

IN THE SUPREME COURT OF PENNSYLVANIA

PENNSYLVANIANS AGAINST : No.
GAMBLING EXPANSION FUND, INC.; :
PENNSYLVANIA FAMILY INSTITUTE; :
THE LEAGUE OF WOMEN VOTERS OF :
PENNSYLVANIA; GIBSON E. :
ARMSTRONG, Senator of the 13th :
Senatorial District; **PAUL I. CLYMER,** :
Representative of the 145th Legislative :
District; **GREGORY S. VITALI,** :
Representative of the 166th Legislative :
District; **GIBSON C. ARMSTRONG,** :
Representative of the 100th Legislative :
District; **JERRY A. STERN,** Representative :
of the 80th Legislative District; **DICK** :
SHELLENBERGER, Lancaster County :
Commissioner; **THE COMMONWEALTH** :
FOUNDATION; THE KEYSTONE :
CHRISTIAN EDUCATION :
ASSOCIATION; A UNITED :
METHODIST WITNESS OF :
PENNSYLVANIA; NO DICE, INC.; :
THE REVEREND DR. THOMAS E. :
RICHARDS, JR., in his individual capacity; :
MARK KOVSCEK, in his individual :
capacity; **CHRIST G. LAPP,** in his :
individual capacity; **LOIS J.** :
ROMBERGER, in her individual capacity; :
and **C. DOUGLAS ROTHGABER,** in his :
individual capacity :
:

Petitioners

v.

COMMONWEALTH OF :
PENNSYLVANIA; EDWARD G. :
RENDELL, in his official capacity as :
Governor of the Commonwealth of :
Pennsylvania; **ROBERT C. JUBELIRER,** :
President *Pro Tempore* of the Senate of the :
Commonwealth of Pennsylvania; **JOHN M.** :
PERZEL, Speaker of the House of :
Representatives of the Commonwealth of :
:

Pennsylvania; **ROBERT J. MELLOW**, :
 Minority Leader of the Senate of the :
 Commonwealth of Pennsylvania; **H.** :
WILLIAM DEWEESE, Minority Leader of :
 the House of Representatives of the :
 Commonwealth of Pennsylvania; **THE** :
PENNSYLVANIA GAMING CONTROL :
BOARD :
 :
 Respondents :

**MOTION TO EXPEDITE A FINAL JUDGMENT IN CONNECTION WITH A
 REQUEST FOR A DECLARATORY JUDGMENT**

1. The Petitioners have filed an action for declaratory relief challenging Act 2004-71 (the “Casino Slot Machine Act” or “Act”) asking that the Act be declared unconstitutional.

2. Section 1904 of the Casino Slot Machine Act specifically creates exclusive jurisdiction in the Supreme Court of Pennsylvania over constitutional challenges to the Act and specifically authorizes this Court “to expedite a final judgment in connection with such a challenge or request for declaratory relief.”¹

3. As set forth in the simultaneously filed “Petition in the Nature of a Complaint Seeking Declaratory Judgment and Injunctive Relief” the right to relief in this case is clear and unequivocal in that Article III, Sections 1, 3, 4, 6 and 10 of the Constitution of the Commonwealth

¹ The exact language of the Section provides as follows:

§1904. Exclusive Jurisdiction of Supreme Court.

The Pennsylvania Supreme Court shall have exclusive jurisdiction to hear any challenge to or to render a declaratory judgment concerning the constitutionality of this part. The Supreme Court is authorized to take such action as it deems appropriate, consistent with the Supreme Court retaining jurisdiction over such a matter, to find facts or to expedite a final judgment in connection with such a challenge or request for declaratory relief.

of Pennsylvania have been violated by the procedures used to process this Act through the General Assembly.

4. This Court has very recently reviewed a very similar case involving the violation of Article III, Section 3 and, under facts very similar to those *sub judice*, declared unconstitutional an act reorganizing the governance of the Pennsylvania Convention Center. *City of Philadelphia v. Commonwealth*, 575 Pa. 542, 838 A.2d 566 (2003).

5. On its final reading before passage, the Act challenged in this case went from a one page innocuous assignment of duties to the Pennsylvania State Police, to a 145-page Act legalizing, creating and regulating a newly created casino slot machine industry in 6 chapters, 83 sections and 184 lettered and 228 numbered subsections.

6. The Pennsylvania Gaming Control Board, which is created by the Act to implement its provisions, has been appointed and its first meeting is scheduled for December 14, 2004. It is expected at this meeting the Board will begin implementing the voluminous provisions of the Act resulting in the initial steps being taken to begin issuing gambling and manufacturing licenses and to expend approximately \$36 million dollars in appropriated funds aimed at implementing the Act.

7. The Petitioners have attached and incorporated into their Petition a voluminous appendix containing the original one-page House Bill No. 2330 (Exhibit “3”), the 145-page amended House Bill No. 2330 (Exhibit “5”) and the relevant Senate and House Legislative Journals (Exhibits “7” through “18”) which will provide the entire record necessary to determine whether the General Assembly has violated the relevant Articles of the Pennsylvania Constitution. Accordingly, the Petition presents issues over which this Court’s standard of review is plenary and which are ripe for briefing and disposition on the legal issue of the constitutionality of the Act.

8. It is in the interest of all parties to this matter that this Court promptly and expeditiously decide the constitutionality of the Act. The Act's constitutionality is of the highest public importance because, as outlined in the Petition, the Act exposes the citizens of the Commonwealth of Pennsylvania to adverse societal impacts such as increased crime and corruption, numerous adverse impact on family life, societal costs through gambling addiction, increased bankruptcies, and other numerous and deleterious societal impacts. Moreover, named Respondents, including the Pennsylvania Gaming Control Board, will be impacted and equally desire prompt disposition because they may be about to waste millions of dollars in taxpayer funds on an unconstitutional statute by commencing the implementation process not to mention the time and expense necessary to dismantle the Act's implementation when ultimately declared unconstitutional.

WHEREFORE, it is respectfully requested that §1904 of the Act be implemented by the Court "to expedite a final judgment in connection with such a *** request for declaratory relief."

Respectfully Submitted,

s/ _____
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Dated: December 10, 2004

Counsel for Petitioners

VERIFICATION

I, Stephen Michael Geer, hereby verify that the facts set forth in the foregoing document are true and correct to the best of my knowledge, information and belief. I understand that this verification is made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

Date: 12/10/04


Stephen Michael Geer

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing Motion to Expedite a Final Judgment in Connection with a Request for a Declaratory Judgment upon the persons and in the manner indicated below which service satisfies the requirements of Pa. R.A.P. 121:

Personal Service via Hand Delivery

Gerald J. Pappert
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Service via Certified Mail, Return Receipt Requested:

Chairman
Pennsylvania Gaming Control Board
1900 Market St.
Philadelphia, PA 19103

s/ _____
James J. West

Dated: December 10, 2004