

Commonwealth Docket Sheet

Commonwealth Court of Pennsylvania

Docket Number: 1162 CD 2020

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November 22, 2021



CAPTION

In Re: 2,349 Ballots in the
2020 General Election

Appeal of: Nicole Zicarelli

CASE INFORMATION

Initiating Document:	Notice of Appeal		
Case Status:	Closed		
Case Processing Status:	November 20, 2020	Completed	
Journal Number:	SE-3-2020		
Case Category:	Election	Case Type(s):	Election

CONSOLIDATED CASES

RELATED CASES

COUNSEL INFORMATION

Appellant Zicarelli, Nicole

Pro Se: No

IFP Status:

Attorney:	Haverstick, Matthew Hermann	
Law Firm:	Kleinbard, LLC	
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Phone No:	(215) 496-7225	Fax No:

Attorney:	White, Casey David	
Law Firm:	Law Office of Casey D. White	
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Phone No:	(412) 995-3270	Fax No:

Attorney:	Voss, Joshua John	
Law Firm:	Kleinbard, LLC	
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Phone No:	(267) 443-4114	Fax No:

Attorney:	Vance, Shohin Hadizadeh	
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COUNSEL INFORMATION

Appellant **Zicarelli, Nicole**

Pro Se: No

IFP Status:

Attorney: Zimmer, Samantha G.
 Law Firm: Kleinbard, LLC
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Appellee **Pennsylvania Democratic Party**

Pro Se: No

IFP Status:

Attorney: Semroc, Kyle John
 Law Firm: Dentons Cohen & Grigsby, PC
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COUNSEL INFORMATION

Appellee Brewster, James

Pro Se: No

IFP Status:

Attorney: Attisano, Marco Santino
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COUNSEL INFORMATION

Appellee Allegheny County Board of Elections

Pro Se: No

IFP Status:

Attorney: Szefi, Andrew Francis
 Law Firm: Allegheny County Law Department
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 300 Fort Pitt Commons
 445 Fort Pitt Blvd
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Attorney: Scott, Virginia Spencer
 Law Firm: Allegheny County Law Department
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Attorney: Liebenguth, Frances Marie
 Law Firm: Allegheny County Law Department
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Other Kotula, Kathleen Marie

Pro Se: No

IFP Status:

Attorney: Kotula, Kathleen Marie
 Law Firm: Pennsylvania Department of State
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FEE INFORMATION

Fee Dt	Fee Name	Fee Amt	Receipt Dt	Receipt No	Receipt Amt
11/18/2020	Notice of Appeal	90.25	11/24/2020	2020-CMW-H-002235	90.25

AGENCY/TRIAL COURT INFORMATION

Order Appealed From: November 18, 2020 Notice of Appeal Filed: November 18, 2020
 Order Type: Order Dated
 Documents Received: November 18, 2020

Court Below: Allegheny County Court of Common Pleas
 County: Allegheny Division: Allegheny County Civil Division
 Judge: James, Joseph M. OTN:
 Docket Number: GD-20-011654 Judicial District: 05

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ORIGINAL RECORD CONTENT

Original Record Item	Filed Date	Content Description
Trial Court Record	November 19, 2020	
Testimony	November 19, 2020	
Trial Court Opinion	November 19, 2020	

Date of Remand of Record:

BRIEFING SCHEDULE

Appellant	Appellee
Zicarelli, Nicole Brief	Allegheny County Board of Elections Brief
Due: December 29, 2020	Filed: November 19, 2020
	Due: Filed: November 19, 2020
	Brewster, James Brief
	Due: Filed: November 19, 2020
	Pennsylvania Democratic Party Brief
	Due: Filed: November 19, 2020

DOCKET ENTRY

Filed Date	Docket Entry / Filer	Representing	Participant Type	Exit Date
November 18, 2020	Notice of Appeal Filed Zicarelli, Nicole		Appellant	
November 18, 2020	Filed - Other Zicarelli, Nicole		Appellant	
	Document Name: 103 WM 2020-Application for Extraordinary Relief			
November 18, 2020	Application for Relief Haverstick, Matthew Hermann	Zicarelli, Nicole	Appellant	
	Document Name: Emergency Application for Writ of Prohibition			
November 18, 2020	Filed - Other Haverstick, Matthew Hermann	Zicarelli, Nicole	Appellant	
	Document Name: Proposed Order - Emergency Application for Writ of Prohibition			

