

APPENDIX TABLE OF CONTENTS

OPINIONS AND ORDERS

- OPINION A: *Savage v. Trump, Stenstrom (Pro Se), Hoopes (Pro Se), et al*, Philadelphia County Court of Common Pleas, Opinion and Final Order, Docket No. 211002495, June 12, 2024, Judge Michael Erdos 1a
- OPINION B: *Moton, Stenstrom (Pro Se), Hoopes (Pro Se) v. Former Secretary of the Commonwealth Kathy Boockvar, et al.*, Delaware County Court of Common Pleas, Final Order (No Opinion), Docket No. CV-2022-000032, July 8, 2022, Judge Jack Whelan 5a
- OPINION C: *Chester County v. Felice Fein*, Chester County Court of Common Pleas Opinion and Order, Docket No. 2023-08442-CS, Sept. 4, 2024, Judge Jeffrey Sprecher 11a
- OPINION D: *Michael Miller (Pro Se) V. County of Lancaster*, U.S. District Court for the Middle District of Pennsylvania, Last Order, June 5th, 2024, Judge Jennifer P. Wilson..... 14a
- OPINION E: *Stenstrom v. Delaware County*, Pennsylvania Office of Open Records Final Determination, July 12th, 2023, AP 2023-1326, Hon. Joshua T. Young..... 16a
- OPINION F: *Carrie Hahn (Pro Se) v. Wilmington Township*, Pennsylvania Office of Open Records, March 29, 2018, AP 2017-2301, Kathleen A. Higgins..... 28a
- OPINION G: *Mancini, Stenstrom, Hoopes, Schwartz (All Pro Se) v. Delaware County*, United States District Court for the Eastern

District of Pennsylvania, Last Order, September 9th, 2024, 24-2425, Judge Kai N. Scott.....	31a
OPINION H: <i>Yanoviak, Stenstrom, et al v Chester County et al</i> , Commonwealth Court of Pennsylvania, Last Order, February 21 st , 2024, 1522 C.D. 2023, Per Curiam.....	42a

OTHER DOCUMENTS

Appendix A: DOJ CRM PIN ECB Manual - 2017 Edition (Federal Prosecution of Election Offenses).....	52a
Appendix B: FOIA-Released Communications Between AG William Barr, Deputy AG Richard Donoghue, and Richard Pilger	56a
Appendix C: Internal DOJ Communications Regarding Election Fraud Investigations	59a
Appendix D: Evidence Submitted in Savage v. Trump et al. (Philadelphia Court of Common Pleas, Case No.: 211002495).....	62a
Appendix E: FOIA Releases Showing DOJ Obstruction.....	65a
Appendix F: William McSwain’s Letter to President Trump and Richard Pilger’s Resignation Letter	68a
Appendix G: Documented Retaliation Against Petitioners for Challenging Election Results	71a
Appendix H: FOIA Releases and Internal DOJ Documents Highlighting Conflicting Policies.....	75a

Appendix I: Congressional Testimony and Disclosures Regarding DOJ Election Fraud Investigations.....	78a
Appendix J: Legal Precedents and SCOTUS Rulings on Election Fraud and DOJ's Statutory Duties	81a
Appendix K: Statistical and Forensic Analysis of Election Data Highlighting Irregularities	85a
Appendix L: Expert Testimony on Election Integrity and Security Vulnerabilities.....	90a
Appendix M: Detailed Analysis of DOJ Policy and Unlawful Deferral of Election Fraud Investigations.....	95a
Appendix N: Case Studies on Election Integrity Investigations and Failures.....	100a
Appendix O: Testimonies and Evidence of Retaliation Against Petitioners for Challenging Election Integrity	106a
Appendix P: DOJ's History of Inconsistent Enforcement, Prosecutorial Discretion, and Policy Violations.....	112a
Appendix Q: The Role of Whistleblowers in Exposing Election Irregularities and the DOJ's Failures in Providing Protections	117a
Appendix R: Judicial and Constitutional Oversight of DOJ Investigations in Election-Related Cases.....	121a
Appendix S: Legal and Constitutional Challenges Stemming from DOJ's Deferred Investigations.....	125a

Appendix T: Pennsylvania Office of Open Records (OOR) Relevant Requests and Dispositions Regarding Election Integrity	129a
Appendix U: Michael Miller’s Case – Judicial Obstruction and the Need for a Special Master	142a
Appendix V: Adminis. Harassment of Brian Yanoviak – Retaliation by Chester County Officials	147a
Appendix W: Jeanne White’s Declaration on Logic and Accuracy Testing Failures in Montgomery County, PA	152a
Appendix X: Sean Connolly’s Law Enforcement Expertise, Election Transparency Efforts, and Systemic Governmental Obstruction in the 2020 Election.....	157a
Appendix Y: Carrie Hahn’s Case – Judicial Obstruction, Election Integrity, and DOJ Non-Interference.....	164a
Appendix Z: Systemic Violations in Pennsylvania Election Administration – Request for DOJ Policy Rescission	170a
Appendix AA: Retaliation and Systemic Obstruction in Delaware County’s Election Administration – Request for Emergency Relief.....	179a
Appendix BB: Retaliation Against Renee Mazer – Consequences of DOJ Policy Deferral and Election Transparency Advocacy	188a
Appendix CC: Obstruction of Election Recounts in Fayette County – Judicial Interference and Noncompliance.....	194a

Appendix DD: Timeline of DOJ Deferral, Obstruction, and the Imminent Harm to Petitioners and Election Integrity	203a
Appendix EE: Systemic Election Irregularities and Obstruction in Delaware County, PA, and the Strategic Use of Legal Resources to Block Transparency	212a
Appendix FF: The Need for a Special Master to Ensure Transparency and Integrity in the 2024 Election through Review of DOJ's Use of AI-Driven Redactions.....	219a
Appendix GG: DOJ Obstruction and Retaliation through AI Redactions and Missing Chain of Custody for 650,000 Mail-in Ballots	227a
Appendix HH: Petitioner Felice Fein's Legal Battle for Mail-In Ballot (MIB) Envelope Images and the Systemic Obstruction of Transparency in Pennsylvania.....	234a
Appendix II: Congressional & Executive Silence in the Face of Verifiable Evidence	240a
Appendix JJ: Learned Helplessness as Article III Harm and Concrete Injury	246a
Appendix KK: Petitioner Stenstrom Sworn Declaration provided to US Attorney McSwain.....	253a

App.1a

OPINION A

Savage v. Trump, Stenstrom (Pro Se), Hoopes (Pro Se), et al, Philadelphia County Court of Common Pleas, Opinion and Final Order, Docket No. 211002495, June 12, 2024, Judge Michael Erdos

(Docket No. 211002495)

**Judge Michael Erdos, Philadelphia County Court of Common Pleas
Issued: June 12, 2024**

OPINION

On November 1, 2021, Plaintiff **James Savage** filed a Complaint against **Gregory Stenstrom, Leah Hoopes**, and others, alleging defamation concerning his actions as a voting machine supervisor during the 2020 Presidential election. Represented by **Attorney Conor Corcoran**, the Plaintiff sought relief through a **Motion for Protective Order** filed on **June 6, 2023**. This motion included various requests, such as a gag order, stay-away orders, and the confiscation of firearms. Attorney Corcoran cited **Rule 4012** of the Pennsylvania Rules of Civil Procedure, typically reserved for discovery issues, as the legal basis for his requests.

Upon review, the Court expressed concerns regarding the application of **Rule 4012**, especially as the requests did not pertain to discovery matters. The **Appellees** (Stenstrom, Hoopes, et al.) argued that the rule was misapplied, and the Court ultimately denied the motion, citing the inappropriate use of Rule 4012.

Subsequently, the **Appellees** filed a disciplinary complaint with the Pennsylvania **Disciplinary Board**,

App.2a

citing Attorney Corcoran's misuse of Rule 4012. The Board initially declined to act, suggesting that the complaint was premature as the Court had not imposed any sanctions on Attorney Corcoran. On **February 14, 2024**, the Appellees filed a **Motion for Sanctions** against Corcoran, and while the lawsuit was discontinued on **February 28, 2024**, the Court found that Corcoran had violated sections of the **Pennsylvania Rules of Professional Conduct** by knowingly making false statements of law.

