

IN THE SUPREME COURT OF PENNSYLVANIA

No. ____ MM 2022

David Ball, James D. Bee, Jesse D. Daniel, Gwendolyn Mae DeLuca, Ross M. Farber, Lynn Marie Kalcevic, Vallerie Siciliano-Biancaniello, S. Michael Streib, Republican National Committee, National Republican Congressional Committee, and Republican Party of Pennsylvania,

Petitioners,

v.

Leigh M. Chapman, in her official capacity as Acting Secretary of the Commonwealth, and All 67 County Boards of Elections
(See back of cover for list of County Respondents),

Respondents.

**PETITIONERS' APPLICATION FOR THE EXERCISE OF
KING'S BENCH POWER OR EXTRAORDINARY JURISDICTION**

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Columbia County Board of Elections; Crawford County Board of Elections;
Cumberland County Board of Elections; Dauphin County Board of Elections;
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Erie County Board of Elections; Fayette County Board of Elections;
Forest County Board of Elections; Franklin County Board of Elections;
Fulton County Board of Elections; Greene County Board of Elections;
Huntingdon County Board of Elections; Indiana County Board of Elections;
Jefferson County Board of Elections; Juniata County Board of Elections;
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Lawrence County Board of Elections; Lebanon County Board of Elections;
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Snyder County Board of Elections; Somerset County Board of Elections;
Sullivan County Board of Elections; Susquehanna County Board of Elections;
Tioga County Board of Elections; Union County Board of Elections;
Venango County Board of Elections; Warren County Board of Elections;
Washington County Board of Elections; Wayne County Board of Elections;
Westmoreland County Board of Elections; Wyoming County Board of Elections;
and York County Board of Elections,

Respondents/Appellants.

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INTRODUCTION

The General Assembly has mandated that a voter who uses an absentee or mail-in ballot “shall . . . fill out, date and sign the declaration” printed on the outer envelope of the ballot. 25 P.S. §§ 3146.6(a), 3150.16(a). A majority of this Court has already held that any absentee or mail-in ballot that does not comply with the General Assembly’s date requirement is invalid and cannot be counted in any election after the 2020 general election. *See In re Canvass of Absentee and Mail-In Ballots of November 3, 2020 General Election*, 241 A.3d 1058, 1079-80 (2020) (Opinion of Justice Wecht); *id.* at 1090-91 (Opinion of Justices Dougherty, Saylor, and Mundy) (“*In re 2020 Canvass*”). Thereafter, a panel of the Third Circuit held that the federal materiality statute—which touches on election officials’ determination of whether an “individual is qualified under State law to vote,” 52 U.S.C. § 10101(2)(B)—somehow preempts the date requirement. The U.S. Supreme Court vacated that holding last week. *See Migliori v. Cohen*, No. 22-1499 (3d Cir. May 27, 2022), *cert. granted and judgment vacated*, *Ritter v. Migliori*, No. 22-30, 2022 WL 6571686 (U.S. Oct. 11, 2022) (Mem.). And when addressing a request for a stay earlier in that case, three Justices even opined that the Third Circuit’s holding is “very likely wrong” on the merits because it rests upon a misconstruction of federal law. *Ritter v. Migliori*, 142 S. Ct. 1824, 1824 (2022) (Mem.) (Alito, J., dissenting from the denial of the application for stay).

Nonetheless, following the Supreme Court’s vacatur order, the Acting Secretary of the Commonwealth has doubled down on guidance that purports to direct county boards of elections to “include[] in the canvass and pre-canvass . . . [a]ny ballot-return envelope that is undated or dated with an incorrect date but has been timely received.” See Pa. Dep’t of State, *Guidance Concerning Examination of Absentee and Mail-in Ballot Return Envelopes* (Sept. 26, 2022), a copy of which is attached as Ex. A. The Acting Secretary premised that statement on an unpublished, non-precedential decision of the Commonwealth Court adopting the Third Circuit’s now-vacated reasoning that the date requirement is invalid. See *Acting Secretary of State Issues Statement on SCOTUS Order on Undated Mail Ballots* (Oct. 11, 2022), a copy of which is attached as Ex. B.

At the same time, the Acting Secretary’s own website advises the public that “[i]f you do not complete the declaration on the return envelope” of an absentee or mail-in ballot, “your ballot will not be counted.” See Mail-In and Absentee Voting, <https://www.vote.pa.gov/Voting-in-PA/Pages/Mail-and-Absentee-Ballot.aspx>.

County boards of elections have likewise informed voters that their ballots “will not be counted” if they do not comply with the date requirement. See, e.g., Philadelphia County Voter Declaration (“YOUR BALLOT WILL NOT BE COUNTED UNLESS . . . [y]ou sign and date the voter’s declaration in your own handwriting”), a copy of which is attached as Ex. C.

