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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RICHARD VIETH, et al, Plaintiffs,	:	
v.	:	No. 1:CV-01-2439 (Judge Rambo)
THE COMMONWEALTH OF PENNSYLVANIA, et al., Defendants.	:	

PRESIDING OFFICERS' SECOND STATUS REPORT

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BACKGROUND

On April 8, 2002, this Court, under the principle of one-person, one-vote, declared unconstitutional the congressional redistricting plan for the Commonwealth of Pennsylvania contained in Act No. 2002-1 ("Act 1"), enjoined its implementation, and directed the Pennsylvania General Assembly to "within three weeks of the date of this order, prepare, enact and submit for review and final approval by this Court, a congressional redistricting plan in conformity with this opinion."

On April 17, 2002, the General Assembly passed a bill (HB 2545, PN 3726) containing a revised congressional redistricting plan, which, on April 18, 2002, was signed into law by Governor Schweiker as Act No. 2002-34 ("Act 34"). Act 34 also repeals Act 1. Defendants Jubelirer and Ryan, joined by Executive Officers, immediately notified this Court of the enactment of Act 34 in connection with the renewal of their motion for a stay of the April 8th injunction against the use of the Act 1 plan for the 2002 congressional elections.

On April 22, 2002, Plaintiffs opposed the renewed motion for stay and moved for the commencement of remedial hearings ("Remedial Motion"). Plaintiffs' Remedial Motion attacked the validity of the Act 34 plan on the ground that it violates the one-person, one-vote principle. Plaintiffs alleged that due to a change of a voting precinct boundary in Armstrong County's South Buffalo Township that affected 49 residents, there is a 97-person population deviation in Act 34. The voting precinct boundary in South Buffalo Township forms part of the boundary between the 3rd and 12th congressional districts in the Act 34 plan, as it did in the Act 1 plan. The change was precipitated by a petition filed by the Board of Elections of Armstrong County on February 19, 2002 that was approved by the Court of Common Pleas of Armstrong County ("Armstrong County Court") on March 15, 2002 ("March 15th order").

On April 23, 2002, this Court stayed its April 8th injunction, allowing the 2002 congressional elections to be conducted under Act 1, and set a hearing for May 8, 2002 "for the purpose of determining whether Act 34 suitably remedies the constitutional violation found by this court in its order of April 8, 2002." However, on May 2, 2002, after a conference call with counsel, this Court canceled the hearing and instructed Defendants to file a Status Report on the dispute resulting from the Armstrong County Court's March 15th order.

On June 3, 2002, Presiding Officers filed their Status Report, which informed this Court that:

> After the situation in Armstrong County came to the attention of the Defendants, the Department of State advised the Armstrong County Board of Elections that it needed to take appropriate measures to cure the violation of law that had occurred. The Armstrong County Board of Elections has petitioned the Armstrong County Court of Common Pleas to vacate its March 15, 2002 order. The Armstrong County Court has set a hearing on the Board of Election's request for July 15, 2002.
>
> The Armstrong County Board of Elections also took administrative measures to make sure that voters in the two affected precincts would be able to vote in the primary election for congress in accordance with the boundaries set by the General Assembly. The Board conducted the congressional primary in accordance with the boundary.

Presiding Officers' Status Report at 3. In their Status Report, Presiding Officers also argued that the March 15th order was irrelevant to the constitutionality of Act 34. *See id.* at 4-6.[1] In response to the Status Reports filed by Presiding Officers and Executive Officers, this Court, on June 19, 2002, ordered defendants to file a second Status Report on August 19, 2002. Presiding Officers submit this Second Status Report in accordance with the June 19th order.

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[1] *See also* Presiding Officers' Response in Opposition to Plaintiffs' Motion to Impose Remedial Districts and, in the Alternative, to Reject Act 34 and Begin Remedial Hearings at 6-8.