ORDER

AND NOW, this 12th day of June 2024, upon consideration of the Motion for Sanctions and all evidence presented:

1. The Court finds that **Attorney J. Conor Corcoran** violated the Pennsylvania Rules of Professional Conduct, specifically **Rules 3.3(a)(1)** and **Rules 8.4(a)** and **8.4(c)**.
2. The Court **vacates** its previous order denying monetary sanctions due to clerical errors but declines to impose further financial penalties.
3. Attorney Corcoran is directed to refrain from any future misrepresentations of law or ethical violations in this or any other legal proceedings.

IT IS SO ORDERED.

BY THE COURT:

Hon. Michael Erdos

Judge, Philadelphia County Court of Common Pleas

Key Takeaways:

1. Misapplication of Rule 4012:

Attorney Corcoran's use of Rule 4012 was deemed improper as the rule relates to discovery matters, and his motion did not concern discovery. The Court found that Corcoran knowingly misrepresented the legal basis for his requests.

2. Violations of Professional Conduct:

*Corcoran was found in violation of **Rules 3.3(a)(1)** (Candor Toward the Tribunal) and **Rules 8.4(a)** and **8.4(c)** (Misconduct involving dishonesty, fraud, deceit, or misrepresentation).*

3. No Monetary Sanctions:

While the Court found misconduct, it did not impose monetary sanctions, instead vacating its previous orders to correct clerical errors.

Footnotes

1. Suspiciously, Corcoran never mentioned in his motion or at the hearing that Rule 4012 was a rule of discovery.
2. The Appellees filed a complaint with the Disciplinary Board on July 20, 2023, regarding Corcoran's conduct. The Board deemed the complaint premature, as no sanctions had yet been imposed by the Court.
3. An administrative officer backdated orders in error due to the constraints of the Banner case

App.4a

management system. The timestamping issue was not done with malicious intent.

4. On **March 1, 2024**, the Court vacated the previous order denying sanctions to correct clerical errors.
5. The Court credited testimony indicating Corcoran was directed to file his motion for protective relief in Discovery Court but found he knowingly tied the request to Rule 4012 from the outset.

App.5a

OPINION B

***Moton, Stenstrom (Pro Se), Hoopes (Pro Se) v.
Former Secretary of the Commonwealth Kathy
Boockvar, et al., Delaware County Court of
Common Pleas, Final Order (No Opinion),
Docket No. CV-2022-000032,
July 8, 2022, Judge Jack Whelan***

**Court of Common Pleas of Delaware County,
Pennsylvania**

Ruth Moton, Gregory Stenstrom, Leah Hoopes

v.

**Former Secretary of the Commonwealth Kathy
Boockvar, et al.**

No. 2022 000032

ORDER

Upon consideration of the preliminary objections of all Defendants and Plaintiffs' response(s) thereto, this Court hereby finds as follows:

1. On November 24, 2020, Secretary of State Kathy Boockvar certified the results of the November 3, 2020, election in Pennsylvania for President and Vice President of the United States.
2. Governor Tom Wolf subsequently signed the Certificate of Ascertainment for Joseph R. Biden as President and Kamala D. Harris as Vice President of the United States.
3. Joseph Biden and Kamala Harris were inaugurated as President and Vice President of the United States on January 20, 2021.

App.6a

4. On January 1, 2022, Plaintiffs Ruth Moton, Leah Hoopes, and Gregory Stenstrom filed a 104-page Complaint seeking mandamus and injunctive relief related to the November 3, 2020, election, asserting claims of common law fraud, fraudulent misrepresentation, negligent misrepresentation, common law quo warranto, and mandamus and equitable relief.
5. Plaintiff Moton lost her election in 2020, and the victors were inaugurated before this Complaint was filed.
6. Defendants, including Delaware County, Kathy Boockvar, and others, filed preliminary objections on February 7, 2022.
7. Plaintiffs responded to the preliminary objections on February 28, 2022.
8. This case was assigned to the undersigned judge in June of 2022.
9. In Pennsylvania, it is well established that an actual case or controversy must exist at all stages of the judicial process, or the matter will be dismissed as moot (*Strax v. Department of Transportation*, 138 Pa. Commonwealth Ct. 368, 588 A.2d 87 (1991), *aff'd* 530 Pa. 203, 607 A.2d 1075 (1992)).
10. As the Complaint challenges the administration of an election that occurred in 2020, and the prevailing candidates have been inaugurated, the claims set forth in the Complaint are moot and must be dismissed.
11. Exceptions to the mootness doctrine do not apply in this case.

Conclusion:

It is hereby ORDERED and DECREED that the Defendants' preliminary objections are sustained in their entirety. Plaintiffs' Complaint is hereby DISMISSED WITH PREJUDICE.

BY THE COURT:

John J. Whelan,

Dated: July 8th, 2022

Footnotes:

1. Defendant Kathy Boockvar filed preliminary objections to Plaintiffs' Complaint on February 7, 2022. Defendants Delaware County, the Delaware County Board of Elections, the Bureau of Elections, and various County employees and officials also filed preliminary objections on the same day, including: James Byrne, Gerald Lawrence, Ashley Lunkenheimer, Laureen Hagan, James P. Allen, Maryanne Jackson, James Savage, Thomas Gallagher, James A. Ziegelhoffer, Crystal Winterbottom, Chevon Flores, Jean Fleschute, Stacy Heisey Terrell, Christina Iacono, Christina Perrone, Karen Reeves, Donna Rode, Norma Locke, Jean Davidson, S.J. Dennis, Marilyn Heider, Louis Govinden, Doug Degenhardt, Mary Jo Headley, Jennifer Booker, Kenneth Haughton, Regina Scheerer, Cathy Craddock, Maureen T. Moore, Pasquale Cippolloni, Gretchen Bell, Anne Coogan,

App.8a

Howard Lazarus, Christine Reuther, William Martin, and James Manly Parks..

Key Takeaways:

Dismissal Ignored Overwhelming Evidence of Massive Election Fraud:

- Despite **overwhelming evidence** of election fraud, including videos, audios, emails, texts, testimony, and admissions from election officials—presented by a whistleblower that Gregory Stenstrom and Leah Hoopes had coordinated with—Judge Whelan dismissed the case as moot, **without addressing the evidence**. This dismissal occurred despite detailed documentation of criminal election fraud and misconduct.

Court's Ruling Linked to DOJ and Local Officials' Refusal to Investigate:

- The court's decision mirrors the broader **pattern of obstruction** exhibited by the DOJ, which consistently refused to investigate credible election fraud claims, as documented within the **Appendices of this Writ**. The refusal to examine this evidence is compounded by the **false attestations** made by then-Pennsylvania Attorney General (now Governor) **Josh Shapiro** and Delaware County District Attorney **Jack Stollsteimer**, who publicly claimed investigations had been conducted into the alleged fraud. However, responses to **Petitioner Leah Hoopes' Right to Know Requests** conclusively showed that

App.9a

no investigative records existed, directly contradicting these officials' assertions.

Certification of the 2020 Election Used to Avoid Judicial Review:

- Judge Whelan dismissed the case as moot solely based on the **certification of the 2020 election**, declaring that no live controversy remained. This ruling **bypassed judicial scrutiny** of the extensive whistleblower evidence and allowed the fraudulent certification process to go unchallenged. The reliance on procedural finality over an actual examination of the fraud allegations reflects the **DOJ's deferral policy**, which delayed investigations until after certification, undermining the legal framework designed to protect the integrity of elections.

Failure to Address False Investigations by State and Local Officials:

- The court's dismissal failed to consider the **falsehoods perpetuated by state and local officials** regarding their supposed investigations into election fraud. Both Shapiro and Stollsteimer publicly claimed investigations were conducted; however, documented responses to Right to Know Requests proved that **no such investigations** had occurred. This lack of accountability and refusal to investigate further erodes **public trust in the electoral system** and exemplifies the systemic failures detailed throughout this Writ.