Petitioners are Pennsylvania voters and political party committees that support and seek to uphold free and fair elections on behalf of all Pennsylvanians. Petitioners therefore ask the Court to exercise its King’s Bench power or extraordinary jurisdiction to uphold the General Assembly’s date requirement for the imminent 2022 general election and beyond. In particular, Petitioners ask the Court to issue a declaration that the date requirement is valid and mandatory, and that the Acting Secretary’s contrary guidance is invalid. Moreover, to preserve the rights of all voters and candidates, the Court should immediately issue an order directing county boards of elections to segregate any undated or incorrectly dated ballots received for the 2022 general election, as the Speaker and Majority Leader of the House of Representatives have requested. *See* Letter from B. Cutler & K. Benninghoff to Leigh Chapman (Oct. 13, 2022), attached as Ex. D.

The time for the Court to act is now. The validity of undated absentee and mail-in ballots already led to one costly and unnecessary election challenge earlier this year. *See McCormick for U.S. Senate v. Chapman*, 2022 WL 2900112 (Pa. Commw. June 2, 2022) (unpublished). Moreover, the issue “could well affect the outcome of the fall elections” in which Petitioners seek to exercise their constitutional rights to vote and to participate. *Ritter*, 142 S. Ct. at 1824 (Alito, J., dissenting from the denial of the application for stay). And while a few counties have indicated that they intend to segregate any undated absentee or mail-in ballots

in the imminent general election, others have provided no such indication. *See* “Pa. House GOP: Segregate undated ballots,” Pittsburgh Post-Gazette (Oct. 14, 2022), attached as Ex. E.

Thus, while the General Assembly has made the date requirement clear and explicit in the Election Code, the actions of other courts, the Acting Secretary, and some county boards of elections have generated a lack of clarity and transparency. Those actions may also result in unequal treatment of otherwise identical ballots based upon the county in which the voter resides. In particular, some county boards of elections may follow the plain statutory text, the Acting Secretary’s website, and their own instructions to voters and decline to count an undated or incorrectly dated absentee or mail-in ballot. In fact, even though the Acting Secretary sued to force all county boards to count such ballots for the 2022 primary election, at least one county, Butler County, declined to do so. *See Chapman v. Berks County Bd. of Elecs.*, 2022 WL 4100998, at *6 (Pa. Commw. Aug. 19, 2022) (unpublished). On the other hand, other county boards may choose to follow the Acting Secretary’s guidance and to count any undated or incorrectly dated ballot. Any counting of ballots that the General Assembly has declared invalid—and the lack of statewide uniformity in the treatment of undated or incorrectly dated ballots—are eroding public trust and confidence in the integrity of Pennsylvania’s elections at a vital moment in the Nation’s and the Commonwealth’s history.

The Court therefore should take immediate action to uphold the General Assembly’s date requirement and to set aside the Secretary’s invalid guidance. Such action will promote “[c]onfidence in the integrity of our electoral process,” facilitate “the functioning of our participatory democracy,” and eliminate the “consequent incentive to remain away from the polls” that the current state of affairs creates. *Purcell v. Gonzalez*, 549 U.S. 1, 4–5 (2006). The Court should grant the Application.

PARTIES

I. Petitioners

A. Voter Petitioners

Petitioner David Ball resides in Washington County, Pennsylvania and is a registered Pennsylvania elector who consistently votes in each election.

Petitioner James D. Bee resides in Cambria County, Pennsylvania and is a registered Pennsylvania elector who consistently votes in each election.

Petitioner Jesse D. Daniel resides in Indiana County, Pennsylvania and is a registered Pennsylvania elector who consistently votes in each election.

Petitioner Gwendolyn Mae Deluca resides in Beaver County, Pennsylvania and is a registered Pennsylvania elector who consistently votes in each election.

Petitioner Ross M. Farber resides in Westmoreland County, Pennsylvania and is a registered Pennsylvania elector who consistently votes in each election.

Petitioner Lynn Marie Kalcevic resides in Beaver County, Pennsylvania and is a registered Pennsylvania elector who consistently votes in each election.

Petitioner Vallerie Siciliano-Biancaniello resides in Delaware County, Pennsylvania and is a registered Pennsylvania elector who consistently votes in each election.

Petitioner S. Michael Streib resides in Butler County, Pennsylvania and is a registered Pennsylvania elector who consistently votes in each election.

Each of the Voter Petitioners regularly votes in both primary and general elections and intends to vote for candidates in all races on their respective ballots in the 2022 general election, including but not limited to the races for United States Senate, United States House of Representatives, Pennsylvania Senate, and Pennsylvania House of Representatives. Voter Petitioners, each of whom has the right to vote via mail-in ballot, have a particularized interest in knowing the exact requirements for such mail-in ballots to be counted.

