

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPREME JUDICIAL COURT
FOR THE COMMONWEALTH OF
MASSACHUSETTS

No. SJC-12972

RAYLA CAMPBELL, CAROLINE COLARUSSO, JULIE HALL, HELEN
BRADY

on behalf of themselves and others similarly situated, PETITIONERS

v.

WILLIAM FRANCIS GALVIN,
in his Official Capacity as Secretary of the Commonwealth,
RESPONDENT.

APPEAL of RAYLA CAMPBELL
FROM THE
SINGLE JUSTICE SESSION

**REPLY TO RESPONSE OF THE SECRETARY
TO
MOTION BY PETITIONER CAMPBELL
TO
ADVANCE AND EXPEDITE**

Petitioner (Appellant) Rayla Campbell submits this reply to the Response of Appellee Secretary of the Commonwealth to Appellant's Motion to Advance and Expedite.

FIRST, the Secretary's criticism as to lack of a specific timetable is misplaced.

1. Counsel for Campbell did not specify a timetable for review out of courtesy to both the Court and the Secretary, during the pendency of the COVID-19 pandemic. This should not be grounds for criticism. With the Secretary's input now in hand, Campbell proposes a schedule below.

2. Campbell filed its Appellant Brief, Appendix I, and Appendix II on Thursday July 9, 2020.

SECOND, the Secretary mis-describes the record and the timeline.

3. On June 5, 2020, three days after the County Court dismissed Campbell, she moved for reconsideration. Appellant's Brief (at p 10). RA-I-489.

4. On June 9, 2020, Campbell filed a Supplemental Memorandum and Second Supplemental Affidavit, raising 2 U.S.C. 7 as an additional basis for reconsideration. Appellant's Brief (at p 10). RA-I-499.

5. On June 12, 2020, counsel for Petitioner received the Court's Order dismissing Campbell. Appellant's Brief (at p 10). RA-I-517.

6. Seven days later on June 19, 2020, Campbell appealed. RA-I-521. The appeal followed discussion, consideration, and communication with counsel.

7. Counsel is a sole practitioner. He represents all four Petitioners in the underlying case. Two of those Petitioners are on the September 1, 2020 ballot.

8. A third Petitioner, Helen Brady, is before this Court on appeal, represented by separate counsel in the SBLC, heard July 10, 2020. (SJC12979.)

9. That appeal followed the filing of an Objection to nomination papers on June 5. A hearing was held in the SBLC on June 16, 2020.

10. Between June 5, 2020 and July 9, 2020, counsel for Petitioner Campbell worked twelve to fifteen-hour days, including weekend days:

- a. Assembling Appendix I and Appendix II.
- b. Drafting and Filing Petitioner Campbell's Appellant Brief and Addendum;
- c. Assisting separate counsel retained by Brady in June, 2020.

11. Appellants Brief, Appendix I, and Appendix II were filed on the earliest possible day that counsel for Campbell was able to properly produce them.

12. Hard copies of the Appellant's Brief, Appendix I, and Appendix II were printed on the evening of July 10, 2020, and, per discussion with the Clerk, will be delivered to the Court on Monday July 13, 2020.

THIRD, the Secretary's characterization of this appeal is incomplete.

13. Campbell's Appeal is not focused, primarily, on the number of nominations she obtained (though this is a sub-issue). The Secretary and the Attorney General have been aware of Petitioner's substantive claims throughout the proceedings below.

14. The substance of the Appeal is this:
As applied to Campbell in the 7th Congressional District – the only “majority-minority” district in the Commonwealth – Campbell and voters in the 7th District were denied access to the ballot in violation of Article IX of the Declaration of Rights, the 14th Amendment, Section 2 of the Voting Rights Act, and 2 U.S.C. 7.

(Appellant's Brief: Table of Contents and Table of Authorities, pp. 2-6; Summary of Argument, pp. 31-33; Argument, 34-52.

FOURTH, the Court has expressed interest in the discriminatory effect of COVID-19 on African Americans, which is at the core of Campbell’s Appeal.

