

SENATOR DANIEL LAUGHLIN,

*Plaintiff,*

v.

THE ERIE READER, JIM WERTZ,

*Defendant.*

IN THE COURT OF COMMON PLEAS  
OF ERIE COUNTY, PENNSYLVANIA

NO. 11950-22

### NOTICE

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CLERK OF RECORDS  
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SENATOR DANIEL LAUGHLIN,  
  
*Plaintiff,*  
  
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THE ERIE READER, JIM WERTZ,  
  
*Defendants.*

IN THE COURT OF COMMON PLEAS  
OF ERIE COUNTY, PENNSYLVANIA

NO. \_\_\_\_\_

COMMON PLEAS COURT  
ERIE, PA  
2022 AUG 26 PM 12:52  
CLERK OF RECORDS  
JEFFREY HONOTARY

**COMPLAINT**

Plaintiff, Senator Daniel Laughlin (“Senator Laughlin”), by his attorneys, brings this Complaint against The Erie Reader and Jim Wertz, and in support thereof avers as follows:

**INTRODUCTION**

1. This action arises from Defendants’ continued dissemination of false and defamatory information concerning Senator Laughlin in an effort to harm his reputation.
2. A predicate to the instant action is this uncontroverted fact: Senator Laughlin at no time sought to overturn the 2020 Presidential election, by words, conduct or participation in legal filings.

3. However, and relying on insignificant information from the Congressional hearings of the January 6 Committee, Defendants published sensationalized, baseless, and untrue accusations regarding Senator Laughlin's role in the events surrounding the 2020 General Election and the January 6 events at the United States Capitol. A true and correct copy of the article is attached hereto as Exhibit A.

4. Laughlin now seeks appropriate relief in the form of a retraction and damages.

#### **PARTIES AND VENUE**

5. Plaintiff Senator Laughlin is a Pennsylvania senator representing the 49th Senatorial District, with a business address of 1314 Griswold Plaza, Erie, PA 16501.

6. Defendant The Erie Reader is a newspaper with an in print and online publication, with a business address of 1001 State Street, Erie, PA 16501.

7. Defendant Jim Wertz is an individual with a business address of 1001 State Street, Erie, PA 16501.

8. Venue is proper in this Court pursuant to Pennsylvania Rules of Civil Procedure 1006 and 2179, Pa.R.C.P. Nos. 1006, 2179, because a transaction or occurrence took place in this county out of which the cause of action asserted in this Complaint arose and because the Defendant resides and/or regularly conducts business in this county.

#### **FACTUAL BACKGROUND**

##### **A. Act 77 and the 2020 General Election**

9. On October 31, 2019, Governor Tom Wolf signed Act 77 into law, which, among other things, authorized for the first time widespread mail-in voting in Pennsylvania.

10. Beginning a few months after Act 77 was signed into law, the COVID-19 pandemic presented numerous challenges to implementing mail-in voting. Growing concerns

over these challenges resulted in multiple lawsuits—by parties across the political spectrum—regarding the constitutionality of Act 77 and its mail-in voting provisions.

11. In one of these lawsuits, the Supreme Court, among other things, extended the statutory deadline for receipt of mail-in ballots by three days for the 2020 General Election. *Pa. Democratic Party v. Boockvar*, 238 A.3d 345, 386 (Pa. 2020); *cf. Republican Party of Pennsylvania v. Boockvar*, \_\_\_ S.Ct. \_\_\_, 208 L. Ed. 2d 293 (Nov. 6, 2020) (ordering county boards of elections to segregate all ballots received with the three-day extension period pending resolution of the petition for writ of certiorari).

12. Pennsylvania was not unique in facing last minute challenges while adapting to voting in the face of a global pandemic and record numbers of voters in the 2020 General Election. As a result, election-related litigation was spurred across the country.

13. Given the election litigation across the country, the Texas Attorney General filed in December 2020 a motion for leave to file a bill of Complaint against Pennsylvania, Georgia, Michigan, and Wisconsin in the United States Supreme Court's original jurisdiction, challenging their administration of the 2020 General Election for the office of President. *Texas v. Pennsylvania*, No. 22O155.

14. Twenty-two Pennsylvania Senators, including Senator Laughlin, filed an amicus brief with the Supreme Court that was not in support of either plaintiffs or defendants. Instead, the amicus brief recounted the events underlying *Boockvar*, and urged the Supreme Court to recognize the authority of the state legislature to regulate elections. A true and correct copy of the amicus brief is attached hereto as Exhibit B.

15. Indeed, on the very first page of their proposed *amicus* brief, the State Senators expressly represent to the Court that “*Amici* present the following arguments in support of *neither plaintiff nor defendants*. . .” *Id.*

16. The Supreme Court denied Texas’s motion for leave to file a bill of complaint on December 11, 2020.

**B. January 6 Events and Committee**

17. Approximately one month later, after the above-referenced election litigation concluded, Congress convened in a joint session on January 6, 2021 to certify the presidential election. Nearby protestors attacked the United States capitol during this joint session, resulting in damage and injuries.

18. In order to investigate the events surrounding the January 6 attack, the House of Representatives created the Select Committee to Investigate the January 6th Attack on the United States Capitol (“January 6 Committee”). The January 6 Committee continues to conduct hearings and collect evidence from various sources about the January 6 events.

19. Certain evidence uncovered in the January 6 Committee proceedings include communications with President Trump’s administration regarding potential presidential pardons. At the June 21, 2022 hearing in particular, an email from Congressman Mo Brooks to one of President Trump’s executive assistants was introduced. The email indicated a concern that certain members of the Democratic Party may target members of the Republican party who participated in election-related litigation. Representative Brooks requested, in part, a general pardon for “every republican who signed the amicus brief in [*Texas v. Pennsylvania*]” and “[e]very Congressman and Senator who voted to reject the electoral college vote submissions of Arizona and Pennsylvania.”

20. Significantly, the email refers only to one amicus brief (and its signatories)—*i.e.*, “*the* amicus brief.”

21. Further, while the email also does not name any specific Senators, it plainly refers to United States Senators—not any State Senators—since only members of the United States Senate could cast a vote for or against certifying “the electoral college vote submissions of Arizona and Pennsylvania.”

22. Senator Laughlin has not been identified by name in any known evidence or testimony before the January 6 Committee.

**C. The July 14, 2022 Article**

23. On July 14, 2022, the Erie Reader published an article authored by Jim Wertz titled “Erie at Large: A Congressman and a State Senator Walk Into a Bar,” (“Article”) that contained various false claims about Senator Laughlin based upon this benign information from the January 6 Committee. *See* Ex. A.

24. As suggested by the title, the Article begins with the following “joke”:

A congressman and a state senator walk into a bar. The bartender says, “what can I get you?”

“Pardon me,” they reply in unison.

“What do you need?” the bartender impatiently asks.

“No really. We’d like a pardon.”

This joke isn’t funny on multiple levels. But perhaps the least humorous thing about it is the truth.

*Id.* at 1.

25. Per the Article, the congressman and state senator at the center of this “joke” are Senator Laughlin and Representative Mike Kelly (“Representative Kelly”), who Defendants baselessly assert “found their way onto Donald Trump’s pardon request list for their roles in attempting to overturn the election results in 2020[.]” *Id.*

26. The Article recounts the election-related litigation in which Senator Laughlin and Representative Kelly participated, including the *Texas v. Pennsylvania* amicus brief, and then details Representative Brooks' email.

27. Despite acknowledging in the Article Senator Laughlin's public statements that the intent of the amicus brief he co-signed in *Texas v. Pennsylvania* was not to overturn the outcome of the 2020 General Election, Defendants include the following baseless claims in the Article:

- a. Senator Laughlin attempted to overturn the 2020 election results. Ex. A at 1 ("Mike Kelly, and Erie County's state senator, Dan Laughlin, both found their way onto Donald Trump's pardon request list for their roles in attempting to overturn the election results in 2020.").
- b. Senator Laughlin's "actions contributed to the January 6 insurrection on the United States Capitol[.]" *Id.*
- c. "[E]vidence presented in the January 6 hearings makes it clear that" the amicus brief co-signed by Senator Laughlin was "filed with the insidious intent to illegally reverse the outcome of the 2020 election." *Id.* at 4.
- d. The amicus brief that Senator Laughlin co-signed "assert[ed] that neither the courts nor the Pennsylvania Secretary of State . . . have the authority to administer or to ensure the integrity of Pennsylvania's elections."
- e. Senator Laughlin sought a result where "the[] Republican legislators would have the authority to challenge the outcome of every election that does not benefit the Republican Party and its treasonous agenda." *Id.* at 4.

f. Representative Brooks' pardon request, purportedly made for the benefit of Senator Laughlin, among others was forwarded "on behalf of actors who are known to have taken part in a grand conspiracy to overthrow the federal government and the will of the people[.]" *Id.* at 5.

28. Each of the above statements are materially false and misleading and were made with knowledge of their falsity or with reckless disregard for their truth.

29. For example, in attempting to obfuscate the fact that the amicus brief co-signed did not seek to somehow undo the results of the 2020 presidential election, the article ignores the clear pronouncement on the very first page of the brief stating—in no uncertain terms—that the submission was made "in support of neither plaintiff nor defendants." *See* Ex. B.

30. Intentionally ignoring the actual document it describes, the article suggests that Laughlin's statements were made only as a post hoc justification of some sort to media outlets.

31. Suggesting that Senator Laughlin's brief could not have been made for the actual purpose stated, the article again cites a source describing Rule 37 of the United States Supreme Court Rules, but intentionally omits the fact that the provision clearly contemplates such submissions. *See* S.Ct. Rule 37(3)(a) ("The brief shall be submitted within 7 days after the brief for the party supported is filed, or if in support of neither party, within 7 days after the time allowed for filing the petitioner's or appellant's brief.").

32. As for the specific allegations, the suggestion that Senator Laughlin somehow attempted to overturn the results of the 2020 election, *see* ¶ 24(a) *supra*, is false and without *any* basis in fact.

33. Similarly, the article falsely alleges that his "actions contributed to the January 6 insurrection on the United States Capitol." ¶ 24(b) *supra*.



34. Indeed, the article does not—and cannot—identify a single “action” by Senator Laughlin that can reasonably be regarded as having any effect on “the January 6 insurrection on the United States Capitol.”

35. The article also falsely claims that “evidence” was presented at the January 6 hearing making it “clear” that the amicus brief co-signed by Senator Laughlin was “filed with the insidious intent to illegally reverse the outcome of the 2020 election.” Ex. A at 4.

36. The aforementioned allegation is entirely baseless; in fact, *no* evidence has been presented regarding the amicus brief co-signed by Senator Laughlin, let alone any evidence that clearly speaks to its intent.