Moreover, the counting of undated or incorrectly dated ballots by some or all county boards of elections in violation of the Election Code has interfered, and threatens to interfere, with Voter Petitioners' right to free and equal elections. In particular, the votes validly cast by Voter Petitioners have been and will be canceled out and diluted by the counting of undated or incorrectly dated ballots.

This substantial harm is only exacerbated by the current lack of statewide uniformity among county boards of elections on whether to segregate any absentee or mail-in ballots that do not comply with the General Assembly’s date requirement. Indeed, even if the Court reiterates that the date requirement is mandatory, it will not be able to grant effectual relief in any county where the board of elections has failed to segregate undated and incorrectly dated ballots and, thus, cannot exclude such invalid ballots from its final certified results.

B. Republican Committees

The Republican National Committee (the “RNC”) is the national committee of the Republican Party as defined by 52 U.S.C. § 30101(14). The RNC manages the Republican Party’s business at the national level, including development and promotion of the Party’s national platform and fundraising and election strategies; supports Republican candidates for public office at all levels across the country, including those on the ballot in Pennsylvania; and assists state parties throughout the country, including the Republican Party of Pennsylvania, to educate, mobilize, assist, and turnout voters.

The National Republican Congressional Committee (the “NRCC”) is the national congressional committee of the Republican Party as defined by 52 U.S.C. § 30101(14). The NRCC’s mission is to elect Republican candidates to the U.S. House of Representatives from across the United States, including from

Pennsylvania's eighteen congressional districts. The NRCC works to accomplish its mission in Pennsylvania by, among other things, providing direct and indirect financial contributions and support to candidates and other Republican Party organizations; providing technical and research assistance to Republican candidates and Party organizations; engaging in voter registration, voter education and voter turnout programs; and other Republican party-building activities.

Petitioner Republican Party of Pennsylvania ("RPP") is a major political party, 25 P.S. § 2831(a), and the "State committee" for the Republican Party in Pennsylvania, 25 P.S. § 2834, as well as a federally registered "State Committee" of the Republican Party as defined by 52 U.S.C. § 30101(15). RPP, on behalf of itself and its members nominates, promotes, and assists Republican candidates seeking election or appointment to federal, state, and local office in Pennsylvania.

The RNC, NRCC, and RPP (collectively, "Committee Petitioners") each have made significant contributions and expenditures in support of Republican candidates up and down the ballot and in mobilizing and educating voters in Pennsylvania in past election cycles and is doing so again in 2022. These efforts include devoting substantial time and resources toward monitoring of the voting and vote counting process in Pennsylvania and to ensure it is conducted lawfully. Committee Petitioners make expenditures to ensure they and their voters understand the rules governing the elections process, including applicable dates, deadlines, and

requirements for voting by mail or absentee. These efforts require a uniform application of the law and a clear and transparent understanding of mail voting requirements, including any allowances for notice and opportunity to cure procedures. Committee Petitioners have a substantial and particularized interest in ensuring that Pennsylvania administers free and fair elections.

II. Respondents

Respondent Leigh M. Chapman is the Acting Secretary of the Commonwealth and is sued in her official capacity only. In that capacity, Acting Secretary Chapman must “receive from county boards of elections the returns of primaries and elections,” “canvass and compute the votes cast for candidates,” “proclaim the results of such primaries and elections,” and “issue certificates of election to the successful candidates at such elections.” *See* 25 P.S. § 2621(f); *see also* 25 P.S. § 3159.

Each of the 67 County Boards of Elections in Pennsylvania are also named as Respondents. Boards of Elections “have jurisdiction over the conduct of primaries and elections in such count[ies].” *Id.* at § 2641(a). The Boards of Elections’ powers are set forth in the Election Code. *See* 25 P.S. § 2642.

STATEMENT OF THE CASE

In the first two cases after *In re 2020 Canvass*, the Commonwealth Court adhered to the majority's construction of the date requirement and denied requests to count undated absentee or mail-in ballots. On both occasions, this Court allowed the Commonwealth Court's decisions to stand. See *In re Election in Region 4 for Downingtown Sch. Bd. Precinct Uwchlan 1*, 272 A.3d 993 (Pa. Commw. 2022), *appeal denied*, 273 A.3d 508 (Pa. 2022); *Ritter v. Lehigh Cnty. Bd. of Elecs.*, 272 A.3d 989 (Pa. Commw. 2022), *appeal denied* 271 A.3d 1285 (Pa. 2022).

