

**IN THE COURT OF COMMON PLEAS OF BEDFORD COUNTY,
PENNSYLVANIA**

WILLAM J. HIGGINS, JR.,
Plaintiff

v.

BEDFORD COUNTY BOARD OF ELECTIONS,
Defendant

: No. 1158-2024
:
: CIVIL ACTION -LAW
:
: PETITION FOR WRIT OF
: MANDAMUS
:
:
:

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by your attorney, and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you, and a judgment may be entered against you by the court, without further notice, for any money claimed in the complaint, or of any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

MID-PENN LEGAL AID
232 East Penn Street
Bedford, PA 15522
814-623-6189

FILED

2024 MAY 28 PM 12:17

CLERK OF COMMON PLEAS COURT

PETITION FOR WRIT OF MANDAMUS AND REQUEST FOR AN EMERGENCY RESTRAINING ORDER AND INJUNCTIVE RELIEF

AND NOW Comes the Plaintiff, by and through his counsel Thomas M. Dickey, to file the the following Complaint for a Writ of Mandamus and Request for and Emergency Restraining Order and Injunctive Relief, and in support there of avers as follows:

1. Plaintiff is William J. Higgins, Jr., a resident of and an elector within the County of Bedford and the Commonwealth of Pennsylvania, residing at 228 S. Bedford Street, Bedford, PA 15522.

2. Defendant is the Bedford County Election Board, comprised of Bedford County Commissioners J.R. Winck, Micheal Stiles, and Deborah Baughman, and Director of Elections Debra Brown.

JURISDICTION AND VENUE

3. The Bedford County Court of Common Pleas has Jurisdiction pursuant to **231 Pa. Code 1092.**

4. Plaintiff has standing as he has a right, distinct from that of the general public, in that he was elected Chairman of the Bedford County Republican Committee, and the failure of the Bedford County Election Board to perform it duty undermines his election as Chairman, and hampers his ability to effectively execute his duties as Chairman. **231 Pa. Code 1092.**

BACKGROUND

5. On April 23, 2024, Bedford County, along with the rest of Pennsylvania, held the 2024 Presidential Primary Election.

6. Among the elected offices on the ballot was the position of Bedford County Republican Committee person, for which up to two positions were to be selected in each voting precinct.

7. While there were numerous candidates who filed nominating petitions, and therefore, appeared on the ballot, there were several candidates who sought write-in votes, i.e irregular ballots, in attempt to be elected to the Bedford County Republican Committee.

8. Pennsylvania Election Law provides a process for the tabulation of irregular ballots, which is set for at **25 P.S. 3155**, which provides in relevant part:

The county board, in computing the votes cast at any primary or election, shall compute and certify votes cast on irregular ballots exactly as such names were written, stamped or deposited in or on receptacles for that purpose, and as they have been so returned by the election officers.

[]

In the primary the county board **shall not certify** the votes cast on irregular ballots for any person for a justice of the peace, constable, national, state, county, city, borough, town, township, ward, school district, election or **local party office** unless the total number of votes cast for said person is **equal to or greater than the number of signatures required on a nomination petition for the particular office**. (Emphasis added).

9. The number of signatures required on a nominating petition for local party offices is Ten (10). See **25 P.S. § 2872.1 (36)**

10. On Thursday, May 9, 2024, the Bedford County Republican Committee held its bi-annual Re-Organization meeting whereby the Committee would be electing, *inter alia*, a Chairman.

11. Pursuant to **25 P.S. 3154(a)**, the County Election Board was required to begin the process of canvassing returns on April 26, 2024, and, upon completion submit unofficial returns to the Pennsylvania Secretary of State.

12. Pursuant to **25 P.S. 3154(f)**, upon the expiration of 5 days following submission of the unofficial returns, “the county board shall certify the returns so computed [] The county board shall thereupon, in the case of elections, **issue certificates of election to the successful candidates** for all county, city, borough, township, ward, school district, poor district and election offices, and **local party offices** to be filled by the votes of the electors of said county, or of any part thereof.” (Emphasis added).

13. Unofficial Returns were posted to the Bedford County Election website at 11:06 am on April 25, 2024, and presumably these were the unofficial Returns submitted to the Secretary of State as required by law.

14. Pursuant to **25 P.S. 3154(f)**, the unofficial returns became official on April 30, 2024.

15. At the time of the Bedford County Re-Organization meeting, no certificates of election were issued by the Bedford County Election Board.

16. Prior the the Meeting, acting Chairman Randy Maxwell, unable to obtain a list of certified election winners, assembled a list a qualified Committee

Members who would be credentialed and eligible to vote in that election which included: 1) all candidates who filed a nominating petition and were the top vote getters, 2) all write-in candidates who received a minimum of 10 write in votes and were the top vote getters; and 3) all persons appointed by Chairman Tonya Clark prior to her resignation.

ELECTION VIOLATIONS

17. At the direction of Election board Member Commissioner JR Winck, several candidates who had received less than the requisite number write-in votes appeared at the Re-organization meeting expecting to be eligible to vote, including JR Winck himself, and his wife; however, none of them were able to produce a Certificate of Election or provide any other authority evidencing their eligibility to participate in the meeting or vote for chairman. Some these people received as few as 1 vote.

18. Acting Chairman Randy Maxwell instructed those who were not certified to vote to leave the room and an election was was conducted by the 15 eligible committee members.

19. The results of the vote for Chairman were 8 votes for William J. Higgins, Jr. and 7 votes for Christine Ebersole. Higgins was declared the winner.

20. On or about May 20, 2024, a full two week after the Re-organization meeting, several write-in candidates receiving less than the required threshold of 10 received undated Certificates of Election,, delivered in envelopes post-marked

May 17, 2024, signed by the Election Board and Director of Elections Debra Brown.