37. Compounding its falsehoods, the article also suggests that the amicus brief that Senator Laughlin co-signed “assert[ed] that neither the courts nor the Pennsylvania Secretary of State . . . have the authority to administer or to ensure the integrity of Pennsylvania's elections[,]” and sought to grant the General Assembly “the authority to challenge the outcome of every election that does not benefit the Republican Party and its treasonous agenda.”

38. Nothing in the amicus brief in question stands for such a sweeping proposition and the characterization to the contrary is, once again, unmoored from reality. *See* Ex. B.

39. Finally, the single premise of the Article—that Representative Brooks’ email sought a pardon for Senator Laughlin’s benefit—is wholly without basis.

40. As described above, Representative Brooks, who is from Alabama, refers to the signatories of a single amicus brief, which in the context of the email, could not possibly be construed as referring to the amicus brief submitted by a group of State Senators in Pennsylvania.

41. Because Representative Brooks' email could not even be construed as referring to Senator Laughlin and his fellow Pennsylvania State Senators, there is no basis for the assertion in the Article that Senator Laughlin requested a pardon.

42. Accordingly, despite Defendants' assertion at the outset of the Article that it is reporting the truth, Defendants could not have believed that the baseless allegations they made about Senator Laughlin were true. *See* Ex. A at 1 ("This joke isn't funny on multiple levels. But perhaps the least humorous thing about it is the truth.")

43. Therefore, the Article's title, opening "joke," and entire premise that Senator Laughlin was on a presidential pardon request list for actions related to the 2020 Election are without any basis in fact nor could Defendants have believed any of these statements to be true.

44. On July 22, 2022, representatives for Representative Kelly requested that The Erie Reader remove the Article and issue a public apology.

45. The Erie Reader refused to remove the Article or issue an apology.

46. Instead, on July 22, 2022, Defendant Wertz held a press conference in which he further defamed Senator Laughlin.

47. At the press conference, Defendant Wertz announced that the purpose of the "well researched" article was to "inform the public" about the "role that [Senator Laughlin and Congressman Kelly] played in trying to overturn the outcome of the 2020 Presidential election." *See* [https://www.facebook.com/ErieDems/videos/5215138138600359/?extid=NS-UNK-UNK-UNK-IO5\\_GK0T-GK1C-GK2C&ref=sharing](https://www.facebook.com/ErieDems/videos/5215138138600359/?extid=NS-UNK-UNK-UNK-IO5_GK0T-GK1C-GK2C&ref=sharing).

48. Defendant Wertz also again falsely claimed that a "pardon request list" existed in President Trump's hands and that Senator Laughlin was on this list.

49. Defendants regularly publish partisan “articles” with extensive rhetoric disparaging the Republican party, including their candidates and members. For example:
- a. An August 3, 2022 article titled “Erie at Large: True Patriotism,” discussing the independent state legislature theory in the context of an upcoming case before the United States Supreme Court. This article explains that if the Supreme Court affirms the upcoming case it “could make it casier for the Republican seditionists in the Pennsylvania General Assembly to carry out their insidious plan to overthrow elections that don’t go their way,” and advocating that the only way to “remedy” this is “to reduce the Republican majority” in the Pennsylvania General Assembly. It further mischaracterizes the *Texas v. Pennsylvania* amicus brief in which Senator Laughlin joined. A true and correct copy of this article is attached hereto as Exhibit C.
  - b. A January 13, 2021 article titled “Erie at Large: Our Nation’s Dark Day,” recounting the events of January 6. This article also discusses state election disputes, including between elected officials of both parties, stating that “such behavior – the petulance, the impatience, and the aggression – have become model Republicanism, particularly for those in elected office.” This article also contains misleading information regarding the amicus brief and mischaracterizes Senator Laughlin’s participation in the *Texas v. Pennsylvania* litigation. A true and correct copy of this article is attached hereto as Exhibit D.
  - c. An October 15, 2021 article titled “Erie at Large: Defeating Trump was Just the Start,” in which Defendants report that extremists are overtaking the Republican Party. This article includes quotes from and criticism of Facebook posts by a

Republican Erie County Executive candidate. A true and correct copy of this article is attached hereto as Exhibit E.

- d. An October 21, 2020 article titled “What We’re Voting For,” regarding the 2020 Election and stating, in part, that under then-President Trump’s administration, the country is “led by a liar and a thief who has perpetrated the greatest con this country has ever seen.” A true and correct copy of this article is attached hereto as Exhibit F.

50. As evidenced by this sampling of articles, Defendants have a pattern of targeting and publishing misleading and partisan statements about Republican elected officials, including Senator Laughlin. The Article here is the most recent and most egregious of these articles, reporting false and baseless accusations about Senator Laughlin and his actions related to the 2020 Election and January 6.

**D. Damage to Laughlin**

51. As a result of the defamatory statements, as set forth above, Laughlin has suffered significant harm to his reputation.

52. As a result of the defamatory statements, as set forth above, Laughlin has suffered mental and emotional harm and been made subject to humiliation.

53. As a result of the defamatory statements, Senator Laughlin also likely faces an increase in re-election costs.

54. Indeed, Senator Laughlin is in the process of running for re-election. While an uncontested campaign for Senator Laughlin – which was expected before the Article – would be expensive enough, a contested primary and general election would be significantly more costly and potentially upwards of \$2,000,000.00.

55. Upon information and belief, the defamatory content of the Article is designed to increase the re-election costs for Senator Laughlin by encouraging electoral opponents in the primary and general elections.

56. Defendants' conduct described above was malicious, intentional, willful, and reckless.

## COUNT I

### DEFAMATION – Against all Defendants

57. Senator Laughlin incorporates by reference the allegations in the foregoing paragraphs of this Complaint as if set forth at length herein.

58. Defendants made defamatory statements in The Erie Reader print publication and website when they falsely alleged that Senator Laughlin attempted to overturn the 2020 Election and contributed to the January 6 insurrection.

59. Defendants' statements in the Article were defamatory per se in that they impute to Senator Laughlin criminal conduct by accusing him of having participated in an "insurrection," a "grand conspiracy to overthrow the federal government," and supporting a "treasonous agenda[.]" each of which actions is a crime.

60. Defendants' statements in the Article were defamatory per se in that they directly impute to Senator Laughlin conduct and characteristics that adversely affect his fitness to conduct his profession.

61. Indeed, because individuals convicted of certain crimes are ineligible to hold an office in the General Assembly, Defendants' defamatory statements that accuse Senator Laughlin of misconduct would adversely affect his eligibility to hold office if they were true. *See Pa. Const. art. II, § 7* ("No person hereafter convicted of embezzlement of public moneys, bribery,

perjury or other infamous crime, shall be eligible to the General Assembly, or capable of holding any office of trust or profit in this Commonwealth.”).

62. Defendants’ defamatory statements were made with knowledge of the falsity thereof.

63. Defendants’ defamatory statements were made intentionally, willfully, recklessly, and maliciously, and in conscious disregard of Senator Laughlin’s reputation and rights.

64. By disseminating their defamatory statements in The Erie Reader print publication and website, Defendants published this defamatory content to a wide audience.

65. Defendants’ defamatory statements were reasonably understood by the recipients to be statements of fact about and concerning Senator Laughlin.

66. As a proximate result of Defendants’ false and defamatory statements, Senator Laughlin suffered significant and irreparable reputational, emotional and economic harm.

WHEREFORE, Senator Laughlin requests that this Court enter judgment (i) ordering Defendants to immediately discontinue any and all disparaging and/or defamatory statements concerning Senator Laughlin; (ii) requiring Defendants to publish a retraction of the false and misleading statements made concerning Senator Laughlin; (iii) awarding Senator Laughlin damages for the reputational, emotional and economic harm suffered as a result of Defendants’ conduct; (iv) awarding Senator Laughlin punitive damages; and (v) granting such additional relief as the Court deems just and equitable.

Respectfully Submitted,



Dated: August 26, 2022

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*Attorneys for Plaintiff Senator Daniel  
Laughlin*

**VERIFICATION**

I, Daniel Laughlin, hereby state that I am the Plaintiff herein; that as such, I am authorized to make this verification; that I have knowledge of the facts contained in the Complaint; and the statements contained therein are true and correct to the best of my knowledge, information, and belief. I affirm that these statements are made subject to the penalties contained in 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

A handwritten signature in black ink, appearing to read "Dan Laughlin", written in a cursive style.

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Daniel Laughlin

Dated: August 19, 2022



**CERTIFICATION OF COMPLIANCE WITH PENNSYLVANIA'S CASE RECORDS  
PUBLIC ACCESS POLICY**

I certify that this filing complies with the provisions of the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania that require filing confidential information and documents differently than non-confidential information and documents.

Dated: August 26, 2022



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Matthew H. Haverstick

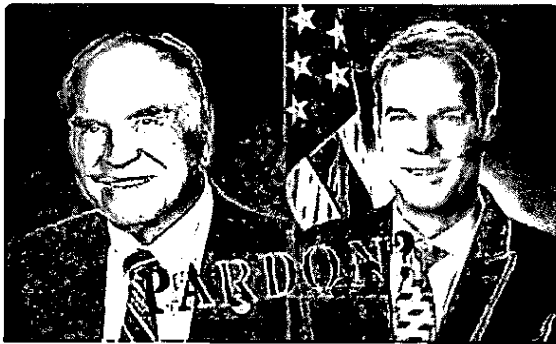
# EXHIBIT A



Erie At Large Opinion

# Erie at Large: A Congressman and a State Senator Walk Into a Bar

by Jim Wertz ⌚ July 14, 2022 at 9:30 AM



US HOUSE / PA STATE SENATE

A congressman and a state senator walk into a bar. The bartender says, "what can I get you?"

"Pardon me," they reply in unison.

"What do you need?" the bartender impatiently asks.

"No, really. We'd like a pardon."

This joke isn't funny on multiple levels. But perhaps the least humorous thing about it is the truth.

That's because Northwest Pennsylvania's congressional representative, Mike Kelly, and Erie County's state senator, Dan Laughlin, both found their way onto Donald Trump's pardon request list for their roles in attempting to overturn election results in 2020 – when, by the way, both men were re-elected. It's among the many revelations of the January 6 Commission and the details that have emerged during the commission's recent public hearings.

Their actions contributed to the January 6 insurrection on the United States Capitol and their efforts continue to undermine American democracy and the democratic process.

In other words, if Kelly and Laughlin, in support of this un-American Republican strategy, get their way, the state legislature and the U.S. Congress could invalidate your vote when it doesn't reflect the will of the Republican Party.

It started like this: Pennsylvania lawmakers, in a bipartisan majority, passed an election reform bill in 2019 called Act 77, which authorized the use of mail-in ballots. It was celebrated as a victory for Pennsylvania because it expanded access to the ballot and made our commonwealth one of 35 states offering voters the option of voting by mail. Seems simple enough.