Four days after *Ritter* was resolved by this Court, individual voters filed a new lawsuit in federal court claiming that Pennsylvania's date requirement violated the federal materiality provision. The district court granted summary judgment against the plaintiffs. A panel of the Third Circuit reversed, holding that the federal materiality provision preempts the date requirement. The U.S. Supreme Court granted certiorari and vacated that holding on October 11, 2022. See *Migliori v. Cohen*, No. 22-1499 (3d Cir. May 27, 2022), *cert. granted and judgment vacated*, *Ritter v. Migliori*, No. 22-30, 2022 WL 6571686 (U.S. Oct. 11, 2022) (Mem.).

Meanwhile, the Commonwealth Court twice has departed from the General Assembly's date requirement and the majority's construction in unpublished, non-precedential cases arising out of the 2022 Republican primary election for U.S. Senate. See *McCormick*, 2022 WL 2900112 at *13-14; *Chapman*, 2022 WL

4100998. In those cases, the Commonwealth Court has held that treating the date requirement as mandatory violates state law and the federal materiality provision. The Commonwealth Court relied upon the Third Circuit’s now-vacated *Migliori* decision in support of its federal holding in both cases. *See McCormick*, 2022 WL 2900112 at *10-14; *Chapman*, 2022 WL 4100998 at *13-*25.

Following the U.S. Supreme Court’s vacatur of *Migliori*, the Acting Secretary reiterated her view that “[e]very county is expected to include undated ballots in their official returns for the Nov. 8 election, consistent with” the Department of State’s prior guidance. *See Ex. B*. The Secretary’s statement explicitly invoked the Commonwealth Court’s two unpublished, non-precedential decisions from earlier this year. *See id.* The Secretary’s guidance purports to direct that “[a]ny ballot-return envelope that is undated or dated with an incorrect date but that has been timely received by the county shall be included in the canvass and pre-canvass.” *Ex. A* at 3.

BASIS FOR EXERCISE OF KING’S BENCH POWER OR EXTRAORDINARY JURISDICTION

This Court possesses authority to “exercise the powers of the court, as fully and amply, to all intents and purposes, as the justices of the Court of King’s Bench, Common Pleas and Exchequer, at Westminster, or any of them, could or might do on May 22, 1722.” 42 Pa. C.S. § 502. That authority includes the “power of general superintendency over inferior tribunals even when no matter is pending.” *Bd. of*

Revisions of Taxes, City of Philadelphia v. City of Philadelphia, 4 A.3d 610, 620 (Pa. 2010); *see also Friends of Danny DeVito v. Wolf*, 227 A.3d 872, 884 (Pa. 2020); *Commonwealth v. Williams*, 129 A.3d 1199, 1206 (Pa. 2015).

“King’s Bench authority is generally invoked to review an issue of public importance that requires timely intervention by the court of last resort to avoid the deleterious effects arising from delays incident to the ordinary process of law.” *Friends of Danny DeVito*, 227 A.3d at 884 (quoting *Williams*, 129 A.3d at 1206); *In re Bruno*, 101 A.3d 635, 670 (Pa. 2014). “[T]he power of King’s Bench allow[s] the Court to innovate a swift process and remedy appropriate to exigencies of the event.” *In re Bruno*, 101 A.3d at 672.

The Court should grant the Application and exercise its King’s Bench authority here. The 2022 general election day is rapidly approaching on November 8, 2022. The pre-canvass and canvass of absentee and mail-in ballots begin as early as that date. *See* 25 P.S. § 3146.8. There is not sufficient time for the “ordinary processes of law” to resolve the issues presented before the pre-canvass and canvass begin—and it may be impossible to grant effectual relief after that time, particularly if county boards of elections do not segregate undated or incorrectly dated absentee and mail-in ballots. *Friends of Danny DeVito*, 227 A.3d at 884. Those issues are of vital importance: voting is among “the most central of democratic rights,” *League of Women Voters v. Commonwealth*, 178 A.3d 737, 741 (Pa. 2018),

and Voter Petitioners face the threat of an irreparable dilution of their votes if—as the Acting Secretary has purported to direct—county boards of elections include invalid undated or incorrectly dated absentee or mail-in ballots in their official vote totals. Indeed, the application of the General Assembly’s date requirement is an “issue of public importance,” *Friends of Danny DeVito*, 227 A.3d at 884, bearing on “the integrity of our electoral process” in Pennsylvania, *Purcell*, 549 U.S. at 5. The Court should grant the Application and resolve it now.

ARGUMENT

The General Assembly’s straightforward mandate that any voter who uses an absentee or mail-in ballot “shall . . . fill out, date and sign the declaration,” 25 P.S. §§ 3146.6(a), 3150.16(a), is valid under state and federal law. The Court should grant the Application and enter an order (i) declaring that county boards of elections may not count any undated or incorrectly dated absentee or mail-in ballot; (ii) declaring that the Acting Secretary’s contrary guidance is invalid; and (iii) directing county boards of elections to segregate any undated or incorrectly dated absentee or mail-in ballots received in connection with the 2022 general election.

