

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

SUFFOLK, ss.

No. SJC-12972

RAYLA CAMPBELL,

Appellant,

v.

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

Appellee.

**RESPONSE OF APPELLEE SECRETARY OF THE COMMONWEALTH TO
APPELLANT’S MOTION TO ADVANCE AND EXPEDITE**

Appellee Secretary of the Commonwealth (“Secretary”) respectfully submits this response to Appellant Rayla Campbell’s Motion to Advance and Expedite. In her Motion, which was filed 17 days after her appeal in this Court was entered, Campbell cites the “urgency” of the case and asks that it be resolved on an “expedited basis,” but she does not specify the timetable for review that she is seeking. The Secretary agrees that there is some time-sensitivity to the matter, and will endeavor to move quickly in briefing the case. However, to the extent that Appellant is requesting that the case be briefed and heard on an “ultra”-fast track (as was done in *Brady v. State Ballot Law Commission, et al.*, SJC No. 12979), the Secretary strongly disagrees that such an extreme expedited schedule is warranted here, for the reasons discussed below. Instead, the Secretary would propose submitting his Brief of Appellee (“red brief”) by July 23, 2020 – two weeks from the filing of Appellant’s Brief.

PROCEDURAL BACKGROUND

Appellant Campbell is a candidate seeking the Republican party nomination for the Office of Representative in the U.S. Congress for the 7th Congressional District. Along with several other petitioners (also running for the Office of Representative in Congress), including Helen Brady, she sought various forms of relief relating to her candidacy in an Emergency Petition filed with the County Court on May 5, 2020. The Single Justice (Kafker, J.) granted the Secretary's motion to dismiss Campbell's County Court Petition 38 days ago, on June 2, 2020. In a nutshell, the Single Justice granted the Secretary's motion because Campbell – who had only obtained 544 certified signatures -- “was unable to obtain enough signatures to meet the modified *Goldstein* threshold of 1,000 signatures.”¹ SJ-2020-321, Interim Order dated June 2, 2020, Docket Entry # 11. Campbell's subsequent motion for reconsideration was denied by margin order (Kafker, J.) dated June 8, 2020, with notice to the parties of this decision on June 12, 2020. Campbell did not file a notice of appeal of the Single Justice's rulings until June 22, 2020, 20 days after her claims were dismissed, and 10 days after receiving notice of the denial of her motion for reconsideration.

At no point did Campbell file a motion to enjoin the Secretary from printing and distributing ballots for the 7th Congressional District during the pendency of her appeal. Her present Motion to Advance and Expedite, filed on July 9, 2020, now comes 17 days after her appeal was entered in the Court's docket on June 22, 2020. In advancing her appeal, Brady is presumed to know about the federal deadlines for sending ballots out to military and overseas

¹ The Secretary's motion to dismiss was accompanied by affidavit evidence that Campbell had obtained 544 certified signatures. In her appellate brief, Campbell states that the actual number of valid signatures that she obtained was 652 signatures. *See* Brief of Appellant Rayla Campbell, pp. 27, 32, 36. In either case, Campbell has fallen well short of the required 1,000 signatures.

voters, as discussed immediately below.

DISCUSSION

As this Court discussed in *Goldstein v. Secretary of the Commonwealth*, 484 Mass. 516, 522 (2020), the Secretary is under significant time pressure when it comes to printing, finalizing, and distributing ballots in order to meet the federally mandated deadline on July 18, 2020, relating to the distribution of ballots to military and overseas ballots. *Id.* With respect to the ballots for Campbell's 7th Congressional District, such ballots have now been finalized. The Secretary's office has printed them and delivered them to the City of Boston, and is in the process of printing the ballots for the other municipalities within the District. For all municipalities in the District, the electronic ballot files have been delivered to the local officials to send to military and overseas voters who require that the ballots be emailed to them. Campbell's name does not appear on the ballots because she did not obtain the required number of certified signatures and her claims for equitable relief were dismissed by the County Court. *See, supra*, footnote 1.

Because the ballot process for the 7th Congressional District is already substantially underway and, in some respects, completed, the Secretary respectfully submits that there would be no utility to the parties briefing this matter, and the Court resolving it, on an extremely expedited basis; *i.e.*, on a schedule that takes into account the July 18, 2020 deadline for transmitting the ballots to military and overseas voters. In short, the July 18th date is no longer of relevance for Campbell's appeal.²

² In the event that Campbell is successful on her appeal, the Secretary would need to re-print and re-distribute the relevant ballots, but the question of whether this needs to happen does not need to be decided during the week of July 13th.

In this regard, Campbell's reference in her Motion to Expedite to the fact that the Brady "companion case" has been "expedited" -- apparently suggesting similar treatment here -- is misplaced. In Brady's case, the 9th Congressional District ballots have not been finalized, printed or delivered to the local officials; the Secretary awaits a decision of the Court before proceeding to meet the July 18, 2020 deadline. Moreover, Campbell is not similarly situated to Brady because, as the Court is aware, Brady obtained over 1,000 certified signatures, but these signatures were subject to an objection. The County Court, accordingly, stayed Brady's case while the objection was heard by the State Ballot Law Commission. The Commission's decision, which had the effect of removing Brady from the ballot, is now on appeal. In Campbell's case, by contrast, she never obtained the required number of signatures (she claims that 652 were obtained), and her County Court Petition was summarily dismissed. Thus, Brady and Campbell stand on very different footing, both procedurally and substantively.

SECRETARY'S PROPOSAL

The Secretary appreciates that this case should be briefed and considered on a faster track than usual. To this end, the Secretary would propose to submit the Brief of Appellee ("red brief") no later than 14 days from the filing of Appellant's Brief on July 9, 2020; *i.e.*, by July 23, 2020.

Because the Secretary believes that his matter is straightforward and does not raise substantial questions, he would also propose that the case be deemed submitted on the filing of Appellee's brief and that no oral argument is necessary.

Respectfully submitted,

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

By his attorney,

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Dated: July 10, 2020

CERTIFICATE OF SERVICE

I, Richard Weitzel, Assistant Attorney General, certify that I have served the attached Response of the Secretary of the Commonwealth to Appellant's Motion to Advance and Expedite on July 10, 2020, by causing a copy to be delivered electronically to:

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