA 18940
Tel: (215) 968-4700
jvanderkam@
stuckertyates.com

CAMBRIA COUNTY
BOARD OF ELECTIONS

Dated: January 4, 2023

/s/William Gleason Barbin
William Gleason Barbin
Melissa A. Kestermont
CAMBRIA COUNTY
SOLICITOR'S OFFICE
200 South Center Street
Cambria County
Courthouse
Ebensburg, PA 15931
Tel: 814-472-1607
mkestermont@
co.cambria.pa.us

10a

Appendix A

CAMERON COUNTY
BOARD OF ELECTIONS

Dated: January 4, 2023

/s/Edwin W. Tompkins
Edwin W. Tompkins
Cameron County Solicitor
20 E. 5th St.
Emporium, PA 15834
Tel: (814) 486-1532
ewtompkinslaw@gmail.com

CHESTER COUNTY
BOARD OF ELECTIONS

Dated: January 4, 2023

/s/Colleen Frens
Colleen Frens
Faith Mattox-Baldini
CHESTER COUNTY
SOLICITOR'S OFFICE
313 W Market Street,
Suite 6702
West Chester, PA 19380
Tel: (610) 344-6195
cfrens@chesco.org
fmattoxbaldini@chesco.org

11a

Appendix A

CLARION COUNTY
BOARD OF ELECTIONS
and SUSQUEHANNA
COUNTY BOARD OF
ELECTIONS and
TIOGA COUNTY BOARD
OF ELECTIONS

Dated: January 4, 2023

/s/Christopher P. Furman
Christopher P. Furman
Gabriel Fera, P.C.
1010 Western Avenue,
Suite 200
Pittsburgh, PA 15233
T: (412) 223-5815
F: (412) 774-0074
cfurman@gabrielfera.com

CLINTON COUNTY
BOARD OF ELECTIONS

Dated: January 4, 2023

/s/ Larry E. Coploff
Larry E. Coploff
COPLOFF, RYAN & HOUSER
136 E Water St
Lock Haven, PA 17745
Tel: (570) 748-7771
lec@crwlaw.net

12a

Appendix A

CRAWFORD COUNTY
BOARD OF ELECTIONS

Dated: January 4, 2023

/s/Keith A. Button
Keith A. Button
SHAFFER LAW FIRM
890 Market St.
Meadville, PA 16335
Tel: 814-724-4540
Fax: 814-724-4545
kbutton@shaferlaw.com

CUMBERLAND COUNTY
BOARD OF ELECTIONS

Dated: January 4, 2023

/s/Keith O. Brenneman
Keith O. Brenneman
CUMBERLAND COUNTY
OFFICE OF THE SOLICITOR
One Courthouse Square,
Room 208,
Carlisle, PA 17013
kobrenneman@
cumberlandcountypa.gov

13a

Appendix A

DELAWARE COUNTY
BOARD OF ELECTIONS

Dated: January 4, 2023

/s/J. Manly Parks
James Manly Parks
Nick Centrella
DUANE MORRIS LLP
30 South 17th Street
Philadelphia, PA 19103
Tel: 215-979-1342
Fax: 215-689-3682
jmparks@
 duanemorris.com
nmcentrella@
 duanemorris.com

ELK COUNTY BOARD
OF ELECTIONS

Dated: January 4, 2023

/s/Thomas G. Wagner
Thomas G. Wagner, Solicitor
115 Lafayette Street
St. Marys, PA 15857
Tel: (814) 781-3445
twagner@mwbklaw.com

14a

Appendix A

ERIE COUNTY BOARD
OF ELECTIONS

Dated: January 4, 2023

/s/Thomas S. Talarico
Thomas S. Talarico
TALARICO & NIEBAUER
510 Cranberry Street,
Suite 301
Erie, PA 16507
Tel: (814) 459-4472
Fax: (814) 454-5851
ttalarico@nwpalawyers.com

FRANKLIN COUNTY
BOARD OF ELECTIONS
and POTTER COUNTY
BOARD OF ELECTIONS

Dated: January 4, 2023

/s/Frank J. Lavery, Jr.
Frank J. Lavery, Jr.
Andrew W. Norfleet
LAVERY LAW
225 Market Street,
Suite 304
P.O. Box 1245
Harrisburg, PA 17108-1245
Tel: (717) 233-6633
Fax: (717) 233-7003
flavery@laverylaw.com
anorfleet@laverylaw.com

15a

Appendix A

JUNIATA COUNTY
BOARD OF ELECTIONS

Dated: January 4, 2023

/s/Donald K. Zagurskie
Donald K. Zagurskie, Esq.
JUNIATA COUNTY
SOLICITOR'S OFFICE
117 Main St.,
Mifflin, PA 17058
Tel: (717) 436-8044
Fax: 717-436-2722
dzagurskie@juniataco.org

LEHIGH COUNTY
BOARD OF ELECTIONS

Dated: January 4, 2023

/s/Catharine M. Roseberry
Catharine M. Roseberry
COUNTY OF LEHIGH
DEPARTMENT OF LAW
17 S 7th Street, Ste 440
Allentown, PA 18101
Tel: 484-241-0675
catharineroseberry@
lehighcounty.org

16a

Appendix A

LYCOMING COUNTY
BOARD OF ELECTIONS

Dated: January 4, 2023

/s/ J. David Smith
J. David Smith,
PA I.D. No. 27813
McCORMICK LAW FIRM
835 West Fourth Street
Williamsport, PA 17701
Tel: (570) 326-5131
Fax: (570) 326-5529
dsmith@mcclaw.com

