

TIMOTHY BONNER, et al.,

Petitioners,

v.

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

Respondents.

No. 293 MD 2021

**RESPONDENTS' ANSWER IN OPPOSITION TO
THE APPLICATION TO INTERVENE OF
BUTLER COUNTY REPUBLICAN COMMITTEE,
YORK COUNTY REPUBLICAN COMMITTEE, AND
WASHINGTON COUNTY REPUBLICAN COMMITTEE**

Respondents, the Department of State of the Commonwealth of Pennsylvania and Acting Secretary of the Commonwealth Veronica Degraffenreid, hereby answer the Application to Intervene of Proposed Intervenors-Petitioners Butler County Republican Committee, York County Republican Committee, and Washington County Republican Committee (the “County Republican Proposed Intervenors”) as follows:

Introduction

1. Admitted in part and denied in part. Respondents admit that Act of Oct. 31, 2019, P.L. 552, No. 77, was enacted by the Pennsylvania General Assembly, and that it amended Pennsylvania’s Election Code. The remaining averments in this paragraph characterize Act 77 and the Pennsylvania Election Code. Act 77 and the Pennsylvania Election Code speak for themselves, and any characterization of them is denied.

2. Denied. The averments in this paragraph characterize Act 77 and the Pennsylvania Election Code. Act 77 and the Pennsylvania Election Code speak for themselves, and any characterization of them is denied.

3. Denied. The averments of this paragraph are conclusions or statements of law to which no response is required. By way of further answer, Respondents specifically deny that Act 77’s provision for no-excuse mail-in voting is unconstitutional.

4. Denied. After reasonable investigation, Respondents lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph. They are therefore denied.

Proposed Intervenor-Petitioners

5. Admitted upon information and belief.

6. Denied. After reasonable investigation, Respondents lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph. They are therefore denied.

7. Denied. The averments in this paragraph constitute (i) allegations about which Respondents, after reasonable investigation, lack knowledge or information sufficient to form a belief as to their truth or falsity; or (ii) allegations that are conclusions or statements of law to which no response is required. They are accordingly denied.

8. Denied. The averments in this paragraph characterize public records. The records speak for themselves, and any characterization of them is denied.

9. Denied. The numbers recited in this paragraph are mathematically impossible, as the paragraph alleges that the total number of Butler County electors voting by mail in the 2021 primary election is less than the sum of the numbers of Butler County Democratic and Republican electors voting by mail. By way of

further answer, the averments in this paragraph characterize public records. The records speak for themselves, and any characterization of them is denied.

10. Denied. The numbers alleged in this paragraph do not match the numbers currently reported at the Department of State website that this paragraph cites. This paragraph does not specify a particular date as of which the alleged numbers were purportedly accurate. By way of further answer, the averments in this paragraph characterize public records. The records speak for themselves, and any characterization of them is denied.

11. Denied. The numbers alleged in this paragraph do not match the numbers reported at the York County website that this paragraph cites. This paragraph appears to have confused the number of “Ballots Issued” to electors (as reported at the cited York County website) with the number of electors who actually returned a ballot by mail. By way of further answer, the averments in this paragraph characterize public records. The records speak for themselves, and any characterization of them is denied.

12. Denied. The numbers alleged in this paragraph do not match the Department of State’s data with respect to the current number of registered voters, registered Democratic voters, and registered Republican voters in Washington County. *See*

<https://www.dos.pa.gov/VotingElections/OtherServicesEvents/VotingElectionStati>

[stics/Pages/VotingElectionStatistics.aspx](#) (last visited October 21, 2021). The numbers stated in this paragraph appear to be drawn from the archived voter registration statistics reported by Washington County as of the 2021 primary election. By way of further answer, the averments in this paragraph characterize public records. The records speak for themselves, and any characterization of them is denied.

13. Denied. The averments in this paragraph characterize public records. The records speak for themselves, and any characterization of them is denied.

14. Denied. The averments of this paragraph are conclusions or statements of law to which no response is required. By way of further answer, Respondents specifically deny that Proposed Intervenors have demonstrated a “legally enforceable interest” in this litigation within the meaning of Pa.R.C.P. 2327(4).

15. Denied. After reasonable investigation, Respondents lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph. They are therefore denied.

16. Denied. The averments in this paragraph constitute (i) allegations about which Respondents, after reasonable investigation, lack knowledge or information sufficient to form a belief as to their truth or falsity; or (ii) allegations

that are conclusions or statements of law to which no response is required. They are accordingly denied.

