

JARDIM, MEISNER & SUSSER, P.C.

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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, COUNTY OF PASSAIC

**In re: City of Paterson Third Ward
Municipal Election of November 3, 2020**

Docket No.: PAS-L-____-20

Civil Action

Verified Petition Pursuant to N.J.S.A. 12:29-1, et seq. Contesting Election Results

Petitioner William McKoy (“McKoy” or “Petitioner”), candidate for the position of Third Ward City Council person, and a resident and registered voter in the City of Paterson (“Paterson”), Passaic County, by way of this Verified Petition, alleges and says:

The Parties

1. Petitioner, William McKoy, is an individual citizen of the State of New Jersey and the City of Paterson and maintains his principal residence at 528 15th Ave., Paterson, New Jersey 07504.
2. At all times relevant herein, McKoy was a candidate named on the ballot for the office of Third Ward Councilperson in the City of Paterson in the Municipal Election held November 3, 2020, for an open position on the City Council.
3. Respondent, Alex Mendez, is an individual citizen of the State of New Jersey and the City of Paterson and maintains his principal residence at 266 E. 19th Street, Paterson, New Jersey 07524.
4. At all times relevant herein, Mendez was a candidate named on the ballot for the office of Third Ward Councilperson in the City of Paterson in the Municipal Election held November 3, 2020, for an open position on the City Council.
5. Respondents, Passaic County Clerk and Respondent Passaic County Board of Elections, maintain their principal offices at 401 Grand Street, Paterson, New Jersey 07505.
6. At all times relevant herein, the County Clerk was responsible for, *inter alia*, preparing and printing mail-in ballots and mailing said mail-in ballots to qualified registered voters in Paterson for

the Election; tabulating election totals in Passaic County; and for tabulating election totals in Passaic County.

7. At all times relevant herein, the Board of Elections was responsible for, *inter alia*, processing and counting all machine ballots, provisional ballots, and vote-by-mail ballots (“VBM’s”), including civilian and military ballots; serving as a polling location for VBMs for all elections in Passaic County; processing and distributing challenger credentials for all elections in Passaic County; overseeing advertising for all elections in Passaic County; and conducting recounts of election results in Passaic County. They are also responsible for canvassing ballots for all elections in Passaic County; issuing statements of the results for all elections in Passaic County; certifying the results of all elections to the County Clerk, except for municipal elections, which are certified to the Municipal Clerk, political party chairs, and the Secretary of State of New Jersey; and issuing Certificates of Election to successful candidates for all elections in Passaic County.

8. Respondent, Passaic County Superintendent of Elections and Commissioner of Registration, maintains their principal office at 501 River Street, Paterson, New Jersey 07524.

9. At all times relevant herein, the Superintendent of Elections was responsible for registering voters and updating/maintaining the registration rolls for Passaic County.

10. Respondent, Paterson City Clerk, maintains their principal office at 155 Market Street, Suite 101, Paterson, New Jersey 07505.

11. At all times relevant herein, the Municipal Clerk was responsible for certifying the results of the Election pursuant to N.J.S.A. 40:45, et seq.

12. Respondents Passaic County Clerk, Passaic County Board of Elections, Passaic County Superintendent of Elections and Commissioner of Registration, and Paterson City Clerk are included in this election contest as interested parties.

Factual Background

13. The City of Paterson (the “City”) is a municipal corporation organized as a city in accordance with N.J.S.A. 40:69A-1, et seq.

14. The City has an elected Mayor and nine (9) Council members, of which three (3) are At-Large and the remaining six (6) each represent the City’s six wards.

15. On May 12, 2020, the City of Paterson conducted an election for the office of Third Ward Councilperson (the “First Election”).

16. Mendez the First Election by a 245-vote margin over McKoy which was reduced to 240 votes after a recount.

17. However, the First Election was marked by allegations of voter fraud as well as other issues related to the delivery of ballots to voters by the United States Postal Service and higher than typical rejection rates by the Board of Elections.

