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661 MD 2020

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

PENNSYLVANIA INTERSCHOLASTIC ATHLETIC ASSOCIATION, INC.,	:	
	:	Original Jurisdiction
Petitioner,	:	
v.	:	No. 661 MD 2020
	:	
COMMONWEALTH OF PENNSYLVANIA and PENNSYLVANIA OFFICE OF OPEN RECORDS,	:	
	:	
Respondents.	:	
	:	

RESPONDENT COMMONWEALTH OF PENNSYLVANIA'S BRIEF IN SUPPORT OF ITS PRELIMINARY OBJECTIONS

Dated: May 17, 2021

Respectfully submitted,

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STATEMENT OF JURISDICTION

This Court has original jurisdiction under 42 Pa. C.S. § 761(a)(1) for this action against Respondents the Commonwealth of Pennsylvania and the Pennsylvania Office of Open Records.

DETERMINATION IN QUESTION

This is an action in this Court's original jurisdiction. The Commonwealth files this brief in support of its Preliminary Objections, which seek dismissal of all claims in the Amended Petition for Review.

SCOPE AND STANDARD OF REVIEW

A party may file a preliminary objection to any pleading on the grounds that it is legally insufficient. Pa. R. Civ. P. 1028(a)(4). "It is well established law in Pennsylvania that preliminary objections in the nature of a demurrer require the court to resolve the issues *solely on the basis of the pleadings*." *Smith v. Pa. Employees Benefit Trust Fund*, 894 A.2d 874, 879 (Pa. Cmwlth. 2006) (citation and internal quotation marks omitted, emphasis in original). However, when considering a demurrer, a court "may take judicial notice of official court records and public documents" in accordance with Pennsylvania Rule of Evidence 201(b)(2); *Wilkins v. Clark*, 242 A.3d 1006, 1006 n.4 (Pa. Cmwlth. 2020).

QUESTIONS PRESENTED

Question: Does the Pennsylvania Right-to-Know Law clearly and unmistakably include PIAA within its definition of a "State-affiliated entity" in 65 P.S. § 67.102?

Suggested answer: Yes

Question: Would it violate the separation of powers doctrine for the Court to ignore or disagree with the legislature's decision or rationale to include PIAA within its definition of a "State-affiliated entity" in 65 P.S. § 67.102?

Suggested answer: Yes

Question: Is it proper under the United States and Pennsylvania Constitutions for the legislature to include PIAA within its definition of a "State-affiliated entity" in 65 P.S. § 67.102?

Suggested answer: Yes

STATEMENT OF THE CASE

This is a claim brought by the Pennsylvania Interscholastic Athletic Association, Inc. ("PIAA") to challenge its inclusion by the legislature as a "State-affiliated entity" in 65 P.S. § 67.102, making it subject to Pennsylvania's Right to Know Law ("RTKL").

PIAA was established in 1913, and it was incorporated in 1978 pursuant to Pennsylvania's Nonprofit Corporation Law. Am. Pet., attached as Ex. A, ¶¶ 8-9. According to its website, "The members of PIAA consist of almost all of the public junior high/middle and senior high schools, some of the Charter and Private junior high/middle Schools, and many of the Charter and Private senior high Schools in the Commonwealth of Pennsylvania." Our Story – PIAA, http://www.piaa.org/about/story.aspx (last visited March 15, 2021). "Generally stated, the function of PIAA is to develop and enforce rules regulating interscholastic athletic competition, which are authorized or adopted by the member schools." Our Story – PIAA, http://www.piaa.org/about/story.aspx (last visited March 15, 2021).

PIAA has received requests for records under the RTKL, and it has objected to these requests on the grounds that it is not properly considered a Commonwealth agency subject to the RTKL. It has also filed this action, where the Amended Petition for Review ("Amended Petition" or "Am. Pet.") is pending. It named the

Pennsylvania Office of Open Records and the Commonwealth as respondents. The Commonwealth now files this brief in support of its Preliminary Objections, seeking dismissal of all claims.

SUMMARY OF ARGUMENT

Both as a matter of statutory interpretation and constitutional law, the inclusion of PIAA within the RTKL satisfies judicial scrutiny.

