

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JUDICIAL WATCH, INC.,	:	
	:	
Plaintiff,	:	
	:	No. 1:20-CV-0708
v.	:	
	:	
COMMONWEALTH OF PENNSYLVANIA, <i>et al.</i>,	:	(JUDGE CONNER)
	:	
Defendants.	:	

**DEFENDANTS LUZERNE COUNTY COUNCIL, TIM MCGINLEY
AND SHELBY WATCHILLA’S REPLY BRIEF IN SUPPORT OF THEIR
MOTION TO DISMISS**

Defendants Luzerne County Council, Tim McGinley and Shelby Watchilla (collectively, “Luzerne County Defendants”), by their undersigned counsel, hereby submit the instant Reply Brief in support of their Motion to Dismiss (the “Motion”) the First Amended Complaint filed by Plaintiff Judicial Watch, Inc. (“Judicial Watch”).

I. PROCEDURAL AND FACTUAL BACKGROUND

Luzerne County Council, Tim McGinley, and Shelby Watchilla filed the Motion and brief in support thereof on January 31, 2022. (See Docs. 108 and 115). Judicial Watch filed its brief in opposition to Luzerne County Defendants’ motion (“Judicial Watch’s brief”) on March 28, 2022. (See Doc. 118, generally).

II. STATEMENT OF QUESTIONS INVOLVED

1. Does the First Amended Complaint fail to state a claim against Luzerne County Defendants?

Suggested Answer: Yes.

III. ARGUMENT

A. Luzerne County Has Cured the Alleged Violation set forth by Judicial Watch

Judicial Watch argues that Luzerne County's claim of removing 17,000 registered voters from the voting rolls after receiving notice of violation, is unsubstantiated. (Judicial Watch's Brief, pg. 4). Judicial Watch asserts that because the Luzerne County Defendants have not corroborated Judicial Watch's own claim that the violation has been cured, there is not sufficient evidence of compliance. (See Complaint at ¶ 79; Judicial Watch's Brief at pg. 4).

Out of an abundance of clarification, attached as Appendix Exhibit "1" is an affidavit of Romilda Crocamo, Luzerne County's Acting County Manager, confirming the accuracy of the news article at issue and confirming that Luzerne County did in fact remove more than 17,000 registered voters from its voting rolls to comply with the National Registered Voting Act ("NRVA") and cured any violation set forth by Judicial Watch. (See affidavit of Romilda Crocamo, attached as Appendix Exhibit "1").

Moreover, this Court dismissed Judicial Watch's claims of failure to comply to voter list-maintenance obligations against other defendants. (See Docs. 57 and 58). This Court dismissed those claims on the basis that Judicial Watch has not plausibly alleged violations of the purging obligation. (Id.) Those defendants showed their compliance with the NRVA list-maintenance requirements by pointing out public records that reflected the change in voter registration numbers. (See Doc. 57, Memo Granting Motion to Dismiss, at pg. 9-10).

In this case, Judicial Watch *themselves*, recognized Luzerne County complied with the list-maintenance requirement by removing 17,000 registered voters from its voting polls after receiving notice by Judicial Watch, by attaching and referring to a news article that asserts the same. (See Amended Complaint at ¶ 79)¹. Likewise here, not only did Judicial Watch aver the existence of a newspaper article confirming Luzerne County's compliance, but at the request of Judicial Watch, Luzerne Defendants confirm Judicial Watch was accurate in its averment – Luzerne County removed approximately 17,000 voters from its registration polls in response

¹ It is interesting to note that Judicial Watch refutes the contents of the article that it attached to its Complaint to set forth the facts of the case. (See Judicial Watch's Brief at pg. 4). Judicial Watch is attempting to distance itself from its own exhibits. (Id.)

to Judicial Watch's inquiry. (See Complaint at ¶ 79; Judicial Watch's Brief at pg. 4; and Appendix Exhibit "1")². Accordingly, Judicial Watch's claim fails.

IV. CONCLUSION

For any or all of the foregoing reasons as well as those previously set forth, the Luzerne County Defendants' Motion to Dismiss should be granted and Count I against Luzerne County Council, Tim McGinley and Shelby Watchilla should be dismissed with prejudice.

Respectfully submitted,

/s/ John G. Dean

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DATED: April 11, 2022

² The foregoing affidavit is attached in response to Judicial Watch's request for corroboration of the newspaper article it cited to. (Judicial Watch's Brief at pg. 4).

CERTIFICATE OF SERVICE

I, JOHN G. DEAN, hereby certify that I have caused to be served on this day a true and correct copy of Luzerne County Defendants' Reply Brief in Support of Motion to Dismiss via ECF on all counsel of record.

DATED: April 11, 2022

/s/ John G. Dean
John G. Dean