But when the COVID-19 pandemic hit, every state searched for ways to allow people to vote safely and securely in the 2020 primary election and Act 77 gave that to Pennsylvania voters.

For the primary election in June 2020, despite a few operational delays because of the new processes put in place with Act 77 and the volume of votes cast by mail because of the pandemic, no legal challenges were made.

In November, mail-in ballots remained an option for voters as COVID-19 raged on, and record numbers of voters participated in the presidential election, when voters also elected members of congress, members of the Pennsylvania state house, and members in odd numbered districts of the state senate.

As we know, Joe Biden won both the popular vote and the electoral college, and for the purposes of this conversation, Congressman Mike Kelly and State Senator Dan Laughlin both won re-election.

Within days of the November election, in the wake of Trump's loss, Kelly filed his first lawsuit in an attempt to overturn the results of the 2020 election by invalidating all Pennsylvania mail-in ballots, which were cast overwhelmingly in support of Joe Biden.

The Pennsylvania Supreme Court unanimously rejected Kelly's claim. Even two Republican justices who partially dissented in Kelly v. Pennsylvania said that Kelly's claim was "extreme and untenable" because voters had relied on mail ballots "in too much good faith."

Kelly took his case to the United States Supreme Court just before Pennsylvania ballots were to be certified in December, but the High Court declined to hear this argument and Pennsylvania votes remained intact.

When that coup failed, Kelly joined a Texas lawsuit in which the State of Texas sought to overturn the election results in Pennsylvania, Michigan, Wisconsin, and Georgia by repeating the many false, disputed, and unsubstantiated claims of voter fraud in these states that had voted for Donald Trump in 2016 but elected Joe Biden in 2020.

Seventeen Republican attorneys general, representing their states, signed on to the Texas lawsuit.

In a tweet quoted by the Associated Press, University of California-Irvine law professor Rick Hasen concluded, "we are in bad shape as a country that 17 states could support this shameful, anti-American filing."

In addition to these Attorneys General, Kelly and 124 of his congressional colleagues filed an *amicus* brief with the Supreme Court in support of Texas.

An *amicus* brief, also known as a "friend of the Court" filing, is intended to provide additional information from a person or group "with a strong interest in the case...intending to influence the Court's decision," according to the Cornell Law School Legal Information Institute.

In *Texas*, Kelly and his co-conspirators asked the Court to affirm a state legislatures' powers to select so-called electors – those casting a state's votes in the electoral college. In this case, had the Supreme Court sided with Texas, it would have allowed the states in question to submit "alternate electors" to cast votes in the Electoral College for Donald Trump even though he lost the 2020 election in each of those states.

"The Framers of the United States Constitution provided that presidential electors *be appointed in a manner directed by the state Legislature[s]*," they argued.

In their bastardization of Article II of the United States Constitution, they concluded that no authority – not governors, courts, or any other entity – can usurp the power of the state legislatures to do as they please in the selection of electors.

Another *amicus* brief was filed by Republican members of the Pennsylvania Senate, led on behalf of the Trump campaign by Republican gubernatorial candidate Doug Mastriano and co-signed by Erie's Senator Dan Laughlin and 22 other Republican state senators.

The Republican senators brief reads, in part, "Certain select Pennsylvania State Senators bring this brief as Amici Curiae in support of their authority as a legislative body under the U.S. Constitution...The General Assembly, as the legislature of Pennsylvania, is given authority to prescribe the 'Times, Places, and Manner of holding elections' under Article I, § 4, cl. 1 of the U.S. Constitution."

Articles I and II of the U.S. Constitution gives state legislatures the power to set certain rules concerning the election of members of congress and the election of the president, respectively. But remember Article I, Section 4 of the U.S. Constitution. We'll come back to that in a few words.

Basically, what these senators argue is that the General Assembly has all the power. Like the Kelly brief, these senators assert that neither the courts nor the Pennsylvania Secretary of State – whose job it is to

administer elections in the Commonwealth of Pennsylvania – have the authority to administer or to ensure the integrity of Pennsylvania's elections.

To simplify this, the federal Republican *amicus* brief says that the state legislature has all the power to *select* electors. The Republican state senate *amicus* brief says that the state legislature has to establish when, where, and how elections take place.

Note that the state legislatures in Pennsylvania, Wisconsin, Michigan, and Georgia are all Republican-controlled and it is extremely unlikely that the balance of power will change anytime soon.

What this means is that in these four important swing states, Republican legislators would control all aspects of our elections and their outcomes. There would be no checks and balances to ensure the integrity of our elections and these Republican legislators would have the authority to challenge the outcome of every election that does not benefit the Republican Party and its treasonous agenda.

Laughlin claimed in local media reports and in an op-ed published by the Erie *Times-News* that the intent of the *amicus* brief he signed was not intended to overturn the outcome of the 2020 election.

But let's refer back to the definition provided above. An *amicus* brief is "intending to influence the Court's decision" in the case that the brief is filed. And had this conservative majority Court sided with Texas against four other states over which Texas has no jurisdiction, the election would have been overturned and 2.5 million Pennsylvania voters – Republican and Democrat – would have been disenfranchised.

Moreover, evidence presented in the January 6 hearings makes it clear that the *amicus* briefs submitted in the *Texas* case – Kelly's, Laughlin's, and others – were filed with insidious intent to illegally reverse the outcome of the 2020 election.

In the fourth January 6 hearing on June 21, the committee introduced an email from Alabama congressman Mo Brooks to Trump's executive assistant at the White House, Molly Michael, requesting a "general pardon" for "Every Republican who signed the Amicus brief in the Texas lawsuit against the other states deriving from their violation of Article I, Section 4 (and, perhaps, other) provision of the United States Constitution" and "Every Congressman and Senator who voted to reject the electoral college vote submissions of Arizona and Pennsylvania." The email is dated January 11, 2021, just five days after the January 6 insurrection.

Brooks' pardon request – and as we now know there were many others made directly to Trump and to his outside counsel, Rudy Giuliani – is unique because it is a preemptive pardon without any charges filed and even before any investigation of the January 6 insurrection or the attempts by Trump loyalists to

subvert the election. A general pardon, like that granted to Richard Nixon, is an amnesty for past offenses.

Therefore, Brooks's request appears to be made on behalf of actors who are known to have taken part in a grand conspiracy to overthrow the federal government and the will of the people before they can be held accountable for their actions.

The Brooks letter came just days before we learned from Republican Wisconsin Senator Ron Johnson that a slate of electors his office tried to deliver to then-Vice President Mike Pence originated in Kelly's office. Kelly has denied the claims, but his blind loyalty to Trump since the runup to the 2016 election and his perpetuation of Q-Anon inspired conspiracies since taking office in 2011 provide us, and perhaps the January 6 committee, with plenty of credence for Johnson's claim.

What is undeniable is that no Republican official – even the most publicly *level-headed of them* – are beyond reproach when it comes to the threat facing American democracy. The party that once positioned itself as the defender of existential threats to our way of life has become the primary existential threat to the American way of life.

If they can not be held accountable because they have co-opted the state legislature, the courts, and the justice system, then they must be held accountable at the ballot box.

Perhaps that's why they're so intent on stealing that too.

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# EXHIBIT B

No. 220155

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In The  
**Supreme Court of the United States**

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STATE OF TEXAS, *et al.*,  
*Plaintiffs,*

v.

COMMONWEALTH OF PENNSYLVANIA, *et al.*,  
*Defendants.*

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On Motion for Leave to File Bill of Complaint

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**MOTION FOR LEAVE TO FILE BRIEF OF AMICI CURIAE  
AND BRIEF ON BEHALF OF CERTAIN SELECT  
PENNSYLVANIA STATE SENATORS AS AMICI CURIAE  
IN SUPPORT OF NO PARTY**

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## MOTION FOR LEAVE TO FILE

Certain select Pennsylvania State Senators<sup>1</sup> bring this brief as *Amici Curiae* in support of their authority as a legislative body under the U.S. Constitution, and respectfully move for leave of Court to file the accompanying amicus brief in support of neither plaintiffs nor defendants, and instead asks this Court to affirm the grant of authority to state legislatures, and not courts, under the U.S. Constitution's Elections Clause.

This brief will be helpful as *Amici Curiae* assert that the Pennsylvania Senate, together with the Pennsylvania House of Representatives, comprises the General Assembly of the Commonwealth of Pennsylvania. The General Assembly, as the legislature of Pennsylvania is given authority to prescribe the "Times, Places, and Manner of holding elections" under Article I, § 4, cl 1 of the U.S. Constitution.

*Amici* further assert that the Pennsylvania Supreme Court, aided by the Pennsylvania Secretary of State, usurped the authority of the Pennsylvania General Assembly when ignoring or rewriting Pennsylvania's duly enacted election regulations. Therefore, this Court should affirm the grant of authority to state legislatures under the U.S. Constitution's Elections Clause and disclaim state supreme courts and executive branch officials, from usurping that authority for themselves. *Amici Curiae* request that their motion to file the attached *amicus* brief be granted.

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<sup>1</sup> The following Pennsylvania State Senators, being a majority of all Republican members of the Senate, join this brief in full: <sup>1</sup> Jake Corman, Kim Ward, Douglas V. Mastriano, Robert Mensch, Wayne Langerholc, Jr., David G. Argall, Scott E. Hutchinson, Scott F. Martin, Kristin Phillips-Hill, Michele Brooks, Camera Bartolotta, Judy Ward, Ryan P. Aument, Pat Stefano, Michael R. Regan, Dave Arnold, Mario Scavello, John DiSanto, Joe Pittman, Daniel Laughlin, Patrick M. Browne, Gene Yaw, John R. Gordner, Devlin Robinson.

Pursuant to this Court's order of April 15, 2020, *Amici Curiae* are hereby filing a single paper copy of this motion on 8 1/2 x 11-inch paper under Rule 33.2.

Respectfully submitted on this 10th day of December, 2020.