The language of the statute is plain and unmistakable—PIAA is a "State-affiliated entity" subject to the RTKL. In its Amended Petition, PIAA asks this Court to ignore the RTKL's plain language, or at least to find it invalidated by other, less specific definitions of the kind of entities subject to the RTKL. There is no canon of statutory construction that would support such a finding. And to the extent that PIAA asks the Court to substitute its own interpretation of statutory definitions in place of a clear statement by the legislature, this action seeks a violation of the established separation-of-powers doctrine. The legislature's words and intent are clear, and this Court should follow it.

Further, while PIAA brings myriad constitutional challenges to the RTKL, all these claims present the same simple question—is there a rational basis to include an interscholastic sports association whose membership includes almost every public high school in the Commonwealth within the ambit of a law requiring public access to its records? The answer, especially given the low bar for establishing a rational basis and the high bar for throwing out a duly-enacted statute, is yes. PIAA is a unique entity. It has long been considered a state actor, and it organizes substantial revenue-generating events on behalf of its public

school members. There is at least some basis for the legislature to conclude that there is a public interest in scrutinizing its operations.

Because the PIAA cannot state any statutory or constitutional claim, the Commonwealth's preliminary objections should be sustained and the Amended Petition should be dismissed.

ARGUMENT

I. PIAA Is Subject to Pennsylvania's Right-to-Know Law

A. The Plain Language Is Clear and Controlling

The current version of Pennsylvania's Right-to-Know Law ("RTKL") was enacted in 2008. Act of Feb. 14, 2008, P.L. 6, No. 3 (as amended 65 P.S. §§ 67.101-67.3104). It requires any "Commonwealth agency" to provide access to a "public record" upon request. 65 P.S. § 67.301(a). The RTKL defines a "Commonwealth agency" to include "[a]ny office, department, authority, board, multistate agency or commission of the executive branch, an independent agency and a State-affiliated entity." 65 P.S. § 67.102. A "State-affiliated entity" is broadly defined as a "Commonwealth authority or Commonwealth entity," but it further specifies that "[t]he term includes . . . the Pennsylvania Interscholastic Athletic Association." *Id.*

"The overarching principle of statutory construction is that the 'intent of the Legislature is always our polestar when considering the interpretation and construction of statutes.'" *Com. v. Wilson*, 620 Pa. 251, 264, 67 A.3d 736, 743 (2013) (quoting *In re Paulmier*, 594 Pa. 433, 937 A.2d 364, 372 (2007)). Under our canons of statutory construction, "[w]hen the words of a statute are clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit." 1 Pa. C.S. § 1921(b).

The words of the RTKL are clear and unambiguous: PIAA is a State-affiliated entity, and any State-affiliated entity is a Commonwealth agency subject to the RTKL. As a matter of statutory construction, that clear declaration is dispositive, and this Court does not need to conduct further analysis.

Petitioner, however, asks this Court to look beyond those clear words. In Count I, it argues that the legislature's decision to specifically include PIAA in Section 102 is "wholly inconsistent with, and contrary to" the legislature's general definition of "Commonwealth authority." Am. Pet. ¶ 49. Similarly, in Count V, it further contends that a nonprofit corporation registered to do business under the Pennsylvania Nonprofit Corporation Law, 15 Pa. C.S. §§ 5501-6107, cannot be subject to the RTKL because "the record access provisions of the RTKL conflict with those found within the Pennsylvania Nonprofit Corporation Law." Am. Pet. ¶ 121.

Neither argument should alter how the Court interprets the plain language of the RTKL. First, whether or not the legislature's decision to include PIAA was consistent with its own definitions is not a proper question of statutory interpretation because, "within constitutional limits, the General Assembly is empowered to pass legislation, define the terms of its legislation, and amend its definitions as it sees fit." *See Harristown Dev. Corp. v. Com., Dep't of Gen. Servs.*, 532 Pa. 45, 50, 614 A.2d 1128, 1131 (1992). As long as the language is clear and

constitutional, disputes about how it fits into a broader scheme are immaterial. As our Supreme Court has succinctly stated, absent a constitutional limitation, PIAA "is an agency if the General Assembly says it is." *See id*.[1]

Second, even if the Court finds tension between the ***specific*** inclusion of PIAA in the definition of "State-affiliated entity" and the more ***general*** definitions of "Commonwealth authority or Commonwealth entity," as a matter of statutory construction the more specific provision controls. *See In re Waits' Estate*, 336 Pa. 151, 7 A.2d 329, 330 (1939). Because the Court's guiding principle should be whether the legislature intended for PIAA to be subject to the RTKL, *see Wilson*, 620 Pa. at 264, 67 A.3d at 743, it should take the legislature's specific language as controlling over any more general definitions.