Legal Standard

17. The averments of this paragraph are conclusions or statements of law to which no response is required.

18. The averments of this paragraph are conclusions or statements of law to which no response is required.

19. The averments of this paragraph are conclusions or statements of law to which no response is required.

20. The averments of this paragraph are conclusions or statements of law to which no response is required.

21. The averments of this paragraph are conclusions or statements of law to which no response is required.

22. The averments of this paragraph are conclusions or statements of law to which no response is required.

23. The averments of this paragraph are conclusions or statements of law to which no response is required.

24. The averments of this paragraph are conclusions or statements of law to which no response is required.

25. The averments of this paragraph are conclusions or statements of law to which no response is required.

26. The averments of this paragraph are conclusions or statements of law to which no response is required.

27. The averments of this paragraph are conclusions or statements of law to which no response is required.

Argument for Intervention

28. Denied. The averments in this paragraph characterize the pleadings in this action. The pleadings speak for themselves, and any characterization of them is denied.

29. Denied. To the extent this paragraph alleges that the determination of the constitutionality of Act 77 will “affect” a legally enforceable interest of “all the parties in the litigation, including the County Republican Intervenors,” the averments of this paragraph are conclusions or statements of law to which no response is required. By way of further answer, Respondents specifically deny that County Republican Proposed Intervenors have demonstrated a “legally enforceable interest” in this litigation within the meaning of Pa.R.C.P. 2327(4). To the extent this paragraph alleges that the determination of the constitutionality of Act 77 will “affect all the parties in the litigation, including the County Republican Intervenors,” in some other, unspecified sense, the averments are too vague to

permit a response, and Respondents lack sufficient knowledge or information sufficient to form a belief as to their truth or falsity. The averments are accordingly denied.

30. Denied. To the extent this paragraph alleges that the determination of the constitutionality of Act 77 will “directly impact” a legally enforceable interest of “the County Republican Intervenors,” the averments of this paragraph are conclusions or statements of law to which no response is required. By way of further answer, Respondents specifically deny that County Republican Proposed Intervenors have demonstrated a “legally enforceable interest” in this litigation within the meaning of Pa.R.C.P. 2327(4). To the extent this paragraph alleges that the determination of Act 77 will “directly impact the County Republican Intervenors” in some other, unspecified sense, the averments are too vague to permit a response, and Respondents lack knowledge or information sufficient to form a belief as to their truth or falsity. The averments are accordingly denied.

31. Denied. To the extent this paragraph alleges that the resolution of Petitioners’ claims will “affect” a legally enforceable interest of “the County Republican Intervenors,” the averments of this paragraph are conclusions or statements of law to which no response is required. By way of further answer, Respondents specifically deny that County Republican Proposed Intervenors have demonstrated a “legally enforceable interest” in this litigation within the meaning

of Pa.R.C.P. 2327(4). To the extent this paragraph alleges that the resolution of Petitioners' claims will "affect the County Republican Intervenors" in some other, unspecified sense, the averments are too vague to permit a response, and Respondents lack knowledge or information sufficient to form a belief as to their truth or falsity. The averments are accordingly denied.

32. Denied. The averments in this paragraph characterize Act 77 and the Pennsylvania Election Code. Act 77 and the Pennsylvania Election Code speak for themselves, and any characterization of them is denied. To the extent the averments in this paragraph constitute statements or conclusions of law, no response is required.

33. Denied. The averments of this paragraph are conclusions or statements of law to which no response is required.

34. Denied. The averments in this paragraph characterize public records. The records speak for themselves, and any characterization of them is denied.

35. After reasonable investigation, Respondents lack knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph. They are therefore denied.

36. After reasonable investigation, Respondents lack knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph. They are therefore denied.

37. After reasonable investigation, Respondents lack knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph. They are therefore denied.

38. After reasonable investigation, Respondents lack knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph. They are therefore denied.

39. After reasonable investigation, Respondents lack knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph. They are therefore denied.

40. After reasonable investigation, Respondents lack knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph. They are therefore denied.

41. Denied. The averments of this paragraph are conclusions or statements of law to which no response is required. By way of further answer, Respondents specifically deny that Petitioners do not adequately represent the County Republican Proposed Intervenors' interests in this litigation (to the extent, if any, that such interests exist).

42. Denied. After reasonable investigation, Respondents lack knowledge or information sufficient to form a belief as to the truth or falsity of the averments

of this paragraph. They are therefore denied. To the extent the averments of this paragraph constitute statements or conclusions of law, no response is required.

43. Denied. After reasonable investigation, Respondents lack knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this paragraph. They are therefore denied. To the extent the averments of this paragraph constitute statements or conclusions of law, no response is required. By way of further answer, Respondents specifically deny that Petitioners do not adequately represent the County Republican Proposed Intervenors' interests in this litigation (to the extent, if any, that such interests exist).

