

## SUPREME COURT PENDING CASE

*The following appeal is eligible for assignment by the Supreme Court in the near future.*

IN RE CRIMINAL COMPLAINT AND APPLICATION FOR  
ARREST WARRANT, SC 20995  
*Judicial District of Fairfield*

**Elections; Whether Three Electors Could Seek Arrest Warrants for Individuals Alleged to Have Violated Election Laws under General Statutes § 9-368.** On November 1, 2023, a trial court judge ordered that a new primary for the Democratic Party nomination for mayor of Bridgeport be held after concluding that the result of the September 12, 2023 primary election was called into serious doubt by the mishandling of absentee ballots in violation of General Statutes § 9-140b. Albert Bottone, Diahann Phillips, and Alison Scofield are three Bridgeport electors. On November 21, 2023, they presented criminal complaints and applications for arrest warrants in the judicial district of Fairfield pursuant to General Statutes § 9-368 against two individuals who had mishandled absentee ballots in the September 12, 2023 primary election. Section 9-368 provides: “Upon the written complaint of any three electors of a town in which a violation of any law relating to elections has occurred to any judge of the superior court for the judicial district within which the offense has been committed, supported by oath or affirmation that the complainants have good reason to believe and do believe that the allegations therein contained are true and can be proved, such judge shall issue a warrant for the arrest of the accused.” A trial court clerk accepted the applications and brought them to the presiding administrative judge for civil matters for the judicial district. On November 28, 2023, the judge denied the applications. The judge first determined that § 9-368 allowed for the issuance of arrest warrants “based on a standard of less than probable cause” in contravention of the fourth amendment of the federal constitution and Practice Book § 36-1. The judge further determined that, “[e]ven if the statute could be read to require a finding of probable cause, it is nonetheless deficient because it allows for an arrest warrant to issue without providing a vehicle for prosecution.” The judge explained in support thereof that § 9-368 allows for the issuance of an arrest warrant absent coordination with the Division of Criminal Justice, which is vested with all prosecutorial authority by virtue of article fourth of the Connecticut constitution, as amended by article twenty-three. Bottone, Phillips, and Scofield subsequently filed a writ of error with the Appellate Court that was transferred to the Supreme

Court pursuant to Practice Book § 65-2. The Supreme Court will decide the threshold issue of whether it has subject matter jurisdiction over the writ of error where the state claims that Bottone, Phillips, and Scofield are neither classically nor statutorily aggrieved by the judge's decision. If the Supreme Court decides that it has subject matter jurisdiction, it will also decide the issues of whether the trial court properly determined (1) that § 9-368 allows for the issuance of arrest warrants based on a standard of less than probable cause and (2) that § 9-368 does not establish a vehicle for criminal prosecutions and that article fourth of the Connecticut constitution precludes arrests or prosecutions outside the Division of Criminal Justice.

*The summary appearing here is not intended to represent a comprehensive statement of the facts of the case, nor an exhaustive inventory of issues raised on appeal. This summary is prepared by the Staff Attorneys' Office for the convenience of the bar. It in no way indicates the Supreme Court's view of the factual or legal aspects of the appeal.*

*Jessie Opinion  
Chief Staff Attorney*

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