18. Included among these issues were approximately 878 mail-in ballots that were found under mysterious circumstances and were rejected due to evidence of fraud.

19. Mendez was thereafter charged by the New Jersey Attorney General's Office with six different crimes, including, *inter alia*, election fraud and voter fraud, which allegedly occurred during the First Election.

20. As a result of these irregularities, the First Election was nullified by the Honorable Ernest M. Caposela, A.J.S.C. on or about August 19, 2020 and a new election was ordered.

21. The subsequent election occurred on November 3, 2020 (the "Second Election").

22. For purposes of this Petition, the subject Second Election is limited to the election of the City Councilperson to represent the Third Ward in Paterson.

23. Mendez won the Second Election by a 9-vote margin over McKoy, which increased to 14 votes after a recount was ordered and conducted.

Grounds for Contest

24. Upon information and belief, the following violations of the provisions enumerated in N.J.S.A. 19:29-1 and the other provisions of Title 19 occurred, such that a fair, free, and full expression of the intent of the voters was not had. To the extent known, voters are identified pursuant to N.J.S.A. 19:29-2.

25. At least 4 mail-in ballot evinced a clear voter intent to vote for McKoy but were not counted by the Board of Elections based upon improper reasons.

26. At least 39 legal votes in favor of McKoy were rejected by the Board of Elections for various improper reasons, including but not limited to those rejected for mismatched signatures.

- | | |
|--------------------------------|--------------------------------|
| • Cludeni Sanders | • Richard Champion, Jr. |
| • Fiona Johnson | • Taylor Yancey |
| • Glenn McDowell | • Yvette Reed |
| • Robin Boykin | • Zuri Redmond |
| • Scott Sanders | • Charles Davidson |
| • Shawanna Gerald | • Donovan Willis |
| • Sherril McLean-Wright | • Doreen Willis |
| • Yvonne Stephenson | • Jodie Dawes |
| • Anna Cuevas | • Yvonne Dawes |
| • Rajon York | • DaShawn Parker |
| • Taymair Gaskins | • Janet Knight-Mason |
| • Victor Gary | • Joe Gaskins |
| • Vincent N. Lester | • Jordan Bruce |
| • Jordan C. Wimberly | • Joshua Stokes |
| • Frederick LaGarde | • Nemar Newell |

- **Cherry Gaskins**
- **Desrae Wilkerson**
- **Joey Dawson**
- **Keyona Rogers**
- **Olufemi Ayodeji**
- **Kevin Montgomery**
- **Khadiza Hussain**
- **Moreoum Hussain**
- **Tanisha McClam**

27. Approximately 20 illegal votes in the Election were accepted by the Board of Elections, which were cast by voters who lived within the City of Paterson but outside the Third Ward. These votes were, upon information and belief, cast provisionally at the various polling locations in the Third Ward using ballots that contained the Third Ward race even though the voter did not reside in and was therefore not qualified to vote in the Second Election.

- **Ailejawuan C. Townsend**
- **Amira I. Forero**
- **Cindy O. Matos**
- **Denisse M. Rodriguez**
- **Eric Cartagena**
- **Inocencia Pimentel-Depolanc**
- **Jaime Rodriguez-Chalas**
- **John Bishop**
- **Kemani J. Crawford**
- **May B. Gibson**
- **Martha J. Prieto**
- **Omar Reyes**
- **Ray R. Bamond**
- **Raymond M. Simone**
- **Robin D. Byrd**
- **Rose M. Beason**
- **Thurston J. Anderson**
- **Ruth A. Peterson**
- **Shamira A. Wood**
- **Santo Columna**

28. Approximately 11 illegal votes in the Election were accepted by the Board of Elections, which were cast by voters who lived outside the City of Paterson Ward. These votes were, upon information and belief, cast provisionally at the various polling locations in the Third Ward using ballots that contained the Third Ward race even though the voter did not reside in and was therefore not qualified to vote in the Second Election.

