

IN THE COURT OF COMMON PLEAS OF BUCKS COUNTY, PENNSYLVANIA
CIVIL ACTION LAW

Bucks County Democratic Committee	:	No. 2023-06672-40
	:	
v.	:	
	:	
John Doe	:	

DECISION AND ORDER

AND NOW, this 2nd day of November, 2023, following hearing before the undersigned on Plaintiff's Petition for Preliminary Injunction, the Court determines as follows:

1. The signs at issue in this case involve the forthcoming Central Bucks School District School Board Election.
2. The identity of the person or person(s) who placed the political signs is unknown.
3. Plaintiff relies in part upon 25 P.S. §3258 for the relief requested.
4. The foregoing section of the Pennsylvania Election Code was adopted in 1937 and most recently modified by legislation in 1978.
5. The validity of notice requirements regarding political advertising were previously called into question by the Pennsylvania Supreme Court in Com. v. Wadzinski, 492 Pa. 35, 422 A.2d. 124 (1980) which held certain sections of 25 P.S. §3258 to be unconstitutional under the First and Fourteenth Amendments.
6. Pennsylvania Statute 25 P.S. §3258 has not been revised by the Pennsylvania Legislature since the Wadzinski decision.

7. Purdon Pennsylvania Statutes contains the following statement after §3258:

Validity

For validity of notice requirements with respect to political advertisements referencing an opponent, see *Com v. Wadzinski*, 492 Pa. 35, 422 A.2d 124 (1980).

8. Following the hearing held before this Court and at the request of Plaintiff, Plaintiff's request for preliminary injunctive relief is **WITHDRAWN** as to (a) signs which are located on private property outside of any public right-of-way or easement and (b) signs which are located on private property and within a public right-of-way or easement.

9. Accordingly, each political sign placed on private property shall remain.^{1 2}

10. Plaintiff's request for injunctive relief is **GRANTED** as to all signs which are located on public property (public property is property which is owned by a governmental entity in fee simple) and subject to the following conditions:

- a. Plaintiff is authorized either themselves, or through an authorized representative, to remove all publicly displayed signs from public property which are identical to Exhibits A-N and any other similar signs which do not contain the "paid for by" information required under 25 P.S. §3258 and may continue to do so through Election Day.

¹ United States Supreme Court Justice Brandeis observed in his classic 1927 concurring opinion in *Whitney v. California* (1927), when he wrote: "If there be time to expose through discussion, the falsehoods and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence."

² Justice Kennedy further noted: "The remedy for speech that is false speech that is true. This is the ordinary course in a free society. The response to the unreasoned is the rational; to the uninformed, the enlightened; to the straightout lie, the simple truth." *United States v. Alvarez*, 567 U.S. 709, 727 (2012).

- b. Plaintiff shall contact the police departments having jurisdiction over the locations from which the signs were removed and shall follow the police departments' direction with respect to storage and handling of all signs removed, and the process of return and final disposition.
- c. Plaintiff and other persons shall follow applicable polling place rules, regulations and procedures regarding placement of signs at polling places on Election Day.

11. Plaintiff argued at the hearing that the statute cited herein, §3258, is inadequate to address the facts of this case, however, the Court respectfully submits that modification of statutory remedies is a legislative function and not a judicial function.

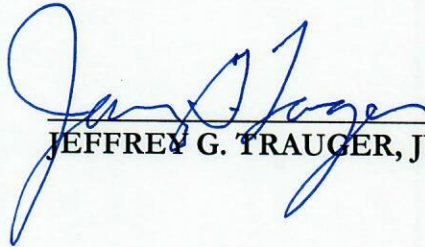
12. Plaintiff shall retain all rights to proceed with enforcement under current Pennsylvania law against the John Doe defendant(s), specifically, a potential defamation suit as indicated at hearing or the current statutory remedy expressly set forth at 25 P.S. Section 3528(b)(3) as follows:

Any person, firm or corporation, political committee or party or member thereof, violating any of the provisions of this section, shall be guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), or to undergo an imprisonment of not less than one (1) month nor more than two (2) years, or both, in the discretion of the court.

13. Joseph A. Cullen, Jr., Esquire, appeared at the hearing to assure that all candidates, political party or political committee signs remain throughout the scheduled election. On behalf of Plaintiff, Dawn M. DiDonato-Burke, Esquire, assured that such signs would remain as placed and were not the subject of this injunction action or this Decision and Order.

14. The Court finds that the issues in the case are of substantial public importance and involve unresolved Constitutional issues such that Plaintiff may immediately appeal this decision.

BY THE COURT:



JEFFREY G. TRAUGER, JUDGE

N.B. It is your responsibility
to notify all interested parties
of the above action.

Copies emailed 11/02/2023:

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