Judicial Oversight Required to Address Systemic Failures:

- The court's refusal to engage with the whistleblower evidence points to a larger systemic issue that necessitates **judicial oversight**. The same failure to investigate election fraud claims at the state level has been mirrored by the DOJ's ongoing refusal to investigate, further bolstering the argument that judicial intervention is required to prevent such systemic failures from affecting future elections. The **DOJ's deferral policy**, along with the false statements by key state officials, demonstrates the need for immediate judicial action to ensure the integrity of both the judicial process and election outcomes.

Public Trust in Elections Undermined by Lack of Accountability:

- Judge Whelan's dismissal based on procedural grounds, without hearing, or considering the extensive evidence of fraud, serves to further undermine public confidence in the election process. The **false attestations** by chief law enforcement officers, state and local officials, combined with the DOJ's refusal to act, reveal a broader effort to **obstruct transparency** and judicial oversight. This ruling exemplifies the **urgent need for intervention** by this Court to restore trust in the electoral system and ensure that such failures are addressed in a manner consistent with constitutional principles.

App.11a

OPINION C

***Chester County v. Felice Fein*, Chester County
Court of Common Pleas Opinion and Order,
Docket No. 2023-08442-CS, Sept. 4, 2024,
Judge Jeffrey Sprecher**

Docket No. 2023-08442-CS

**Judge Jeffrey Sprecher, Chester County Court
of Common Pleas**

Issued: September 4, 2024

OPINION

The case before the Court involves Petitioner **Felice Fein**, who sought access to Mail-In Ballot (MIB) envelope images pursuant to the **Pennsylvania Right-to-Know Law (RTKL)**, 65 P.S. §§ 67.101 et seq. Fein's request followed numerous transparency issues and legal roadblocks encountered in her attempts to obtain these critical election records from **Chester County**.

The Court was asked to rule on Chester County's obligations to release these public records after the venue was changed from Chester County to Berks County. The central question before the Court was whether the MIB envelope images constituted public records under the RTKL and whether Chester County's delays and refusal to release them were unlawful.

Key Findings:

1. *Public Nature of MIB Envelope Images:*

The Court concluded that the requested MIB envelope images are indeed public records under

App.12a

the RTKL. As such, Chester County is legally obligated to release them.

2. Unlawful Delays:

Chester County's failure to promptly comply with the RTKL and its continued legal opposition constitute clear violations of Pennsylvania transparency laws. The County's actions were designed to delay and obstruct the lawful release of public election records.

3. Pattern of Obstruction:

The evidence presented to the Court demonstrated that Chester County engaged in a sustained pattern of obstruction, including the filing of excessive legal briefs and motions designed to frustrate Fein's access to the records. Such tactics run counter to the principles of open government and public transparency.

4. Venue Change and Judicial Oversight:

The case's transfer to Berks County allowed this Court to provide the necessary judicial oversight. The ruling emphasizes that government entities cannot evade their obligations to transparency through obstruction or procedural delays.

ORDER

AND NOW, this 4th day of September 2024, upon consideration of the pleadings and evidence presented, it is hereby ORDERED that:

1. The Respondents, Chester County officials, are directed to release the requested Mail-In Ballot

App.13a

(MIB) envelope images under the Pennsylvania Right-to-Know Law (RTKL), 65 P.S. §§ 67.101 et seq., as public records.

2. The Respondents shall release the records to Petitioner **Felice Fein** within **fourteen (14) days** of the date of this Order.
3. The Respondents' failure to comply with this Order will result in sanctions, including but not limited to the initiation of contempt proceedings.

IT IS SO ORDERED.

BY THE COURT:

Hon. Jeffrey Sprecher

Judge, Berks County Court
of Common Pleas

Key Takeaways:

- ***MIB Envelope Images:*** Declared as public records, affirming the petitioner's right to access election materials under the RTKL.
- ***Chester County's Delays:*** Ruled as unlawful obstruction, underscoring the importance of timely compliance with transparency laws.
- ***Judicial Oversight:*** The venue change to Berks County provided crucial judicial oversight, ensuring that the petitioner's lawful requests were upheld.

App.14a

OPINION D

Michael Miller (Pro Se) v. County of Lancaster,
U.S. District Court for the Middle District of
Pennsylvania, Last Order, June 5th, 2024,
Judge Jennifer P. Wilson

Michael Miller v. County of Lancaster
U.S. District Court for the Middle District of
Pennsylvania
Case No: 1:24-CV-00014

LAST ORDER IN THE MATTER OF:

MICHAEL MILLER, Plaintiff,

v.

COUNTY OF LANCASTER, PENNSYLVANIA
OFFICE OF OPEN RECORDS, Defendants.

Docket No: 1:24-CV-00014

FACTUAL BACKGROUND

Plaintiff **Michael Miller**, a former candidate for **Lancaster County Commissioner** in the 2022 election, filed this case in the **U.S. District Court for the Middle District of Pennsylvania** on **January 4, 2024**, seeking a declaratory judgment and raising a **First Amendment challenge** regarding access to election records under Pennsylvania's public records law. Miller alleged that additional post-election ballots were improperly generated, altering the results of the election, and that officials obstructed his access to public election records.

App.15a

Defendants **Lancaster County and Pennsylvania Office of Open Records** moved to dismiss the complaint under **Rule 12(b)(1)** (lack of jurisdiction) and **Rule 12(b)(6)** (failure to state a claim). Despite the case being **fully briefed**, no final ruling on the dismissal motion has been made as of **September 18, 2024**.

ORDER

It is hereby ordered that the **motion to dismiss** under Rule 12(b)(1) and Rule 12(b)(6) is **pending**. No final ruling has been issued as of today's date.

FINAL ORDER ISSUED AND MAILED

Date of Issuance:

June 5th, 2024

/s/ Jennifer P. Wilson

Judge, U.S. District Court
for the Middle District of
Pennsylvania

Key Takeaway:

*This order highlights the **judicial inaction** that has delayed Miller's pursuit of legal remedies and left his claims unresolved. The appointment of a **Special Master** is essential to oversee election-related investigations and ensure that justice is served in future elections.*

App.16a

OPINION E

***Stenstrom v. Delaware County, Pennsylvania*
Office of Open Records Final Determination,
July 12th, 2023, AP 2023-1326,
Hon. Joshua T. Young**

IN THE MATTER OF

GREGORY STENSTROM

Requester

DELAWARE COUNTY

Respondent

**Docket No: AP 2023-1326 (Consolidated appeal
of OOR Dkt. Nos. AP 2023-1327, AP 2023-1328,
AP 2023-1329, AP 2023-1330, and AP 2023-1332)**

FACTUAL BACKGROUND

On May 25, 2023, Gregory Stenstrom (“Requester”) submitted six requests¹ (collectively, the “Requests”) to Delaware County (“County”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

For the November 2021 primary election²; The records for each elector who made application for an absentee ballot, to include (1) the elector’s name and voter registration address, (2) [t]he date on which the elector’s application was received by the

App.17a

county board, (3) [t]he date on which the elector's application was approved or rejected by the county board, (4) [t]he date on which the county board mailed or delivered the absentee ballot to the elector, (5) [t]he date on which the elector's completed absentee ballot was received by the county board.

In addition to the November 2021 primary election, the remaining Requests sought the same records for the May 2023 primary election, May 2022 primary election, May 2021 primary election, November 2022 general election and the November 2020 general election.³

On June 2, 2023, the County granted the Requests, stating that the County Bureau of Elections ("Bureau" or "BOE") made the responsive records available to the Requester on May 27, 2023.

On June 14, 2023, the Requester appealed to the Office of Open Records ("OOR"), arguing that the Bureau failed to deliver the responsive records and stating grounds for disclosure.⁴ The OOR invited both parties to supplement the record and directed the County to notify any third parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c).

