
**In the Supreme Court of Pennsylvania
Middle District**

No. 159 MM 2017

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA *et al.*,
Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA *et al.*,
Respondents.

Review of Recommended Findings of Fact and Conclusions of Law from the
Commonwealth Court No. 261 M.D. 2017

**APPLICATION OF RESPONDENTS MICHAEL C. TURZAI, IN HIS
OFFICIAL CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE
OF REPRESENTATIVES, AND JOSEPH B. SCARNATI, III, IN HIS
OFFICIAL CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE FOR A HEARING ON THEIR APPLICATION FOR
DISQUALIFICATION OF JUSTICE DAVID WECHT AND FOR FULL
DISCLOSURE BY JUSTICE CHRISTINE DONOHUE**

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Respondents, Michael C. Turzai and Joseph B. Scarnati, III (“Legislative Respondents”), by and through their undersigned counsel, respectfully submit this Application for a Hearing on their Application for Disqualification of Justice David Wecht, and for Full Disclosure by Justice Christine Donohue.

1. On Friday, February 2, 2018, Legislative Respondents filed their Application for Disqualification of Justice David Wecht, and for Full Disclosure by Justice Christine Donohue.

2. For the reasons explained therein, Legislative Respondents respectfully submit that Justice David Wecht is required to disqualify himself or, failing that, this Court has the duty to retroactively disqualify Justice Wecht from this case and invalidate his votes in the Court’s Orders of November 9, 2017, January 22 and 26, 2018 based on the statements he made regarding the 2011 Plan and “partisan gerrymandering” while he was a candidate for this Court.

3. Legislative Respondents have further requested that Justice Donohue be required to disclose all information she believes the parties or their lawyers might reasonably consider relevant to a possible motion for disqualification pursuant to 207 Pa. Code 2.11(A)(5), including any statements regarding “gerrymandering” or the 2011 Plan, based on her statement at a candidate forum that, if elected, she would “end gerrymandering.”

4. The Prothonotary of the Pennsylvania Supreme Court ordered Petitioners, the remaining Respondents and Intervenors to file their Answer, or a No Answer Letter, to Legislative Respondents' Application by 10:30 a.m. on Monday, February 5, 2018.

5. Prior to this deadline to respond, Legislative Respondents are submitting this request for a hearing.

6. "A party seeking recusal bears the burden of producing evidence to establish bias, prejudice, or unfairness which raises a substantial doubt as to the jurist's ability to preside impartially." *Com. v. Watkins*, 108 A.3d 692, 734 (Pa. 2014) (citation omitted).

7. While Legislative Respondents submit that the evidence recited in their Application is sufficient to meet their burden to prove the appearance of impropriety (let alone actual bias) on the part of Justice Wecht, in the event Justice Wecht is inclined to not recuse himself *and* the Court is inclined to deny the Application, then Legislative Respondents submit that a hearing is appropriate to afford Legislative Respondents the opportunity to more fully explore and prove the evidence underlying their Application, as well as any additional evidence which may come to light prior to a hearing.

8. The issues raised as to Justice David Wecht's bias and Justice Christine Donohue's potential bias, based on the statements and comments detailed

in Legislative Respondents' Application, present a situation of significant importance regarding the partiality of the Supreme Court and Pennsylvanians' confidence in the jurists they have elected.

9. Legislative Respondents submit that a hearing would be in the public interest as a hearing would provide the requisite transparency to a matter of great public importance to the Commonwealth of Pennsylvania and its voters.

10. As such, it cannot be disputed that the appearance of impartiality and full transparency by the Commonwealth's highest court is also of extreme importance.

11. With the presence of these serious issues bearing upon the impartiality and ultimate validity of this Court's Orders in this matter, Legislative Respondents submit that a hearing is appropriate and will benefit both the parties and the Court in its consideration and ultimate decision on the Application for Disqualification of Justice David Wecht, and for Full Disclosure by Justice Christine Donohue.

WHEREFORE, Legislative Respondents respectfully request that this Honorable Court grant this Application for a Hearing on their Application for Disqualification of Justice David Wecht, and for Full Disclosure by Justice Christine Donohue and schedule a hearing at the convenience of the Court's calendar.

Dated: February 4, 2018

Respectfully submitted,

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