/s/ Jason Torchinsky

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## TABLE OF CONTENTS

TABLE OF AUTHORITIES .....	ii
STATEMENT OF INTEREST OF AMICI CURIAE.....	1
SUMMARY OF THE ARGUMENT .....	1
ARGUMENT .....	3
I.    ONLY STATE LEGISLATURES AND CONGRESS HAVE THE AUTHORITY TO REGULATE ELECTIONS.....	3
II.   THE PENNSYLVANIA SUPREME COURT AND SECRETARY OF STATE USURPED THE LEGISLATURE'S AUTHORITY.....	6
A.   The Pennsylvania Legislature Enacts No-Excuse Mail-In Voting.....	6
B.   Litigation Challenging the Ballot Received-By Deadline: <i>Crossey v.</i> <i>Boockvar</i> .....	7
C. <i>Pennsylvania Democratic Party v. Boockvar</i> .....	8
D.   The Supreme Court of Pennsylvania Tasked the Commonwealth Court's President Judge Leavitt With Developing a Factual Record and Then Ignored It.....	10
CONCLUSION .....	13

## TABLE OF AUTHORITIES

### CASES

<i>Ariz. State Legislature v. Ariz. Indep. Redistricting Comm.</i> , 576 U.S. 787 (2015) .....	2
<i>Clapper v. Amnesty Int'l USA</i> , 568 U.S. 398 (2013) .....	5
<i>Coal. For Good Governance v. Raffensperger</i> , No. 1:20-cv-1677-TCB, 2020 U.S. Dist. LEXIS 86996 (N.D. Ga. May 14, 2020) .....	5
<i>Cook v. Gralike</i> , 531 U.S. 510 (2001) .....	5
<i>Crossey, et al. v. Boockvar, et al.</i> , No. 266 M.D. 2020 (Pa. Commw. Ct. Sept. 4, 2020) .....	<i>passim</i>
<i>Crossey v. Boockvar</i> , 2020 Pa. LEXIS 4868 (Sept. 17, 2020) .....	2
<i>Hawke v. Smith</i> , 253 U.S. 221 (1920) .....	3
<i>Pa. Democratic Party v. Boockvar</i> , 238 A.3d 345 (Pa. 2020) .....	2, 8, 9, 11
<i>Republican Party of Pennsylvania, Petitioner v. Kathy Boockvar, Secretary of Pennsylvania, et al.</i> , No. 20-542 (U.S.) .....	6
<i>Smiley v. Holm</i> , 285 U.S. 355 (1932) .....	3
<i>Tashjian v. Republican Party</i> , 479 U.S. 208 (1986) .....	5
<i>Tex. Democratic Party v. Abbott</i> , 961 F.3d 389 (5th Cir. 2020) .....	5
<i>U.S. Term Limits, Inc. v. Thornton</i> , 514 U.S. 779 (1995) .....	5

### STATUTES

U.S. Const. art. I, §§ 2-5 .....	4
U.S. Const. Art. I, § 4 .....	1, 3, 6, 12, 13
42 Pa. C.S. § 726 .....	9
25 P.S. § 3150.11(b) .....	6

2019 Pa. Legis. Serv. Act 2019-77 (S.B. 421) ..... 6

2020 Pa. Legis. Serv. Act 2020-12 (S.B. 422) ..... 7

Act of Mar. 27, 2020, (P.L. 41, No. 12)..... 7

**OTHER AUTHORITIES**

1 J. Story, Commentaries on the Constitution of the United States § 820 (3d ed. 1858)..... 4

1 William Blackstone, Commentaries ..... 3, 4

George Petyt, Lex Parliamentaria 9 (1690) ..... 4

The Federalist No. 59 (Alexander Hamilton)..... 4

## STATEMENT OF INTEREST OF AMICI CURIAE<sup>1</sup>

Certain select Pennsylvania State Senators<sup>2</sup> bring this brief as *Amici Curiae* in support of their authority as a legislative body under the U.S. Constitution. The Pennsylvania Senate, together with the Pennsylvania House of Representatives, comprises the General Assembly of the Commonwealth of Pennsylvania. The General Assembly, as the legislature of Pennsylvania, is given authority to prescribe the “Times, Places, and Manner of holding elections” under Article I, § 4, cl. 1 of the U.S. Constitution.

*Amici* present the following arguments in support of neither plaintiff nor defendants and respectfully request they be heard in support of the General Assembly’s primary authority to enact election regulations pursuant to the Constitution’s plain text. Because the issues raised in this action directly pertain to the General Assembly’s power under the U.S. Constitution, *Amici* have a significant interest in this case.

### SUMMARY OF THE ARGUMENT

The Elections Clause of Article I, § 4 of the U.S. Constitution delegates to state legislatures in the first instance, and Congress in the second, the authority to enact regulations for federal elections. Neither State nor Federal courts have any

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<sup>1</sup> No counsel for a party authored this brief in whole or in part. No person or entity other than *Amici*, their members, or their counsel made a monetary contribution intended to fund the preparation or submission of this brief.

<sup>2</sup> The following Pennsylvania State Senators, being a majority of all Republican members of the Senate, join this brief in full: <sup>2</sup> Jake Corman, Kim Ward, Douglas V. Mastriano, Robert Mensch, Wayne Langerholc, Jr., David G. Argall, Scott E. Hutchinson, Scott F. Martin, Kristin Phillips-Hill, Michele Brooks, Camera Bartolotta, Judy Ward, Ryan P. Aument, Pat Stefano, Michael R. Regan, Dave Arnold, Mario Scavello, John DiSanto, Joe Pittman, Daniel Laughlin, Patrick M. Browne, Gene Yaw, John R. Gordner, Devlin Robinson.



such delegation of power.<sup>3</sup> The plain language of the text, the history of the text, and the history of the founders who wrote the text all point to this obvious conclusion. The Supreme Court of Pennsylvania, aided and abetted by Kathy Boockvar—the politically friendly Secretary of State—had a different opinion.

In a majority opinion in *Pa. Democratic Party v. Boockvar*, 238 A.3d 345 (Pa. 2020), the Supreme Court of Pennsylvania took for itself the legislative power conferred directly upon the Pennsylvania General Assembly by the U.S. Constitution, and, in so doing, effectively declared itself the *rex imperator* of Pennsylvania elections. Using the pandemic as an excuse, the Pennsylvania Secretary of State and Supreme Court both disregarded and rewrote Pennsylvania law by, in one motion, advocating for and ordering the extension of the statutorily-prescribed time for absentee ballots to be received. In fact, the Supreme Court of Pennsylvania ignored the factual findings of their own assigned special master in *Crossey v. Boockvar*, 2020 Pa. LEXIS 4868 (Sept. 17, 2020). These actions wrested from the Pennsylvania General Assembly its constitutionally designated authority and impermissibly took that power for the Supreme Court.

This Court should disclaim the “authority” of State and Federal courts and Executive officials from enacting their own election regulations in contravention of duly enacted state law and affirm the rights of State legislatures to do the same.

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<sup>3</sup> Under the Elections Clause there is, at most, a limited role for a state’s governor in signing or vetoing election legislation as part of a state’s “prescriptions for lawmaking.” See *Ariz. State Legislature v. Ariz. Indep. Redistricting Comm.*, 576 U.S. 787, 808 (2015) (“In sum, our precedent teaches that redistricting is a legislative function, to be performed in accordance with the State’s prescriptions for lawmaking . . .”).

## ARGUMENT

### I. ONLY STATE LEGISLATURES AND CONGRESS HAVE THE AUTHORITY TO REGULATE ELECTIONS.

The Constitution delegates the authority to regulate the time, place, and manner of elections to the legislatures of the fifty states in the first instance and to Congress in the second. U.S. Const. art. I, § 4, cl. 1. State courts—as well as their federal counterparts—are wholly excluded. *See id.* The term “legislature” was “not one ‘of uncertain meaning when incorporated into the Constitution’” and is not of uncertain meaning today. *Smiley v. Holm*, 285 U.S. 355, 365 (1932) (quoting *Hawke v. Smith*, 253 U.S. 221, 227 (1920)). The term “legislature” necessarily differentiates between itself and the “State” of which it is only a subpart. The plain text of the Elections Clause is clear—neither courts nor executive personnel have authority to usurp legislative decision-making and supplant their own in the area of elections. By empowering the legislature of the state to prescribe election rules, the Constitution denies that power to others.

There are multiple other ways the Constitution denies authority to non-legislative actors to create or modify election regulations. One reference point, for instance, is that the Elections Clause is an adaptation of an English law that existed well before the founding. The Elections Clause is derived from an English Parliamentary law called the “methods of proceeding” which designated authority as to “time and place of election” to the House of Commons. *See* 1 William Blackstone, *Commentaries* \*158-59, \*170-74. Those “time and place” “methods” were in turn completely within parliamentary control, beyond the reach of “the

Common Law” and “Judges.” George Petyt, *Lex Parliamentaria* 9, 36-37, 70, 74-75, 80 (1690); 1 William Blackstone, *Commentaries* \*146-47. By delegating the procedures of congressional elections to legislatures, the Elections Clause carried forward the English law tradition of maintaining legislative control, and specifically excluding judicial control, over such matters.

Another contextual reference point for the Elections Clause comes from the framing debates and early commentaries. Though all concerned parties appreciated that state legislatures might abuse their authority over election rules, none of them ever proposed that other branches of state government may exercise or wrest control from the legislature. Instead, they viewed Congress as the *exclusive* overriding authority. See *The Federalist* No. 59 (Alexander Hamilton). That authority, expressed directly in the Constitution’s text, parallels the judicial-type functions Congress performs in other quintessentially legislative affairs, as described in adjacent constitutional provisions. See, e.g., U.S. Const. art. I, §§ 2-5. It was furthermore assumed that even Congress would exercise its prerogative to override state legislatures’ regulations only “from an extreme necessity, or a very urgent exigency.” 1 J. Story, *Commentaries on the Constitution of the United States* § 820 (3d ed. 1858). This was because the power “will be so desirable a boon” in the “possession” of “the state legislatures” that “the exercise of power” in Congress would (it was thought) be highly unpopular. *Id.* That state courts might deprive state legislatures of this “desirable . . . boon” in their “possession” was beyond belief. *Id.*

Another reference point that buttresses the plain language of the Elections Clause is that the power to regulate federal elections is not an inherent state power. Therefore, it “had to be delegated to, rather than reserved by, the states.” *Cook v. Gralike*, 531 U.S. 510, 522 (2001) (quoting *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 804-06 (1995)). A state’s legislature would, in fact, have no authority to regulate federal elections at all but for the specific grant of authority found in the Elections Clause. *See Cook*, 531 U.S. at 522.

While the authority to regulate congressional elections is conferred by the federal Constitution on the state legislatures via the Elections Clause, the states also retain plenary power to regulate state elections. *See Tex. Democratic Party v. Abbott*, 961 F.3d 389, 407 (5th Cir. 2020); *Tashjian v. Republican Party*, 479 U.S. 208, 217 (1986). In either event, the power to regulate and administer elections is committed to “Congress and state legislatures—not courts.” *Coal. For Good Governance v. Raffensperger*, No. 1:20-cv-1677-TCB, 2020 U.S. Dist. LEXIS 86996, at \*8-9 (N.D. Ga. May 14, 2020); *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 408 (2013) (“The law of Article III standing, which is built on separation-of-powers principles, serves to prevent the judicial process from being used to usurp the powers of the political branches.”).

Therefore, the plain language, context, and history of the Elections Clause clearly demonstrates that the legislature has the primary authority to regulate elections, checked only by the United States Congress.

