

SUPREME COURT OF PENNSYLVANIA

In re Petition to Submit Ballot Question to Concord Township Voters (Appeal of Colette Brown)

No. 126 MAP 2014 · No. No. 126 MAP 2014 · Decided July 20, 2015

SUMMARY

This dissenting opinion addresses whether Section 207 of Pennsylvania's First Class Township Code permitted a petition to place a township-classification referendum on the ballot after the first election occurring at least 90 days after a qualifying population ascertainment. Chief Justice Saylor concluded that the statute required the referendum to occur within a reasonably contemporaneous period after the population ascertainment and would affirm the lower courts' contrary interpretation. Madame Justice Todd joined the dissent.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Chief Justice Saylor
JURISDICTION	Pennsylvania
DECIDED	July 20, 2015
DOCKET	No. 126 MAP 2014
DISPOSITION	other
PROCEDURAL POSTURE	Appeal from the Commonwealth Court's order affirming the Delaware County Court of Common Pleas' order concerning a petition to submit a ballot question to Concord Township voters.
PRECEDENTIAL VALUE	Dissenting opinion; not independently precedential.
PARTIES	Colette Brown

TOPICS

[election law](#)[election administration](#)[municipal law](#)[statutory interpretation](#)[appellate procedure](#)

PRACTICE AREAS

[Election law](#)[Municipal law](#)[Statutory interpretation](#)[Appellate procedure](#)

QUESTIONS PRESENTED

1. Whether Section 207 of the First Class Township Code permits a petition for a second-class township's conversion to first-class status to be filed after the first general or municipal election occurring at least ninety days after the population threshold was ascertained.
2. Whether Section 207 requires the referendum to occur at the first general or municipal election occurring at least ninety days after the statutory population ascertainment.

HOLDINGS

1. In the dissent's view, Section 207 should be construed to require that a referendum proceed only at the first general or municipal election occurring at least ninety days after a specified ascertainment demonstrates that a second-class township has met the population threshold for first-class status.

KEY QUOTATIONS

“Thus, I would hold submission of a ballot question under the statute is appropriate only at the first general or municipal election occurring at least ninety days after a specified form of ascertainment demonstrates that the population of a second-class township meets the statutory threshold.” (5)

FACTUAL BACKGROUND

Colette Brown sought to submit a ballot question concerning conversion of Concord Township from a second-class township to a first-class township. The petition was filed after the first general or municipal election occurring at least ninety days after a census-based ascertainment that the township had reached the statutory population threshold. The dissent focused on whether Section 207 of the First Class Township Code permitted that late filing or instead required the referendum to occur at the first qualifying election reasonably contemporaneous with the population ascertainment.

PROCEDURAL HISTORY

The Delaware County Court of Common Pleas, Civil Division, entered an order dated August 14, 2014. The Commonwealth Court affirmed that order on September 26, 2014. Colette Brown appealed to the Supreme Court of Pennsylvania, where Chief Justice Saylor issued a dissenting opinion.

DISPOSITION

other

CASES CITED

- In re Petition to Submit Ballot Question to Concord Twp. Voters, 100 A.3d 765, 767 (Pa. Cmwlth. 2014)