STATUS REPORT

I. ARMSTRONG COUNTY SITUATION

A. Update

A hearing on the Board of Elections' petition to vacate the March 15th order was held as scheduled on July 15, 2002. On July 29, 2002, the Armstrong County Court (Nickleach, P.J.) issued an opinion and order denying the petition. (A copy of the Opinion and Order is appended). The time for appeal has run and none was taken.

B. Impact

The pre-March 15, 2002 boundary between the two voting precincts of South Buffalo Township was part of the boundary set by the General Assembly in both Act 1 and Act 34 to separate the 3rd and the 12th congressional districts. Presiding Officers, at pages 6-9 of their Response in Opposition to Plaintiffs' Remedial Motion, explained that the Armstrong County Court order is irrelevant to the question of whether the congressional redistricting plan embodied in Act 34 complies with the one-person, one-vote principle. While Presiding Officers believe the action of the Board of Elections of Armstrong County in seeking a boundary change in February 2002 was prohibited by statute, that state issue does not have to be decided for this Court to resolve this litigation. Even if the Board of Elections of Armstrong County was permitted to seek and obtain an alteration of a voting precinct boundary within Armstrong County when it did, the change could not affect a congressional district boundary line established by a duly-enacted statute because to do so would violate U.S. CONST. art. I, §4. *See* Presiding Officers' Response to Remedial Motion at 7-8.

The authority to change local election district (also referred to as a voting precinct) boundaries does not encompass the authority to change a congressional

district boundary. *See* Presiding Officers' June 3rd Status Report at 4. U.S. CONST. art. I, §4 vests the authority to draw congressional district boundaries in the state legislature. *See White v. Weiser*, 412 U.S. 783, 794-95 (1973); *Wise v. Lipscomb*, 437 U.S. 535, 538 (1978).

C. *Rooker-Feldman* Does Not Bar This Court From Acting

In their response to Presiding Officers' June 3rd Status Report, Plaintiffs contended that Presiding Officers, by suggesting that the Armstrong County situation is irrelevant to the constitutionality of Act 34, have asked this Court to take action barred by the *Rooker-Feldman* doctrine. The doctrine, however, has no application here.

The *Rooker-Feldman* doctrine is derived from 28 U.S.C. §1257, which provides that "[f]inal judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court." Through *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923), and *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 483 & n.16 (1983), the Supreme Court set forth the basic rule that federal district courts lack subject matter jurisdiction to review final adjudications or to evaluate constitutional claims that are "inextricably intertwined with [a] state court's [decision] in a judicial proceeding."

The *Rooker-Feldman* doctrine applies only to parties which could have appealed the state court decision at issue. *Johnson v. Grandy*, 512 U.S. 997 (1994) (*Rooker-Feldman* inapplicable as invoked against United States where same was not a party to state court proceedings); *FOCUS v. Allegheny County Court of Common Pleas*, 75 F.3d 834 (3d Cir. 1996) (challenge by third parties to gag orders entered in state court not barred by *Rooker-Feldman* because litigants were not parties to state court proceedings); *Valenti v. Mitchell*, 962 F.2d 288 (3d Cir. 1992) (*Rooker-Feldman* doctrine did not bar district court from hearing claims for

injunctive relief brought by litigants not parties to prior state court action).[2] This is because the *Rooker-Feldman* doctrine "assumes that the proper recourse for an unsuccessful litigant in state court is to appeal the adverse judgment through the state court system, with discretionary Supreme Court review as the sole possible opportunity for review." 18 MOORE'S FEDERAL PRACTICE §133.30 [3][c][iii].

Here, neither Defendants Jubelirer and Ryan nor the Executive Officers were parties to the proceedings before the Armstrong County Court. The only party before the county court was the Board of Elections, whose petition to alter the boundary lines was unopposed. As the relief sought by the petition was granted, there was no party to take an appeal. Under the circumstances, the *Rooker-Feldman* doctrine cannot act as a bar to arguments made by Defendants Jubelirer and Ryan in the present case.