Third, even if the Court were to decide whether the inclusion of PIAA within the RTKL is consistent with other laws, it should reach the same conclusion. Petitioner contends that "[n]o other nonprofit corporation . . . was

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[1] For example, if the legislature passed a bill regulating "sandwiches" and, notwithstanding the ferocious public debate over the matter, specifically defined a "sandwich" to include a hot dog, then (at least for purposes of that statute) a hot dog would be a sandwich. This pronouncement would control even if the statute included a general definition of "sandwich" that might seem to exclude hot dogs and no matter the merits of arguments to the contrary. *See* Megan Garber, "It's Not a Sandwich," *The Atlantic*, Nov. 5, 2015 (available at https://www.theatlantic.com/entertainment/archive/2015/11/its-not-a-sandwich/414352/).

identified in the RTKL as a State-affiliated entity" unless it was either created by the legislature or funded by the Commonwealth. *See* Am. Pet. ¶¶ 66-67. But PIAA is different from other nonprofit corporations. It has been well-established law, which would have been known to the legislature in 2008 when it enacted this version of the RTKL, that the "affairs of the PIAA constitute state action" because it "is funded by the payment of membership fees from public school moneys, and so ultimately by the Commonwealth's taxpayers, and from the gate receipts of athletic events between public high schools." *See Sch. Dist. of City of Harrisburg v. Pa. Interscholastic Ath. Ass'n*, 453 Pa. 495, 309 A.2d 353, 357 (1973); *accord* Our Story – PIAA, http://www.piaa.org/about/story.aspx (last visited March 15, 2021) (acknowledging that PIAA remains funded by public school membership fees and gate receipts). There were reasons to consider PIAA different from other nonprofit corporations.

Moreover, it is also well established that nonprofit corporations can be subject to the RTKL. For example, under Pennsylvania law, "[a]ny nonprofit corporation which leases lands, offices or accommodations to the Commonwealth for any department, board, commission or agency with a rental amount in excess of one million five hundred thousand dollars ($1,500,000) per year shall be deemed an agency as defined by . . . the Right-to-Know Law, and any such nonprofit corporation shall be subject to and governed by the provisions of . . . the Right-to-

Know Law." 71 P.S. § 632(d); *see generally Harristown Dev. Corp.*, 532 Pa. 45, 614 A.2d 1128 (upholding the constitutionality of Section 632(d)). Petitioner contends that this example is inapposite because "[o]nly through legislation independent of the RTKL was that nonprofit corporation subject to the RTKL." Pet. Resp. to Commonwealth's Preliminary Objections, ¶ 16. This argument is nonsensical—it admits that nonprofit corporations can be and have been made subject to the RTKL, but contends, for some reason, that the legislature can only do so ***outside*** the RTKL itself. There is simply no reason for this distinction.

The RTKL clearly applies to PIAA, and the Court need conduct no further statutory inquiry. Counts I and V should be dismissed.

B. Petitioner's Argument Asks This Court to Disregard the Separation of Powers Doctrine by Overturning a Legislative Decision

The separation of powers doctrine, which is "inherent in the Pennsylvania Constitution," prevents the judiciary "from exercising, infringing upon, or usurping" the powers of the legislature. *Renner v. Court of Common Pleas of Lehigh Cty.*, 234 A.3d 411, 419 (Pa. 2020). Under this doctrine, "[i]t is well established that the courts' authority to declare public policy is limited." *Conway v. Cutler Grp., Inc.*, 626 Pa. 660, 670, 99 A.3d 67, 72 (2014).

Here, the question Petitioner presents to this Court—whether it is proper and consistent with the statute's more general definitions to include PIAA within the

RTKL—is a policy question for the legislature and not a legal question for the courts. It is not the role of the judiciary to determine whether legislative actions are consistent or proper, if they are otherwise constitutional and within the legislature's power. Although courts can resolve ambiguity in statutes, it is not their function to overrule the clear intent of the legislature.