## **II. THE PENNSYLVANIA SUPREME COURT AND SECRETARY OF STATE USURPED THE LEGISLATURE'S AUTHORITY.**

The Supreme Court of Pennsylvania's three-day extension of the ballot received-by deadline is an archetypal example of when Article One, Section Four of the U.S. Constitution is violated.

### **A. The Pennsylvania Legislature Enacts No-Excuse Mail-In Voting.**

On October 31, 2019, after engaging in bi-partisan negotiations and deliberations, the majority Republican Pennsylvania General Assembly passed, and the Governor (a member of the Democratic Party) signed, a comprehensive reform of the state's election laws. This was accomplished before the impact of COVID-19 was known. *See* 2019 (P.L. 552, No. 77) 2019 Pa. Legis. Serv. Act 2019-77 (S.B. 421) (West). Among other reforms, this legislation made available for the first time no-excuse mail-in voting to every registered Pennsylvania voter. *See* 25 P.S. § 3150.11(b). Additionally, the Pennsylvania General Assembly's 2019 bi-partisan deliberations and negotiations produced an extension of the absentee and mail-in ballot received-by deadline from 5 P.M. the Friday before Election Day, to 8 P.M on Election Day. *See* 25 P.S. § 3146.6(a); § 3150.16(a).<sup>4</sup>

Then, as the COVID-19 virus descended on the United States, Pennsylvania's General Assembly acted and, through bi-partisan deliberation and negotiation,

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<sup>4</sup> *See Crossey, et al. v. Boockvar, et al.*, No. 266 M.D. 2020 at 174a (Pa. Commw. Ct. Sept. 4, 2020) (Leavitt, P.J.) (Report and Recommendation) (the Report and Recommendation can be found at *Republican Party of Pennsylvania, Petitioner v. Kathy Boockvar, Secretary of Pennsylvania, et al.*, No. 20-542 (U.S.) (appendix to petition for writ of certiorari filed October 23, 2020) (All citations to the Report and Recommendation will be to Appendix F of that document and its corresponding page numbers)). Importantly, Pennsylvania has imposed a "received-by" deadline since 1964 and has never imposed a "mailed-by" deadline. *See id.* at 29-30.

modified its election code to address the pandemic. See Act of Mar. 27, 2020, (P.L. 41, No. 12), 2020 Pa. Legis. Serv. Act 2020-12 (S.B. 422) (West). After all of these changes to state law, Pennsylvania offered its citizens two options for voting in 2020: Voters could either apply for and submit a mail-in ballot<sup>5</sup> before the 8:00 p.m. Election Day deadline, or they could vote in-person at their designated polling site on Election Day.

Some organizations and individuals disagreed with the General Assembly's perceived omissions. Two different sets of plaintiffs filed lawsuits in Pennsylvania state court, seeking to alter Pennsylvania's election code and enact their own policy preferences.

**B. Litigation Challenging the Ballot Received-By Deadline: *Crossey v. Boockvar*.**

On April 22, 2020, a group of individual and organizational petitioners filed a Petition for Declaratory and Injunctive Relief in the Commonwealth Court of Pennsylvania against Secretary of the Commonwealth Kathy Boockvar with regard to voting procedures for Pennsylvania's June 2, 2020 primary election. See *Crossey et al. v. Boockvar*, No. 266 MD 2020 at 140a. The Secretary challenged jurisdiction, and on June 17, 2020, the Commonwealth Court transferred jurisdiction to the Supreme Court of Pennsylvania. *Id.* at 141a. The petitioners, and later the Pennsylvania Secretary of State, requested that the Supreme Court of Pennsylvania extend the 8:00 p.m. received-by deadline by seven days (or, per the Secretary, three days), require prepaid postage on mail-in ballots, and allow for the use of third-

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<sup>5</sup> Unless otherwise noted, when this Amici Brief refers to mail-in ballots, it also includes absentee ballots.

party assistance in collecting mail-in ballots. *Id.* at 142a. The Supreme Court of Pennsylvania appointed President Judge Leavitt of the Commonwealth Court as special master over the case, and the special master held an evidentiary hearing in the matter on August 31, 2020. *Id.* at 144a-145a.

Based on the evidence presented at the August 31, 2020 hearing, the special master found that the Petitioners failed to meet their burden of showing that the statutory 8:00 p.m. received-by deadline was unconstitutional. *Id.* at 175a-177a. Importantly, after hearing from experts, Judge Leavitt found that USPS performance in Pennsylvania exceeded the national average, and that issues with mail were unlikely to prevent voters from submitting their ballots on time. *Id.* Ultimately, based on the available evidence, on September 7, 2020, the special master recommended that the Supreme Court of Pennsylvania deny the Petitioners' prayer for relief. *Id.* at 185a.

C. ***Pennsylvania Democratic Party v. Boockvar.***

Unlike *Crossey*, in *Pennsylvania Democratic Party v. Boockvar*, 238 A.3d 345 (Pa. 2020), no factual record was developed, no witnesses were cross-examined, and no exhibits were even scrutinized before admission into evidence. On July 10, 2020, the Pennsylvania Democratic Party commenced an action in the Commonwealth Court of Pennsylvania seeking a variety of changes to Pennsylvania voting procedures. Pls.' Pet. for Declaratory and Injunctive Relief. Petitioners sought injunctive relief that would, *inter alia*, suspend the statutory 8:00 p.m. received-by deadline on Election Day for ballots that were postmarked before that time, extend

the deadline for receipt of ballots to one week after the elections, and afford numerous forms of relief on various other issues under Pennsylvania's election laws—many of which were supported by the Secretary. *Id.* at 352-55. The Supreme Court of Pennsylvania expedited consideration of the case under its extraordinary procedure known as “Kings Bench,” 42 Pa. C.S. § 726. The Court allowed one week for parties and intervenors to submit supplemental briefing materials but did not schedule a hearing in the case or take any factual evidence.

On September 17, 2020, the Supreme Court of Pennsylvania, without presentation of any factual evidence, granted partial relief to Petitioners and extended the statutory received-by deadline by three additional days after Election Day, until 5:00 p.m. on Friday, November 6, 2020. *Pennsylvania Democratic Party*, 238 A.3d at 386. The court even went further than Petitioners' requested relief by establishing a presumption that a mail-in ballot lacking any postmark or other proof of mailing was mailed before Election Day “unless a preponderance of the evidence demonstrate[d]” otherwise. *Id.*

In doing so, the Supreme Court of Pennsylvania, supported by the Secretary, has both overridden the constitutionally delegated authority of the state legislature over election law, and it has also mandated the counting of mail-in ballots which bear no evidence that they were cast on or before Election Day at all.



D. **The Supreme Court of Pennsylvania Tasked the Commonwealth Court's President Judge Leavitt With Developing a Factual Record and Then Ignored It.**

The Supreme Court of Pennsylvania ignored the factual findings of Judge Leavitt on the crucial point about the ability of the Postal Service to timely deliver ballots. In ignoring Judge Leavitt's findings, the Supreme Court of Pennsylvania altered the 8:00 p.m. on Election Day deadline as the received-by deadline and extended it by three days. In doing so, the Supreme Court of Pennsylvania usurped the legislature's deliberate and considered decision to establish and maintain that deadline.

The Supreme Court of Pennsylvania ignored Judge Leavitt's finding that the average postal delivery times in Pennsylvania were above the national average. *Crossey, et al. v. Boockvar, et al.*, No. 266 M.D. 2020 at 164a-165a (Pa. Commw. Ct. Sept. 4, 2020); *see also id.* at 183a ("Whatever delays may be occasioned in the November 2020 general election with respect to the receipt of mail-in ballots by county boards of elections, they are not likely to be caused by the USPS. The evidence demonstrated that USPS performance in Pennsylvania exceeds the national average."). In fact, for first class presort mail, the Postal Service was delivering 98% of that mail in Pennsylvania in one day, with most intra-Pennsylvania mail being delivered in 2 days. *Id.* at 164a-165a. Based upon this finding, Judge Leavitt declined to recommend any extension to the ballot received-by deadline. *See id.* at 184a-185a.

Even though the Supreme Court of Pennsylvania found that the Election Day deadline did not violate the Pennsylvania Constitution, and without addressing the factual findings before it that led the special master to conclude that the Postal Service was capable of timely delivering ballots, the Supreme Court of Pennsylvania ruled that an extension of the received-by deadline was warranted. *Pennsylvania Democratic Party*, 238 A.3d at 386. The Supreme Court of Pennsylvania based this alleged “necessity” on the U.S.P.S. General Counsel’s letter that advised Pennsylvania’s Secretary of State that Pennsylvania’s ballot *request* deadline and ballot *receipt* deadline might be incongruous. *See id.* at 365-66. The incongruity arose from the General Counsel’s use of generic nationwide delivery times of 2-5 days for First Class Mail, and 3-10 days for Marketing Mail. *See id.* In fact, the Supreme Court of Pennsylvania credited the General Counsel’s letter without hearing any testimony and contrary to Judge Leavitt’s findings of fact. *See id.* at 371 (“[W]e place stock in the USPS’s General Counsel’s expression that his client could be unable to meet Pennsylvania’s statutory election calendar.”).

However, this letter was before Judge Leavitt as well. *Crossey, et al. v. Boockvar, et al.*, No. 266 M.D. 2020 at 145a-152a (Pa. Commw. Ct. Sept. 4, 2020). She neither credited nor discredited the letter, but she did place it in the context of the live testimony that established Pennsylvania’s First-Class mail delivery standard as 2 days. *Id.* at 164a-165a. Judge Leavitt also credited as fact that the Postal Service prioritizes election-related mail over other First-Class mail. *Id.* at 164a. In fact, even the *Crossey* Petitioners’ expert testified that it was possible to

meet Pennsylvania's ballot request and ballot receipt deadlines. *Id.* at 167a. Judge Leavitt also recognized that the U.S.P.S. General Counsel's letter was also sent to 46 States. *Id.* at 159a. After an evidentiary hearing, the General Counsel's concerns were placed in their proper context.

Pennsylvania's General Assembly, through bi-partisan deliberation and negotiation, concluded that seven days between its ballot request deadline, October 27, and the ballot receipt deadline, November 3, was sufficient time. The Pennsylvania General Assembly did not adjust that deadline in March of 2020 when it chose to adjust other deadlines. That was the decision of the legislature.

The Supreme Court of Pennsylvania, however, usurped the General Assembly's authority, and it did so brazenly. Although the Supreme Court of Pennsylvania may have the final say on the substantive law of Pennsylvania, the Elections Clause is a direct delegation of authority to regulate the times, places, and manner of federal elections to the Pennsylvania General Assembly's legislative process, subject only to alteration by Congress, not the Supreme Court of Pennsylvania. U.S. Const. Art. I, § 4. To permit the Supreme Court of Pennsylvania's decision to stand frustrates the Elections Clause's express delegation of authority to "the legislature" because an alleged conflict between the state constitution's policy and the state legislature's policy requires the state courts to pick one policy over another. This would instigate a struggle between the state's courts and its legislature. In this dispute, the Elections Clause of the U.S. Constitution plainly sides with "the legislature."

