

EXHIBIT J

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Senator Jay Costa, Senator Anthony H. Williams, Senator Vincent J. Hughes, Senator Steven J. Santarsiero, and Senate Democratic Caucus,

Petitioners

v.

Senator Jacob Corman III, Senate Pro Tempore, Senator Cris Dush, and Senate Secretary-Parliamentarian Megan Martin,

Respondents

Commonwealth of Pennsylvania, Pennsylvania Department of State, and Veronica Degraffenreid, Acting Secretary of the Commonwealth of Pennsylvania,

Petitioners

v.

Senator Cris Dush, Senator Jake Corman, and the Pennsylvania State Senate Intergovernmental Operations Committee,

Respondents

Arthur Harwood, Julie Haywood

Petitioners.

v.

Veronica Degraffenreid, Acting Secretary of State Commonwealth of Pennsylvania,

Respondents

CASES CONSOLIDATED

No. 310 MD 2021

No. 322 MD 2021

No. 323 MD 2021

AFFIDAVIT OF DIANE M. ELLIS-MARSEGLIA

I, Diane M. Ellis-Marseglia, declare and affirm under the penalties of 18 Pa. Cons. Stat. § 4904 that:

1. I am a Commissioner for the Bucks County Board of Elections and the Bucks County Registration Commission. I have served in that role since January 2008. Since January 2020, I have also served as Chair of the Bucks County Board of Commissioners.

2. As a Commissioner on our Board of Elections (“BOE”) and Registration Commission, I am responsible for overseeing the administration of Bucks County’s elections and

voter registration. It is my job to ensure the integrity of the election process through an array of methods, including (but not limited to): protecting the safety and rights of voters and workers; issuing rules, regulations and instructions; and investigating fraud, irregularities, and violations of the Election Code. My fellow Commissioners and I take considerable measures to safeguard the privacy and personal information of voters. Broadly, we have invested significant resources into protecting the County, including the BOE, against the vast array of cybersecurity threats facing county governments in the modern era. The BOE also takes great care to protect personal identifying information of voters from public disclosure. For example, when requests for information are made pursuant to such provisions as 25 Pa. C.S. Sections 1403(c) and 1404(b)(1) as well as the SURE Regulations at 4 Pa. Code Section 183.13(c) and 184.14(b), BOE staff manually redacts each voter's signature, phone number, driver's license number, and Social Security number before producing those records. All of this is done to protect the privacy rights of voters, ensure compliance with the law, and safeguard the integrity of the electoral process.

3. I serve with two other Commissioners, one a fellow Democrat and the other a Republican. Since they joined me on the BOE in January 2020, the three of us have worked hard to ensure that our elections are conducted fairly and, just as importantly, that the public has confidence in the integrity of the electoral process. Despite differences in our party registrations, we have been successful in governing largely by consensus and without the rancor that has become too commonplace in American politics. We are supported in our efforts by the dedicated BOE staff, which work incredibly hard (sometimes around the clock) to protect the rights of Bucks County voters while meeting stringent deadlines and other requirements. As a result, the integrity of our BOE – and its ability to conduct safe, free, and fair elections – has the trust of

voters, candidates, and both the County's Democratic and Republican parties, whose leaders jointly authored an op-ed defending the BOE's administration of the 2020 general election.

4. Recent efforts by the Pennsylvania Senate Intergovernmental Operations Committee (the "Committee") to stoke division, distrust and disinformation threaten to jeopardize the trust we have worked so hard to build and preserve.

5. I am aware that on September 15, 2021, the Committee issued a subpoena (the "September 15 subpoena") to the Pennsylvania Department of State. I am aware that the September 15 subpoena requests the name, address, date of birth, driver's license number, partial Social Security number, and voting history of all registered Pennsylvania voters as of November 1, 2020 and May 1, 2021. I am aware that the Department of State received much of this data through lawful and secure means from the county Boards of Elections.