To be sure, as PIAA points out, it is the proper role of the courts "to interpret and declare the law." *See Council 13, AFSCME ex rel. Fillman v. Commonwealth*, 604 Pa. 352, 373, 986 A.2d 63, 76 (2009). However, interpreting the laws means deciding what the legislature ***said***, not what it ***should have said***. Here, there is no dispute that the legislature said that PIAA is included in the RTKL; Petitioner instead argues that the legislature should not have done so. That is precisely the kind of policy question that is proper for the legislature, not the courts.

Under the separation of powers doctrine, this Court cannot and should not declare that the legislature should not have included PIAA within its definition of "State-affiliated entity" in the RTKL.

II. The Inclusion of PIAA Within the RTKL Is Constitutional

A. There Is a Rational Basis to Justify the Legislature's Decision to Include PIAA Within the RTKL

Petitioner challenges its inclusion in the RTKL under the Equal Protection Clauses of the United States Constitution and Pennsylvania Constitution, under the Due Process Clause of the United States Constitution, and under Article III,

Section 32 of the Pennsylvania Constitution. Here, the Court can dismiss all four claims together because there is a rational basis to include PIAA in the RTKL.

As a starting point, all four constitutional claims can be analyzed using equal protection's rational basis test. This Court has noted that the Pennsylvania Constitution's equal protection guarantee is analyzed using the identical standard to an equal protection claim under the United States Constitution. *Fouse v. Saratoga Partners, L.P.*, 204 A.3d 1028, 1033 n.9 (Pa. Cmwlth. 2019). Additionally, a claim under Article III, Section 32 of the Pennsylvania Constitution and an equal protection claim are "sufficiently similar to warrant like treatment." *Harristown Dev. Corp.*, 614 A.2d at 1132 (quoting *Laudenberger v. Port Auth. of Allegheny Co.*, 496 Pa. 52, 67 n. 13, 436 A.2d 147, 155 n. 13 (1981)). Finally, "the analysis under substantive due process is essentially the same as an equal protection analysis, *i.e.*, is there a rational basis underlying the legislation in question?" *B & G Const. Co., Inc. v. Dir., Office of Workers' Comp. Programs*, 662 F.3d 233, 256 n.22 (3d Cir. 2011) (citation omitted).

Under the test used for an equal protection claim under the United States Constitution, a plaintiff who is not a member of a protected class can state a "class of one" equal protection theory by alleging that "(1) the defendant treated him differently from others similarly situated, (2) the defendant did so intentionally, and (3) there was no rational basis for the difference in treatment." *Hill v. Borough*

of Kutztown, 455 F.3d 225, 239 (3d Cir. 2006). In conducting a constitutional analysis, "[a] statute duly enacted by the General Assembly is presumed valid." *W. Mifflin Area Sch. Dist. v. Zahorchak*, 607 Pa. 153, 4 A.3d 1042, 1048 (2010). "[L]egislation will not be declared unconstitutional unless it clearly, palpably and plainly violates the Constitution, with any doubts being resolved in favor of constitutionality." *Harristown Dev. Corp.*, 532 Pa. at 52, 614 A.2d at 1132.

With respect to the first element, "[p]ersons are similarly situated under the Equal Protection Clause when they are alike 'in all relevant aspects.'" *Startzell v. City of Philadelphia, Pennsylvania*, 533 F.3d 183, 203 (3d Cir. 2008) (quoting *Nordlinger v. Hahn*, 505 U.S. 1, 10 (1992)).

For the third element, "[r]ational basis review is a very deferential standard." *Newark Cab Ass'n v. City of Newark*, 901 F.3d 146, 156 (3d Cir. 2018). A legislative act survives rational basis "if the government identifies a legitimate state interest that the legislature could rationally conclude was served by the statute." *Nicholas v. Pa. State Univ.*, 227 F.3d 133, 139 (3d Cir. 2000) (internal citation and quotation marks omitted). Government action survives rational basis review "if there is any reasonably conceivable state of facts that could provide a rational basis" for treating the plaintiff differently. *United States v. Walker*, 473 F.3d 71, 77 (3d Cir. 2007) (quoting *Heller v. Doe*, 509 U.S. 312, 320 (1993)). "[T]he principles of equal protection are satisfied 'so long as there is a plausible

policy reason for the classification, the legislative facts on which the classification is apparently based rationally may have been considered to be true by the governmental decisionmaker, and the relationship of the classification to its goal is not so attenuated as to render the distinction arbitrary or irrational.'" *Id.* (quoting *Fitzgerald v. Racing Ass'n of Cent. Iowa*, 539 U.S. 103, 107 (2003)).