44. Denied. The averments of this paragraph are conclusions or statements of law to which no response is required. By way of further answer, Respondents specifically deny that Proposed Intervenors have demonstrated a "legally enforceable interest" in this litigation within the meaning of Pa.R.C.P. 2327(4), and also deny that Petitioners do not adequately represent the County Republican Proposed Intervenors' interests in this litigation (to the extent, if any, that such interests exist).

45. Denied. The averments of this paragraph are conclusions or statements of law to which no response is required. By way of further answer, Respondents specifically deny that Proposed Intervenors have demonstrated a "legally enforceable interest" in this litigation within the meaning of Pa.R.C.P.

2327(4), and also deny that Petitioners do not adequately represent the County Republican Proposed Intervenors' interests in this litigation (to the extent, if any, that such interests exist).

46. The averments of this paragraph are conclusions or statements of law to which no response is required.

47. Denied. The averments of this paragraph are conclusions or statements of law to which no response is required. By way of further answer, Respondents specifically deny that the County Republican Proposed Intervenors have met the standard for intervention.

48. Denied. The averments of this paragraph are conclusions or statements of law to which no response is required. By way of further answer, Respondents specifically deny that the County Republican Proposed Intervenors have pled facts demonstrating standing or demonstrated a "legally enforceable interest" in this litigation within the meaning of Pa.R.C.P. 2327(4).

49. Denied. The averments of this paragraph are conclusions or statements of law to which no response is required. By way of further answer, Respondents specifically deny that the County Republican Proposed Intervenors have pled facts demonstrating standing or demonstrated a "legally enforceable interest" in this litigation within the meaning of Pa.R.C.P. 2327(4).

50. Denied. The averments of this paragraph are conclusions or statements of law to which no response is required. To the extent the averments of this paragraph constitute allegations of fact, Respondents, after reasonable investigation, lack knowledge or information sufficient to form a belief as to the truth or falsity of those allegations, and those allegations are therefore denied.

51. Denied. The averments of this paragraph are conclusions or statements of law to which no response is required.

52. Denied. The averments of this paragraph are conclusions or statements of law to which no response is required. By way of further answer, Respondents specifically deny that Petitioners do not adequately represent the County Republican Proposed Intervenors' interests in this litigation (to the extent, if any, that such interests exist).

53. Denied. The averments of this paragraph are conclusions or statements of law to which no response is required. By way of further answer, Respondents specifically deny that the County Republican Proposed Intervenors have not unduly delayed in filing their Application to Intervene.

54. Denied. The averments of this paragraph are conclusions or statements of law to which no response is required.

55. Denied. The averments of this paragraph are conclusions or statements of law to which no response is required. By way of further answer,

Respondents specifically deny that the County Republican Proposed Intervenors have pled facts demonstrating standing.

WHEREFORE, Respondents respectfully request that this Court deny Proposed Intervenor-Petitioners' Application to Intervene.

HANGLEY ARONCHICK SEGAL
PUDLIN & SCHILLER

Dated: October 21, 2021 By: /s/ Michele D. Hangley
Michele D. Hangley (I.D. No. 82779)
Robert A. Wiygul (I.D. No. 310760)
John Hill (I.D. No. 328340)
One Logan Square, 27th Floor
Philadelphia, PA 19103
Tel: (215) 568-6200
Fax: (215) 568-0300

OFFICE OF ATTORNEY GENERAL

Stephen Moniak (I.D. No. 80035)
Karen M. Romano (I.D. No. 88848)
15th Floor, Strawberry Square
Harrisburg, PA 17120
(717) 787-2717

PENNSYLVANIA GOVERNOR'S OFFICE OF
GENERAL COUNSEL

Kenneth L. Joel (I.D. No. 72370)
333 Market Street, 17th Floor
Harrisburg, PA 17101
(717) 787-9348

PENNSYLVANIA DEPARTMENT OF STATE

Kathleen M. Kotula (I.D. No. 318947)
306 North Office Bldg., 401 North Street
Harrisburg, PA 17120-0500
(717) 783-1657

TUCKER LAW GROUP, LLC

Joe H. Tucker, Jr. (I.D. No. 56617)
Dimitrios Mavroudis (I.D. No. 93773)
Jessica A. Rickabaugh (I.D. No. 200189)
1801 Market Street, Suite 2500
Philadelphia, PA 19103
(215) 875-0609

Counsel for Respondents

CERTIFICATION REGARDING PUBLIC ACCESS POLICY

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 21, 2021

/s/ Michele D. Hangle
Michele D. Hangle