

**IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

**THE HONORABLE TOM WOLF,
GOVERNOR OF THE
COMMONWEALTH OF
PENNSYLVANIA,**

Petitioner

v.

**SENATOR JOSEPH B. SCARNATI,
III, SENATOR JAKE CORMAN, AND
SENATE REPUBLICAN CAUCUS**

Respondents

No. 104 MM 2020

**GOVERNOR TOM WOLF’S RESPONSE IN OPPOSITION TO
RESPONDENT’S APPLICATION FOR LEAVE TO PRESENT
ORAL ARGUMENT**

On June 19, 2020, Respondents (the Caucus) filed an application for leave to present oral argument in this matter. Petitioner Governor Wolf respectfully requests that the Court deny the application.

As this Court stated in *In re Bruno*, 101 A.3d 635, 671 (Pa. 2014), King’s Bench jurisdiction exists in order to avoid “the deleterious effect upon the public interest caused by delays incident to ordinary processes of law, or deficiencies in the ordinary processes of law making those avenues inadequate for the exigencies of the moment.” For this reason, unlike cases that reach the Court upon a petition for allowance of appeal, oral argument in King’s Bench matters is not held as a matter

of course. Indeed, in *Friends of Danny DeVito v. Wolf*, 68 M.M. 2020, this Court denied the petitioners’ request for oral argument and decided the case based upon the parties’ written briefs. *See also, Private Properties, LLC v. Tom Wolf*, 90 M.M. 2020.

In their application, the Caucus suggests that the Court should hold oral argument because this matter presents “urgent and critical statewide issues.” But that is always the case with King’s Bench jurisdiction. The urgency of King’s Bench matters is precisely why the Court generally foregoes oral argument. It is also precisely why, with respect to the issues presented in this instance, the Court should forego oral argument and decide this matter on the parties’ filings¹ as quickly as possible.² As the Governor emphasized in his original application,

[t]his conflict between the Legislative and Executive branches is causing great confusion among the public as to whether the disaster continues and whether certain executive orders issued under the Emergency Code remain in place. This confusion is life-threatening, as individuals look to our government for guidance on how to protect themselves and their families from this deadly pandemic.

¹ The Caucus has also applied for leave to file a supplemental brief to its own responsive brief. As explained elsewhere, that application, well out of time and at the eleventh hour, is improper and should be denied.

² The Caucus understood the importance of an expeditious decision in this matter when they filed for expedited summary relief in the Commonwealth Court. Their attempt to delay a decision in this matter now that it is before this Court is inconsistent with that acknowledgment.

Application for King’s Bench Jurisdiction, at 13. The danger has not lessened.³

The confusion remains, and with it the peril of delay.

Governor Wolf urges the Court not to have oral argument on this matter, as it will cause undue delay. Unless this Court deems oral argument essential to rendering a decision, the application should be denied.

Respectfully submitted,

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DATE: June 22, 2020

³ “W.H.O. Warns of ‘Dangerous Phase’ of Pandemic as Outbreaks Widen,” *The New York Times*, <https://www.nytimes.com/2020/06/19/us/coronavirus-new-dangerous-phase.html> (last visited 06/21/20).

CERTIFICATE OF SERVICE

I, J. Bart DeLone, Chief Deputy Attorney General, do hereby certify that I have this day served the foregoing response, via PACFile, on the following:

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/s/ J. Bart DeLone

J. BART DeLONE
Chief Deputy Attorney General

DATE: June 22, 2020