6. Over the last four weeks, I have received – both directly as well as through my staff and other elected officials representing my constituents – complaints from between three and four hundred Bucks County voters who have expressed their concerns about the September 15 subpoena.

7. These voters are outraged that their taxpayer dollars are being wasted on a cynical political stunt. They are dismayed that the Committee is abusing the powers and prestige of the Pennsylvania State Senate to undermine confidence in a free and fair election. And they are alarmed by this blatant attack on their individual privacy rights.

8. In particular, voters have expressed their concerns that their personal information, which the BOE has taken great pains to protect, is now in danger of being leaked to nongovernmental actors with unknown identities, motives, and capabilities. Voters have shared their fears that this intrusion of privacy will put them at risk of identity theft. And they have

condemned the way that this effort to misuse their data undermines the sanctity of their constitutional right to vote.

9. I share the concerns of my constituents. I also fear that the disclosure of Bucks County voters' personal information will make it harder for the BOE to administer elections in the future.

10. If voters believe that providing information to the BOE puts them at risk of dangers such as identity theft, they will be less likely to trust the BOE. Such a loss of trust would undermine our staff's ability to serve voters.

11. This problem would be especially pronounced due the high volume of direct interactions that the BOE has with Bucks County voters, particularly in the days and weeks leading up to Election Day.

12. For example, the BOE serves voters who wish to securely receive, complete, and return a mail-in ballot during a single visit to our offices, a process commonly known as "on demand voting." To accommodate the high level of interest in this secure method of voting, the BOE established "on demand" operations in all three regions (Lower, Central, and Upper) of Bucks County. This is a time-consuming and manpower-intensive process that BOE staff manages very well with limited resources. They cannot afford to spend their limited time addressing the anxieties, accusations, and suspicions that would be triggered by a loss of faith in the BOE's ability to safeguard voter information from hackers, con artists, and identity thieves. Undermining the public's trust in the BOE, would result in "on demand" operations grinding to a halt.

13. There are innumerable other ways in which BOE interfaces directly with voters and poll workers (who are themselves voters), including updating registration information,

applying for absentee or mail-in ballots, and fielding inquiries about the election in-person and over the telephone.

14. BOE navigates these interactions smoothly and efficiently because they have the trust of the public.

15. And once trust is lost, it is difficult to regain.

16. Honoring the September 15 subpoena would also frustrate our mission to facilitate active participation by every eligible voter, by discouraging new voters from registering to vote. And by enflaming and agitating current voters, honoring the September 15 subpoena would increase the number of difficult interactions for poll workers, which would make it even more challenging for the County to secure poll workers during our current national and local labor shortage. We cannot afford this at a time that county boards of elections struggle to retain staff because of the stressful conditions under which elections have been conducted since the onset of the COVID-19 pandemic.

17. On a bi-partisan basis, my fellow Commissioners and I have urged the Pennsylvania General Assembly to enact common sense reforms, such as allowing staff to begin the pre-canvassing of mail-in ballots prior to Election Day, which would allow the BOE to perform its duties more efficiently and provide the public with election results faster than the current laws permit. Unfortunately, the September 15 subpoena does absolutely nothing to promote the types of needed reforms which have the bipartisan support of County Commissioners from across the Commonwealth. It is outrageous that instead of focusing on actually improving the administration of future elections, members of the Committee are wasting precious resources on a pointless probe that their own Majority Leader has acknowledged is “intrusive.”

18. I submit this affidavit in support of Petitioners' application for relief and based on my personal knowledge. If called as a witness, I could and would testify competently to the matters set forth above. I declare that the facts set for in this Affidavit are true and correct. I understand that this Affidavit is made subject to the penalties for unsworn falsification to authorities set forth in 18 Pa. Cons. Stat. § 4904.

Executed on this 12 day of OCTOBER, 2021



A handwritten signature in blue ink, appearing to read "Diane M. Ellis-Marseglia", is written over a horizontal line.

DIANE M. ELLIS-MARSEGLIA, LCSW
BUCKS COUNTY COMMISSIONER