- **Lissandra A. Alvarado-Pimentel**
- **Edith N. Huayas**
- **Lewis E. Williams, Jr.**
- **Valentina Colon**
- **Laura F. Perez**
- **David Rivera**
- **Yanira Alicea-Torres**
- **Herlal Avella, Jr.**
- **Michael Ross**
- **Tamara Battal**
- **Linda S. Mauro**

29. As a result of these acts and others, legal votes were rejected and illegal votes were counted sufficient in number to change the result of the election, cast a cloud on the election, and raise sufficient factual basis to declare the election void and invalid.

30. Petitioner hereby reserves the right to supplement, amend, and plead additional claims as they arise and assert all rights under N.J.S.A. 19:29-5.

WHEREFORE, the Petitioner respectfully requests that this Court:

A. Issue an Order setting a suitable time and place for a hearing to review the objections set forth herein, to commence not less than 15 days nor more than 30 days after the filing of this Verified Petition;

B. Permit the parties, their agents, servants or employees, prior to the date set for hearing in this matter, to review and examine all books, papers, tallies, ballots, applications, envelopes, envelope flaps, signature copy registers, voter books, voting authorizations, messenger books, rejected mail-in ballots and any other election materials, records, reports, receipts or any other documents or election paraphernalia which may be requested provided said examination occur on notice to all interested persons and in the presence of the appropriate official and representatives of Petitioner and/or Respondents;

C. Permit the parties, their agents, servants or employees, on five (5) days' notice, to take depositions of persons who participated in the election process, served as election officials, or who may otherwise be believed to have knowledge that would lead to relevant information with regard to the matter set forth herein in this petition, and grant the attorneys' authority to issue subpoenas compelling the attendance and testimony of witnesses for depositions and trial;

D. Consider, at the hearing, the allegations of the legal votes rejected and illegal votes accepted, the problems with the election process, and such other grounds as pleaded or may be presented at trial and issue a ruling on said allegations;

E. Declare, after the hearing, that William McKoy is duly elected; or declare that it cannot be determined with reasonable certainty who received a plurality of the votes cast for the position of Third Ward City Council person for the City of Paterson;

F. Enter an Order annulling Respondent's certificate of election pursuant to N.J.S.A. 19:29-9. In the event that Respondent has been sworn into office, remove Respondent from office, and enter an order pursuant to N.J.S.A. 19:3-25, declaring the office vacant pending the holding of a special election for the position of Third Ward City Council person for the City of Paterson; and

G. Grant such other relief as may be just and equitable.

Designation of Trial Counsel

Pursuant to R. 4:5-1(c), Scott D. Salmon, Esq. is hereby designated as trial counsel for Petitioner, William McKoy.

Certification Pursuant to Rule 4:5-1

The undersigned certifies that the matter in controversy is not the subject of any other action pending in any court and is likewise not the subject of any pending arbitration proceeding. I further certify that I have no knowledge of any contemplated action regarding the subject matter of this action and that I am not aware of any parties who should be joined in this action.

Dated: January 4, 2021

JARDIM, MEISNER & SUSSER, P.C.

/s/ Scott D. Salmon, Esq.

Scott D. Salmon, Esq.

Verification of Petitioner

I, William McKoy, of full age, do hereby certify as follows:

1. I am a candidate for the position of Third Ward City Councilperson in the Election, and the Petitioner in the foregoing matter.

2. I have read the contents of the Petition, incorporate same by reference, and state that they are true to the best of my knowledge, information, and belief.

3. I hereby join the above-captioned Petition contesting the results of the November 3, 2021 election for the office of position of Third Ward City Councilperson.

4. I hereby certify that the foregoing statements made by me in this Petition are true to the best of my knowledge. I am aware that if any such statement is willfully false, I am subject to punishment.

Dated: January 4, 2021



William McKoy

JARDIM, MEISNER & SUSSER, P.C.

