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DILWORTH WINS SUPREME COURT VICTORY IN ELECTION CASE WHILE COURTS CLOSED

April 16, 2020

[Timothy J. Ford](#) successfully represented three voters in Pennsylvania's 17th Senate District—June Coleman, Joseph Alexander Brophy and Rachael Aria Chou—who challenged the nomination petition filed by Elvira N. Berry, a candidate for the Democratic nomination for State Senate. Voters believed the petition did not contain 500 valid signatures from eligible Democratic voters to meet the requirements for Berry to be placed on the ballot.

On March 4, 2020, the Commonwealth Court held a hearing on the voters' challenge and heard evidence and legal argument. Six days later, Judge Christine Fizzano Cannon issued her Opinion, striking enough signature lines for the Court to conclude that Berry had not submitted enough valid signature lines to qualify for the ballot. Among the signatures stricken, Judge Fizzano Cannon concluded that four signature lines were written "in the hand of another," that is, by someone other than the voter whose information appears in the signature line.

Berry appealed to the Pennsylvania Supreme Court on March 20, 2020, ten days after the Commonwealth Court issued its opinion. In her appeal, Berry challenged the Commonwealth Court's ability to strike signature lines as written "in the hand of another" without a handwriting expert or the testimony of a person with first-hand knowledge of the voter's handwriting and signature. On behalf of Coleman, Brophy and Chou, Dilworth responded, arguing to the Supreme Court that Berry's position called into question judges' ability to make findings of fact based on the evidence presented.

On April 15, 2020, the Supreme Court affirmed Judge Fizzano Cannon's decision without an opinion.

Berry's appeal to the Supreme Court took place as Pennsylvania courts have responded to the COVID-19 pandemic. Under the Supreme Court's COVID-19 Orders, election cases are considered "essential." After the Supreme Court docketed Berry's appeal on March 20, 2020, the Court ordered Berry to file her brief by March 23, 2020. Dilworth responded the very next day, March 24, 2020. The Supreme Court decided the appeal, while all COVID-19 orders remain in effect.

During the appeal, Governor Wolf signed a law postponing Pennsylvania's primary election from April 28, 2020 to June 2, 2020. Pennsylvania's 17th Senate District covers portions of Delaware and Montgomery County. As a result of the Supreme Court's Order, the candidates listed for the Democratic primary for the 17th Senate District will be incumbent Senator Daylin Leach and challenger Amanda Cappelletti.