

IN THE COURT OF COMMON PLEAS OF YORK, PENNSYLVANIA

American Civil Liberties Union Foundation of
Pennsylvania and Elizabeth Kurian

Plaintiffs,

v.

York County Board of Elections

Defendant.

CIVIL DIVISION

Case No. 2024-SU-00643

Judge Todd R. Platts

[PROPOSED] ORDER GRANTING STAY OF PROCEEDINGS

AND NOW, this _____ day of _____, 2024, upon consideration of Plaintiffs'

Unopposed Motion for Stay, it is hereby **ORDERED** that said Motion is **GRANTED**. This case
is hereby stayed until further Order of Court.

BY THE COURT

TODD R. PLATTS, JUDGE

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Stephen Loney, Jr. (PA ID No. 202535)
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PLAINTIFFS' UNOPPOSED MOTION FOR STAY

Plaintiff, the American Civil Liberties Union Foundation of Pennsylvania (“ACLU-PA”) and Elizabeth Kurian (collectively “Plaintiffs”), by and through their undersigned counsel hereby petition this Court to enter an order staying proceedings in this litigation in light of Defendant York County Board of Elections’ (“Defendant” or “Board”) commitment to comply with the requirements of the Election Code in the upcoming 2024 General Election. In support of this Motion, Plaintiffs state as follows:

1. Plaintiffs filed this action for injunctive and declaratory relief on March 5, 2024, seeking to compel compliance with Section 1404 of the Election Code, which

provides that the county board “shall,” on the third day following each election, “publicly commence the computation and canvassing of the [election] returns” at a “convenient public place.” 25 P.S. § 3154(a).

2. Defendant initially responded, in part, that only party watchers are permitted to observe the official canvass. *See* 3/21/24 Def.’s Br. in Supp. Prelim. Obj. at 5-6. Watchers are permitted to observe the official canvass on behalf of candidates or party committees. *See* Section 417(b) of the Election Code, 25 P.S. § 2687(b) (a watcher’s certificate includes “the name of the candidate, party or political body [the watcher] represents”). Since Plaintiffs are nonprofit, nonpartisan actors, they are unable to affiliate with any political party and therefore it is impossible for them to obtain a watcher’s certificate. *See* Declaration of Elizabeth Kurian (“Kurian Decl.”), Compl., Ex. A, at ¶ 11.

3. This Court overruled Defendant’s Preliminary Objections by Order dated October 16, 2024.

4. Absent a stay, Defendant’s answer to the Complaint in this matter is due to be filed on November 6, 2024. Pa.R.C.P. 1028(d).

5. After rejection of the Preliminary Objections, counsel for the Board informed Plaintiffs’ counsel that, for the upcoming 2024 General Election, the Board will permit Plaintiffs and other members of the public to observe all elements of the official computation and canvass outlined in 25 P.S. § 3154(a) and (c)—including the commencement of the official canvass; the public accounting for all extra official ballots printed in advance of the election; the public reading of general returns, including the numbers of issued, spoiled, cancelled, and cast ballots by voting district; and the explanation of any discrepancies—without requiring watchers certificates.

6. Therefore, in an effort to avoid needless litigation in light of the Defendant's commitment, Plaintiffs seek the entry of the attached Order entering stay of litigation proceedings pending compliance with the Election Code in the 2024 General Election.

7. Undersigned counsel conferred via email with Defendant's counsel about this Motion. Defendant's counsel represented that it does not oppose this request for stay. *See Ex. A* hereto. Accordingly, Plaintiffs have conferred with all interested parties, and the requested relief is uncontested.

WHEREFORE, Plaintiffs respectfully request that this Court grant the requested motion for stay in the above-captioned matter.

DATED: October 25, 2024

Respectfully submitted,

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By: /s/ Marian K. Schneider

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Exhibit A

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From: [Wally Zimolong](#)
To: [Stephen Loney](#); [James Fitzpatrick](#); JEshbach@yorkcountypa.gov; DSullivan@yorkcountypa.gov; RGavin@yorkcountypa.gov
Cc: [Marian Schneider](#); [Kate Steiker-Ginzberg](#)
Subject: Re: ACLU v. York County BOE
Date: Wednesday, October 23, 2024 9:30:14 PM

Mr. Loney:

The County will not oppose your client's request for a stay. I reject all other statements in your email Oct 22, 2024, at 1:03 PM. My previous statements to you have been more than clear.

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CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Dated: October 25, 2024

s/ Marian K. Schneider
Marian K. Schneider

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CERTIFICATE OF SERVICE

I hereby certify that, on the date set forth below, I served a true and correct copy of the foregoing Unopposed Motion for Stay via electronic mail on all counsel of record.

Dated: October 25, 2024

s/ Marian K. Schneider
Marian K. Schneider

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