MIFFLIN COUNTY
BOARD OF ELECTIONS

Dated: January 4, 2023

/s/Stephen S. Snook
Stephen S. Snook
20 S. Wayne Street
Lewistown, PA 17044
T: (717) 242-3400
ssnook@bmzlaw.com

17a

Appendix A

MONTGOMERY COUNTY
BOARD OF ELECTIONS

Dated: January 4, 2023

/s/Maureen Calder
Maureen Calder
MONTGOMERY COUNTY
SOLICITOR'S OFFICE
One Montgomery Plaza,
Suite 800
Norristown, PA 19404
Tel: (610) 278-3033
Fax: (610) 278-3033
mcalder@montcopa.org

NORTHAMPTON
COUNTY BOARD
OF ELECTIONS

Dated: January 4, 2023

/s/Brian J. Taylor
Brian J. Taylor
NORTHAMPTON COUNTY
SOLICITOR'S OFFICE
669 Washington Street
Easton, PA 18042
Tel: (610) 829-6350
Fax: (610) 559-3001
btaylor@kingspry.com

18a

Appendix A

PHILADELPHIA
COUNTY BOARD
OF ELECTIONS

Dated: January 4, 2023

/s/ Aimee D. Thomson
Ilana Hope Eisenstein
Brian H. Benjet
DLA Piper LLP (US)
One Liberty Place
1650 Market Street,
Suite 4900
Philadelphia, PA 19103
Tel: (215) 656-3351
Fax: (215) 606-3351
ilana.eisenstein@dlapiper.com
brian.benjet@dlapiper.com

Aimee D. Thomson
Zachary Strassburger
CITY OF PHILADELPHIA
LAW DEPARTMENT
1515 Arch St., 15th Floor
Philadelphia, PA 19102
Tel: (215) 683-5439
aimee.thomson@phila.gov
zachary.strassburger@
phila.gov

Appendix A

POTTER COUNTY
BOARD OF ELECTIONS

Dated: January 4, 2023

/s/Thomas R. Shaffer
Thomas R. Shaffer
Solicitor for County
of Potter
410 Ross Street
Coudersport, PA 16915
814-203-1678
Email: tom@410ross.com

SOMERSET COUNTY
BOARD OF ELECTIONS

Dated: January 4, 2023

/s/ Michael P. Barbera
Michael P. Barbera
BARBERA, MELVIN, SVONAVEC &
SPERLAZZA LLP
146 West Main Street,
P.O. Box 775
Somerset, PA 15501
Tel: (814) 443-4681
Fax: (814) 443-2422
mpbarbera@
barberalaw.com

20a

Appendix A

SULLIVAN COUNTY
BOARD OF ELECTIONS
and WYOMING COUNTY
BOARD OF ELECTIONS

Dated: January 4, 2023

/s/ Keneth R. Levitzky
Kenneth R. Levitzky
125 Churchill St., Box 489
Dushore, PA 18614
Tel: (570) 928-8288
krllaw@epix.net

UNION COUNTY
BOARD OF
ELECTIONS

Dated: January 4, 2023

/s/ Jonathan L. DeWald
Jonathan L. DeWald,
Esquire
McNERNEY, PAGE,
VANDERLIN & HALL
433 Market Street
Williamsport, PA 17701
Tel: (570) 326-6555; Ext. 240
jdewald@mpvhlaw.com

21a

Appendix A

WAYNE COUNTY
BOARD OF
ELECTIONS

Dated: January 4, 2023

/s/Wendell R. Kay
Wendell R. Kay, Esq.,
Wayne County,
PA County Solicitor
925 Court Street
Honesdale, PA 18431
WKay@waynecountypa.gov

It is so ordered this 5th day of January, 2022.

/s/ Susan Paradise Baxter
United States District Judge

**APPENDIX B — LETTER FROM THE
COUNTY OF LEHIGH, DEPARTMENT OF LAW,
FILED DECEMBER 20, 2023**

**COUNTY OF LEHIGH
Department of Law**

David M. Backenstoe
County Solicitor
Sarah M. Murray
Deputy County Solicitor
Eman H. Jarrah
Deputy County Solicitor
Assistant Solicitors:
Samuel E. Cohen
E. Keller Kline, III
Joseph F. Leeson, III
Joshua S. Mazin
Lucas J. Repka
Catharine M. Roseberry
Stuart T. Shmookler
Charles F. Smith, Jr.

December 20, 2023

Patricia S. Dodszuweit, Clerk
United States Court of Appeals for the Third Circuit
21400 United States Courthouse
601 Market Street
Philadelphia, PA 19106-1790

RE: Pennsylvania State Conference of NAACP
Branches, et al. v. Northampton
County Board of Elections, et al.;
Case Number: 23-3166

23a

Appendix B

Attn: Kirsi, case manager – via e-filing

Dear Ms. Dodszuweit,

In accordance with the Court's opening case information, dated December 7, 2023, please be advised that Appellee Lehigh County Board of Elections will not be participating in this appeal.

Thank you.

Very truly yours,

/s/ Catharine M. Roseberry
Catharine M. Roseberry
Assistant Solicitor
County of Lehigh
Attorney ID# 40199

cc: counsel of record
CMR/moi