Additionally, for the *Rooker-Feldman* doctrine to apply, the issue raised in the federal court must be "inextricably intertwined" with the state court judgment. *Feldman*, 460 U.S. at 483 & n.16; *FOCUS*, 75 F.2d at 840-41. As Justice Marshall explained in his concurrence in *Pennzoil v. Texaco, Inc.*, 481 U.S. 1, 25 (1987)

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[2] In *Valenti*, the Third Circuit explained:

> As pointed out by several courts and commentators, the *Rooker-Feldman* doctrine has a close affinity to the principles embodies in the legal concepts of claim and issue preclusion. The basic premise of preclusion is that non-parties to a prior action are not bound. . . . We have found no authority which would extend the *Rooker-Feldman* doctrine to persons not parties to the proceedings before the state supreme court and are referred to none. The suggested analogy to principles of claim and issue preclusion is consistent with prior decisions of this court concerning *Rooker-Feldman*. In Blake [v. Papadakos, 953 F.2d 68 (3d Cir. 1992)], Stern [v. Nix, 840 F.2d 208 (3d Cir.), cert. denied 488 U.S. 826 (1988)] and Centifanti [v. Nix, 865 F.2d 1422 (3d Cir. 1989)], our determination that the *Rooker-Feldman* doctrine served as a bar was based on a determination that the Supreme Court of Pennsylvania had applied existing law to the facts of the federal court plaintiffs' case.

962 F.2d at 297-98 (internal citations omitted).

(Marshall, J., concurring), "a federal claim is inextricably intertwined . . . if the federal claim succeeds only to the extent that the state court wrongly decided the issue before it." *See also FOCUS*, 75 F.3d at 840. ("'*Rooker-Feldman* precludes a federal court action if the relief requested in the federal action would effectively reverse the state decision or void its ruling. Accordingly, to determine whether *Rooker-Feldman* bars [plaintiff's] federal suit requires determining exactly what the state court held . . . if the relief requested in the federal action requires determining that the state court decision is wrong or would void the state court's ruling, then the issues are inextricably intertwined'"(quoting *Charchenko v. City of Stillwater*, 47 F.3d 981, 983 (8th Cir. 1995) (citations omitted)).

In this case, Defendants Jubelirer and Ryan argue that the Armstrong County Court decision is irrelevant to determining whether Act 34 violates the principle of one-person, one-vote. The relevancy of the county court action to the constitutional claim raised by Plaintiffs was not addressed by the state court. In entertaining the Board of Elections' petition, the Armstrong County Court addressed only whether altering the election district boundary in South Buffalo Township would "suit the convenience of the electors and promote the public interest." *See* 25 P.S. §2702. It did not consider, nor was it asked to consider, the impact of the alteration on congressional boundaries or on the constitutionality of Act 34. For this Court to determine the relevance of the Armstrong County situation to Plaintiffs' one-person, one-vote claim does not require it to determine that the state court's action was incorrect or void. As Defendants Jubelirer and Ryan simply do not ask this Court to assess whether the county court wrongly applied the standard set forth in 25 P.S. §2702, the issues are not inextricably intertwined and the *Rooker-Feldman* doctrine is inapplicable.

D. Litigation Related to the Armstrong County Situation

On August 19, 2002, simultaneous with the filing of this Status Report, Defendants Jubelirer and Ryan filed a motion pursuant to Fed.R.Civ.P. 19 and 21 to add the Board of Elections of Armstrong County as a necessary party to this litigation. A memorandum of law in support of the motion was also filed and is incorporated as if set forth herein. To summarize, appropriate relief cannot be granted in this case at this point in time absent the Board of Elections, whether this Court denies or grants Plaintiffs' request for remedial relief.