Scott D. Salmon, Esq.
NJ Bar ID 152162015
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Florham Park, NJ 07932
Attorneys for Petitioner, William McKoy

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, COUNTY OF PASSAIC

**In re: City of Paterson Third Ward
Municipal Election of November 3, 2020**

Docket No.: PAS-L-____-20

Civil Action

Order

THIS MATTER, having been opened to the Court by Verified Petition filed on January 4, 2021, from Scott D. Salmon, Esq., attorney for the Petitioner, William McKoy, contesting the results of the election for City Council for the Third Ward of the City of Paterson held on November 3, 2020, good cause having been shown; **IT IS** therefore, on this ___ day of _____, 2021;

ORDERED as follows:

A. That pursuant to N.J.S.A. 19:29-4, a hearing on the objections set forth in Petitioner's Verified Petition alleging illegal votes received and legal votes rejected in the Election for City Council for the Third Ward of the City of Paterson shall commence on _____, 2021 at 9:00 a.m., which is not more than 30 nor less than 15 days from the filing of Petitioner's Verified Petition; and

B. That pursuant to N.J.S.A. 19:29-5, this Court will consider adjournment requests for a period of not more than thirty (30) days for the benefit of either party, on such terms as shall seem reasonable to the Court, the grounds for such adjournment being shown by affidavit; and

C. That pursuant to N.J.S.A. 19:29-2, Petitioner shall, no later than _____, 2020, either:

(1) Post a bond to the incumbent with two or more sureties; or

(2) Deposit a cash security in the penal sum of \$500.00, conditioned to pay all costs in case the election be confirmed, or the petition be dismissed, or the prosecution fail; and

D. That the parties to the Verified Petition or their representatives, and all other candidates in the Election shall, prior to the date set for the hearing and continuing during the pendency of this action, be allowed to review, examine, and copy and/or scan unredacted versions of all books, papers, tallies, ballots, applications, envelopes, envelope flaps, signature copy registers, voter books, voter authorizations, messenger books, accepted mail-in ballots, rejected mail-in ballots, and any other election materials, records, reports, receipts, or any other documents or election paraphernalia that may be requested, under the supervision of the officials in whose custody those items may be; and

E. That the parties, their agents, servants, or employees, on five (5) days' notice, may take depositions of persons who participated in the election process, served as election officials, or may otherwise be believed to have knowledge that would lead to relevant information with regard to the matter set forth herein in this Verified Petition, and that the parties attorneys' are granted authority to issue subpoenas compelling the attendance and testimony of witnesses for depositions and trial; and

F. That at the hearing, the Court shall consider the allegations of the illegal votes counted, legal votes rejected, and any alleged problems with the election process, and such other grounds as pleaded that may be presented at trial, and issue a ruling on said allegations; and

G. That, pursuant to N.J.S.A. 19:29-3, a copy of the Verified Petition and the within Order shall be served upon the incumbent and all relevant election officials by January __, 2021, which is at least 10 days before the day set for trial; and

H. That a Conference will be held on January __, 2021, at 9:00 a.m.

Ernest M. Caposela, A.J.S.C.

Civil Case Information Statement

Case Details: PASSAIC | Civil Part Docket# L-000017-21

Case Caption: IN THE MATTER OF MCKOY WILLIAM

Case Initiation Date: 01/04/2021

Attorney Name: SCOTT D SALMON

Firm Name: JARDIM MEISNER & SUSSER PC

Address: 30 B VREELAND RD STE 100

FLORHAM PARK NJ 07932

Phone: 9738457640

Name of Party: PETITIONER : McKoy, William

Name of Defendant's Primary Insurance Company

(if known): None

Case Type: OTHER Election Contest Pursuant to N.J.S.A. 19:29-1

Document Type: Petition

Jury Demand: NONE

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Are sexual abuse claims alleged by: William McKoy? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b)

01/04/2021

Dated

/s/ SCOTT D SALMON

Signed