15. Campbell is African-American. RA-I/494 at ¶¶3-4. The 7th District is the only “majority-minority” district in the Commonwealth. RA-I/494.

16. On June 3, 2020 the seven Justices of this Court issued a letter to judges, clerks, and lawyers in the Commonwealth confirming the necessity for courts:

“to ensure that the justice provided to African-Americans is the same as that is provided to white Americans; to create in our courtrooms, our corner of the world, a place where all are truly equal.” RA-I/497.

The Justices confirmed the disproportionate suffering of African-Americans from COVID-19. RA-I/497.

17. Petitioner’s Appeal is a case in which this need can be met. RA-I/495.

FIFTH, if the Secretary Prefers a Longer Briefing Scheduling, Campbell will Assent to Entry of An Injunction that Preserves Campbell’s Constitutional Rights

18. Included in the Secretary’s response is the assertion that counsel for Campbell did not choose to seek an injunction (at page 2 of the Response).¹

19. The Secretary has not been previously raised this issue. Nor would it make practical sense for Campbell to seek an injunction in the County Court, which had dismissed her claims.

20. Instead, Petitioner Campbell proceeded to prepare and file the Appellant Brief, Appendix I, and Appendix II. As noted above in paragraph 11

¹ How this could be done without Campbell arguing the same issues presented in Appellant’s Brief (to establish likelihood of success on the merits) is not explained.

above, these documents were filed on the earliest possible day that counsel for Campbell was able to properly produce them.

21. If the Secretary and the Attorney General now contend an injunction is appropriate that preserves Campbell's rights and avoids a federal deadline of July 18, 2020, Petitioner Campbell will, of course, consent to such an injunction.

22. Petitioner Campbell believes the more practical solution is for the Secretary to file its Appellee Brief on or before July 14, as noted below.

SIXTH, compared to Petitioner Campbell, there is a low burden for the Secretary to file a brief in within five (5) days of Appellant's Brief.

23. The Secretary and the Attorney General are familiar with the issues below, which remain unchanged. This familiarity began on May 5, 2020.

24. The Attorney General has a very large staff of competent attorneys – comparable to any large law firm in the City of Boston.

25. The issues on appeal are straightforward. The facts are largely undisputed, and documented. Appellant's Brief: Statement of Facts, pp. 11-30.

26. The legal issues are confined and clear. Appellant's Brief: Argument: pp. 34-52. The Attorney General's Government Bureau is versed in these issues.

27. Petitioner Campbell requests that the Court Order Appellee's Brief be filed no later than July 14, 2020, and that the Court proceed to a decision, with or without oral argument, as the Court determines after Appellee's Brief is filed.

Conclusion

For the reasons set forth above, Petitioner (Appellant) Campbell requests that the Court issue an order requiring the Secretary to file its Brief on or before July 14,

2020, and confirming that the Court will proceed to a decision, with or without oral argument as the Court decides after the Appellee's Brief has been filed.

Respectfully submitted,

/s/ John B. Miller

John B. Miller, BBO 347160
Ironside Law Group LLC
(339) 221-0401
jbmiller@ironsidelawgroup.com

/s/ David W. Carr

DAVID W. CARR, BBO 075390
General Counsel MassGOP
4 Newman Way
Arlington, MA 02476
(781) 646-6565
david@davidcarrlaw.com

Counsel for Petitioners

Dated: July 11, 2020

CERTIFICATE OF SERVICE

I, John B. Miller, a member of the Bar of this Court, hereby certify that on this day, July 11, 2020, the foregoing Reply to Response of the Secretary to Motion by Petitioner Campbell to Advance and Expedite was electronically served on counsel to the Secretary of Commonwealth and upon counsel for Intervenors, by emails sent to Assistant Attorney General Anne Sterman, Assistant Attorney General Elizabeth Kaplan, Assistant Attorney General Richard Weitzel, and Gerald A. McDonough.

s/s John B. Miller

John B. Miller