Here, Plaintiff fails to allege facts showing that another similarly situated nonprofit corporation was treated differently, and it has also failed to show that there is no rational basis for including PIAA within the RTKL. The latter provides the clearest and strongest argument for dismissal.

There is a rational basis, both in 2008 when the current RTKL was passed and today, to include PIAA as a State-affiliated entity. In 1973, our Supreme Court held that PIAA is a state actor because it "is funded by the payment of membership fees from public school moneys, and so ultimately by the Commonwealth's taxpayers, and from the gate receipts of athletic events between public high schools." *Sch. Dist. of City of Harrisburg*, 309 A.2d at 357. That principle was cited approvingly as recently as last December. *Dunmore Sch. Dist. v. Pa. Interscholastic Ath. Ass'n*, No. 3:20-cv-1091, 2020 WL 7212874, at *6 (M.D. Pa. Dec. 7, 2020). Indeed, PIAA admits that the analysis underlying *City of Harrisburg* remains true today—"almost all of the public junior high/middle and senior high schools" in Pennsylvania are members of the PIAA, the "PIAA's

principle source of revenue is the sale of tickets to its Inter-District Championship Contests" involving those public schools, and PIAA receives annual dues from those member schools. *See* Our Story – PIAA, http://www.piaa.org/about/story.aspx (last visited May 14, 2021).[2] Because "[t]he purpose of the [RTKL] is to promote access to official government information in order to prohibit secrecy, scrutinize public officials' actions and make them accountable for their actions," *see Dages v. Carbon Cty.*, 44 A.3d 89, 91 (Pa. Cmwlth. 2012), it makes at least some rational sense for the legislature to decide that PIAA's heavy reliance on the participation of public schools for almost all of its revenue means that the public should have access to its public records. *Accord Harristown Dev. Corp.*, 614 A.2d at 1132 (holding that there was a rational basis to subject "the largest supplier of rented space to the Commonwealth" to the RTKL).

The decision to include PIAA within the RTKL is also rational because it is consistent with the legislature's expansive view of public records. For example, a private contractor that does business with a public agency knows that at least some

[2] PIAA emphasizes that none of this money is direct taxpayer money, but, even if true, it is beside the point for RTKL purposes. PIAA's revenue is generated by the participation of public schools and it would not exist outside of the participation of those schools. This strong and unique connection between PIAA's funds and public entities gives the legislature at least a rational basis to find a public interest in PIAA's records.

of its records might be accessible via the RTKL. *See* 65 P.S. § 67.506(d); *accord California Univ. of Pa. v. Bradshaw*, 210 A.3d 1134, 1139 (Pa. Cmwlth. 2019), *appeal denied*, 220 A.3d 532 (Pa. 2019) (holding that a private foundation performing fundraising for a public university could have certain records accessed via the RTKL). Although it is certainly an additional step to make a nonprofit corporation directly subject to the RTKL, that additional step is not irrational here given that PIAA's membership includes almost every public school. PIAA is not simply a contractor doing business with public schools, but rather it exists to serve an important and substantial function for public schools: organizing athletic competitions. Because the decision to include PIAA within the RTKL has at least some rational basis, PIAA has failed to plead facts to overcome the statute's presumption of validity, *see W. Mifflin Area Sch. Dist.*, 4 A.3d at1048, and its constitutional claims should be dismissed.

