

SUPREME COURT OF PENNSYLVANIA

In re: Appointment to Fill a Vacancy

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SUMMARY

This concurring opinion addresses whether Pennsylvania Rule of Judicial Administration 1908 conflicts with Lackawanna County Home Rule Charter § 1-2.206 concerning appointment to fill a county commissioner vacancy. Chief Justice Todd agrees that the provisions do not conflict and concludes that the court should not reach the alternative separation-of-powers issue; Justice Wecht joins the concurrence.

OPINION

PER CURIAM.

[J-100-2025] [MO: McCaffery, J.] IN THE SUPREME COURT OF PENNSYLVANIA MIDDLE DISTRICT IN RE: APPOINTMENT TO FILL A: No. 51 MAP 2025 VACANCY IN THE OFFICE OF COUNTY: COMMISSIONER: Appeal from the July 18, 2025, order: of the Commonwealth Court at Nos.: 653 and 697 CD 2025 affirming the APPEAL OF: LACKAWANNA COUNTY: order of the Lackawanna County AND WILLIAM GAUGHAN: Court of Common Pleas at No.: 2025-CV-2692.: SUBMITTED: September 23, 2025 CONCURRING OPINION CHIEF JUSTICE TODD DECIDED: October 20, 2025 I agree with the majority that Pa.R.J.A.

1908 and Lackawanna County Home Rule Charter § 1-2.206 do not conflict, and that we should affirm the Commonwealth Court on that basis. As a result, in my view, we need not and should not address whether, if the provisions did conflict, Section 1-2.206 would violate separation of powers principles. See *Commonwealth v. Herman*, 161 A.3d 194, 209 (Pa. 2017) (applying “sound tenet of jurisprudence” that courts should avoid constitutional issues when the question may be decided on other grounds).

Accordingly, I join only the majority’s resolution of the conflict issue. Justice Wecht joins this concurring opinion.