II. PRECINCT DATA FOR ACT 34

Plaintiffs contended in response to Presiding Officers' June 3rd Status Report that there is no cure for the population deviation alleged to exist by virtue of the March 15th order of the Armstrong County Court because Act 34 "incorporates the precincts that existed on the date of its passage," i.e., April 17, 2002, which, in Plaintiffs' view, included the alteration made by the March 15th order. Plaintiffs' Response at 5. Using decidedly twisted logic, Plaintiffs ascribe this position to Presiding Officers. This is incorrect.

As explained in Presiding Officers' Response in Opposition to Plaintiffs' Remedial Motion, the Act 34 plan, like the Act 1 plan, was drawn using 2000 Census data for Pennsylvania, as assigned by the Legislative Data Processing Center. *See* Hearing Trans. Vol. 1 (March 11, 2002) at 12-13 (testimony of Plaintiffs' cartographer, Robert Priest, that the formal precinct population data used for drawing congressional redistricting plans was that provided by the Legislative Data Processing Center); Hearing Trans. Vol. 3 (March 12, 2002) at 281 (testimony of Defendants' cartographer that he used population data provided by the Legislative Data Processing Center). Based on the 2000 Census precinct population data provided by the Legislative Data Processing Center, the Act 34

plan has no population deviation. It is the 2000 Census data, as assigned to precincts by the Legislative Data Processing Center for use in redistricting, unaltered by intervening changes in voting precinct boundaries by county courts, that forms the basis for congressional redistricting. It cannot be otherwise or the General Assembly's task would be unmanageable and vulnerable to local errors in administration. *See Karcher v. Daggett*, 462 U.S. 725, 738 (1983) ("the census data provide the only reliable – albeit less than perfect – indication of the district's 'real' relative population levels ...; because the census count represents the 'best population data available,' it is the only basis for good-faith attempts to achieve population equality") (quoting *Kirkpatrick v. Preisler*, 394 U.S. 526, 528 (1969)). The March 15th order, whether vacated or not, is irrelevant to the validity of Act 34 because it could not change the 2000 Census data being used by General Assembly.

III. ONE-PERSON, ONE-VOTE VIOLATION

Even if this Court finds that Act 34 does not have a "zero" population deviation due to the Armstrong County Court order moving the voting precinct boundary in South Buffalo Township, it should not conclude that the Act 34 plan violates the one-person, one-vote principle. The Act 34 plan represents a good-faith effort to draw a "zero" deviation plan. The General Assembly believed the Act 34 plan represented the closest to a zero deviation plan possible given Pennsylvania's population and the number of districts to be drawn. Moreover, the Act 34 plan split no populated voting precincts, a legitimate legislative concern recognized by this Court in its prior decision. *See* 195 F. Supp.2d 672, 677 (M.D. Pa. 2002) (three-judge court). Plaintiffs, therefore, cannot meet their burden under the first prong of *Karcher v. Daggett*, 462 U.S. 725 (1983).

IV. REMEDIAL PHASE

Should this Court accept Plaintiffs' position that Act 34 violates the one-person, one-vote principle and proceed to draw a congressional redistricting plan for Pennsylvania,[3] it will be faced with the same problem as the General Assembly, i.e., county boards of elections who seek, and obtain, changes to voting precinct boundary lines that also divide congressional districts. Unless the Armstrong County situation is addressed in the context of this litigation, other voting precinct boundaries that also divide congressional districts may be altered, thus rendering any plan this Court might put in place subject to challenge under the principle of one-person, one-vote. Only by addressing the legal relevance of such action under color of state law by the Board of Elections can the Court avoid this dilemma which essentially renders congressional redistricting in Pennsylvania a moving target.

[3] As *Growe v. Emison*, 507 U.S. 25 (1993), instructs, if a federal court invalidates a current plan or district, it must give the state legislature a reasonable opportunity to act. Federal courts may draw districts only where the state cannot or will not do so. *See id.* at 32-33; *see also Wise v. Lipscomb*, 437 U.S. 535 (1978); *White v. Weiser*, 412 U.S. 783 (1973).