Moreover, without even deciding the legislature's rational basis, the constitutional claims should be dismissed because PIAA fails to show that it is similarly situated to any other nonprofit corporation that was not included within the RTKL. Although it is a nonprofit corporation, there can be no dispute that such entities can and have been subject to the RTKL. *See, e.g., Harristown Dev. Corp.*, 614 A.2d at 1130 (holding that the Harristown Development Corporation, a private nonprofit corporation, was subject to the RTKL). And, simply put, there is no other

nonprofit corporation like PIAA. The Petition for Review does not identify any other entity that includes "almost all" public schools ***and*** generates its revenue predominantly from the participation of those public schools. PIAA's failure to identify another similarly situated entity that is not subject to the RTKL is fatal to its constitutional claims. *See Hill*, 455 F.3d at 239 (affirming dismissal of equal protection claim for failing to allege a specific similarly situated person); *Dunmore Sch. Dist.*, 2020 WL 7212874, at *12 (dismissing equal protection claim for failing to "identify similarly situated individuals and allege 'occasions or circumstances' of differential treatment"). This is particularly true under Pennsylvania's fact-pleading standard. *See Jae v. Good*, 946 A.2d 802, 809 (Pa. Cmwlth. 2008) (noting that federal law claim in state court is governed by state pleading standards).

Because PIAA has failed to identify any similarly situated entity that was treated favorably by the legislature, and separately because there was a rational basis for the legislature's decision to include PIAA within the RTKL, its constitutional claims in Counts II, III, and IV should be dismissed.

B. The Pennsylvania Constitution's Bar on Special Legislation Does Not Provide an Independent Basis to Invalidate the RTKL

The Pennsylvania Constitution provides that the legislature "shall not pass any local or special law . . . [r]egulating the affairs of counties, cities, townships, wards, boroughs or school districts" or "[r]egulating labor, trade, mining or manufacturing," among other categories. Pa. Const. art. III, § 32. The purpose of

the bar on special legislation is "to prevent the General Assembly from creating classifications in order to grant privileges to one person, one company or one county." *Wings Field Pres. Associates, L.P. v. Com., Dep't of Transp.*, 776 A.2d 311, 316 (Pa. Cmwlth. 2001). This provision does not "divest the General Assembly of its general authority either to identify classes of persons and the different needs of a class, or to provide for differential treatment of persons with different needs." *Robinson Twp., Washington Cty. v. Com.*, 623 Pa. 564, 83 A.3d 901, 987 (2013).

The primary basis for dismissing the claim under Article III, Section 32 is that the inclusion of PIAA in the RTKL satisfies rational basis scrutiny, as stated previously. However, there is an additional rationale for dismissing this particular constitutional claim—Article III, Section 32 does not apply here.

By its own terms, Article III, Section 32 bans special legislation in eight discrete areas. One such area includes regulation of local governments, but PIAA is not a local government entity, and it does not appear to contend otherwise. Another such area includes regulation of "labor, trade, mining or manufacturing." Pa. Const. art. III, § 32. PIAA argues that its inclusion in the RTKL violates this provision, particularly as to trade.

The RTKL, however, does not regulate trade. For purposes of Section 32, trade is "of very broad significance" and includes acts of "buying and selling for

money." *N. R. Bagley Co. v. Cameron*, 282 Pa. 84, 88, 127 A. 311, 312 (1925). Although not specifically defined, regulate generally means to "control (an activity or process) esp. through the implementation of rules." Black's Law Dictionary (11th ed. 2019). Thus, a statute regulating trade would be one that implements rules controlling the act of buying and selling things for money.

Applying the RTKL to the PIAA does not control or alter the PIAA's ability to buy and sell things for money. The PIAA organizes interscholastic sports events, and it makes money by selling tickets to those events and by charging dues to its member institutions. None of those activities are affected by legislation making the PIAA subject to the RTKL. Nothing in the RTKL limits or alters the manner in which PIAA can hold athletic events or charge entry fees to fans, and nothing limits or alters its ability to charge membership dues. Certainly, PIAA does not aver any facts supporting any such claim.

Because the inclusion of PIAA in the RTKL is not a regulation of trade, the RTKL cannot violate Section 32 in this context. Count II should therefore be dismissed.

CONCLUSION

Wherefore, Respondent Commonwealth of Pennsylvania respectfully requests that this Court sustain its Preliminary Objections and dismiss all Petitioner's claims.

Dated: May 17, 2021

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	:	

CERTIFICATION PURSUANT TO Pa. R.A.P. 127

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Dated: May 17, 2021

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CERTIFICATE OF SERVICE

I hereby certify that on this day the foregoing Brief is being served upon the persons and in the manner indicated below, which service satisfies the requirements of Pa. R.A.P. 121:

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