

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
No. SJ-2020-278

GREGORY DAVID DENNIS, et al.,

v.

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

RESERVATION AND REPORT

This matter first came before the court on April 27, 2020, on the Emergency Petition For Relief Pursuant to G. L. c. 241, § 1 and G. L. c. 231A, § 1, filed by the petitioners, proponents of four ballot initiative petitions, seeking the issuance of a declaratory judgment that, in light of the extraordinary restrictions on in-person contact arising from the COVID-19 pandemic, they be permitted to collect the required signatures in support of their initiative petitions electronically and file them with the respondent, the Secretary of the Commonwealth of Massachusetts (Secretary). Subsequently, on April 29, 2020, the single justice entered a judgment, agreed upon by all parties (Agreed Judgment), establishing a procedure for "the signing, collection, verification, and certification of [electronic] signatures to be submitted to local election officials for certification on or before June 17, 2020 and thereafter filed with the Secretary on or before July 1, 2020." Agreed Judgment, ¶ 1. The single justice retained jurisdiction to resolve any disputes between one or more of the petitioners and the Secretary arising out of or related to the Agreed Judgment. Id. at ¶7.

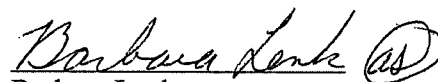
The matter now comes back before the court on a Motion for Further Relief filed by two of the petitioners, the Massachusetts Senior Coalition and Deana Milone-Bonanno (collectively, 19:11 Petitioners), proponents of Initiative Petition 19-11: An Act Establishing Adequate Funding for Residents of Massachusetts Nursing Homes (Initiative Petition 19:11). According to a formula established in the Massachusetts Constitution, the 19:11 Petitioners were required to collect 13,374 certified signatures and file them with the Secretary on or before the July 1 deadline, to qualify Initiative Petition 19:11 for placement on the November 3, 2020, general election ballot. See Mass. Const. Amend. Art. 48, The Init., Pt. V, § 1 ("a number of signatures of qualified voters equal in number to not less than one half of one per cent of the entire vote cast for governor at the preceding biennial state election"). As of July 1, the 19:11 Petitioners allege that they had collected 19,282 signatures, mostly by electronic means, but that local election officials had rejected 7,468 of them, leaving the 19:11 Petitioners with 11,814 certified signatures, or 1,560 short of the requisite number. Having concluded that it would be futile to proceed with the initiative petition under the circumstances, the 19:11 Petitioners chose not to file any of the signatures they had collected, certified or uncertified, with the Secretary by the July 1 deadline. Instead, on July 17, they filed the present motion, asking the court to order the Secretary to place Initiative Petition 19:11 on the general election ballot. As grounds for the requested relief, they advance two arguments. First, they argue that approximately 1,700 of the electronic signatures that were rejected by local election officials must be declared "certified" because the reasons given for rejecting them cannot withstand constitutional strict scrutiny analysis under the extraordinary circumstances arising from the COVID-19 pandemic, most notably, the inability to have in-person contact with registered voters residing in nursing homes; a key demographic for Initiative Petition 19:11. Alternatively, they argue that, even assuming

they fell short of the number of constitutionally required certified signatures (13,374), the court should declare, as a matter of equity in light of the aforementioned circumstances prevailing during the pandemic, that they have demonstrated sufficient support among the voting public to warrant the placement of Initiative Petition 19:11 on the ballot.

Because the petition raises significant and time-sensitive legal issues that are appropriately decided by the full court, I hereby exercise my discretion to reserve and report the matter presented by the 19:11 Petitioner's motion to the full court for decision. The 19:11 Petitioners shall be deemed the appellants and the Secretary the appellee, with the matter to be known in the full court as *Massachusetts Senior Coalition and Deana Milone-Bonanno v. William Francis Galvin, Secretary of the Commonwealth of Massachusetts*.¹ Unless otherwise ordered by the full court, the appeal shall be decided upon the record before the single justice. The 19:11 Petitioner's Motion for Further Relief shall be treated as the appellants' brief. The Secretary's opposition, filed on July 20, 2020, shall be treated as the appellee's brief. The 19:11 Petitioner's reply memorandum, filed on July 21, 2020, shall be treated as the appellants' reply brief. If the full court determines that a hearing is necessary, an appropriate date and time will be determined.

Dated: July 23, 2020

By the Court,


Barbara Lenk
Associate Justice

¹ The other petitioners, including Gregory David Dennis, Karen Morey Kennedy, The Ranked Choice Voting 2020 Committee, The Massachusetts Right to Repair Committee, Glenn Wilder, The Committee for Safe and Fair Competition, and Matthew Durand, are not parties to the present motion and are not parties to the matter reserved and reported to the full court.