CONCLUSION

The Court should grant Defendants Jubelirer and Ryan's motion to join the Board of Elections of Armstrong County as a necessary party to this action, deny Plaintiffs' Remedial Motion, declare that portion of congressional district boundary line between the 3rd and 12th districts located in South Buffalo Township, Armstrong County to be the voting precinct boundary line in place before the March 15th order of the Armstrong County Court, direct the Board of Elections of Armstrong County to hold congressional elections in accordance with the pre-March 15th voting precinct boundary line in South Buffalo Township and direct the clerk to mark the docket for this case closed.

Respectfully submitted,

August 19, 2002

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CERTIFICATE OF SERVICE

I certify that on August 19, 2002, I caused a copy of the foregoing Second Status Report to be served on the following in the manner indicated:

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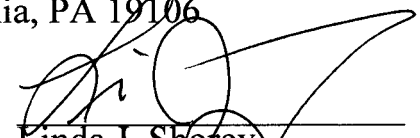

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IN THE COURT OF COMMON PLEAS OF
ARMSTRONG COUNTY, PENNSYLVANIA

IN RE: REALIGNMENT OF THE DIVISION EASTERN AND WESTERN PRECINCTS OF THE SOUTH BUFFALO TOWNSHIP ELECTION DISTRICT	))))	2002 - 0081 - MISC.

OPINION

NICKLEACH, P.J.

Currently before the Court for disposition is a Petition to Vacate the Order of this Court entered on March 15, 2002.

FACTS AND PROCEDURAL POSTURE

On February 19, 2002, the County Election Board of the County of Armstrong, Pennsylvania (Election Board) petitioned this Court to alter the boundary line between two (2) existing election districts of South Buffalo Township "[f]or the convenience of the electors in the areas affected and in the best public interest of South Buffalo Township and Armstrong County." This Petition was unopposed, and after hearing with due notice the Petition was granted on March 15, 2002.

In changing the boundary line, no new election district was established from parts of adjoining election districts; no election districts were abolished; no single election district was divided into two or more election districts; and no two or more election districts were consolidated into one district.

On May 8, 2002, the County Election Board petitioned this

Court to vacate its earlier Order, stating that the earlier Order "technically violates the provisions of the Election Code," citing § 536 of the Election Code, 1937, June 3, P.L. 1333 No. 320, Art. V, § 536 added 1999, Nov, 24, P.L. 543, No. 51 § 1, 25 P.S. § 2746.

The Court set a hearing for July 15, 2002, and directed appropriate notice. All interested parties were afforded an opportunity to be heard. At the hearing, counsel for the Election Board again cited § 536 of the Election Code, stating that the Court's earlier Order violated the Election Code.

ISSUE

Whether the Order of March 15, 2002 violated applicable law and must now be vacated.

DISCUSSION

At the time of the March 15, 2002 hearing and the Order altering the boundary lines of the two election districts, § 536 of the Election Code provided as follows:

> (a) Except as provided in subsection (b), there shall be no power to *establish, abolish, divide, or consolidate* an election district during the period June 1, 2000, through April 30, 2002. . . .
> 25 P.S. § 2746 (emphasis supplied).

On May 16, 2002, the legislature amended § 536 of the Election Code by passing Act 2002-44 2002, May 16, P.L. 310, No.

44. Section 536 now reads as follows:

> (a) Except as provided in subsection (b), there shall be no power to establish, abolish, divide, consolidate *or alter in any manner* an election district during the period June 1, 2000, through June 30, 2002, *or through resolution of all judicial appeals to the 2002 Congressional Reapportionment Plan, whichever occurs later.* . . .
> 25 P.S. § 2746 (as amended) (emphasis supplied).

Moreover, § 5 of Act 2002-44 provides that "the amendment of section 536 of the act shall apply retroactively to November 24, 1999."