On June 26, 2023, the County submitted a position statement, reiterating that the records responsive to the Requests have been provided to the Requester in accordance with Pennsylvania's Election Code ("Election Code"), 25 P.S. §§ 6000 *et seq.* In support of its position, the County submitted the sworn

App.18a

affidavits of Anne Coogan (“Coogan Affidavit”), the County’s Open Records Officer, and James Allen (“Allen Affidavit”), the County’s Director of Election Operations.

The Requester submitted unsworn position statements on June 26, 2023, and June 28, 2023, which included a Memorandum of Law purportedly filed with the Commonwealth Court in an unrelated matter on June 28, 2023.

LEGAL ANALYSIS

The County is a local agency subject to the RTKL. 65 P.S. § 67.302. Records in the possession of a local agency are presumed to be public, unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. As an agency subject to the RTKL, the County is required to demonstrate, “by a preponderance of the evidence,” that records are exempt from public access. 65 P.S. § 67.708(a)(1). Preponderance of the evidence has been defined as “such proof as leads the fact-finder ... to find that the existence of a contested fact is more probable than its nonexistence.” *Pa. State Troopers Ass’n v. Scolforo*, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011) (quoting *Pa. Dep’t of Transp. v. Agric. Lands Condemnation Approval Bd.*, 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)).

As a preliminary matter, the County asserts that, in response to the Requests, BOE staff assembled lists responsive to four requests and made them accessible to the Requester within forty-eight (48) hours, as required under the Election Code, and that the Requester responded that “he would not

App.19a

pick up the materials because he considered the response unresponsive.” *Allen* Affidavit, ¶¶ 4-5. Because the County does not dispute the public nature of these lists and granted access to the lists in their entirety in accordance with the Election Code.

However, the *Allen* Affidavit confirms that voter signatures were redacted from responsive ballot return envelopes prior to the Requester’s inspection of the same. By way of background, the *Allen* affirms, in relevant part, as follows:

For the materials that were not subject to production within 48-hours, I directed Bureau of Elections staff to be prepared to provide the assembled records to Requester starting Friday, June 2, 2023. The Requester later sent me an email at approximately 3:30 am on Friday June 2nd stating that he would arrive at 10 am to begin that review.

Requester stated that he desired to inspect 2023 Primary ballot-return envelopes. Requester arrived around 10 am on June 2, 2023. I walked Requester onto the elevator, and we arrived on the floor where the records were available.

On June 2, 2023, prior to Requester’s appointment, the Pennsylvania Department of State (“DOS”) specifically instructed the BOE to redact voters’ signatures from ballot

return envelopes because the voters' signatures are deemed to be "proof of identification" and "information concerning [] military elector[s]" and pursuant to a privacy analysis under the *Pennsylvania Constitution and Pennsylvania State Educ. Ass'n v. Commonwealth Department of Economic Development*, 148 A.3d

142 (Pa. 2016). I informed the Requester that, in accordance with DOS instructions, the BOE was required to redact such signatures before we could make envelopes available for inspection.

Allen Affidavit, ¶¶ 6-8.

The County argues that "[t]he OOR is without jurisdiction or authority to address the issues raised in [the Requester]'s ... appeals under the [RTKL]" because "these issues are solely governed by the access provisions of the Election Code." While the County correctly notes that the OOR lacks jurisdiction over the access provisions of the Election Code, *see Mancini v. Delaware County*, OOR Dkt. AP 2023-0066, 2023 PA O.O.R.D. LEXIS 265; 65 P.S. § 65.3101.1 ("If the provisions of [the RTLK] regarding access to records conflict with any other federal or state law, the provisions of [the RTKL] shall not apply."), by redacting the signatures from ballot return envelopes, the County denied access to information presumed to be public under the RTKL, arguing that the information constitutes "proof of identification" under the Election Code and/or is protected by the

App.21a

constitutional right to informational privacy.⁵ See 65 P.S. § 67.306 (“Nothing in [the RTKL] shall supersede or modify the public or nonpublic nature of a record or document established in Federal or State law, regulation or judicial order or decree.”). To determine whether a conflict exists between the RTKL and the Election Code with respect to the public nature of the signatures, or if the signatures are otherwise protected by the constitutional right to privacy, the

OOR has jurisdiction over and must reach the merits of the County’s arguments in support of redaction.

Article XIII of the Election Code provides, in pertinent part:

- (a) General rule. All official absentee ballots, files, applications for ballots and envelopes on which the executed declarations appear, and all information and lists are hereby designated and declared to be public records and shall be safely kept for a period of two years, except that no proof of identification shall be made public, nor shall information concerning military elector be made public which is expressly forbidden by the Department of Defense because of military security.
- (b) Record. For each election, the county board shall maintain a

App.22a

record of the following information, if applicable, for each elector who makes application for an absentee ballot:

(1) The elector's name and voter registration address.

(2) The date on which the elector's application is received by the county board.

(3) The date on which the elector's application is approved or rejected by the county board.

(4) The date on which the county board mails or delivers the absentee ballot to the elector.

(5) The date on which the elector's completed mail-in ballot is received by the county board.

(c) **Compilation.** The county board shall compile the records listed under subsection

(b) and make the records publicly available upon request within 48 hours of the request.

25 P.S. § 3146.9 (emphasis added); *see also* 25 P.S. § 3150.17(a) (setting forth that the same records for mail-in ballots are also "designated and declared to be public records").

Notably, the Election Code does not exclude voter

App.23a

signatures on absentee ballot return envelopes from public access; instead, it provides that “[a]ll official ... ballots, ... and *envelopes* on which the executed declarations appear ... are hereby designated and declared to be public records.” 25 P.S. § 3146.9(a) (emphasis added). Thus, with the exception of records from military electors, the ballot return envelopes are explicitly public under the Election Code and there is no conflict with the RTKL. *See Pa. Dep’t of Labor & Industry v. Heltzel*, 90 A.3d 823 (Pa. Commw. Ct. 2014) (explaining that “a statute should be clear when it establishes the public nature of the records” by stating the records “shall be public,’ or the like”).

The County argues that the voter signatures constitute “proof of identification,” which the Election Code states cannot be made public; however, in a prior decision, the OOR concluded that voter signatures do not fall within the meaning of “proof of identification,” and the County has submitted no argument to compel the OOR to disturb its finding. *See Towne v. Allegheny County*, OOR Dkt. AP 2023-2542R, 2023 PA O.O.R.D. LEXIS ___. Additionally, the County argues that voter signatures are protected by the constitutional right to informational privacy. *See Pa. State Educ. Ass’n v. Commonwealth (“PSEA”)*, 148 A.3d 142 (Pa. 2016) (holding that an individual possesses a right to privacy in certain types of personal information). However, by making the envelopes subject to public access, the General Assembly has already performed the balancing test described in *PSEA* and concluded that the public benefit in disclosure of certain voting records, including absentee ballot return envelopes containing

App.24a

declarations, outweighs any privacy interests. *See Reese v. Pennsylvanians for Union Reform*, 173 A.3d 1143, 1159 (Pa. 2017) (concluding that the constitutional right to privacy does not apply where other Federal or state statutes, including the RTKL, “reflect that the General Assembly has already performed the necessary *PSEA* balancing test”). Therefore, based upon the evidence presented, the County has failed to prove that voter signatures may be redacted from the responsive envelopes.

CONCLUSION

For the foregoing reasons, the appeal is **granted in part, denied in part and dismissed in part**, and, with the exception of absentee ballot information of military electors, the County is required to make unredacted copies of the responsive ballot return envelopes available to the Requester consistent with the access provisions of the Election Code. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal to the Delaware County Court of Common Pleas. 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond as per Section 1303 of the RTKL. 65 P.S. § 67.1303. However, as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.⁶ This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

**FINAL DETERMINATION ISSUED AND
MAILED 12 JULY 2023**

App.25a

/s/ Joshua T. Young
JOSHUA T. YOUNG
SENIOR DEPUTY CHIEF
COUNSEL

Sent via email to: Gregory Stenstrom; Robert Scott,
Esq.; Anne Coogan, AORO

¹ Notably, the Requester initially submitted eight Right-to-Know request forms to the County. Because the County invoked extensions of time to respond to two of the requests, *see* 65 P.S. § 67.902(b), the appeals of those requests were deemed to be premature and dismissed, leaving only six requests for disposition.

