

[J-79-2024]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

BLACK POLITICAL EMPOWERMENT : No. 68 MAP 2024
PROJECT, POWER INTERFAITH, MAKE :
THE ROAD PENNSYLVANIA, ONEPA :
ACTIVISTS UNITED, NEW PA PROJECT :
EDUCATION FUND, CASA SAN JOSÉ, :
PITTSBURGH UNITED, LEAGUE OF :
WOMEN VOTERS OF PENNSYLVANIA, :
AND COMMON CAUSE PENNSYLVANIA :

v.

AL SCHMIDT, IN HIS OFFICIAL CAPACITY :
AS SECRETARY OF THE :
COMMONWEALTH, PHILADELPHIA :
COUNTY BOARD OF ELECTIONS, AND :
ALLEGHENY COUNTY BOARD OF :
ELECTIONS :

APPEAL OF: REPUBLICAN PARTY OF :
PENNSYLVANIA AND REPUBLICAN :
NATIONAL COMMITTEE :

ORDER

PER CURIAM

AND NOW, this 19th day of September, 2024, Intervenors/Appellants' Emergency Application for Enforcement and/or Clarification is GRANTED. This Court's September 13, 2024, order is hereby clarified as follows:

- 1) This Court vacated the order of the Commonwealth Court, dated August 30, 2024, because the Commonwealth Court did not have original subject matter

- jurisdiction to adjudicate the matter since the Secretary of State, Al Schmidt, was not an indispensable party. See 42 Pa.C.S. § 761(a)(1); see also *Penn. State Educ. of Ass'n ex rel. Wilson v. Com., Dept. of Comm. and Econ. Dev.*, 50 A.3d 1263, 1277 (Pa. 2012); *Sprague v. Casey*, 550 A.2d 184, 189 (Pa. 1988).
- 2) The other named respondents, the Philadelphia and Allegheny County Boards of Elections are not Commonwealth agents necessary to vest original jurisdiction in the Commonwealth Court. See 42 Pa.C.S. §§ 102 (providing “[t]he government of the Commonwealth ... does not include any political subdivision, municipal or other local authority, or any officer or agency of any such political subdivision or local authority.”), 761(a); see also *Blount v. Phila. Parking Auth.*, 965 A.2d 226, 231 (Pa. 2009).
 - 3) The Court vacated the Commonwealth Court’s order for an additional and independent jurisdictional deficiency, that being the failure of the petition to join all indispensable parties—*i.e.*, the other 65 county boards of elections. See *Sprague*, 550 A.2d at 189.
 - 4) Although the jurisdictional defect for failure to join the other 65 county board of elections could be remedied, the Commonwealth Court nonetheless would still lack jurisdiction based on our conclusion that the Secretary of State is not an indispensable party.
 - 5) The order of the Commonwealth Court, dated August 30, 2024, was therefore VACATED as it was entered without jurisdiction. Because the Secretary of State is not an indispensable party, the Commonwealth Court lacks jurisdiction under 42 Pa.C.S. § 761(a)(1), and the Commonwealth Court, accordingly, shall

dismiss the matter upon remand in accordance with this Court's September 13, 2024, Order.