

RUDOLPH CLARKE, LLC

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Attorneys for Respondent
Lori Schreiber

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

AMY MCFALLS, et al.	:	
	:	
Petitioners,	:	No. 4 MD 2021
v.	:	Class Action
	:	Original Jurisdiction
38 TH JUDICIAL DISTRICT, et al.	:	
	:	
Respondents.	:	

**RESPONDENT LORI SCHREIBER’S PRELIMINARY OBJECTIONS
TO THE PETITION FOR REVIEW**

Respondent Lori Schreiber objects to the Petition for Review pursuant to Pa.R.C.P. 1028(a) on the following grounds:

1. This class action alleges the assessment of duplicative court costs against Petitioners and other proposed class members as part of criminal convictions and sentences in in the Court of Common Pleas of Montgomery County.

2. Respondent filing these objections is the Clerk of Courts of Montgomery County, Lori Schreiber.
3. Respondent Schreiber is sued in her official capacity only as an elected official of the Commonwealth of Pennsylvania.
4. Petitioners have also filed suit against the 38th Judicial District of Pennsylvania, the Honorable Thomas M. Del Ricci, President Judge of the Court of Common Pleas of Montgomery County, and the Court Administrator for the Court of Common Pleas, Michael R. Kehs, Esquire (“Judicial Respondents”) (collectively with Respondent Schreiber, the “Respondents”).
5. Judicial Respondents filed Preliminary Objections with this Honorable Court on February 4, 2021.
6. Respondent Schreiber joins in the Preliminary Objections brought by the Judicial Respondents, incorporating those Preliminary Objections herein by reference and as stated.
7. Petitioner claims that Respondents collectively violated various federal and state constitutional rights by docketing, assessing, and collecting duplicative court costs associated with criminal convictions, and seek the following declaratory and injunctive relief:
 - a. a declaration that imposing costs on multiple charges in a single criminal proceeding is unlawful, and such costs against Petitioners are null and void;

- b. a declaration that a court cannot impose costs on a criminal defendant unless it provides a bill of costs to defendant and counsel at sentencing
 - c. injunctive relief to include ceasing the imposition and collection of such costs, including voiding outstanding balances;
 - d. an injunction ordering Respondents to develop various programs for the itemization and production of any court costs prior to sentencing; and
 - e. an injunction ordering Respondents to notify credit reporting agencies of adjustments to credit reports of the proposed class.
8. As will be set forth more fully in Respondent Schreiber's brief, Petitioners' relief is inapplicable to Respondent Schreiber in her official capacity as the Clerk of Courts fulfills a ministerial function and has no discretion as to the imposition of costs as part of Petitioners' sentences.
9. Petitioners' claims against Respondent Schreiber are without merit as Respondent Schreiber is obliged to follow the orders of the Judges of the Court of Common Pleas and assess and collect fees as calculated by the Administrative Office of Pennsylvania Courts system for criminal cases (the Common Pleas Case Management System, commonly referred to as "CPCMS").
10. Petitioners' request for relief is improper because they have an adequate remedy at law in their respective criminal cases to challenge any cost they believe is improper.

11. Petitioners' request for relief is improper because it collaterally attacks criminal sentences by seeking to reverse, modify, or both, judicial decisions and orders in criminal cases.
12. The Petition fails to set forth a viable Equal Protection or Due Process claim.
13. Petitioners request for relief is prohibited in part by the doctrine of Heck v. Humphrey, 512 U.S. 477 (1994).
14. Petitioners request for relief is beyond the scope of the powers granted to the Clerk of Courts and therefore improper as the Clerk of Courts may not exercise any authority beyond that authority conferred by or derived from either statute or rule of court. In re Administrative Order No. 1-MD-2003, 936 A.2d 1 (Pa. 2007).
15. The Petition fails to state a claim for relief under the Pennsylvania Constitution.
16. Sovereign immunity precludes the stated claims that seek to compel Respondent Schreiber to take action.
17. The Petition fails to state a class action claim for the reasons set forth above, including having an adequate remedy at law and failure to fulfill the requirements of Pennsylvania Rule of Civil Procedure 1702.
18. Respondent Schreiber reserves the right to provide the Court with additional reasons in the brief supporting these Preliminary Objections.

WHEREFORE, Respondent Lori Schreiber respectfully requests this Honorable Court to grant these Preliminary Objections and dismiss the claims against Respondent Schreiber with prejudice.

Respectfully submitted,

/s/ Gregory R. Heleniak

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ORDER

AND NOW, this _____ day of _____, 2021, upon consideration of Respondent Lori Schreiber’s Preliminary Objections to the Petition for Review, and Petitioners’ response, it is **ORDERED** that the Preliminary Objections are **SUSTAINED**.

The claims against Respondent Lori Schreiber are **DISMISSED** with prejudice.

J.