I. A Majority Of This Court Has Already Upheld The Mandatory Date Requirement Under State Law.

A majority of this Court has already held that the General Assembly said what it meant and meant what it said: the date requirement is mandatory, and any ballot

that does not comply with it may not be counted in any election after the 2020 general election. *See In re 2020 Canvass*, 241 A.3d at 1079-80 (Opinion of Justice Wecht); *see also id.* at 1082 (“A court’s only ‘goal’ should be to remain faithful to the terms of the statute that the General Assembly enacted, employing only one juridical presumption when faced with unambiguous language: that the legislature *meant what it said.*”); *id.* at 1090-91 (Opinion of Justices Dougherty, Saylor, and Mundy). This holding makes perfect sense: “[t]he word ‘shall,’” particularly when used in the Election Code, “carries an imperative or mandatory meaning.” *In re Canvass of Absentee Ballots of Nov. 4, 2003 General Election*, 843 A.2d 1223, 1231 (Pa. 2004).

Moreover, “[s]tates may, and inevitably must, enact reasonable regulations of parties, elections, and ballots to reduce election- and campaign-related disorder.” *Timmons v. Twin City Area New Party*, 520 U.S. 351, 358 (1997). “[A]s a practical matter, there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes.” *Anderson v. Celebrezze*, 460 U.S. 780, 788 (1983) (quoting *Storer v. Brown*, 415 U.S. 724, 730 (1974)). In Pennsylvania, the decision whether to impose a date requirement for absentee and mail-in ballots is entrusted to the General Assembly—and it has clearly spoken. *See In re 2020 Canvass*, 241 A.3d at 1079-

80, 1082 (Opinion of Justice Wecht); *id.* at 1090-91 (Opinion of Justices Dougherty, Saylor, and Mundy).

That alone is sufficient to mandate upholding the commonsense and evenhanded date requirement. But if more were somehow needed, Justices of this Court have recognized that the General Assembly's date requirement serves "an unquestionable purpose." *Id.* at 1090 (Opinion of Justices Dougherty, Saylor, and Mundy). In particular, the date on the ballot envelope "provides proof of when the elector actually executed the ballot in full, ensuring their desire to cast it in lieu of appearing in person at the polling place." *Id.* "The presence of the date also establishes a point in time against which to measure the elector's eligibility to cast the ballot." *Id.* And the date "ensures the elector completed the ballot within the proper time frame and prevents tabulation of potentially fraudulent back-dated votes." *Id.* at 1091.

These are no mere theoretical interests. Earlier this year, officials in Lancaster County discovered that an individual had cast a fraudulent ballot in her deceased mother's name. The evidence? The date provided on the outer envelope was April 26, 2022, twelve days *after* the mother had passed away. *See* Affidavit of Probable Cause ¶ 2, Police Criminal Complaint, *Com. v. Mihaliak*, No. CR-126-22 (June 3, 2022), a copy of which is attached as Ex. F.

This Court’s declaration that the General Assembly’s date requirement is mandatory should have been the end of the matter in Pennsylvania courts. For a while, it was. *See, e.g., In re Election in Region 4 for Downingtown Sch. Bd. Precinct Uwchlan 1*, 272 A.3d 993 (Pa. Commw. 2022), *appeal denied*, 273 A.3d 508 (Pa. 2022); *Ritter v. Lehigh Cnty. Bd. of Elecs.*, 272 A.3d 989 (Pa. Commw. 2022), *appeal denied* 271 A.3d 1285 (Pa. 2022). But earlier this year, the Commonwealth Court issued two unpublished, non-precedential opinions that departed from the Election Code’s plain text and the majority’s reasoning. The Commonwealth Court rested this departure on two strands of reasoning, neither of which is persuasive.

First, the Commonwealth Court pointed to the Free and Equal Elections Clause, PA. Const. art. I, § 5, for the proposition that “the Election Code should be liberally construed so as not to deprive electors of their right to elect the candidate of their choice.” *McCormick*, 2022 WL 2900112 at *13-14; *see also Chapman*, 2022 WL 4100998 at *13-25. But, of course, the Free and Equal Elections Clause and any rules of construction it requires were before this Court in 2020, when the majority concluded that the date requirement is mandatory such that non-compliant ballots may not be counted. *See In re 2020 Canvass*, 241 A.3d at 1079-80 (Opinion of Justice Wecht); *id.* at 1090-91 (Opinion of Justices Dougherty, Saylor, and Mundy). Moreover, as Justice Wecht reasoned, the Free and Equal Elections Clause does not support, much less require, liberal construction of the date requirement. To

the contrary, “[a] court’s only ‘goal’ should be to remain faithful to the terms of the statute that the General Assembly enacted, employing only one juridical presumption when faced with unambiguous language: that the legislature *meant what it said.*” *Id.* at 1082 (Opinion of Justice Wecht) (emphasis original).

