

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

No. 330 CD 2012

VIVIETTE APPLEWHITE; WILOLA SHINHOLSTER LEE; GLORIA CUTTINO; NADINE MARSH; BEA BOOKLER; JOYCE BLOCK; HENRIETTA KAY DICKERSON; DEVRA MIREL ("ASHER") SCHOR; THE LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA; NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, PENNSYLVANIA STATE CONFERENCE; HOMELESS ADVOCACY PROJECT,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THOMAS W. CORBETT, IN HIS CAPACITY AS GOVERNOR; CAROL AICHELE, IN HER CAPACITY AS SECRETARY OF THE COMMONWEALTH,

Respondents.

**AMENDED MOTION TO RECONSIDER
ORDER DIRECTING RESPONDENTS' RESPONSE TIME**

Petitioners move this Honorable Court to reconsider its Order of this morning, October 24 (a copy is attached as Exhibit 1), directing Respondents to file a response by October 30, and to further shorten the time for Respondents to file a response to the Petition for Supplemental Injunctive Relief filed on October 19, and as grounds aver as follows:

1. On Friday, October 19, Petitioners filed a Petition for Supplemental Injunction to Enforce Court's October 2, 2012, Order. The Petition alleged that Respondents had sent false information to elderly voters telling them that they needed photo ID to vote on November 6, had failed to rescind outdated and false information, and needed to use upcoming robocalls and other avenues of information publication to advise voters that photo ID will not be required to vote this Election Day.

2. The Petition requested that the Court order Respondents to send corrective notices to voters who were given false information, to publicize that photo ID is not required to vote during the upcoming election, and that robo-calls planned for the very near future provide the clear message that the Court's October 2 injunction means that voters without photo ID can vote on Election Day, which this year is November 6.
3. The alleged injuries caused by the Commonwealth's false and misleading informational efforts will cause irreparable harm to Pennsylvania citizens' fundamental right to vote and will violate this Court October 2 injunction, which effectuated the Pennsylvania Supreme Court's directive that the Voter ID law not disenfranchise voters in the upcoming election.
4. The Commonwealth apparently plans to take no steps to address Petitioners' concerns, unless ordered to do so by this Court. While the Commonwealth has not responded to the Petition in court, Ron Ruman, a spokesperson for the Department of State was quoted in at least two news articles saying that the Department did not plan to make any changes in its advertising campaign. *See* Angela Couloumbis, *Groups ask judge to stop outdated Pa. voter-ID mailings*, Philadelphia Inquirer (Oct. 21, 2012), accessible at http://articles.philly.com/2012-10-21/news/34607818_1_voter-id-law-disenfranchise-voters-photo-identification; and Jan Murphy, *Voter ID law opponents receive no response from Commonwealth Court on their injunction for the state to alter its message about the law*, Harrisburg Patriot-News (Oct. 22, 2012) ("Ron Ruman, a spokesman for the Department of State, said department officials believe the ads' message is clear and complies with Simpson's Oct. 2 ruling that voter awareness of the law continue but the law wouldn't be enforced until next year's elections. He said the department is awaiting

further guidance from the court, but as of late Monday afternoon, had not received any.”), accessible at

http://www.pennlive.com/midstate/index.ssf/2012/10/voter_id_law_opponents_receive.html.

5. Respondents have known about the problems since Petitioners’ counsel contacted them about these issues on October 15. They have had the Petition since October 19. There is no reason they cannot and should not be directed to respond to the straightforward allegations made in the Petition within the next day or two.
6. Even if this Court were to rule on October 30, the relief would be ineffective. There are less than two weeks before Election Day. Unless the relief requested in the Petition is considered and granted within the next few days the Petition will effectively be denied, causing the complained of irreparable harm. If the Court orders the Commonwealth to mail corrective notices, it will be too late. If robocalls with false and misleading information are made, the damage will be irreparable. And the false information currently being published by the Commonwealth will further misinform voters about their right to vote on Election Day without the need to show photo ID.
7. Furthermore, a ruling by this Court on October 30 will leave the losing party with insufficient time to file an emergency appeal with the PA Supreme Court. Given the irreparable harm to a fundamental right that is at stake in this matter, a more aggressive schedule is needed.

WHEREFORE, Petitioners respectfully request that this Court reconsider its October 24 order and direct the Commonwealth to file a response by the close of business on Thursday, October 25.


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Dated: October 24, 2012

Respectfully submitted,



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of Pennsylvania; National Association :
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Pennsylvania State Conference; :
Homeless Advocacy Project, :
Petitioners :

V.

The Commonwealth of Pennsylvania; :
Thomas W. Corbett, in his capacity :
as Governor; Carole Aichele, in her :
capacity as Secretary of the :
Commonwealth, :
Respondents :

AND NOW, this 24th day of October, 2012, upon consideration of Petitioners' Petition for Supplemental Injunction to Enforce Court's October 2, 2012, Order, a **RULE** is entered upon Respondents to **SHOW CAUSE** why the requested relief should not be granted. Respondents shall file an answer on or before the close of business on October 30, 2012. Given existing time restraints, the petition shall be decided on properly pleaded averments in the petition and answer.

EXHIBIT 1

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Viviette Applewhite; Wilola Shinholster Lee; Gloria
Cuttino; Nadine Marsh; Bea Bookler; Joyce Block;
Henrietta Kay Dickerson; Devra Mirel ("Asher") Schor; the
League of Women Voters of Pennsylvania; National
Association for the Advancement of Colored People,
Pennsylvania State Conference; Homeless Advocacy
Project,

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v.

The Commonwealth of Pennsylvania; Thomas W. Corbett,
in his capacity as Governor; Carol Aichele, in her capacity
as Secretary of the Commonwealth

Respondents

Docket No. 330 MD 2012

CERTIFICATE OF SERVICE

I certify that I am this 24th day of October 2012, serving the foregoing MOTION TO
RECONSIDER ORDER DIRECTING RESPONDENTS' RESPONSE TIME, upon the persons
and in the manner indicated below, which service satisfies the requirement of Pa. R. A.P. 121:

Service by email per agreement with Respondents' Counsel as follows:

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Respondents.

ORDER

AND NOW, this _____ day of October, 2012, upon consideration of Petitioners' Motion to Reconsider Order Directing Respondents' Response Time, it is hereby ORDERED that said motion be and hereby is GRANTED. Notwithstanding this Court's earlier order, Respondents are now directed to respond to the Petition by the close of business on Thursday, October 25.

Hon. Robert Simpson, Judge