Thus it appears that in reaction to this Court's Order of March 15, 2002, and in an attempt to overrule its decision, the legislature hastily passed an amendment to § 536, outlawing *alteration* of election districts during the freeze period in addition to prohibiting the establishment, abolition, division, or consolidation of election districts. The legislature also extended the freeze period in the event the judicial appeals to the 2002 Congressional Reapportionment Plan were not resolved by June 30, 2002.

In our opinion, Act 2002-44, passed on May 16, 2002, does not invalidate our Order of March 15, 2002. That Act is neither applicable in this case nor does it serve to overrule our decision. We recognize that although statutes normally are applied prospectively, there is no doubt that the legislature, in certain cases, may apply a law retroactively, *Smith v. Fenner*, 399 Pa. 633, 161 A.2d 150 (1960). Indeed, the statutory

Construction Act recognizes the principle of retroactive application in 1 Pa.C.S. § 1926, which provides that "[n]o statute shall be construed to be retroactive unless clearly and manifestly so intended by the General Assembly."

Explicit use of the word "retroactive" in the language of a statute obviously indicates a clear and manifest intent of the legislature that an act be applied retroactively. *See, e.g., Com. v. Baysore*, 349 Pa.Super. 345, 503 A.2d 33 (1986)(overruled on other grounds). The language of the amended statute explicitly uses the word "retroactive." Thus, it is clear that on May 16, 2002, the legislature intended the prohibition on alteration of election districts to be retroactive to November 24, 1999. However, our decision cannot be overruled by the legislature.

If the petition to alter South Buffalo's voting districts, filed on February 19, 2002, was still pending on May 16, 2002, the date of the amendment to § 536 of the Election Code, we would have had no choice but to deny the Petition. At that time, there were no vested rights involved and the retroactive nature of the amendment to § 536 would require its application to the case at hand. But the matter involving South Buffalo's voting district was already completed by the time the prohibition on alteration was made law on May 16. No appeal had been taken from the Order of March 15, 2002. Nothing remained pending, and the case was over. The legislature may not, by act of assembly, overrule a

judicial decision. *Com. v. Shaffer*, 557 Pa. 453, 734 A.2d 840 (1999), citing *Com. v. Sutley*, 474 Pa. 256, 378 A.2d 780 (1977), *Greenough v. Greenough*, 11 Pa. 489 (1849).

> Though the legislature possesses the power to promulgate the substantive law, [footnote omitted] judicial judgments and decrees entered pursuant to these laws may not be affected by subsequent legislative changes after those judgments and decrees have become final.
> 378 A.2d at 784.

Having determined that the legislation of May 16, 2002 cannot serve to invalidate our Order of March 15, 2002, we now consider the language of the statute as it existed on the date of our Order. As quoted above, § 536 at that time prohibited establishment, abolition, division, or consolidation of election districts during a freeze period from June 1, 2000 through April 30, 2002. The section said nothing about alteration of election districts. The prohibitions of § 536 are not ambiguous. They clearly do not include the term "alteration." The legislature was well aware of this terminology, as throughout the Election Code, it includes the additional term "alteration" when the terms dividing, establishing, abolishing, or consolidating are mentioned.

For example, § 502, 25 P.S. § 2702, provides that "the court of common pleas . . . may *form or create* new election districts by *dividing or redividing* any . . . election district into two or more election districts . . . , or *alter the bounds* of any

election district, or *form* an election district . . . , or *consolidate* adjoining election districts . . . ." Section 503, 25 P.S. § 2703, provides for petitions seeking "*division or redivision* of . . . [an] election district into two or more election districts, or for the *alteration of the bounds* of any election district, or for the *formation* of one or more election districts out of two or more existing election districts, or parts thereof, or for the *consolidation* of adjoining election districts . . . ." Section 504, 25 P.S. § 2704, calls for petition by the board of elections for "*division or redivision* of any election district into two or more election districts, or for the *alteration of the bounds* of any election district, or for the *formation* of one or more election districts out of two or more existing election districts, or parts thereof, or for the *consolidation* of adjoining election districts . . . ." (emphasis supplied).

