

Circuit Court for Anne Arundel County
Case No. C-02-CV-23-002315
Argued: February 5, 2024

IN THE SUPREME COURT

OF MARYLAND

No. 26

September Term, 2023

DEREK HARVEY, ET AL.

v.

JARED DEMARINIS, IN HIS OFFICIAL
CAPACITY AS THE STATE
ADMINISTRATOR OF ELECTIONS,
ET AL.

Fader, C.J.,
Watts,
Hotten,
Booth,
Biran,
Gould,
Eaves,

JJ.

ORDER

Filed: February 28, 2024

Pursuant to the Maryland Uniform Electronic Legal
Materials Act (§§ 10-1601 et seq. of the State
Government Article) this document is authentic.



Gregory Hilton, Clerk

DEREK HARVEY, ET AL.

v.

JARED DEMARINIS, IN HIS
OFFICIAL CAPACITY AS THE
STATE ADMINISTRATOR OF
ELECTIONS, ET AL.

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No. 26
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ORDER

Upon consideration of the filings by Derek Harvey, et al., Appellants, and Jared DeMarinis, in his official capacity as the State Administrator of Elections, et al., Appellees, oral argument conducted in the above-captioned case on February 5, 2024, and the subsequently filed “Conditional, Joint Motion to Consolidate, Vacate, and Remand for Dismissal,”

Whereas, on November 8, 2023, in the Circuit Court for Anne Arundel County, Appellants filed an amended emergency petition challenging the Maryland State Board of Elections’ decision not to approve the placement of an early voting center in the Hancock Town Hall in Washington County, setting forth four counts, seeking: (I) judicial (injunctive) relief under Md. Code Ann., Elec. Law (2003, 2022 Repl. Vol.) (“EL”) § 12-202 (Judicial Challenges); (II) voiding of the State Board’s act under Md. Code Ann., Gen. Prov. (2014, 2019 Repl. Vol.) (“GP”) § 3-401 (Enforcement in

General), part of the Open Meetings Act, GP §§ 3-101 to 3-501; (III) declaratory judgment; and (IV) a common-law writ of mandamus,¹

Whereas, in Count I of the amended petition, Appellants contended that the State Board's review and lack of approval of the Hancock location violated applicable provisions of the Election Law Article and Code of Maryland Regulations,

Whereas, on November 12, 2023, Appellees filed a motion to dismiss the amended petition or in the alternative for summary judgment, seeking judgment with respect to all counts,

Whereas, on November 22, 2023, Appellants filed an opposition to the motion to dismiss and/or for summary judgment, and a motion for summary judgment, seeking judgment in their favor on each count of the amended petition,

Whereas, on November 27, 2023, Appellants filed a second amended petition, naming the Board of County Commissioners for Washington County (the "Commissioners") as an additional petitioner for Counts II, III, and IV, and on November 28, 2023, Appellees filed a motion to strike the second amended petition,

Whereas, on November 29, 2023, after a hearing conducted on November 14 and 29, 2023, the Circuit Court for Anne Arundel County, ruling from the Bench, denied Appellees' motion to strike the second amended petition and granted Appellees' motion for summary judgment on all counts in the second amended petition,

¹On November 6, 2023, Appellants had filed in the Circuit Court for Anne Arundel County a one-count emergency petition seeking injunctive relief under EL § 12-202(a)(1).

Whereas, on December 1, 2023, two appeals were noted from the circuit court's ruling: (1) Appellants noted an appeal of the circuit court's decision as to Count I to this Court under EL § 12-203(a)(3); and (2) Appellants noted an appeal of the circuit court's decision as to Counts II, III, and IV to the Appellate Court of Maryland; and on December 18, 2023, the Commissioners noted an appeal to the Appellate Court,

Whereas, both appeals to the Appellate Court of Maryland were consolidated as Derek Harvey, et al v. Jared DeMarinis, et al, No. 1917, Sept. Term, 2023 (Md. App. Ct.),

Whereas, on February 5, 2024, after oral argument in the case, this Court issued an order directing the parties to engage in mediation with a judge-mediator to be designated by the Court and to notify this Court in writing no later than Tuesday, February 20, 2024, as to whether the parties had reached or would be able to reach an agreement resolving the appeal,

Whereas, on February 20, 2024, the parties notified this Court that they had appeared before the designated judge-mediator, the Honorable Robert N. McDonald, and had reached a mutually-agreeable framework for resolving the appeals pending before this Court and the Appellate Court of Maryland,

Whereas, on February 26, 2024, the parties jointly filed in this case the "Conditional, Joint Motion to Consolidate, Vacate, and Remand for Dismissal," notifying this Court that they had reached a settlement agreement, which included the parties jointly filing in this Court a petition for writ of certiorari with respect to Derek Harvey, et al v. Jared DeMarinis, et al, No. 1917, Sept. Term, 2023 (Md. App. Ct.) and a joint motion

requesting that, in the event that a writ of certiorari were issued, the Court consolidate the case with the appeal currently pending in this Court, vacate the judgment of the Circuit Court for Anne Arundel County, and remand the case to the circuit court with instruction to dismiss the underlying complaint (the second amended petition) with prejudice, as moot,

Whereas, on February 26, 2024, pursuant to the settlement agreement, the parties jointly filed in this Court in Pet. No. 370, Sept. Term, 2023, a petition for writ of certiorari with respect to Derek Harvey, et al v. Jared DeMarinis, et al, No. 1917, Sept. Term, 2023 (Md. App. Ct.),

Whereas, on February 28, 2024, this Court issued a writ of certiorari with respect to Derek Harvey, et al v. Jared DeMarinis, et al, Pet. No. 370, Sept. Term, 2023 (Md.), and the case is now identified as Derek Harvey, et al v. Jared DeMarinis, et al, No. 33, Sept. Term, 2023,

Now, therefore, it is this 28th day of February 2024,

ORDERED, by the Supreme Court of Maryland, that No. 33 and this case are consolidated; and it is further

ORDERED, that, based on the agreement of the parties, without a determination with respect to the merits having been made, the November 29, 2023 grant of summary judgment by the Circuit Court for Anne Arundel County as to all counts of the second amended petition in Case No. C-02-CV-23-002315 is VACATED; and it is further

ORDERED, that based on the agreement of the parties, the consolidated cases, Nos. 26 and 33, are remanded to the Circuit Court for Anne Arundel County with instruction

that the second amended petition in Case No. C-02-CV-23-002315 be dismissed with prejudice, as moot; and it is further

ORDERED, that costs are to be divided equally between the parties.

/s/ Matthew J. Fader
Chief Justice