

LINDA H. LAMONE,

* IN THE

Petitioner,

* COURT OF APPEALS

v.

* OF MARYLAND

NANCY LEWIN, *et al.*,

* September Term, 2018

Respondents.

* Petition Docket No. ____

COA-PET-0097-2018

* * * * *

MOTION FOR IMMEDIATE STAY PENDING FURTHER REVIEW

Linda H. Lamone, State Administrator of Elections, moves under Rule 8-303(e), for an immediate stay of the order of the Circuit Court for Anne Arundel County granting a preliminary injunction (Pet. App. 6-7) that ordered her to remove the name of Nathaniel Oaks from the primary election ballot for the office of State Senator in Legislative District 41 and enjoined her from distributing to voters any ballot containing the name of Nathaniel Oaks as a candidate for election in the 2018 primary election.

This motion requires this Court's immediate attention because, unless the Court grants a stay today, April 26, 2018, the State Board of Elections will have to halt printing of the ballots for the 2018 primary election, which has already begun, and begin the process of revising the affected ballots across all of the different ballot formats, having the ballots re-proofed by the local board of elections, re-importing ballot style data into its MDVOTERS database, reassigning absentee voters to this election through the MDVOTERS database (a process that, alone, will take an estimated five days). (Pet. App. 84-87, 90-93.) In addition, the State Board of Elections cannot test its web delivery systems for absentee ballots until all of absentee voters have been reassigned in the MDVOTERS

database. (Pet. App. 86-87.) That testing takes approximately two weeks to complete, and must be completed by the May 12, 2018 deadline for delivery of absentee ballots. (Pet. App. 86-87; *see also* Pet. App. 30.) *See* 52 U.S.C. § 20302(a)(8).

The defendant filed notices of appeal of the injunction order to the Court of Special Appeals and to this Court, *see* Md. Code Ann., Cts. & Jud. Proc. § 12-303(3)(i); Elec. Law § 12-203(a)(3), and have filed with this motion a petition in this Court for a writ of certiorari before decision in the Court of Special Appeals.

As set forth in the petition for a writ of certiorari, the injunction should be vacated because the plaintiffs failed to establish entitlement to preliminary injunctive relief. The injunction (1) is not authorized under any provision of the Election Law Article or other law; (2) threatens to disrupt the conduct of the upcoming primary election; (3) is barred by laches; and (4) is contrary to the public interest.

The preliminary injunction, which is based on the plaintiffs' untimely request, as set forth in their second amended complaint filed on April 23, 2018, does not preserve the status quo and is contrary to the public interest because, among other reasons, as set forth in the petition for a writ of certiorari and the affidavits of Natasha Walker attached to the petition (App. 83-93), printing of ballots has commenced, redoing the ballots will involve the redoing of many time-consuming tasks, and absentee ballots are scheduled to be pulled on April 25, 2018, a process that cannot be undone without a further five-day delay and reprogramming by the development team.

The defendants respectfully request that this Court stay the preliminary injunction entered in this case on April 26, 2018, and all proceedings in this case in the Circuit Court for Anne Arundel County, pending further order of this Court.

Respectfully submitted,

/s/ Julia Doyle Bernhardt

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April 26, 2018

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I certify that on this 26th day of April 2018, a copy of the foregoing was filed and served electronically on the MDEC system and sent by electronic mail to:

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Julia Doyle Bernhardt

LINDA H. LAMONE., *et al.*,
Petitioners,

v.

IAN SCHLAKMAN, *et al.*,
Respondents.

* IN THE
* COURT OF APPEALS
* OF MARYLAND
* September Term, 2016
* Petition Docket No. ____

* * * * *

ORDER

Upon consideration of the motion for stay pending further review filed by the petitioners, it is this __ day of September, 2016, by the Court of Appeals of Maryland,

ORDERED, that the motion for stay pending further review is GRANTED; and that the temporary restraining order of the Circuit Court for Anne Arundel County entered on September, 2016 in *Schlakman, et al. v. Linda H. Lamone, et al.*, Civil Action No. C-02-CV-16-2906, and all further proceedings in that case are STAYED, pending further order of this Court. C-02-CV-16-2906

JUDGE