Second, the Commonwealth Court noted that the majority in *In re 2020 Canvass* did not expressly address a case where “ballots that had exterior envelopes with incorrect dates were counted and included in the election totals.” *McCormick*, 2022 WL 2900112, at *14; *see also Chapman*, 2022 WL 4100998, *24. The Commonwealth Court, however, nowhere explains how the fact that a *different* category of incorrectly dated ballots was *not* raised somehow erodes the General Assembly’s clear mandate and the majority’s reading of the date requirement. *See McCormick*, 2022 WL 2900112, at *14; *see also Chapman*, 2022 WL 4100998, *24. Nor could it, since the majority’s reading broadly supports the General Assembly’s date requirement in *all* applications, not merely as applied to some scenarios. *See In re 2020 Canvass*, 241 A.3d at 1079-80 (Opinion of Justice Wecht); *id.* at 1090-91 (Opinion of Justices Dougherty, Saylor, and Mundy). And, in all events, that putative distinction is irrelevant here, where Petitioners seek a declaration that any undated or incorrectly dated ballot is invalid and may not be counted.

Finally, any state judicial construction—such as the construction adopted by the Commonwealth Court this year—that fails to uphold the date requirement’s plain

and mandatory meaning for federal elections violates the Elections Clause of the U.S. Constitution. The Elections Clause directs: “The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.” U.S. CONST. art. I, § 4, cl. 1. “It cannot be doubted that these comprehensive words embrace authority to provide a complete code for congressional elections,” including related to “counting of votes.” *Smiley v. Holm*, 285 U.S. 355, 366 (Pa. 1932).

Thus, the Clause “delegate[s] to” state *legislatures*—but not any other organ of state government—the “authority to regulate election to” federal offices created by the Constitution. *Cook v. Gralike*, 531 U.S. 510, 522 (2010); *see also Republican Party of Pa. v. Degraffenreid*, 141 S. Ct. 732, 733 (2021) (Thomas, J., dissenting from the denial of certiorari) (“the Federal Constitution, not state constitutions, gives state legislatures authority to regulate federal elections[.]”) (emphasis added). As Justice Alito observed, the “Clause could have said that these rules are to be prescribed ‘by each State,’ which would have left it up to each State to decide which branch, component, or officer of the state government should exercise that power, as States are generally free to allocate state power as they choose.” *Moore v. Harper*, 142 S. Ct. 1089, 1090 (2022) (Alito, J., dissenting from the denial of application for stay). “But that is not what the Elections Clause says. Its language specifies a

particular organ of a state government, and we must take that language seriously.” *Id.*; see also *Hawke v. Smith*, 253 U.S. 221, 227 (1920) (affirming that “legislature” means the “representative body which made the laws of the people”); *Smiley*, 285 U.S. at 365 (same).

Accordingly, state courts wield no authority to regulate federal elections and may not deploy broad and amorphous state constitutional provisions to rewrite state laws governing those elections. See, e.g., U.S. CONST. art. I, § 4, cl. 1; *Smiley*, 285 U.S. at 366; *Republican Party of Pa.*, 141 S. Ct. at 733 (Thomas, J., dissenting from the denial of certiorari); *Moore*, 142 S. Ct. at 1090 (Alito, J., dissenting from the denial of application for stay). Thus, neither the Commonwealth Court nor this Court may erode, much less set aside, the General Assembly’s mandatory date requirement as applied to federal elections. The Court should grant the Application and uphold the date requirement.

II. Federal Law Does Not Preempt The Date Requirement.

As three Justices of the U.S. Supreme Court already have concluded, the notion that the federal materiality provision preempts the General Assembly’s date requirement is “very likely wrong.” *Ritter*, 142 S. Ct. at 1824 (Mem.) (Alito, J., dissenting from the denial of the application for stay). The materiality provision states:

No person acting under color of law shall ... deny the right of any individual to vote in any election because of an error or omission on

any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election.

