

LINDA H. LAMONE, * IN THE
Petitioner, * COURT OF APPEALS
v. * OF MARYLAND
NANCY LEWIN, *et al.,* * September Term, 2018
Respondents. * Petition Docket No. 97
* * * * *

**OPPOSITION TO MOTION FOR IMMEDIATE STAY
PENDING FURTHER REVIEW**

Nancy Lewin, Elinor Mitchell and Christopher Ervin, Respondents, hereby oppose Petitioner’s Motion for Immediate Stay Pending Further Review.

The trial court in this matter considered affidavits and live testimony from Natasha Walker, the Project Manager of Election Management Systems for the Maryland State Board of Elections, attesting to the practical difficulties the State Board of Elections would face if an injunction were entered in the matter. In light of that evidence, the Honorable Glenn L. Klavans made a factual finding that the harm to the election process caused by such an injunction would be “minimal” and that the State Board of Elections still have “adequate time to reform the ballot in this case.” (Trial Transcript at 34:1-3.) Ms. Walker herself admitted that a delay caused by removing Nathaniel T. Oaks’ name from the two ballots in Legislative District 41 make the timely printing of the statewide ballots “very challenging,” but still “doable.”

In Petitioner's Motion for Immediate Stay, the State Board contends that it must halt all printing of all ballots while this appeal is pending, absent entry of a stay today. The trial court's order requires Petitioner to remove Nathaniel Oaks' name from any and all ballots for elective office. Petitioner has not been ordered to halt all printing of the ballots pending this change to the two ballots in Legislative District 41. Printing and testing of ballots other than those in District 41 could continue apace while this appeal is pending.

However, even if all printing must stop pending this appeal, Petitioner purports to need two weeks to test its web delivery systems for absentee ballots. Petitioner has represented that it began the ballot printing process on April 23, 2018. They have now had four full days of this process. If it takes two weeks to test the web delivery systems, even a stay of all testing until May 3 would still leave Petitioner time to meet the March 12 deadline for delivery of absentee ballots.

Respondents agree with Petitioner that this matter should be heard by the Court of Appeals of Maryland. To that extent, Respondents do not oppose Petitioner's Petition for Writ of Certiorari. Respondents are also amenable to an expedited briefing schedule and oral argument to be held as early as May 2, 2018.

The trial court's decision to grant Respondents' preliminary injunction will be reviewed for abuse of discretion. *Schade v. Maryland State Board of Elections*,

401 Md. 1, 33-34, 930 A.2d 304, 323-24 (2007). The trial court did not abuse its discretion in granting the preliminary injunction.

/s/

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MARYLAND RULE 20-201(f) CERTIFICATE

I HEREBY CERTIFY that this submission does not contain any restricted information.

/s/

H. MARK STICHEL

ATTORNEY FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby 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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