21. The precise number of candidates receiving the aforementioned illegal certifications is unknown at this time, as the Bedford County Election Board will only release the information thorough a Right to Know Request and requires 30 days to provide the information.

22. The Election Board's illegal certification of candidates who did not meet the requisite threshold of votes has cast on cloud over the Republican Committee, and has stymied the Committees ability to properly function.

COUNT 1 - MANDAMUS

23. The averments in paragraphs 1 through 22 are hereby incorporated by reference as if fully set forth herein.

24. "[T]he purpose of mandamus is to compel the performance of a single ministerial act" *Dorris v. Lloyd* 375 Pa. 474 (1953).

25. The language "shall not" prohibited the Election Board from certifying anyone receiving less than 10 write-in votes. The act was ministerial in nature and neither required nor permitted any discretion on the part of the election board.

WHEREFORE, Petitioner requests a Writ of Mandamus directing the Bedford County Election Board to Comply with **25 P.S. 3155**, and rescind all Certifications of Election issued to candidates for Bedford County Republican Committee Person who did not appear on the ballot and did not receive a

minimum of 10 write-in votes, award costs and attorneys fees, and any other relief the court deems appropriate.

Count II - Temporary and Permanent Injunctive Relief

26. The averments in paragraphs 1 through 25 are hereby incorporated by reference as if fully set forth herein.

27. Plaintiff has demonstrated that by and through the Bedford County Elections Board failure and refusal to perform their legal obligations under Pennsylvania's Election Code, Plaintiff is likely to succeed on the merits.

28. Plaintiff would be irreparable harmed if the illegal certification would be permitted to stand.

29. Plaintiff's right to legal relief in this matter is clear.

30. The need for a temporary injunction is immediate.

31. The ongoing injuries to plaintiff are irreparable if immediate relief is not granted.

32. Plaintiff can not adequately and fairly fulfill his duties as Chairman of the Bedford County Republican Party with ineligible committee members staking a claim to seats they did not lawfully win at the ballot box.

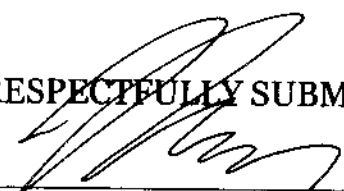
33. Plaintiff has no other adequate legal remedy available.

34. Greater harm will result if injunctive relief, including a temporary restraining order, is not granted by the Court.

WHEREFORE, Petitioner requests an Emergency Temporary Restraining Order directing the Bedford County Election Board to Comply with

25 P.S. 3155, and immediately rescind all Certifications of Election issued to candidates for Bedford County Republican Committee Person who did not appear on the ballot and did not receive a minimum of 10 write-in votes, and any other relief the court deems appropriate.

RESPECTFULLY SUBMITTED:

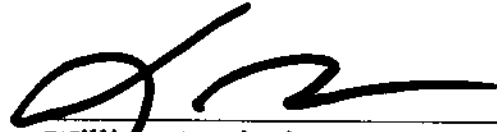


Thomas M. Dickey
Thomas Dickey Law Offices, PC
PA ID No.41475
308 Orchard Ave.
Altoona, PA 16602
814-942-7544

VERIFICATION

I, William J. Higgins, Jr., do verify that the information contained in the foregoing **Petition for Writ of Mandamus and Request for Injunctive Relief** is true and correct to the best of my knowledge, information and belief. I understand that false statements herein made are subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Date: **5/28/24**



William J. Higgins Jr.

CERTIFICATE OF COMPLIANCE

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

Date: 5-28-24



Thomas M. Dickey
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Supreme Court of Pennsylvania

Court of Common Pleas

Civil Cover Sheet



County

For Prothonotary Use Only:

Docket No:

1158-2024

CLERK OF ORPHANS COURT
 2024 MAY 28 PM 12:23
 TIME STAMP
 FILED

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A

Commencement of Action:

- Complaint
- Writ of Summons
- Petition
- Transfer from Another Jurisdiction
- Declaration of Taking

Lead Plaintiff's Name:

William J. Higgins, Jr.

Lead Defendant's Name:

Bedford Election Board

Are money damages requested? Yes No

Dollar Amount Requested: within arbitration limits
 outside arbitration limits
 (check one)

Is this a Class Action Suit? Yes No

Is this an MDJ Appeal? Yes No

Name of Plaintiff/Appellant's Attorney:

Thomas M. Dilley

Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

SECTION B

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- Intentional
- Malicious Prosecution
- Motor Vehicle
- Nuisance
- Premises Liability
- Product Liability (does not include mass tort)
- Slander/Libel/ Defamation
- Other:

CONTRACT (do not include Judgments)

- Buyer Plaintiff
- Debt Collection: Credit Card
- Debt Collection: Other
- Employment Dispute: Discrimination
- Employment Dispute: Other
- Other:

CIVIL APPEALS

- Administrative Agencies
- Board of Assessment
- Board of Elections
- Dept. of Transportation
- Statutory Appeal: Other
- Zoning Board
- Other:

MASS TORT

- Asbestos
- Tobacco
- Toxic Tort - DES
- Toxic Tort - Implant
- Toxic Waste
- Other:

REAL PROPERTY

- Ejectment
- Eminent Domain/Condemnation
- Ground Rent
- Landlord/Tenant Dispute
- Mortgage Foreclosure: Residential
- Mortgage Foreclosure: Commercial
- Partition
- Quiet Title
- Other:

MISCELLANEOUS

- Common Law/Statutory Arbitration
- Declaratory Judgment
- Mandamus
- Non-Domestic Relations
- Restraining Order
- Quo Warranto
- Replevin
- Other:

PROFESSIONAL LIABILITY

- Dental
- Legal
- Medical
- Other Professional: