

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Richard Kraft & John Dickinson

Petitioners

v.

Chet Harhut, Individually and in his capacity as Commissioner, Bureau of Commissions, Elections and Legislation, Pennsylvania Department of State; Pennsylvania Department of State; Pedro A. Cortes, Individually and in capacity as Secretary of the Commonwealth of Pennsylvania

Respondents

NO. 451 MD 2008

RECEIVED AND FILED
COMMONWEALTH COURT
OF PENNSYLVANIA
2008 SEP 26 P 3:16

ORDER

AND NOW, this ___ day of _____, 2008, upon consideration of American Civil Liberties Union of Pennsylvania's Application for Expedited Consideration of its Petition to Intervene, and any response thereto, it is hereby ORDERED that the application is GRANTED, and that American Civil Liberties Union of Pennsylvania's Petition to Intervene shall be considered on an expedited basis. A hearing on the sufficiency of the allegations in the Petition to Intervene is hereby scheduled for _____, 2008.

By the Court:

J.

PEPPER HAMILTON LLP

By: Stephen G. Harvey (I.D. No. 58233)
Seth R. Oltman (I.D. No. 93395)
William M. Taylor (I.D. No. 203503)

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ACLU OF PENNSYLVANIA

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**AMERICAN CIVIL LIBERTIES UNION OF PENNSYLVANIA'S APPLICATION FOR
EXPEDITED CONSIDERATION OF ITS PETITION TO INTERVENE**

Petitioner and Proposed Respondent-Intervenor, American Civil Liberties Union of Pennsylvania ("ACLU-PA"), hereby files this Application for Expedited Consideration of its Petition to Intervene, and in support hereof state as follows:

1. Petitioners Richard Kraft and John Dickinson filed a Complaint that this Court denominated a Petition for Review addressed to the Court's original jurisdiction (the "Petition for Review") in its order of September 18, 2008.

2. As described in more detail in ACLU-PA's Petition to Intervene, which was filed the same day as this instant application, Petitioners requested among other things that this Court rescind a memorandum issued by Chet Harhut, the Commonwealth of Pennsylvania's Commissioner of the Bureau of Commissions, Elections and Legislation (the "Commissioner"), which opined that "passive electioneering" specifically, the wearing by voters in polling places on election day of "tee shirts, clothing, or buttons with a candidate's or political party's name, picture, or emblem," is not prohibited by Section 1220(c) of the Pennsylvania Election Code, 25 P.S. § 3060(c).

3. The Commissioner's memorandum is in accordance with the longstanding practice in many Pennsylvania counties, including the most populous counties, namely, Allegheny and Philadelphia.

4. After Petitioners filed their Petition for Review, they filed their Application for Expedited Consideration of an Election Case on September 18, 2008.

5. That same day, this Court ordered Respondents to file a pleading in response to the Petition to Review no later than September 25, 2008.

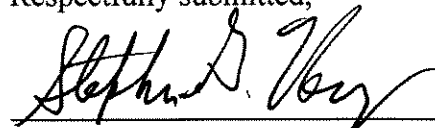
6. The Election to which the Petition to review most immediately pertains is on November 4, 2008, only thirty-nine (39) days away.

7. The action in which ACLU-PA seeks to intervene may impact whether the right to vote, and the freedoms of speech and expression, are unlawfully curtailed at that Election and future elections.

8. ACLU-PA's participation in the action in which it seeks to intervene is necessary for a just and complete determination of that action because the relief Petitioners seek, if granted, would injure both the ACLU-PA and its members.

WHEREFORE, ACLU-PA respectfully requests that this Court consider its Petition to Intervene on an expedited basis.

Respectfully submitted,



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*Attorneys for Applicant American Civil Liberties
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Dated: September 26, 2008

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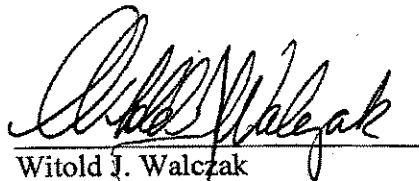
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VERIFICATION

Witold J. Walczak hereby states that he is Legal Director for Petitioner and Proposed Respondent-Intervenor American Civil Liberties Union of Pennsylvania in the above-captioned action, that he is authorized to make this verification, and that the facts set forth in the foregoing Application for Expedited Consideration of the ACLU-PA's Petition to Intervene are true and correct to the best of his knowledge, information, and belief.

The undersigned understands that the statements made therein are subject to the penalties of 18 Pa. C.S. § 4904 for unsworn falsification to authorities.

Date: September 26, 2008


Witold J. Walczak

CERTIFICATE OF SERVICE

I, William M. Taylor, do hereby certify that I caused to be served on September 26, 2008, true and correct copies of American Civil Liberties Union of Pennsylvania's Application for Expedited Consideration of its Petition to Intervene upon the following:

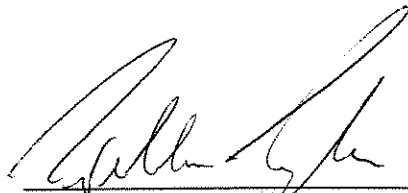
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Secretary of the Commonwealth, and Chet Harhut,
Commissioner of the Bureau of Commissions,
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Date: September 26, 2008



William M. Taylor