² Although the language of this Request seeks records for the November 2021 “primary election” rather than “general election,” there has been no evidence presented to suggest the County misunderstood the Request or failed to grant access to the records being sought by the Requester.

³ Regarding the November 2020 general election, the Request language also notes that the records “are on litigation hold and have not been destroyed according to Leah Hoopes....”

⁴ The Requester filed six separate appeals of the Requests docketed at OOR Dkt. Nos. AP 2023-1326, AP 2023-1327, AP 2023-1328, AP 2023-1329, AP 2023-1330 and AP 2023-1332. Because the appeals involve the same parties, nearly identical requests and similar arguments from the parties, the OOR

App.26a

hereby consolidates the appeals into the above-captioned docket, OOR Dkt. AP 2023-1326.

⁶ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

Key Takeaways from the Opinion:

1. **Public Nature of Election Records:** The **Office of Open Records (OOR)** upheld the principle that certain election-related records, such as absentee ballot return envelopes, are designated as public records under the **Pennsylvania Election Code (25 P.S. §§ 3146.9)**. The OOR ruled that Delaware County must provide these records, subject to limited exceptions such as for military electors.
2. **Rejected Claim of "Proof of Identification":** Delaware County argued that voter signatures on absentee ballot return envelopes constituted **"proof of identification"**, which is exempt from public disclosure under the Election Code. However, the OOR found no basis for this claim and ruled that signatures were not "proof of identification" under the law.
3. **Constitutional Privacy Right Rejected:** Delaware County also argued that redacting voter signatures was necessary to protect individuals' constitutional right to **informational privacy**. The OOR rejected this argument, citing that the **Pennsylvania General Assembly** had already performed the required balancing test, deciding that the public interest in disclosure outweighed any privacy concerns.

App.27a

4. **Partial Denial for Military Electors:** The OOR agreed that records concerning **military electors** should be exempt from disclosure, consistent with federal privacy protections. This part of the appeal was denied.
5. **Impact on Election Integrity:** The decision affirms that election transparency is paramount and that voter signatures on ballot return envelopes are public records. This ruling supports the broader principles of **election integrity**, ensuring that the public has access to key election documents that contribute to verifying the accuracy and fairness of election results.

App.28a

OPINION F

Carrie Hahn (Pro Se) v. Wilmington Township,
Pennsylvania Office of Open Records,
March 29, 2018, AP 2017-2301,
Kathleen A. Higgins

Date Issued: March 29, 2018

Issuing Officer: Kathleen A. Higgins, Esq.,
Appeals Officer, Pennsylvania Office of Open
Records (OOR)

Final Order:

The **Pennsylvania Office of Open Records (OOR)** partially granted Carrie Hahn's appeal, requiring Wilmington Township to provide certain responsive records related to solicitor invoices. The OOR ordered the Township to produce these records, subject to permissible redactions based on attorney-client privilege. The OOR rejected Wilmington Township's argument that the **attorney work-product doctrine** applied broadly to all the records being withheld.

The final order stated that Wilmington Township had failed to prove that the withheld records were fully exempt under privilege, and as a result, key documents had to be released to Hahn.

Opinion:

The OOR's **final determination** addressed the conflict of interest in Hahn's case, where the individual responsible for responding to her **Right-to-Know (RTK) request** was also the subject of the

App.29a

request itself. This presented a significant issue regarding transparency and accountability. While the OOR partially upheld the Township's right to redact privileged information, it determined that the Township's reliance on **attorney-client privilege** and **attorney work-product doctrine** was not fully justified.

The OOR concluded that a number of records, particularly legal invoices and other election-related documentation, were subject to public disclosure under Pennsylvania's **Right-to-Know Law (65 P.S. §§ 67.101–67.3104)**. It found that the Township's failure to adequately describe the contents of the withheld records and substantiate its privilege claims warranted further disclosure.

Key Takeaways from the Opinion:

1. **Partial Victory for Transparency:** The OOR ruled that Hahn was entitled to receive significant portions of the requested legal invoices, as the Township had failed to sufficiently establish the full scope of the attorney-client privilege or the attorney-work product doctrine.
2. **Conflict of Interest Highlighted:** The OOR recognized the inherent conflict of interest in the Township's handling of Hahn's requests, although this did not entirely prevent the Township from invoking privilege in certain cases.
3. **Election Integrity Impact:** Hahn's efforts to obtain records were tied to broader **election integrity** concerns, which were hampered by

App.30a

the Township's delay tactics and improper withholding of key documents.

Documents Available Upon Request:

- **Pennsylvania Office of Open Records (OOR) Final Determination (AP 2017-2301)**
- **Carrie Hahn's Appeal to Commonwealth Court**
- **Court Orders and Motions to Quash**
- **Emails and Correspondence Regarding In-Camera Review**
- **Affidavit and RTK Responses**

App.31a

OPINION G

Mancini, Stenstrom, Hoopes, Schwartz (All Pro Se) v. Delaware County, United States District Court for the Eastern District of Pennsylvania, Last Order, September 9th, 2024, 24-2425, Judge Kai N. Scott

LAST ORDER (Petitioners will Amend Complaint as allowed by Judge)

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
PENNSYLVANIA**

ROBERT MANCINI, et al.,

Plaintiffs,

v.

DELAWARE COUNTY, PA, et al.,

Defendants.

CIVIL NO. 24-2425

ORDER

AND NOW, this 9th day of September 2024, upon consideration of Defendants' Motion to Dismiss (ECF No. 9) and Plaintiffs' Response in Opposition (ECF No. 12), it is hereby ORDERED that, for the reasons stated in the accompanying Memorandum, Defendants' Motion (ECF No. 9) is GRANTED, and the Complaint is dismissed without prejudice.

IT IS FURTHER ORDERED that if Plaintiffs elect to amend their Complaint, they must do so within thirty (30) days of this Order. If Plaintiffs do not do so, this Court will dismiss this case with prejudice.

BY THE COURT:

App.32a

HON.KAI N. SCOTT

United States District
Court Judge

OPINION

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
PENNSYLVANIA**

ROBERT MANCINI, et al.,

Plaintiffs,

v.

DELAWARE COUNTY, PA, et al.,

Defendants.

CIVIL NO. 24-2425

MEMORANDUM

Scott, J. September 9, 2024

Pro se Plaintiffs Robert Mancini, Joy Schwartz, Gregory Stenstrom, and Leah Hoopes (collectively, "Plaintiffs") bring this case against Defendants Delaware County, PA and Delaware County Board of Elections (collectively, "Defendants") challenging Defendants' testing, operating and certification of voting machines. Presently before the Court is Defendants' Motion to Dismiss (ECF No. 9). For the reasons that follow, Defendants' Motion to Dismiss (ECF No. 9) will be granted. An appropriate Order will follow.

BACKGROUND & PROCEDURAL HISTORY

Despite the Complaint's length and its lack of clearly delineated causes of action, from this Court's perspective, the thrust of the Complaint is simply that Defendants' election "machines used to process and tabulate votes in Delaware County, Pennsylvania are not tested, certified, or operated in compliance with federal law," including 52 U.S.C. § 21081(a)(5)-the Error Rates provision of the Help America Vote Act ("HAVA"). ECF No. 1, Compl. at 1. Because of this,

Plaintiffs allege "there is no way to prevent or know if anyone has tampered with the system, and I or modified election results." Compl. ,r,r 31-32; see also id. ,r 48 ("Without secure-build validation/hash testing and post canvas activities, voting machine systems can be tampered with."(emphasis added)). Plaintiffs indicate that they have filed numerous lawsuits in the Delaware County Court of Common Pleas concerning Defendants' failure to certify and test their election machines with no success. Id. ,r,r 10-11. Plaintiffs assert that by using non-HAVA compliant machines, Defendants have deprived Plaintiffs of their "right to vote in violation of 42 U.S.C. § 1983 and the Equal Protection Clause of the United States Constitution. See id. at 1, ,r,r 7, 27--48,74. Plaintiffs ask this Court order Defendants to "Cease and Desist from using electronic voting systems in Delaware County, Pennsylvania and return to hand counted votes in county precincts under bi-partisan observation." Complr 97.