52 U.S.C. § 10101(a)(2)(B).

This provision does not preempt the General Assembly’s express date requirement for at least three reasons. *First*, the materiality provision prohibits only “deny[ing] the right of any individual to vote,” not imposing mandatory rules on the act of completing and casting a ballot. *Id.* The materiality provision therefore has no application to the date requirement because “[w]hen a mail-in ballot is not counted because it was not filled out correctly, the voter is not denied ‘the right to vote.’” *Ritter*, 142 S. Ct. at 1825 (Mem.) (Alito, J., dissenting from the denial of the application for stay) (quoting 52 U.S.C. § 10101(a)(2)(B)). Rather, “that individual’s vote is not counted because he or she did not follow the rules for casting a ballot.” *Id.* An individual “may be unable to cast a vote for any number of reasons,” such as showing up to the polls after Election Day, failing to use a secrecy envelope for an absentee or mail-in ballot, returning the ballot to the wrong location, or arriving at the wrong polling place. *Id.* Application of these rules does not deny the right to vote; nor does application of the date requirement. *See id.* at 1825 (“Even the most permissive voting rules must contain some requirements, and the failure to follow those rules constitutes the forfeiture of the right to vote, not the denial of that right.”); *see also Rosario v. Rockefeller*, 410 U.S. 752, 757 (1973) (application of

neutral state-law voting requirement does not “disenfranchise” voters); *Timmons*, 520 U.S. at 358 (“States may, and inevitably must, enact reasonable regulations” for effectuating votes); *Brnovich v. Dem. Nat’l Comm.*, 141 S. Ct. 2321, 2338 (2021) (“Casting a vote, whether by following the directions for using a voting machine or completing a paper ballot, requires compliance with certain rules.”); *DNC v. Wisconsin State Leg.*, 141 S. Ct. 28, 35 (Mem.) (Oct. 26, 2020) (Kavanaugh, J., concurring) (“In other words, reasonable election deadlines do not ‘disenfranchise’ anyone under any legitimate understanding of that term.”). As the Fifth Circuit has reasoned in a precedential, non-vacated decision, “[i]t cannot be that any requirement that may prohibit an individual from voting if the individual fails to comply denies the right of that individual to vote under” the federal materiality provision. *Vote.Org v. Callanen*, 39 F.4th 297, 305 n.6 (5th Cir. 2022).

Second, the materiality provision requires that the error or omission be “material in determining whether such individual is qualified under State law to vote.” 52 U.S.C. § 10101(a)(2)(B). It therefore regulates determinations of whether an individual is *qualified* to vote, not “requirements that must be met in order to cast a ballot that will be counted.” *Ritter*, 142 S. Ct. at 1825 (Mem.) (Alito, J., dissenting from the denial of the application for stay); *see also Vote.Org*, 39 F.4th at 305 n.6; *Schwier v. Cox*, 340 F.3d 1284, 1294 (11th Cir. 2003) (“This provision was intended to address the practice of requiring unnecessary information *for voter registration*

with the intent that such requirements would increase the number of errors or omissions on the application forms, thus providing an excuse to disqualify voters.”) (emphasis added). The date requirement has nothing to do with whether the individual satisfies the four qualifications to vote in Pennsylvania: being at least 18 years of age on the date of the election, having been a citizen of Pennsylvania for at least one month, having lived in the relevant election district for at least 30 days, and not being imprisoned for a felony. *See* 25 P.S. § 1301. It therefore falls outside the narrow sweep of the federal materiality provision for this reason as well. *Ritter*, 142 S. Ct. at 1825-26 (Mem.) (Alito, J., dissenting from the denial of the application for stay).

Third, the materiality provision demands that the “record or paper” be related to an “application, registration, or other act requisite to voting.” 52 U.S.C. § 10101(a)(2)(B). To be sure, an absentee or mail-in ballot is a “record or paper.” *Id.* But casting a ballot constitutes the *act* of voting, not an application, registration, or other act *requisite* to voting. *Ritter*, 142 S. Ct. at 1826 n.2 (Mem.) (Alito, J., dissenting from the denial of the application for stay). It therefore would be an “awkward” statutory construction at best to extend the materiality provision to absentee and mail-in ballots and the date requirement. *Id.* Voting is voting; it is not an act requisite to voting. The Court should grant the Application and uphold the General Assembly’s date requirement.

III. The Acting Secretary’s Guidance Directly Contradicts The General Assembly’s Date Requirement.

The Acting Secretary’s guidance documents are not binding on the county boards of elections. *See* 25 P.S. §§ 2621, 2642; *Perzel v. Cortes*, 870 A.2d 759, 764 (Pa. 2005); *Hamilton v. Johnson*, 141 A. 846, 847 (Pa. 1928). Nor may the Acting Secretary act—or direct others to act—in contravention of law. *See also County of Fulton v. Sec.*, 276 A.3d 846 (Pa. Commw. 2022). The Acting Secretary’s guidance nonetheless purports to direct county boards of elections to “include[] in the canvass and pre-canvass . . . [a]ny ballot-return envelope that is undated or dated with an incorrect date but has been timely received,” Ex. A, in direct contravention of the General Assembly’s date requirement. The conflict is obvious: the Acting Secretary’s guidance instructs county boards of elections to count ballots that the General Assembly has mandated may not be counted. The guidance is therefore unlawful for that reason alone. *See* 25 P.S. §§ 3146.6(a), 3150.16(a); *see In re 2020 Canvass*, 241 A.3d at 1079-80 (Opinion of Justice Wecht); *id.* at 1090-91 (Opinion of Justices Dougherty, Saylor, and Mundy).

