

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

NAACP PENNSYLVANIA STATE
CONFERENCE,

Petitioner,

v.

KATHY BOOCKVAR,
SECRETARY OF THE COMMONWEALTH,
AND JESSICA MATHIS, DIRECTOR OF THE
BUREAU OF ELECTION SERVICES AND
NOTARIES,

Respondents.

No. 364 MD 2020

DECLARATION OF KENNETH L. HUSTON

I, Kenneth L. Huston, declare as follows:

I am over the age of 18 and I make this Declaration Petitioner's application for preliminary injunction in the above-captioned matter.

I am a resident of Allegheny County and am registered to vote in Pennsylvania.

I am a member and President of the NAACP Pennsylvania State Conference ("NAACP-PSC"), which is the Petitioner in this matter. I have been President of NAACP-PSC since October 2019. I have also served as President of the Allegheny East branch of the NAACP.

I make this Declaration based upon my personal knowledge and experience, as well as based on the information that I have obtained from our membership in the course of

numerous meetings, virtual conferences, and discussions, among other things, in connection with my role as President of the NAACP-PSC.

NAACP-PSC is a nonpartisan organization operating in Pennsylvania and is affiliated with the national National Association for Advancement of Colored People operating across the United States.

NAACP-PSC has approximately 10,000 members in 44 branches across Pennsylvania. Among our members are voters who are registered in Pennsylvania, voted in the June 2, 2020 Pennsylvania primary election, and intend to vote in the November 3, 2020 Pennsylvania general election.

The NAACP-PSC has a Political Action Committee that is committed to ensuring that all eligible Pennsylvania citizens are given a full and equal opportunity to exercise their fundamental right to vote.

To accomplish this mission, NAACP-PSC leads efforts to register eligible Pennsylvanians to vote and to get voters to come out to vote. NAACP-PSC has also worked diligently to identify and prevent attempts to suppress, subvert, and disenfranchise African-American voters. As a result, NAACP-PSC, on behalf of its members, routinely files and joins lawsuits in Pennsylvania involving voting rights, like this matter.

Since our founding in 1934, one of NAACP-PSC's central missions has been to secure voting rights for all eligible Pennsylvanians. Our efforts related to voting are expansive. We participate in voting registration, candidates' forums, voter education, get-out-the-vote efforts, and various forms of grassroots mobilization.

During my time as president of NAACP-PSC, I have had to steer our organization through the fallout from the COVID-19 pandemic. The pandemic has had a devastating

impact on African-Americans, including, sadly, many of our members. Because of longstanding structural racism, African-Americans account for a disproportionate share of people who have been infected by the coronavirus and who have suffered serious illness, including death, as a result of COVID-19, the disease caused by the virus.

1. The pandemic impacted our voter-related work in the lead up to the June primary election in Pennsylvania and is also impacting those efforts as the November general election approaches less than 100 days from now. It has also impacted how we communicate with our members and other people in our community, given the limitations on face-to-face meetings. Therefore, besides connecting to people by mail, we have also come to strongly rely on social media, electronic mail, virtual gatherings, and telephone conference calls to share critical information and resources related to voting.

Issues Related to Voting in Person

In many of the counties, polling places were closed or consolidated during the primary election. We tried to alert people about these changes, including collaborating with the Black Political Empowerment Project and the Pittsburgh Women's March, by going into neighborhoods to answer questions and provide information. Despite this outreach, by election day many of our members were still unsure if their polling places were closed and did not know where their new polling places were.

Many of our members also did not have enough advanced notice about whether their polling place would be closed and could not get updated information about where to vote. I understand that in many instances the only place to obtain information about available polling places was online (at the county board's website) or in person (at the county board's offices). This was not sufficient. Many of our members did not have Internet at

home and could not access Internet at libraries, since the libraries were mostly closed. And other voters were reluctant to appear in person at county offices given the extent of the pandemic and the risk posed.

These closures created tremendous stress, frustration, and confusion for our membership and I believe that voters were disenfranchised because they could not find out where they needed to vote.

Given the recent resurgence of the pandemic in Pennsylvania, I expect that there will be polling sites that are going to be closed for the November general election, even if there are fewer locations closed compared to the primary election. If polling places are going to be closed in November, then there needs to be sufficient notice ahead of the closings so that our members and other voters have an opportunity to learn where they need to vote and are not effectively disenfranchised. There also needs to be valid criteria about which voting places should be closed. The lack of notice or criteria relating to any polling place closures in November will create even more confusion among our members than during the primary because there will be greater turnout since it's a presidential election.