The Supreme Court of Pennsylvania ignored this constitutional provision, ignored record evidence, and used a case without *any* record evidence to reach its result. There is no evidence establishing that Pennsylvania's ballot received-by deadline is plainly and palpably unconstitutional. See *Crossey, et al. v. Boockvar, et al.*, No. 266 M.D. 2020 at 181a-182a (Pa. Commw. Ct. Sept. 4, 2020). Pennsylvania's judicial branch, assisted by an overly-friendly Secretary of State, usurped the power of Pennsylvania's legislature, imposing the court's preferred policy preference on Pennsylvania's policy-making branch. If Article I, § 4 of the U.S. Constitution prohibits anything, it should at the very least prohibit these actions of the Supreme Court of Pennsylvania.

### **CONCLUSION**

We respectfully urge this Court to recognize the authority of the state legislature as the primary authority to enact elections regulations for federal elections. Similarly, we respectfully urge the Court to recognize that no other state power, including a state's supreme court, has any authority to modify or enact elections regulations enacted pursuant to the Elections Clause.

Respectfully submitted,

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# EXHIBIT C



Erie At Large News and Politics Opinion

# Erie at Large: True Patriotism

As extremism escalates, balancing state legislature of the essence



by Jim Wertz ⌚ August 3, 2022 at 1:00 PM



NICK WARREN/ERIEREADER

Independent State Legislature Theory dictates that state courts do not have the power to overturn election policy set by the legislature. If enacted, one of the important checks and balances in the Keystone State (and others) would be effectively broken.

If you're not familiar with something called the Independent State Legislature Theory, it's time to get acquainted.

That's because the U.S. Supreme Court is poised to hear an argument from the state of North Carolina that, if affirmed by the Court, could make it easier for the Republican secessionists in the Pennsylvania General Assembly to carry out their insidious plan to overthrow elections that don't go their way.

There's only one remedy: to reduce the Republican majority that has controlled the state house for all but four years since 1995 and unseat the Republican majority that has controlled the state senate uninterrupted since 1994.

They have turned on the voters of Pennsylvania and turned what was once a conservative agenda into an anti-democratic assault, right here, in the cradle of American democracy.

## Independent State Legislature Theory

The Independent State Legislature Theory, in its most simple form, dictates that a state court — like the Pennsylvania Supreme Court — doesn't have the power to overturn election policy set by the legislature. According to the doctrine, that power would be reserved only for the federal courts.

It's rooted in the language of the U.S. Constitution, specifically Article 1 Section 4 of the U.S. Constitution — the Elections Clause — and Article 2 Section 1 — the Presidential Electors Clause, which in both cases assigns the "Legislature" specific duties in federal elections.

Legal scholars generally concur that the use of the term "Legislature" by the founding fathers, referred to a state's general lawmaking process, not the lawmaking body.

The U.S. Supreme Court agreed with this distinction as recently as 2015 when it ruled against the Arizona legislature and affirmed that Arizona's independent redistricting commission had the power to draw congressional and legislative maps.

But later this year, the Supreme Court will hear oral arguments related to a congressional and legislative redistricting challenge in North Carolina. Voters there sued the state legislature because, they argued, lawmakers created a partisan gerrymander that unfairly favored Republican candidates. The state supreme court agreed and ordered a lower court to oversee redrawing of the legislative maps. North Carolina legislators appealed to the U.S. Supreme Court based on the independent state legislature argument, and the Court agreed to hear the case.

Justices Samuel Alito, Clarence Thomas, and Neil Gorsuch have signaled their support for this doctrine in previous decisions, making necessary just two of the three remaining conservative justices to join them in creating an electoral authority within the states with no effective checks and balances.

As you might imagine, that raises questions even bigger, and more consequential, than gerrymandering.

Let's say, for example, that a state legislature wanted to reject the outcome of a presidential election and submit its own slate of electors. (That would never happen, right?) State courts, which are essentially tasked with ensuring that state laws — including election laws — don't violate state or federal constitutions, would not be able to intervene. Any objection would be pushed to the federal courts where the justices would have to decide if the legislatures had the power to create an otherwise unconstitutional election practice.

If the conservative majority on the Supreme Court sides with North Carolina lawmakers, that's exactly the legal precedent they will have established.

Most respectable legal scholars reject this theory outright because what good could come from a group of elected officials being granted the right to violate the state constitution when it comes to the administration and outcome of federal elections — like a presidential election? But that's precisely what our Republican state legislators here in Pennsylvania would like to do.

It was the impetus behind the *amicus*, or "friend of the Court," brief signed by Senator Dan Laughlin and 24 of his cronies in the 2020 Supreme Court case, *Texas v. Pennsylvania*. They argued that only the legislature — not the governor or secretary of state — has the power to set election policy.

It's the latest step on a slippery slope that would allow the Republican-controlled legislature to issue an "alternative" slate of electors to Congress the next time their candidate doesn't win the presidential election.

### **A Less Partisan Legislature**

The only remedy for the overreach of an "independent legislature" is a balanced General Assembly, and the legislative redistricting approved earlier this year brings us closer than we've been in decades.

Republicans currently occupy 113 of 203 seats in the Pennsylvania House of Representatives, [according to Ballotpedia](#).

While the new maps still favor Republican control of the legislature, the Princeton Gerrymandering Project, in an [analysis for the Philadelphia Inquirer](#), estimated that 101 House districts now lean-Democratic.

If the Princeton Gerrymandering Project math holds, Republicans would have a one member advantage in the House.

Redistricting in Erie County created one heavily Democratic district in the city of Erie (HD-1), two swing districts (HD-2 and HD-3), and one sprawling, heavily Republican district (HD-4). All but the fourth house district are currently held by incumbent Democrats who are expected to win re-election in November.

Despite the Republican advantage in HD-4 — it's 49.5 percent Republican, 36.5 percent Democrat, and 14 percent Other — this district represents an opportunity for Democrats to pick up an additional seat in the legislature, with the potential for shifting control of the House if they do. As important, if not more so, the race for HD-4 also represents an opportunity to stop another extremist Republican candidate from being seated in the Pennsylvania legislature.



The Democratic candidate is a 33-year-old woman from Corry whose long list of civic accomplishments include being named the volunteer of the year by the Corry Chamber of Commerce and founding the Corry Young Professionals (she was also named to this year's class of Erie's 40 Under 40).

Chelsea Oliver's candidacy is forward-facing, like her experience. She helped design Corry's strategic plan and served as an appointed member of the Corry City Council from August 2020 through December 2021, when she was the city's director of parks and public properties.

She's an ideal candidate in an unsure time.

Her opponent, on the other hand, is a retired mercenary and aging blues musician who built a political following by perpetuating the Big Lie and denying the reality of the COVID-19 pandemic on social media.

It's a sad story, really. Jake Banta was a Navy Seal and later a military contractor, who could've cut his political teeth in either or any political party with those credentials alone. Then, he built a loyal musical following throughout the region, with his band, playing local bars and music festivals. How Americana.

But since Trump took office in 2016, and subsequently lost the election in 2020, Banta's rhetoric has grown increasingly more extreme, embracing the two plus two equals eight logic of QAnon conspirators.

His greatest hits include stream-of-consciousness rants against COVID vaccines, calls for people to remove their children from schools to protect them from the injustice of masking, and telling his followers to pull their money from the banks because Facebook "hacked billions of accounts."

He once claimed that "COVID was invented and patented in America and released in Wuhan tactically" and surmised "after reading months of research" that "[Bill] Gates funded it, [Anthony] Fauci patented it with China, and sent it to Wuhan to be released."

It didn't take long for the global pandemic to become the scapegoat for the outcomes of the 2020 election.

"The PLAN was to release the virus and implement mail in ballots," he declared. "THAT is why WE SAW Greg Hayes win his election in traditional voting at the polls, yet later on lose when the 'mail in ballots' were counted." The emphasis is from the original posts.

It's this kind of bastardized logic and arithmetic, perpetuated by millions of self-proclaimed patriots, that led thousands of insurrectionists to storm the U.S. Capitol on Jan. 6, 2021 in an effort to stop the certification of the 2020 election.

"I don't feel a bit of remorse for Patriots showing up in DC," Banta wrote in a Jan. 11, 2021 Facebook post. "It was a response to aggression on our nation and a stolen election. WE WILL NOT STAND FOR IT."

Banta, with little regard for the military veterans who served as Capitol and D.C. police that day, justifies the assault as a necessary result of Trump's loss in the 2020 election, and he punctuates most of his posts with the phrase, "I AM AMERICA."

I assure you, he is not.

### **Bellwether Battleground**

Erie County is often viewed as a bellwether for politics in Pennsylvania. Its voters are, indeed, divided, but historically pragmatic, voting Democratic at the local level while often splitting their regional and statewide tickets.

But the stakes have become too great to sit idly by as once perceived moderate Republicans embrace extremists at all levels of our local and state government.

Ridge Republicans, who once supported candidates like former Governor Tom Ridge and retired State Senator Jane Earl, should find it increasingly more difficult to vote for the unconscionable and, increasingly, seditious tendencies of their party and its candidates.

The voters of Erie County have an opportunity this year to protect and defend both the Commonwealth and the Constitution.

It is, perhaps, a fleeting opportunity to remind America what patriotism looks like in the cradle of American democracy.

*Jim Wertz is a contributing editor and Chairman of the Erie County Democratic Party. He can be reached at [jWertz@ErieReader.com](mailto:jWertz@ErieReader.com) and you can follow him on Twitter [@jim\\_wertz](https://twitter.com/jim_wertz).*

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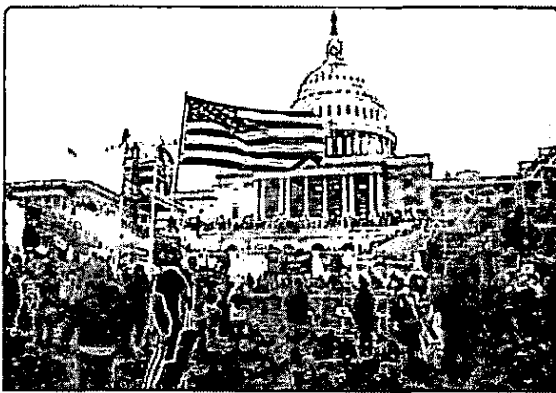
News and Politics    Opinion

# Erie At Large: Our Nation's Dark Day

And those who stand accountable



by Jim Wertz    ⌚ January 13, 2021 at 10:15 AM



TYLER MERBLER

The attack on the United States Capitol was the most heinous act in modern America. It's been compared to the War of 1812, but that was carried out by the British. It's been compared to the Civil War, but that was caused by the official acts of secession carried out by 11 Southern slave-holding states. The insurrection of Jan. 6, 2021 was different because it was waged by a ragtag collection of so-called patriots composed of working-class whites, members of law enforcement (retired and active), former members of the military, wannabe pundits, and even some

elected officials. But on that day, they acted in no official capacity, with no legitimate grievance against the government they tried to depose. The mob that stormed the Capitol was little more than petulant children acting out because they didn't get their way.