Furthermore, the legislature's amendatory language of May 16, 2002 clearly evinces the notion that alteration of existing boundaries was not included in the terms "establish, abolish, divide, or consolidate" as used in the previous version of § 536 of the Election Code. Therefore, the Court's action in altering the boundaries of the election districts in South Buffalo

Township was not in violation of then-existing law.[1]

Having determined that the Order of march 15, 2002 was not violative of any existing law, we consider, finally, whether vacating our Order is permissible under our general judicial power. The Petition to Vacate was filed on May 8, 2002, more than thirty (30) days from the date of the Order. No appeal was taken.

The Judicial Code provides in § 5505, Modification of orders, as follows:

> Except as otherwise provided or prescribed by law, a court upon notice to the parties may modify or rescind any order within 30 days after its entry, notwithstanding the prior termination of any term of court, if no appeal from such order has been taken or allowed.
> 42 Pa.C.S. § 5505

It has been held that a court may open or vacate its order after the thirty day period has expired where fraud or some other circumstance "so grave or compelling as to constitute

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[1] We are aware that the preamble to Act 1999-51 and the heading to § 536 speak of alteration of election districts. However, under the Statutory Construction Act, 1 Pa.C.S. § 1924, while titles, preambles, headings, and other divisions of a statute may be considered in its construction, they may not control and may be considered only where the plain words are ambiguous. *Licensed Beverage Ass'n of Philadelphia v. Board of Educ. Of Sch. Dist. of Philadelphia*, 669 A.2d 447 (Pa.Commw. 1995), *Boring v. Erie Ins. Group*, 434 Pa.Super. 40, 641 A.2d 1189 (1994), citing *Com. v. Magwood*, 503 Pa.169, 469 A.2d 115 (1983). Since the words of the statute are clearly not ambiguous, we find no need to refer to the heading. "Where 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." *Boring*, 641 A.2d at 1192, 1 Pa.C.S. § 1921(b).

extraordinary cause justifying court intervention is shown." *Justice v. Justice*, 417 Pa.Super. 581, 612 A.2d 1354, 1357 (1992), quoting *Simpson v. Allstate Ins. Co.*, 350 Pa.Super. 239, 504 A.2d 335, 337 (1986). The inherent power of the court to correct patent and obvious mistakes is not eliminated by the expiration of the thirty day period. *Com. v. Cole*, 437 Pa. 288, 263 A.2d 339 (1970).

We are convinced that there was no fraud underlying the original Petition which resulted in the March 15, 2002 Order. Moreover, as discussed above, the order was not violative of existing law, and we see no obvious and patent mistake in our decision. Finally, we have carefully considered the matter and find no grave, compelling circumstances constituting extraordinary cause which would justify our intervention beyond the thirty day period. Consequently, the Petition to Vacate will be denied and our Order of March 15, 2002 will stand.

An appropriate Order will be entered.

IN THE COURT OF COMMON PLEAS OF ARMSTRONG COUNTY, PENNSYLVANIA

IN RE: REALIGNMENT OF THE DIVISION EASTERN AND WESTERN PRECINCTS OF THE SOUTH BUFFALO TOWNSHIP ELECTION DISTRICT	))))	2002 - 0081 - MISC.

ORDER

AND NOW, to-wit, this 29th day of July, 2002, the County of Armstrong, County Election Board having filed a Petition to Vacate this Court's Order of March 15, 2002, and after hearing and upon consideration of the argument of Counsel and for the reasons set forth in the attached Opinion, **IT IS ORDERED, ADJUDGED, AND DECREED** that the Petition to Vacate said Order be and hereby is denied.

By the Court

Joseph A. Nickleach P.J.
Joseph A. Nickleach