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VIA EMAIL TO ([jacqueline.hiqueruel@njcourts.gov](mailto:jacqueline.hiqueruel@njcourts.gov))

Honorable Peter E. Warshaw, Jr., P.J.Cr.

Mercer County Superior Court

400 South Warren Street

Trenton, NJ 08650

**Re: State v. Kelly Yaede  
Complaint No.: S-2019-001819  
Motion to Dismiss on Emergent Basis**

Your Honor:

Please accept this letter in lieu of formal brief in response to the State's letter regarding Ms. Yaede's motion to dismiss the complaint on an emergent basis.

The State's response is a misguided understanding of the entire purpose behind emergent relief, as well as the protections afforded to the electoral process. It is important to note that the timing of these charges was unilaterally controlled by the Prosecutor's Office. Their investigation was completed in June, yet they wait until September 3, the day after Labor Day, which is the kick-off for the election season, to file the within charge. This charge was filed against a sitting Mayor with a full understanding of its impact on the upcoming election. To suggest to the contrary is disingenuous to say the least.

Our courts have recognized for decades the importance of an unfettered election for the people. It is not uncommon for emergent applications to be made to protect that process. The Supreme Court has acknowledged "It is not the right to vote which is the underpinning of our democratic process; rather, it is the right of choice for whom to vote."

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Alston v. Mays, 152 N.J. Super. 509, 517–18 (Law. Div. 1977). The courts want to allow the greatest scope of public participation for an election: “to allow candidates to get on the ballot, to allow parties to put their candidates on the ballot, and most importantly to allow the voters a choice on Election Day.” Catania v. Haberle, 123 N.J. 438, 448 (1990).

Contrary to the State’s position, the election does and should take precedence over other matters as this politically motivated prosecution affects not only the Mayor, but also every single citizen of Hamilton Township and their future. The Supreme Court in New Jersey Conservative Party, Inc. v. Farmer compiled the perfect view of the democratic process of electoral privilege in saying, “No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live.” Wesberry v. Sanders, 376 U.S. 1, 17, 84 S.Ct. 526, 11 L.Ed.2d 481 (1964). This right has been clarified to mean, in essence, “the right to participate in an electoral process that is necessarily structured to maintain the integrity of the democratic system.” Burdick v. Takushi, 504 U.S. 428, 433, 112 S.Ct. 2059, 119 L.Ed.2d 245 (1992). Subsumed within this right is the power of the state to regulate elections to “ensure orderly, rather than chaotic, operation of the democratic process.” Storer v. Brown, 415 U.S. 724, 730, 94 S.Ct. 1274, 39 L.Ed.2d 714 (1974).” New Jersey Conservative Party, Inc. v. Farmer, 332 N.J. Super. 278, 287 (Ch. Div. 1999).

To allow the state to continue this frivolous, baseless, and unfounded prosecution of a disorderly persons offense that has a material impact on the Hamilton electoral process will be a violation of not only Mayor Yaede’s rights, but the citizens of the township as well.

Respectfully submitted,  
**Law Offices of Robin Kay Lord, LLC**

***/s/ Robin Lord***

Robin Kay Lord, Esquire

RKL/dn

cc: Kathleen Petrucci, AP – VIA EMAIL  
Angelo Onofri, Prosecutor – VIA EMAIL  
Kelly Yaede