In the weeks and months to come, there will be much to unpack as We, the People reconcile what we saw and the reasons it took place. To date, most Americans — even those who previously challenged the outcome of the 2020 presidential election with baseless legal claims — recognize that the insurrection was, in fact, the culmination of more than four years of hostile rhetoric by Donald Trump and his enablers in both government and the private sector. Trump's base, having been bound together by falsehoods and false hope, seethed over the idea that any outcome other than his re-election could be viewed as legitimate.

It is unlikely that the country will find redress of the grievances against it before the transition of power and the inauguration of Joe Biden and Kamala Harris takes place on Jan. 20. The vice president, Mike Pence, now appears to lack the political will to carry through with the process prescribed in the 25th Amendment to remove a president who is unfit for duty. The Congress has only impeachment to remedy the same situation. And with that process — even expedited — unlikely to be completed prior to Jan. 20 when Trump leaves office and President-Elect Biden continues to call for unity and focus on the business that lies ahead, it seems that impeachment will end in a political quagmire.

What's truly lost by allowing Trump to remain in office is that, without such an official action, there is no way to legally prohibit him from running for federal office again. While many expect that Trump will preemptively pardon himself and his family and friends — although there is no legal precedent for the legitimacy of such pardons — others suggest that he is also likely to pardon those charged in the assault on the Capitol on the way out of office. Either would be impeachable and treasonous.

But without official recourse, Trump's future and that of his minions lay in the hands of the American people — the ones who had cautioned all along that Trump's rhetoric and moral turpitude would lead to a moment similar to Jan. 6 and those from either party who moved away from Trump during the course of his tenure in office because they saw how the rancor, lies, and divisiveness were polarizing a people who once stood together, if for nothing else, the idea of America, different as those visions may have been.

As we saw when Congress reconvened late on the evening of Jan. 6 after the Capitol had been cleared of those who laid siege, long-term allies of Trump began to distance themselves within hours of the attack. Sen. Lindsey Graham (R-SC), one of Trump's most deplorable lieutenants, took to the Senate floor to say "Trump and I have had a hell of a journey, but enough is enough." Most Republican senators — even Sen. Kelly Loeffler (R-GA), whose bid for re-election had failed less than 24 hours before — followed Graham's example. Notably Sen. Pat Toomey (R-PA), who long defended Trump's unorthodoxy but who defended Pennsylvania and its electoral processes on Jan. 6, has joined the chorus calling for Trump to resign.

The Republican members of the House of Representatives lacked such self-awareness. As Vice President Pence continued to read into the Congressional record the certified vote counts of each state's electors, Rep. Scott Perry (R-PA) rose to object to Pennsylvania's electoral college results. Unlike the previous objections to other states' electors raised by members of the House after reconvening, none of which had the required support of a member of the Senate, the objection to Pennsylvania's electors retained the signature of Sen. Josh Hawley (R-MO) which meant that the objection would have to be debated for up to two hours in each chamber and voted on by both the House and the Senate.

Senators left the joint session at 12:22 a.m., and in less than 10 minutes, they closed debate and voted 92-7 to reject the challenge to Pennsylvania's electors.

Debate in the House continued for the full two hours. House Republicans, led by the Pennsylvania Republican delegation including Mike Kelly, who represents the 16th Congressional District including Erie County, refused to abandon the lie that Pennsylvania's election results are invalid despite that same election's result returning him to the halls of congress for his sixth two-year term.

When Allegheny County Democrat Conor Lamb rose to speak in defense of Pennsylvania's election results, the election officials who carried out the election, and the Republican legislation that defined the election processes that went into effect in 2020, House Republicans interrupted him continuously with shouts and insults. At one point, Lamb's Democratic colleagues rushed from their seats behind him as if to stop the Republican mob from encroaching on the Democratic lectern in an attempt to silence the young congressman. It seems that such behavior — the petulance, the impatience, and the aggression — have become model Republicanism, particularly for those in elected office.

Similar scenes have become common in state houses across the country as well as here in the Commonwealth of Pennsylvania. Last year in the Pennsylvania Senate, then-President Pro-Tempore, Republican Joe Scarnatti, seized the gavel from Lt. Gov. John Fetterman, the Senate's presiding officer, during a heated budget debate as if he were playing capture the flag because Fetterman refused to acknowledge a Republican senator who was attempting to shout over Democrat Katie Muth.

In similar fashion, just days before the attack on the U.S. Capitol, what should have been a day of celebration on the floor of the Pa. Senate turned into a melee as the Republican majority voted to remove Lt. Gov. Fetterman from his post so they could refuse to seat Democrat Scott Brewster from Allegheny County who won re-election by just 69 votes over his Republican challenger Nicole Zicarelli. Both of Erie's senators, Republicans Dan Laughlin and Michelle Brooks, voted against seating Brewster despite having been credentialed to rejoin the Pennsylvania Senate by the Pennsylvania Department of State.

"But in a pattern consistent with Republican defiance at the federal level, Pennsylvania Republicans have challenged votes in Allegheny County, which would overturn Brewster's victory and award the seat to Zicarelli. That decision rested with the courts. A federal judge has since upheld a lower court's decision affirming Brewster's re-election. As Senate Minority Leader Jay Costa noted, Senate Republicans continue to "demonstrate a pattern of undemocratic behavior."

"The suggestion that (Senate President Pro Tempore Jake Corman) would defy yet another court order in his quest to steal the 45th District from Sen. Brewster is chilling, and takes clear cues from his role model,

Donald Trump," Costa told the Pittsburgh Post-Gazette.

Loyalty to Trump has become a common and consistent theme in the Pennsylvania Senate. In addition to Corman's disregard for that with which he disagrees, Senate Republicans perpetuated the claims made by Trump in his attempt to discredit the results of the presidential election in Pennsylvania.

As recently as Jan. 4, just 48 hours before the attack on the Capitol that was intended to halt the certification of the Electoral College results, Republican members of the Pennsylvania Senate, including Brooks, whose district includes parts of southern Erie County, sent a letter to U.S. Senate Majority Leader Mitch McConnell and Kevin McCarthy, the minority leader in the U.S. House of Representatives, outlining what they called "inconsistencies" in the 2020 election in an attempt to influence and encourage objections to Pennsylvania's electors during the joint session on Jan. 6.

Previously Sen. Laughlin, who represents the remainder of Erie County, was party to an *Amicus Curiae* brief filed by Pennsylvania Senate Republicans when Texas sued Pennsylvania, Wisconsin, Michigan, and Georgia in a direct appeal to the Supreme Court. Laughlin claimed online and in the local press that Pennsylvania Republicans were not trying to disenfranchise Pennsylvania voters or overturn the results of the 2020 election, but that was the intent of the Texas suit. *Amicus* briefs, by definition, are intended to offer the Court additional information or perspective that the parties directly involved in the appeal may not be able to offer. So while not directly addressing the question raised by Texas, the intent is to influence the decision of the Court.

Fortunately for Pennsylvania voters, the Court rejected the case outright. To date Pennsylvania and federal courts have rejected 13 attempts to overturn election results in the commonwealth.

PA-16's Rep. Kelly has remained the central figure in most of the challenges attempting to disenfranchise nearly three million voters and overturn the 2020 election results in Pennsylvania. Kelly has long been a general in Trump's Army, trafficking in lies and perpetuating conspiracies on behalf of the 45th President.

Kelly claimed in 2017 that former President Barack Obama was running a shadow government because the Obamas, who had school-aged daughters at that time, had not left Washington after they left the White House. Last October, when the House voted 371-18 to condemn the conspiracy group QAnon, which has become a powerful force in Trump's online propaganda machine, Kelly was one of the 18 Republicans to support QAnon by voting against the majority. Since election night, Kelly has repeatedly said publicly and in court filings that Pennsylvania's election was rigged against Donald Trump despite the fact that Republicans down the ballot outperformed Trump and even won two of three statewide races. Even after the objection to Pennsylvania's electors was defeated in both the House and Senate in the



early hours of Jan. 7 — the process continued until after 3 a.m. before recessing until later Thursday morning — Kelly has continued his campaign to throw millions of Pennsylvanian votes, mostly Democratically heavy mail-in ballots, in the trash.

Kelly argues that the legislative process by which the Republican-controlled Pennsylvania legislature designed and implemented the election changes enacted in 2020 actually requires an amendment to the state constitution. Kelly took this argument to the State Supreme Court on Nov. 28 and lost because, the Court said, he should have made this case prior to any election utilizing the new voting procedures. Kelly filed an emergency appeal with the U.S. Supreme Court and was denied.

The fact that Kelly continues this fight even after the Keystone State certified its election results, after the commonwealth's electors met to cast their ballots for the Electoral College, after the joint session of Congress certified the results of the Electoral College, and since the Trump campaign has lost more than 50 challenges to the results of the 2020 election, it only serves to underscore that our representative in Congress is little different than his Republican colleagues across Pennsylvania and in the U.S. House of Representatives. He is a petulant child in the body of a 72-year-old man who will continue to whine and wail to try and get his way, Trump's way. But that's not the worst of him.

Kelly has been one of Trump's staunchest defenders and one of his most steadfast enablers. He believes in Trump's America. He believes in the perpetuation of lies and conspiracies, and he appears unfazed by and unwilling to acknowledge the fact that his rhetoric since 2017 and throughout this election cycle, has stoked and provoked the unfounded anger and the manufactured contempt of the masses who stormed the Capitol.

It was a dark day for our nation. The people who participated must be held accountable. Some have already been brought to justice.

Like them, the elected officials who challenged the very election that retained them in office, fanning the treasonous flames of insurrection and perverting the constitution, must also be held accountable. Their justice, if not brought by the courts, must soon be resolved by the ballot.