On July 1, 2024, Defendants filed the present Motion to Dismiss Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) arguing that Plaintiffs have failed to plead a claim, that they have failed to plead a basis for subject matter jurisdiction, that they

lack standing, and that they impermissibly ask this Court to sit as a de facto appellate court for state court rulings in the County Defendants' favor. ECF No. 9. Plaintiffs filed a Response in Opposition on July 15, 2024.² Accordingly, the Motion is ripe for resolution.

Plaintiffs also ask for: (a) "Federal intervention, review, and oversight, of precipitative cases named herein, that have been delayed, quashed and strategically mooted"; (b) "Reversal of orders unlawfully denying Plaintiffs' access to public election records, and clear definition of the manner in which they will be provided"; (c) "Criminal referrals to appropriate federal and state justice and law enforcement agencies"; and (d) "Monetary Damages and other relief and compensation as may be appropriate." Com pl. 98-101. However, in responding to Defendants' Motion to Dismiss, Plaintiffs assert that they "are not requesting review of previous state court decisions, but rather petitioning the Honorable Court to enforce federal and state laws, and remedy Constitutional and (federal) Civil Rights violations." ECF No. 12 at 5. Given this clarification by Plaintiffs, the Court need not consider any Rooker-Feldman arguments.

For the sake of completeness, the Court notes the subsequent case history. In Response to Defendants' Motion to Dismiss, Plaintiffs also filed a Motion for Judgment on the Pleadings on July 30, 2024. ECF No. 14. Defendants filed a Response in Opposition to Plaintiffs' Motion for Judgment on the Pleadings on August 12, 2024 (ECF No. 17), and Plaintiffs filed a Reply in Support of their Motion on August 23, 2024. ECF No. 18. On August 28, 2024, the Court denied Plaintiffs' Motion for Judgment on the Pleadings as

premature because the pleadings are not yet closed. ECF No. 19. Two days later, Plaintiffs filed an Emergency Petition for a Writ of Mandamus to the Third Circuit "to order the trial court ... to immediately rule on Defendants' Motion to Dismiss, and expedite trial, as an urgent matter of due process

LEGAL STANDARDS

Motion to Dismiss for Lack of Subject Matter Jurisdiction

"At issue in a Rule 12(b)(1) motion is the court's 'very power to hear the case.'" *Petruska v. Gannon Univ.*, 462 F.3d 294, 302 (3d Cir. 2006) (quoting *Mortensen v. First Fed. Sav. & Loan*, 549 F.2d 884, 891 (3d Cir. 1977)). A Rule 12(b)(1) challenge to jurisdiction may be either facial or factual. *Gould Elecs. Inc. v. United States*, 220 F.3d 169, 176 (3d Cir. 2000) (citation omitted). "A facial attack on subject matter jurisdiction asserts that a claim 'is insufficient to invoke the subject matter jurisdiction of the court,' and a factual attack argues that 'the facts of the case ... do not support the asserted jurisdiction.'" *Saavedra Estrada v. Mayorkas*, 703 F. Supp. 3d 560, 565 (E.D. Pa. 2023) (quoting *Const. Party of Pennsylvania v. Aichele*, 757 F.3d 347, 358 (3d Cir. 2014) (explaining that "a facial attack contests the sufficiency of the pleadings, whereas a factual attack concerns the actual failure of a [plaintiffs] claims to comport [factually] with the jurisdictional prerequisites" (citations omitted))). When presented with a Rule 12(b)(1) motion, the plaintiffs "will have the burden of proof that jurisdiction does in fact exist." *Petruska*, 462 F.3d at 302 n.3.

Motion to Dismiss for Failure to State a Claim

To survive a Rule 12(b)(6) motion, "a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). "Plausibility means "more than a sheer possibility that a defendant has acted unlawfully.'" *Tatis v. Allied Interstate, LLC*, 882 F.3d 422, 426 (3d Cir. 2018) (quoting *Iqbal*, 556 U.S. at 678). A claim is plausible "when the plaintiff pleads factual content that allows the court to draw the reasonable to ensure integrity of the upcoming 2024 presidential election only 70-days from today." ECF No. 20. Upon the issuance of this Memorandum, this Petition (ECF No. 20) is moot.

Inference that the defendant is liable for the misconduct alleged." *Iqbal*, 556 U.S. at 678 (citing *Twombly*, 550 U.S. at 556). "Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Id.* "In deciding a Rule 12(b)(6) motion, a court must consider only the complaint, exhibits attached to the complaint, matters of public record, as well as undisputedly authentic documents if the complainant's claims are based upon these documents." *Mayer v. Belichick*, 605 F.3d 223, 230 (3d Cir. 2010) (citation omitted). In considering a motion to dismiss under Rule 12(b)(6), all well-pleaded allegations in the complaint are accepted as true and interpreted in the light most favorable to the plaintiffs, and all inferences are drawn in the plaintiffs' favor. See *McTernan v. City of York*, 577 F.3d 521, 526 (3d Cir. 2009) (quoting *Schrab v. Catterson*, 948 F.2d 1402, 1408 (3d Cir. 1991)). As Plaintiffs are proceeding prose, the Court must

construe the allegations in the Complaint liberally. Vogt v. Wetzel, 8 F.4th 182, 185 (3d Cir. 2021) (citing Mala v. Crown Bay Marina, Inc., 704 F.3d 239, 244--45 (3d Cir. 2013)).

DISCUSSION

The doctrine of standing arises from Article III of the Constitution, which gives federal courts jurisdiction over cases and controversies. Lujan v. Defenders of Wildlife, 504 U.S. 555, 559- 60 (1992). "To establish Article III standing, a plaintiff must have

- (1) suffered an injury in fact,
- (2) that is fairly traceable to the challenged conduct of the defendant, and
- (3) that is likely to be redressed by a favorable judicial decision." Mielo v. Steak 'n Shake Operations, Inc., 897 F.3d 467, 478 (3d Cir. 2018) (internal quotations and citation omitted). When standing is challenged at the pleading stage, "the plaintiff must 'clearly ... allege facts demonstrating' each element." Spokeo, Inc. v. Robins, 578 U.S. 330, 338 (2016) (citation omitted).

To establish the first element, an injury in fact, a plaintiff must show the following: (1) that he or she suffered "an invasion of a legally protected interest"; (2) that the injury is both "concrete 4 and particularized"; and (3) that his or her injury is "actual or imminent, not conjectural or hypothetical." Mielo, 897 F.3d at 478 (quoting Spokeo, 578 U.S. at 339). A particularized injury must "affect the plaintiff in a personal and individual way." Lujan, 504 U.S. at 560 n.1. Further, any threatened injury must be "certainly impending." Clapper v. Amnesty Int 'l USA, 568 U.S.

398, 409 (2013). It is not enough for a plaintiff to raise "only a generally available grievance about Government-claiming only harm to his and every citizen's interest in proper application of the Constitution and laws and seeking relief that no more directly and tangibly benefits him than it does the public at large." *Lance v. Coffman*, 549 U.S. 437,439 (2007) (citations omitted).

Here, Plaintiffs assert they have standing to challenge Defendants' use of election machines that they have alleged are not tested, certified, or operated in compliance with federal law: (1) as voters, (2) because they have each previously been and currently are "certified poll watcher[s]" and "authorized representative[s]" for candidates in subject elections, and (3) because Plaintiff Joy Schwartz was a Republican candidate for Delaware County Council in May and November 2023. ECF No. 12 at 6-7. For the reasons that follow, such allegations are not sufficient to establish standing.

First, Plaintiffs have not alleged that they were prevented from voting or that their votes were not counted. Instead, they allege that because the election machines were not properly tested and could be tampered with, there is "no guarantee their vote was counted accurately, or even counted at all" and "no guarantee that their vote was counted equally with other citizens." Compl. ,r,r 74-75. Plaintiffs' reliance on the term "no guarantee" to couch their harm is a clear indication that the harm they allege is merely speculative. See *Landes v. Tartaglione*, No. 04-cv-3163, 2004 WL 2415074, at *3 (E.D. Pa. Oct. 28, 2004) (noting plaintiff's use of the terms "if" and "may" indicates her harm is merely speculative), *affd*, 153 F.

