

[J-9-2007]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

IN RE: ADMINISTRATIVE ORDER NO. : No. 33 MAP 2006
1-MD-2003 :
:
:
: Appeal from the Order of the
PETITION OF: HONORABLE JAMES P. : Commonwealth Court of Pennsylvania
TROUTMAN, CLERK OF COURTS OF : entered September 13, 2005, at No. 902
THE COURT OF COMMON PLEAS OF : CD 2004, affirming the Order of the Court
BERKS COUNTY : of Common Pleas of Berks County, dated
: March 30, 2004, at No. 1-MD-2003.
:
: 882 A.2d 1049 (Pa.Cmwlt. 2005)
:
: ARGUED: March 6, 2007

THE HONORABLE JAMES P. : No. 181 MM 2005
TROUTMAN, CLERK OF COURTS OF :
BERKS COUNTY, :
:
: Application For Leave to File Original
Petitioner : Process and Petition for Writ of Prohibition
:
:
v. :
:
:
COURT OF COMMON PLEAS OF :
BERKS COUNTY, :
:
Respondent.

CONCURRING OPINION

I join the majority opinion, subject to the understanding that Appellant lacks a substantial interest, and thus standing, because the challenged order does not directly interfere with his obligations as clerk of court. See generally 42 Pa.C.S. §2757. To be more specific, although the majority observes that the clerk's duties are ministerial in nature, see Majority Opinion, slip op. at 11-12, this does not mean that the clerk has no role in construing any enactment, as he plainly must be able to understand his duties as set forth in Section 2757, or as otherwise imposed "by law, home rule charter, order or rule of court, or ordinance" 42 Pa.C.S. §2757(5). Thus, if Appellant had been directed to take some action that blatantly and indisputably contradicted the lawful requirements of his office, I would likely find that his interest in the matter was substantial. Here, however, there is a more tenuous relationship between his legal obligations and the statute at issue (CHRIA). Indeed, under Section 9104(a)(2) of the Crimes Code, it appears that the scheme embodied in CHRIA Section 9122 -- on which Appellant relies, see Brief for Appellant at 18 -- does not apply to records maintained by the judiciary in the first instance. See 18 Pa.C.S. §9104(a)(2) (stating that, with certain exceptions not applicable here, CHRIA does not apply to court records). In short, there is, at a minimum, substantial doubt whether expunction of the records in question is improper. See generally Commonwealth v. Armstrong, 495 Pa. 506, 513 n.8, 434 A.2d 1205, 1209 n.8 (1981); Pa.R.Crim.P. 320(A). Under these circumstances, I agree that Appellant's private interpretation to the contrary is insufficient to give him a substantial interest in refusing to comply with the order.

Mr. Justice Eakin joins this concurring opinion.