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DOCKET ENTRY

Filed Date	Docket Entry / Filer	Representing	Participant Type	Exit Date
November 18, 2020	Order Granting Application for Emergency Relief Per Curiam			11/18/2020
	Document Name: NOW, November 18, 2020, upon consideration of Appellant Nichole Zicarelli's Emergency Application			
	Comment: for Writ of Prohibition, which this Court treats as an Application for Injunction Pending Appeal, it is hereby ORDERED that the Emergency Application is GRANTED as follows:			
	1. The Allegheny County Board of Elections shall segregate the mail in ballots at issue in this appeal.			
	2. The Allegheny County Board of Elections is enjoined from canvassing or counting the mail-in ballots at issue in this appeal until further order of the Court.			
	The Court of Common Pleas of Allegheny County shall transmit the record in this action, to include the transcript, if any, of the proceeding held on November 17, 2020, by no later than 12:00 p.m. on November 19, 2020.			
	The parties shall file and serve simultaneous briefs on the merits of this appeal (4 copies) on or before 12:00 p.m. on November 19, 2020, in the Prothonotary's Office in Harrisburg. Briefs and other filings should be filed via PACFile (the Pennsylvania appellate court electronic filing system) OR by email to CommCourtFiling@pacourts.us. Briefs may also be filed in person in the Prothonotary's Office with advance notice by appointment by calling 717-255-1650. Appellant is excused from filing a Reproduced Record.			
	In addition to transmitting and mailing copies of this order to counsel of record and any pro se party, the Prothonotary is directed to transmit and mail a copy to the Allegheny County Department of Court Records and to Judge Joseph M. James of the Court of Common Pleas of Allegheny County.			
November 19, 2020	Trial Court Record Received Allegheny County Civil Division			
November 19, 2020	Transcripts of Testimony Allegheny County Civil Division			
November 19, 2020	Trial Court Opinion Received Allegheny County Civil Division			
November 19, 2020	Appellant's Brief Filed Zicarelli, Nicole		Appellant	
November 19, 2020	Entry of Appearance Scott, Virginia Spencer	Allegheny County Board of Elections	Appellee	
	Document Name: Atty. Virginia Scott for Allegheny County Board of Elections			
November 19, 2020	Entry of Appearance Liebenguth, Frances Marie	Allegheny County Board of Elections	Appellee	
	Document Name: Frances Marie Liebenguth on behalf of Allegheny County Board of Elections			
November 19, 2020	Order Filed Per Curiam			11/19/2020
	Document Name: AND NOW, this 19th day of November, 2020, this matter shall be submitted to a panel of judges			
	Comment: on the briefs, without oral argument, in accordance with Commonwealth Court Internal Operating Procedures Sections 112(b) and 258, 210 Pa. Code Section 69.112(b) and 258.			

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Filed Date	Docket Entry / Filer	Representing	Participant Type	Exit Date
November 19, 2020	Appellee's Brief Filed Pennsylvania Democratic Party Brewster, James		Appellee Appellee	
November 19, 2020	Entry of Appearance Zimmer, Samantha G. Document Name: Samantha G. Zimmer, Esq. on behalf of appellant Nicole Zicarelli.	Zicarelli, Nicole	Appellant	
November 19, 2020	Appellee's Brief Filed Allegheny County Board of Elections		Appellee	
November 19, 2020	Reversed/Remanded Brobson, P. Kevin Document Name: Memorandum Opinion (20pgs) Comment: the November 18, 2020 Order of the Court of Common Pleas of Allegheny is REVERSED, and this matter is REMANDED to the court of common pleas for further proceedings in accordance with the accompanying opinion.			11/19/2020
November 20, 2020	Notice of Discontinuance Supreme Court of Pennsylvania Document Name: 103 WM 2020			
November 20, 2020	Petition for Allowance of Appeal to PA Supreme Court Filed Allegheny County Board of Elections Document Name: 337 WAL 2020		Appellee	
November 20, 2020	Order Filed Supreme Court of Pennsylvania Document Name: 337 WAL 20-PAA of Emergency Appeal is Granted in Part. order of the Comm Court of 11/19/20 Comment: is STAYED pending resolution of this appeal.			11/20/2020
November 20, 2020	Notice Supreme Court of Pennsylvania Document Name: 29 WAP 2020-Allocatur Granted.			
November 23, 2020	Opinion Supreme Court of Pennsylvania Document Name: 29 WAP 2020-Reversed/Reinstated.			

SESSION INFORMATION

Journal Number: SE-3-2020
 Consideration Type: Submitted on Briefs
 Listed/Submitted Date: November 19, 2020

Panel Composition:

The Honorable P. Kevin Brobson	Judge
The Honorable Patricia A. McCullough	Judge
The Honorable Michael H. Wojcik	Judge

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DISPOSITION INFORMATION

Final Disposition:	Yes	Judgment Date:	
Related Journal No:		Disposition Author:	Brobson, P. Kevin
Category:	Decided	Disposition Date:	November 19, 2020
Disposition:	Reversed/Remanded		
Disposition Comment:	the November 18, 2020 Order of the Court of Common Pleas of Allegheny is REVERSED, and this matter is REMANDED to the court of common pleas for further proceedings in accordance with the accompanying opinion.		
Dispositional Filing:	Memorandum Opinion	Filing Author:	Brobson, P. Kevin
Filed Date:	11/19/2020 12:00:00AM		
Dispositional Filing:	Dissenting Opinion	Filing Author:	Wojcik, Michael H.
Filed Date:	11/19/2020 12:00:00AM		