*Jim Wertz is a contributing editor and Chairman of the Erie County Democratic Party. He can be reached at [jWertz@ErieDems.com](mailto:jWertz@ErieDems.com) and you can follow him on Twitter @jim\_wertz. This article has been lightly edited from its original version.*

[erie at large](#) [capitol building](#) [jan 6](#) [politics](#) [trump](#) [mike kelly](#) [insurrection](#) [domestic terrorism](#)  
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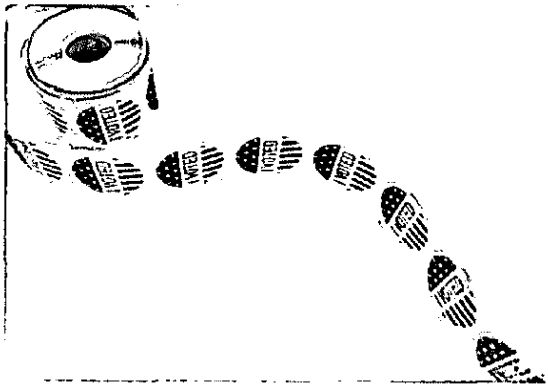
# Erie at Large: Defeating Trump Was Just the Start

Trumpian attitudes still strongly linger in right-wing politics, ideologies



by **Jim Wertz**

🕒 October 15, 2021 at 9:32 AM



ELEMENTS

Defeating Trump in 2020 was the first step in defeating Trumpism, but there's a long way to go. That's because the takeover of the Republican Party by anti-democratic factions of right-wing extremists extends far beyond their influence within the Trump Administration and campaign infrastructure during the past decade.

The Guardian recently reported on leaked membership documents of a group that connects Republican strategists and elected officials with leaders of organizations, many of

which are anti-government and anti-democratic, that have been categorized as hate groups. It's part of the mission of the Council for National Policy (CNP), which for more than 40 years has pushed a radical conservative agenda in an effort to reshape the fabric of American democracy.

CNP leaders are best known for their efforts to create the "Moral Majority," popularized in 1980s Republican rhetoric and policy, and for their connections to the secretive conservative Christian group, The Fellowship, which was featured in the 2019 Netflix documentary series *The Family*, which illuminated how this cult-like organization used religion as a means to influence and manipulate American policymakers.

Over its more than 40 year history, the CNP has migrated from an ideological mission to push its conservative agenda through the influence of public policymakers to a more insidious effort to undermine the democratic processes that have kept the clandestine organization from achieving its vision of a more perfect Union.

The CNP executive chairman told an audience in 2020 that the impending presidential election was "a spiritual battle" of "good versus evil."

To carry out its plan, the CNP has enlisted and counts among its leadership the founders of anti-Muslim, anti-immigrant, and anti-LGBTQ+ hate groups, among others who sit side-by-side with better known conservative organizations like the Federalist Society and the American Conservative Union.

A spokesperson for the Global Project Against Hate and Extremism told The Guardian that the CNP "clearly remains a critical nexus for mainstreaming extremists from the far right into conservative circles."

While the CNP and its members include the most elite of the Republican establishment — including Reince Priebus, the former RNC Chair who served a short stint as Donald Trump's White House Chief of Staff — its evolution into a matchmaking organization for extremists has fed an ideological shift in the Republican Party that brought challenges to American democracy including the Jan. 6 insurrection at the United States Capitol and the persistent resistance to accept the outcome of the 2020 presidential election.

Most relevant to you, Reader readers, is that these ideological machinations are central to many local Republicans and you can see it playing out this year in the nomination of far-right anti-government extremists across Erie County for County Council, sheriff, and even the county executive.

An archive of Facebook posts by Republican Erie County Executive candidate Brenton Davis made over the past few years recently became the subject of the Facebook group "True Quotes of an Erie Working Man." It can be found at [facebook.com/groups/erieworkingman](https://www.facebook.com/groups/erieworkingman). It's illuminating.

The posts contain the shallow musings of the real Brenton Davis rather than the thinly veiled moderation of the candidate, hand polished by formerly respectable local Republican standard bearers, that you've seen on the campaign trail over the past few months.

His posts reflect the same anti-immigrant, anti-government, conservative ideology being preached by the CNP.

In a post from 2015 chastising Pittsburgh Mayor Bill Peduto for welcoming Syrian refugees to his city, Davis exclaims that Peduto "knows not the thunder he is bringing upon his own city and state," suggesting as he had in more recent posts and comments that there is a correlation between immigration and a "plethora of issues, disease, and death." America, he says, is "at capacity."

Just last year, amidst the COVID-19 pandemic and the federal election cycle, Davis questioned the pandemic, placing quotation marks around the word virus in an attempt to illustrate his disbelief, referring to mitigation efforts as acts of tyranny, and repeatedly posting about going to war against the United States.

"I could also have never fathomed a call to fight against our own government," he wrote. "But this is our reality." The post accompanied photos of his time in the military and a strange photo of Davis in his military uniform as an old man, made with the help of a social media app, presumably contemplating his victory against the same government he now campaigns to be a part of. "Together, we will take back Our America," he concludes.

These posts are just a few among the myriad topics including those comparing women to pick-up trucks and parking spaces, claims of election fraud long before 2020, and a series of verbal assaults, mostly directed at female Democratic politicians.

But what is most remarkable about this archive is the window that these posts open on Davis, the person, as compared to Davis, the politician. He now puts on a suit and feigns tacit support for the community issues and government programs he has for years railed against. But no amount of whitewashing or cleaning of one's social media can cleanse the reality of what type of person lies in wait under that suit.

Someone once told me that when someone shows you who they are you should believe them. Brenton Davis has shown us post after post that, despite his self-celebrated military career, he's not fit for service.

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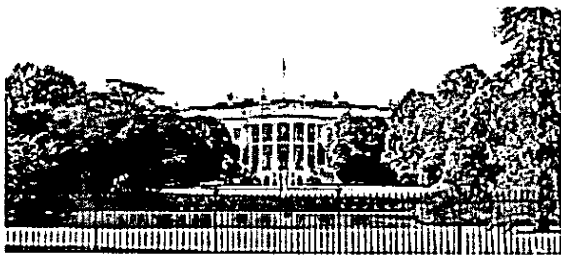
Erie At Large    News and Politics    Opinion

# What We're Voting For

Erie County and the soul of America



by Jim Wertz    October 21, 2020 at 1:15 PM



JONATHAN CUTRER

The leadup to the Nov. 3 general election has been fraught with anxiety u2014 and levels of ugliness and intimidation that exceeds anything the modern electorate has ever seen. According to columnist Jim Wertz, it starts with the man in the Oval Office.

Four years ago, Donald Trump won Erie County by 1,957 votes. On election night, none of that made sense. The national polls — all of them — were horribly incorrect, and for most of us watching at home, our expectations crumbled with the realization that the Trump campaign strategically orchestrated an electoral college victory despite being outperformed by nearly 3 million popular votes.

Once we reconciled the reality that a huckster from Manhattan sold Middle America his greatest forlorn "Deal," all that was left was the contemplation of the next four

years and the state of the world in its wake.

Several times following past elections, folks would remark that the winning candidate was "bad for the country" or was going to be the "worst president in history..." But with those administrations in the rear view mirror, the impositions of government and the people who led them look quite welcoming.

That's because those men — Ronald Reagan and George W. Bush among them — believed in our institutions, the decorum of government, and the resilience of the American people. If their policies were often perceived by Democrats to be overtly anti-worker or unabashedly militaristic, men like Reagan and Bush often invited Democrats that they knew, respected, and trusted to the table as a dissenting voice or

to leave open the potential for reconciliation among partisan actors. For Reagan, it was Speaker of the House, Tip O'Neill. For Bush, Senator Ted Kennedy of Massachusetts.

Those days are done. Led by an autocrat who traffics in white supremacy, conspiracy theories, and outright lies, the faith in our institutions and the decorum of government — and the people who comprise it — is long passed.

Today, most of us hang on to what we know to be true while attempting to ignore the noise, lies, and chorus of trolls that have hijacked social media.

Our president and his enablers can't muster the strength to condemn violent, racist groups like the Proud Boys or the Ku Klux Klan and more recently have refused to denounce the conspiracy theorists that comprise QAnon, a once fringe organization which has been catapulted into the mainstream by a president who shares its egregious lies about COVID-19, active duty military and our veterans, and the sanctity of American elections.

Closer to home, the lies and threats expressed by QAnon have manifested themselves among the scores of Trump supporters who threaten and terrorize those who support Democratic candidates.

Trump has emboldened the worst in his supporters. I don't hang this on Republicans generally, but I can't see how anyone can stand with a party that has turned a blind eye to the way that this president has stoked his supporters to use hate and intimidation to advance his sole cause — getting re-elected.

When was the last time you were called a "ni--er lover?" It's been routine for Democratic volunteers in the field. The racists simply feel empowered to shout it out their car or truck window as they pass by.

This year, the Erie County Democratic Party also opened satellite offices in some pretty Republican areas in an attempt to connect with Democrats there and form a base of operations in select parts of Erie County. Trump supporters were so incensed by our presence that they took over a legitimate business office (with the blessing of that business owner) to establish a Trump presence a few doors away.

One of our volunteers was threatened with a gun and called racist slurs, while being told that he was a "piece of shit" for supporting Joe Biden.

Another volunteer reported that his special needs son was beat up on the way home from school because his dad supports Joe Biden. Neither the school or the authorities were willing to intervene. "If it happens again..." they said.

More recently, an 80-year-old woman who stopped at one of our county offices for a Biden sign was screamed at from down the street called an "old bitch" and told to "take her old pussy back home." All this, while children stand by being urged to participate in this vile behavior.

These people are there because Trump has given them a platform to feel safe advancing their hateful ideology. After white supremacists emerged from the fields with torches and drove over protesters, killing one woman and injuring others in Charlottesville in 2017, Trump pledged to "investigate" the incident. However, his first act of 2018 was defunding the civil rights division of the Justice Department, the agency that would have been tasked with such an investigation. Trump literally defunded the police.

Surely hate and racism are not new, but I can't recall a time in my life when bad people have felt so empowered to publicly bully and intimidate people who are their neighbors.

Besides the fact that I think Joe Biden is a good man and someone who has more than enough experience to make a good president, we (collectively) need the madness to be checked at the door in 2021. Another four years of this activity and hateful people will be doing hateful things with no repercussions. It's already happening.

Stories like these are repeated in communities like ours all across the country. As a nation, we can't afford for it to continue.

I'm happy to write essays about how the American economy has always fared better during Democratic administrations, or that the opportunities for your kids and their friends are going to be better served in a country with Democratic leadership, or that your parents will be put back to work when Donald Trump and Mitch McConnell help to destroy the pension and retirement systems for corporate greed.

But honestly, all of that pales in comparison to the need for people to have a better model for leadership. There are a lot of reasons why things aren't right, but we need someone who will remind people that we have common interests and should be better to one another.

Right now that has been lost because we're led by a liar and thief who has perpetrated the greatest con this country has ever seen. If you need a final anecdote, get a kid's take on what they've seen. It's so simple. "People should be better to one another," my daughter told me.

Apparently, we still need a president who can show us how that's done. Who knew?

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*should you.*

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