2. Some of our members who knew the location of their polling places still experienced challenges trying to get to their newlyconsolidated polling places during the primary election. This was especially true for members who did not have transportation and needed rides. As part of our Election Day procedures, NAACP-PSC usually provides transportation to polling places and did so during the June primary. We know that we cannot always provide rides for everyone who need them. As a result, I am confident that during the primary election there were people who lacked transportation or reliable public transit and could not reach a new polling place that was too far from their homes. If polling places are

consolidated in any significant way during the general election, there will be persons who will not be able to vote.

3. Pennsylvania's lack of early voting for voters will lead to longer lines on Election Day in November and will, therefore disenfranchise voters. Without early voting, many voters, including our members, will face overcrowding at polling locations on Election Day and may be forced to wait for hours in order to exercise their right to vote. Such long lines at polling sites will undermine voter participation, increase risk of transmission of the virus, and will effectively prevent many voters from casting their ballots.

4. In counties in Pennsylvania which require all voters to use repeat touch screen voting machines, voters will face another unacceptable risk of becoming infected with the virus in the process of casting their votes. Voters should not have to face that risk. All Pennsylvania voters should be provided the option of avoiding this risk by using hand-marked paper ballots, which would allow more limited use of the touch screen machines for voters who need them.

Issues Related to Vote By Mail

The emergence of unexcused vote by mail, through Act 77, is a very positive development and one that we tried to share with our membership. As an organization, NAACP-PSC thought that it was a valuable, convenient, and safe way for our members to participate in our democracy without compromising their health and safety during an unprecedented pandemic. It is an especially appealing option for voters of color who, because of their age or preexisting medical conditions, face real risk to their health if they

attempt to vote in person. In-person voting may also be an unsafe and therefore unfeasible option for many people who live with someone who is at risk.

As the June election primary approached, NAACP-PSC engaged in an outreach effort to educate our members about the applicable deadline and other information about vote-by-mail. We are continuing those efforts for the general election. However, many of our members have a deep history of voting in person, had never voted by mail, and did not feel comfortable doing so. These members insisted on voting in person in the primary and are likely to do the same for the general election.

One thing that had a very positive impact was the effort to get as many people as possible to vote by mail. In Allegheny County, where I live, the board of election automatically sent every registered voter a mail-in-ballot application for the June 2 primary election. The NAACP-PCS fully supported this effort and advertised this on our Facebook page to ensure that our members had updated information. Indeed, many of our members who otherwise would not have requested an application received an application and were therefore able to vote. Expanding this effort to each county for the general election would ensure that as many eligible Pennsylvanians as possible would be able to vote.

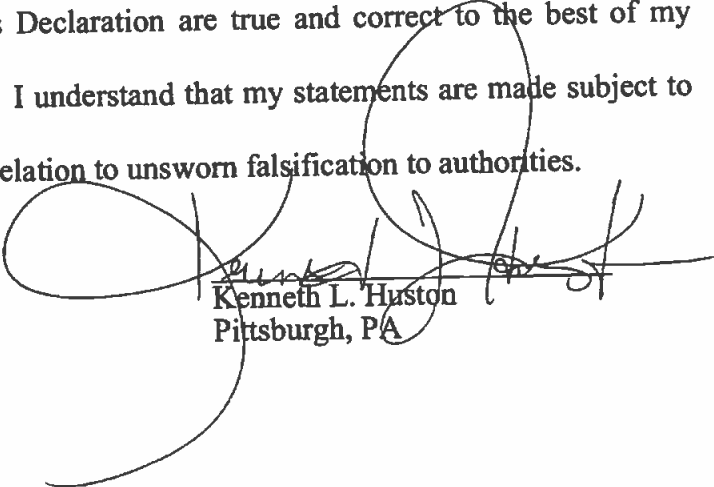
Another important aspect of vote-by-mail was the opportunity for our members to leave their completed ballots at a ballot drop box. Some of our members who requested mail-in ballots were reluctant to enter and leave them at a county board of election office or to send them in the mail because of the perceived problems with the postal service.

As a result, the use of drop boxes is a core part of our strategy for our members and we have encouraged them to use these boxes as a convenient option to in-person voting or other forms of mail-in voting. Ballot drop boxes give voters the certainty of knowing that their completed ballots have been delivered to be counted, while eliminating legitimate

concerns about whether the mailed ballots would get delivered in time and concerns about the health risks of in-person voting, especially if there is any consolidation of voting locations.

Thus, NAACP-PSC is advocating for wider availability of ballot drop boxes for voters who want to vote by mail but who are unable or unwilling to do so. NAACP-PSC's experience from the June primary election is that the ballot drop boxes were an essential way to ensure that eligible voters participated in the election and were not disenfranchised.

All statements in this Declaration are true and correct to the best of my knowledge, information and belief. I understand that my statements are made subject to the penalties of 18 Pa. C.S. § 4904 relation to unsworn falsification to authorities.



Kenneth L. Huston
Pittsburgh, PA

Dated: July 27, 2020