

IN THE COURT OF COMMON PLEAS OF
NORTHAMPTON COUNTY, COMMONWEALTH OF PENNSYLVANIA
FILED CIVIL DIVISION - LAW

IN RE: General Election 2023

2023 NOV - 7 A: 10: 59

C-48-CV-2023-

009141

COURT OF COMMON PLEAS
CIVIL DIVISION
NORTHAMPTON COUNTY, PA

ORDER

AND NOW, this 7th day of November, 2023, upon the

Petition of the County of Northampton Election Division, it is **ORDERED** as follows:

1. It appears that there is an issue with the recording of votes cast on the voting machines in the polling places throughout the County of Northampton limited to the two races for retention to the Pennsylvania Superior Court affecting Judge Jack Panella and Judge Victor P. Stabile;

2. It appears that when a voter selects a "Yes" or a "No" for one of the candidates for retention to the Pennsylvania Superior Court, the selection is recorded on the paper ballot and on the machine for the other candidate;


3. The issue appears limited to the retention of Superior Court Judges, and is only an issue when recording the votes for when a voter selected a "Yes" for one candidate and a "No" for another candidate;

4. The Election Division of the County of Northampton is directed to notify all poll workers by text message that they are to instruct voters before the voter enters the voting booth that there is an issue with the recording of their vote for the candidates for retention to the Pennsylvania Superior Court, that the paper ballot will record their

selection for retention to the Pennsylvania Superior Court one candidate to the other candidate.

5. ~~The polling place hours are extended throughout the County of Northampton to 9:00 p.m. on Election Day.~~ *Withdrawn by parties without prejudice to any subsequent petitions*

BY THE COURT:


_____ J.

FILED

IN THE COURT OF COMMON PLEAS OF
NORTHAMPTON COUNTY, COMMONWEALTH OF PENNSYLVANIA
CIVIL DIVISION - LAW

2023 NOV - 7 A 10:59
COURT OF COMMON PLEAS
CIVIL DIVISION
NORTHAMPTON COUNTY, PA

IN RE: General Election 2023

:
:
:

C-48-CV-2023- 9141

PETITION FOR RELIEF IN THE GENERAL ELECTION OF 2023

Petitioner County of Northampton, Election Division, by and through the Office of Solicitor, files this Petition for Relief pursuant to 25 Pa. C.S. §3046, and in support thereof avers the following:

1. The County of Election, Election Division, is responsible for administering elections in the County of Northampton pursuant to the Pennsylvania Election Code.
2. Two judges of the Pennsylvania Superior Court are subject of a retention election for Judge of the Superior Court of Pennsylvania: Jack Panella and Victor P. Stabile.
3. A voter may select a "Yes" or a "No" on the retention question for each candidate for retention.
4. Upon information and belief, it is averred that when a voter selected a choice for one of the candidate for retention for Judge of the Superior Court of Pennsylvania, the vote is assigned by the machine to the other candidate for retention for Judge of the Superior Court of Pennsylvania.

FILED
2023 NOV - 7 A 11:00
COURT OF COMMON PLEAS
CIVIL DIVISION
NORTHAMPTON COUNTY, PA

5. Upon information and belief, it is averred that there was an issue with programming which caused the issue with the assignment of votes to the two candidates for retention for Judge of the Superior Court of Pennsylvania.

6. The issue is limited only to the elections for retention for Judge of the Superior Court of Pennsylvania.

7. While investigating the issue, a text message was sent at 8:01 a.m. to poll workers were instructed to use emergency paper ballots and provisional ballots to allow voting to continue during the investigation of the issue.

8. The polling places do not have sufficient stock of emergency paper ballots and provision ballots on site to permit voting on paper ballots indefinitely throughout the day.

9. Since the issue is consistent and limited to candidate for retention for Judge of the Superior Court of Pennsylvania, the Election Division of the County of Northampton will assign votes for retention for retention to the Pennsylvania Superior Court recorded on the voting machines to the other candidate to reflect the intent of the voter.

10. Since the issue is consistent and limited to candidate for retention for Judge of the Superior Court of Pennsylvania, in order to permit voting to continue in an orderly manner, at 9:13 a.m. a text message was sent to poll workers instructing them to use the voting machines.

11. Polls are open from 7:00 a.m. to 8:00 p.m. on Election Day. See 25 Pa. C.S. §3045.

12. In order to advise the public of the issue and ensure voting continues for all races on the ballot, the Election Division will advise voters that before the voter enters the voting booth that there is an issue with the recording of their vote for the candidates for retention to the Pennsylvania Superior Court, that the paper ballot will record their selection for retention to the Pennsylvania Superior Court one candidate to the other candidate.

13. Given the issue involved with the machine, Petitioner requests that the hours be extended to 9:00 p.m. and that all voters on line on or before 9:00 p.m. are permitted to vote at the voting machine.

14. The court of common pleas has authority to enter any order to secure a free, fair and correct computation and canvass of the votes cast at the election. See 25 P.S. §3046. See also General Election - 1985, 531 A.2d 836 (Pa. Cmwlth. 1987).

WHEREFORE, the Petitioner request that this Court grant its Petition and enter an Order which:

1. The Election Division of the County of Northampton is directed to notify all poll workers by text message that they are to instruct voters before the voter enters the voting booth that there is an issue with the recording of their vote for the candidates for retention to the Pennsylvania Superior Court, that the paper ballot will record their selection for retention to the Pennsylvania Superior Court one candidate to the other candidate.

2. The polling place hours are extended throughout the County of Northampton to 9:00 p.m. on Election Day.

Respectfully Submitted,

Date: 11/07/2023

/s/ Richard E. Santee
Richard Eugene Santee, Esquire
Assistant Solicitor
Attorney ID No. 310004
County of Northampton
669 Washington Street
Easton, PA 18042
(610) 829-6350
RSantee@northamptoncounty.org