App.39a

App'x 131 (3d Cir. 2005). Moreover, to the extent Plaintiffs claim Defendants' use of uncertified and untested election machines could deprive them of their votes in the future, the Complaint's allegations are too speculative and conjectural to support Article III standing. See *id.* (finding plaintiff had not established standing to challenge voting machines); see also *Lake v. Fontes*, 83 F.4th 1199, 1204 (9th Cir. 2023) (affirming district court's dismissal for lack of Article III standing, finding "none of plaintiffs' allegations supports a plausible inference that their individual votes in future elections will be adversely affected by the use of electronic tabulation"), cert. denied, 144 S. Ct. 1395 (2024); *Gunter v. Myers*, No. 23-35124, 2024 WL 1405387, at *1 (9th Cir. Apr. 2, 2024) (affirming dismissal for lack of standing, finding plaintiffs' claim that a hacker could deprive them of their votes in the future too speculative and conjectural); *Zigmantanis v. Hemphill*, No. 22-cv-2872, 2023 WL 9521867, at *4 (D.S.C. Aug. 17, 2023) (finding plaintiffs' allegations that South Carolina's voting system is susceptible to hacking and foreign interference fail to demonstrate that they suffered an injury in fact because their alleged injuries are speculative), report and recommendation adopted, 2024 WL 63664 (D.S.C. Jan. 5, 2024).

Similarly, Plaintiffs' reliance on Plaintiff Schwartz being a candidate for Delaware County Council in May and November 2023 does not confer standing. There are no allegations that Plaintiff Schwartz's election count was inaccurate or manipulated. Rather, the allegation is that Plaintiff Schwartz was deprived of knowing the true voter count in her election and "may have been deprived of that position." Compl. ,r 92 (emphasis added). Once again, the term "may"

clearly indicates the speculative nature of Plaintiffs' claim. Cf Lujan, 504 U.S. at 564 (holding that plaintiffs' "'someday' intentions" to return to locations where they might be deprived of the opportunity to observe endangered animals did "not support a finding of the 'actual or imminent' injury that our cases require").

Furthermore, Plaintiffs have not shown any injury that is particularized. Rather, Plaintiffs are asserting a "generalized grievance" belonging to all voter. *Bognet v. Sec'y Commonwealth of Pennsylvania*, 980 F.3d 336, 356 (3d Cir. 2020), cert. granted, judgment vacated as moot sub nom. *Bognet v. Degraffenreid*, 141 S. Ct. 2508 (2021). See also, e.g., *Gunter*, 2024 WL 1405387, at *1 (holding plaintiff: "concern that the voting machines are not properly accredited is the kind of generalized interest in seeing that the law is obeyed" that is insufficient to establish Article III standing). Plaintiffs' generalized grievances about Defendants failing to follow federal and state law in the way it conducts its elections fails to plausibly demonstrate any particularized injury to the Plaintiffs themselves. See *Lance*, 549 U.S. at 439.

Accordingly, Plaintiffs lack standing and the court must dismiss their Complaint.

IV. For the foregoing reasons, Defendants' Motion to Dismiss will be granted and Plaintiffs' Complaint will be dismissed without prejudice. *Cottrell v. Laboratories*, 874 F.3d 154, 164 n.7 (3d Cir. 2017) (stating that "because the absence of standing leave the court without subject matter jurisdiction to reach a decision on the merits dismissals with prejudice' for lack of standing are generally improper"). An appropriate Order will follow.

BY THE COURT:

K. Scott

United State District Court
Judge

Key Takeaways:

1. The court granted the Defendants' Motion to Dismiss due to lack of standing.
2. Judge Scott ruled that Plaintiffs failed to establish a concrete injury beyond speculative harm.
3. Judge Scott ruled that the use of uncertified, unvalidated, and untested election machines - and any fraud that might result - is "speculative" and does not sufficiently demonstrate a specific injury, or concrete harm to the Plaintiffs.
4. This ruling would require Plaintiffs to return to the Court only AFTER the election is over, certified, and the candidate is seated.
5. The court dismissed the case without prejudice, allowing the Plaintiffs 30 days to amend their complaint.
6. Judge Scott and Defendant Delaware County appear to be purposefully "running out the clock" until after the election (which is why Plaintiffs filed Writ to 3rd Circuit to move forward on urgent complaint of fraud).
7. It will be fait accompli to hear case of election fraud emanating from uncertified, unvalidated, and untested election machines.

App.42a

OPINION H

***Yanoviak, Stenstrom, et al v Chester County et al*, Commonwealth Court of Pennsylvania, Last Order, February 21st, 2024, 1522 C.D. 2023,
Per Curiam**

**IN THE COMMONWEALTH COURT OF
PENNSYLVANIA**

**BRIAND. YANOVIK, GREGORY STENSTROM,
ET AL,**

Appellants

v.

**CHESTER COUNTY AND CHESTER COUNTY
BOARD OF ELECTIONS,**

Appellees

No. 1522 C.D. 2023

MEMORANDUM OPINION

PER CURIAM FILED: February 21, 2024

Brian D. Yanoviak, Gregory Stenstrom, Paul Linkmeyer, Dustin Kasper, and Jaclyn Kasper (collectively, Appellants) appeal pro se from the Chester County (County) Common Pleas Court's (trial court) December 8, 2023, order sustaining the County's and the County Board of Elections' (collectively, Appellees) preliminary objections (Preliminary Objections) to Appellants' *Petition to Open Ballot Box and Recanvass Voting Machines* (Petition) and dismissing the Petition. After review, this Court affirms.

App.43a

On November 15, 2023, Appellants filed the Petition in the trial court. On November 29, 2023, Appellees filed a Motion for Consolidation and their Preliminary Objections. On December 1, 2023, Appellees filed a Motion for Expedited Consideration of Appellees' Motion for Consolidation and Preliminary Objections (Motion to Expedite). By December 4, 2023, order, the trial court granted the Motion to Expedite. On December 8, 2023, the trial court denied the Motion for Consolidation, sustained the Preliminary Objections, and dismissed the Petition. On December 13, 2023, Appellants appealed from the trial court's order.

On December 18, 2023, the trial court directed Appellants to file of record and serve on the trial court judge a Concise Statement of Errors Complained of on Appeal pursuant to Pennsylvania Rule of Appellate Procedure 1925(b) (Rule 1925(b) Statement). On January 17, 2024, the trial court issued its opinion pursuant to Rule 1925(a), wherein it stated, in pertinent part:

On December 18, 2023, [the trial court] directed [Appellants] to file a [Rule 1925(b) Statement] within [21] days. The [Rule 1925(b) Statement] was due January 8, 202[4].[1] On January 12, 202[4], [Appellants] delivered a [Rule 1925(b) Statement] to my chambers; however, the [Rule 1925(b) Statement] has not been filed of record. Pursuant to [Rule] 1925(b), all issues on appeal are waived upon failure to timely file a [Rule 1925(b) Statement]. *J.P. v. S.P.*, 991 A.2d 904, 908 (Pa. Super. 2010) (failure to timely file court[-]ordered Rule 1925(b) [S]tatement results in waiver of all issues on appeal); *Greater Erie Indus. Dev. Corp. v. Presque Isle Downs, Inc.*, 88 A.3d 222,

224 (Pa. Super. 2014) (Rule 1925 is a bright[-]line rule and failure to comply with the minimal requirements results in automatic waiver of issues raised). Accordingly, [Appellants] have failed to preserve any issues for review. Original Record (O.R.) at 189-190.[2]

By January 24, 2024, Order, this Court directed the parties to “address in their principal briefs on the merits whether Appellants preserved any issues on appeal considering their apparent failure to file a Rule 1925(b) Statement as directed by the trial court.” Id. On February 1, 2024, Appellees filed their brief. Also, on February 1, 2024, Appellants filed “APPELLANTS’ RESPONSE TO COMMONWEALTH COURT OF PENNSYLVANIA PER CURIAM ORDER PURSUANT TO [RULE] 1925” (Response). Therein, Appellants stated, in relevant part:

Appellants had previously experienced multiple problems accessing the [trial court’s] electronic docket and resolved these issues and had full access to upload and submit filings with the [trial court]. Appellants completed their response to [the trial court’s] Rule 1925 order on Friday, January 5th, 2024, eighteen (18) days after [the trial court’s] order, but upon attempting to file electronically, found that they no longer had access to the docket or cases (see Ex[.] C email to [] County Prothonotary).[3]

Appellants mailed their response(s) to [the trial judge] to the address as ordered via United States Postal Service (USPS) Priority Overnight mail on Sunday, January 7th, 2024, twenty (20) days from [the trial court’s] order (see Ex[.] D USPS [r]eceipt and photograph of response and USPS mailer with paid postage attached).[4]

App.45a

Appellants also emailed their response(s), with copies of the USPS receipts, to Appellees' counsel, as also directed by [the trial court's] Rule 1925 order, at 01:24 a[.]m[.], on January 8th, 2024, 21 days from [the trial court's] order (see Ex[.] E email).

On February 2, 2024, Appellants filed their brief. Appellants did not address the issue of whether Appellants preserved any issues on appeal considering their apparent failure to file a Rule 1925(b) Statement, as this Court directed.[5] Given Appellants' pro se status, this Court will treat the relevant portions of Appellants' Response as if they were incorporated into their brief.

Initially, the Pennsylvania Supreme Court declared in *Commonwealth v. Lord*, 719 A.2d 306 (Pa. 1998): “[I]n order to preserve their claims for appellate review, [a]ppellants must comply whenever the trial court orders them to file a [Rule 1925(b) Statement]. Any issues not raised in a [Rule] 1925(b) [S]tatement will be deemed waived.” *Id.* at 309. Our Supreme Court reaffirmed in *Commonwealth v. Butler*, 812 A.2d 631 (Pa. 2002): “[A]ny issues not raised in a Rule 1925(b) [S]tatement are waived.” *Id.* at 634. Finally, in *Commonwealth v. Castillo*, 888 A.2d 775 (Pa. 2005), the Supreme Court explained:

[T]he Lord/Butler rule remains necessary to [e]nsure trial judges in each appealed case [have] the opportunity to opine upon the issues which the appellant intends to raise, and thus provide appellate courts with records amenable to meaningful appellate review. *See Lord*, 719 A.2d at 308. This firm rule avoids the situation that existed prior to *Lord*, where trial courts were forced to anticipate which issues the appellant might raise and appellate courts had to

App.46a

determine “whether they could conduct a ‘meaningful review’ despite an appellant’s failure to file a [Rule] 1925(b) [S]tatement or to include certain issues within a filed statement.” *Butler*, 812 A.2d at 633. Moreover, the system provides litigants with clear rules regarding what is necessary for compliance and certainty of result for failure to comply.

Castillo, 888 A.2d at 779-80; *see also Commonwealth v. Schofield*, 888 A.2d 771 (Pa. 2005) (companion case to *Castillo*).

The *Castillo* Court expounded:

“[W]e specifically voice our disapproval of prior decisions of the intermediate courts to the extent that they have created exceptions to *Lord* and have addressed issues that should have been deemed waived. See, e.g., *Commonwealth v. Alsop*, 799 A.2d 129 (Pa. Super. 2002) (declining to waive issues raised in [an] untimely [Rule] 1925(b) [S]tatement based on finding of no impediment to appellate review given trial court’s discussion of issues); *Commonwealth v. Ortiz*, 745 A.2d 662 (Pa. Super. 2000) (same).”

Castillo, 888 A.2d at 780; *see also Schofield*.

PER CURIAM ORDER

AND NOW, this 21st day of February 2024, the Chester County Common Pleas Court’s December 8, 2023, order is affirmed.

Footnotes:

1. The trial court’s Rule 1925(b) order was mailed on December 19, 2023, setting the deadline for

App.47a

filing and service as January 9, 2024. See generally Rule 108(a)(1) (“[T]he day of entry shall be the day the clerk of the court or the office of the government unit mails or delivers copies of the order to the parties.” Pa.R.A.P. 108(a)(1)).

2. Because the Original Record pages are not numbered, the page numbers referenced herein reflect electronic pagination.
3. The email stated in relevant part: “[Gregory Stenstrom] was unable to e-file this weekend and last night because I cannot access [four] of the [six] recount cases as a party (Pro Se Plaintiff) and have no other option than to come to the Court and your office to file by hand—again. I would appreciate your continued patience and more so a reason why I cannot currently respond to, or initiate a new filing in the subject cases so I can, in fact, file electronically via e-file to enter our Rule 1925 responses into their respective dockets. If you can correct this issue, it would be very helpful.” Response Ex. C.
4. Although Appellants state that the delivery was overnight, the attachments show otherwise. The USPS receipt expressly provides: “Expected Delivery Date Wed. 1/10/2024” and the mailer indicates: “EXPECTED DELIVERY DAY: 1/10/2024.” Response Ex. D.
5. Specifically, in their “Statement of Questions Presented,” Appellants included: “Did Appellants comply with [the trial court’s] Rule 1925 order? Suggested answer: YES.” Appellants’ Br. at 5

¶23. However, the only mention of the Rule 1925(b) order was in their “Summary of Argument,” wherein they state: “Pro Se Appellants timely complied with [the trial court’s] Rule 1925 order, and do not waive any rights to appeal on all germane aspects.” Appellants’ Br. at 6 ¶26.

Key Takeaways:

1. Appellants Procedural Compliance and Difficulties:

The appellants, including Gregory Stenstrom, complied with Pennsylvania Rule of Appellate Procedure 1925(b) by timely mailing the required documents. Stenstrom submitted the Rule 1925(b) Statement via USPS Priority Mail Receipt on Sunday, January 7, 2024, and hand-delivered the documents to the Prothonotary on Monday, January 8, 2024. However, due to an “administrative delay” by the Court in docketing, the documents were not entered into the electronic record until January 11, 2024. Although the statement was mailed and received within the deadline, it was marked late due to “administrative issues,” and the trial court judge not opening and reading the brief until January 14, 2024 - not because of any appellant failure.

2. Technical Challenges

Stenstrom faced technical difficulties in accessing the electronic docket which prevented him from e-filing the documents as planned – and emailed and reported these

difficulties. His login was disabled administratively by Court personnel. This resulted in the use of alternate timely methods (mail and hand delivery) to ensure compliance. Even though Stenstrom fully complied with timely filing, the Court ignored its OWN technical issues in filing the document electronically despite Stenstrom's compliance.

3. Strict Application of Rule 1925(b):

The trial court's decision solely relied on strict procedural requirements, emphasizing that failure to timely file the Rule 1925(b) Statement leads to an automatic waiver of issues on appeal. This follows established Pennsylvania precedent, including cases such as *Commonwealth v. Lord*, *Commonwealth v. Butler*, and *Commonwealth v. Castillo*, which underscore that Rule 1925(b) compliance is mandatory and exceptions are rarely made.

4. Pro Se Litigants and Court Procedures:

The court reiterated that pro se litigants are held to the same standards as represented parties. Despite the appellants' lack of legal representation, their filings were subject to the same procedural rigor. Although the appellants encountered obstacles related to e-filing and document submission, the court maintained that these issues did not absolve them of responsibility for procedural compliance.

5. Per Curiam filing by Commonwealth Court of Pennsylvania is reserved for administrative actions, not to quash election recounts.

App.50a

The opinion was issued *per curiam*, suggesting that it was an administrative and non-precedential decision. However, it should be noted that *per curiam* opinions are typically reserved for matters of simple procedural rulings and administrative decisions, and not for substantive opinions on election recounts and complex legal matters.

6. The Opinion was “Not Reported” to the Public.

**Additional material
from this filing is
available in the
Clerk's Office.**