The Acting Secretary’s guidance is unlawful for another reason as well. To the extent the Secretary attempts to “regulate”—and vitiate the General Assembly’s date requirement as applied to—federal elections, the guidance violates the Elections Clause of the U.S. Constitution. *See, e.g.*, U.S. CONST. art. I, § 4, cl. 1; *Smiley*, 285 U.S. at 366; *Republican Party of Pa.*, 141 S. Ct. at 733 (Thomas, J., dissenting from

the denial of certiorari); *Moore*, 142 S. Ct. at 1090 (Alito, J., dissenting from the denial of application for stay). The Court should grant the Application and set aside the Acting Secretary’s guidance.

IV. The Court Should Immediately Order County Boards Of Elections To Segregate Any Absentee Or Mail-In Ballots That Do Not Comply With The Date Requirement.

At a minimum, Petitioners have established a likelihood of success on the merits of their claim that the General Assembly’s date requirement is mandatory and valid under state and federal law. *See supra* Parts I-III; *Summit Towne Center, Inc. v. Shoe Show of Rocky Mount, Inc.*, 828 A.2d 995, 1001 (Pa. 2003). The Court therefore should immediately order all county boards of elections to segregate any absentee or mail-in ballots received for the 2022 general election that do not comply with the date requirement, including because they are undated or incorrectly dated. *See, e.g., Republican Party of Pa. v. Degraffenreid*, No. 20A84, Order (Nov. 6, 2020) (Alito, J.) (ordering segregation of ballots pending result of dispute regarding Election Day received-by deadline); *McCormick*, 2022 WL 2900112, at *16 (ordering county boards of elections “to segregate the ballots that lack a dated exterior envelope” pending resolution of validity of such ballots).

This commonsense relief will protect the interests of the parties and promote judicial economy. The issue of whether the date requirement is mandatory “could well affect the outcome of the fall elections” in Pennsylvania. *Ritter*, 142 S. Ct. at

1824 (Alito, J., dissenting from the denial of the application for stay). Ordering county boards of elections to segregate ballots is therefore “necessary to prevent immediate and irreparable harm that cannot be adequately compensated by damages.” *Summit Towne Center*, 828 A.2d at 1001. Absent this relief, a county board of elections that counts undated or incorrectly dated ballots cannot remove non-compliant ballots from its certified election results if this Court upholds the General Assembly’s date requirement. The resulting dilution of Voter Petitioners’ votes—and harm to the Republican Committees’ voters and candidates—cannot be compensated through an award of damages.

Ordering segregation of non-compliant ballots thus will prevent the “greater injury” of vote dilution that “would result from refusing the injunction” and, by protecting all interested parties’ rights pending any final resolution of the date requirement’s validity, “will not substantially harm other interested parties.” *Id.* Such an order will also “properly restore the parties to their status as it existed” under the plain statutory terms of the General Assembly’s date requirement and the majority’s reasoning in 2020. *Id.*

Moreover, an order requiring segregation of non-compliant ballots “is reasonably suited to abate the offending activity” of diluting Voter Petitioners’ votes by counting invalid ballots. *Id.* And the order will advance the “public interest.” *Id.* After all, such an order will promote “[c]onfidence in the integrity of our

electoral process,” facilitate “the functioning of our participatory democracy,” and eliminate the “consequent incentive to remain away from the polls” occasioned by the Commonwealth Court’s and the Acting Secretary’s refusal to adhere to the General Assembly’s date requirement and the majority’s reasoning. *Purcell*, 549 U.S. 1, 4–5 (2006). The Court should grant the Application.

RELIEF REQUESTED

Petitioners respectfully request that this Honorable Court:

- a. Grant this application for the Court to exercise its King’s Bench power or extraordinary jurisdiction;
- b. Immediately order county boards of elections to segregate all absentee or mail-in ballots received for the 2022 general election that do not comply with the date requirement because they are undated or incorrectly dated;
- c. Set a schedule for the expeditious resolution of this matter in advance of the November 8, 2022 commencement of the pre-canvass and canvass;
- d. Declare that absentee and mail-in ballots that are undated or incorrectly dated cannot be included in the pre-canvass or canvass under the Election Code, 25 P.S. §§ 3146.6(a), 3150.16(a);

- e. Direct the Acting Secretary to withdraw any and all guidance that purports to direct, require, or encourage county boards of elections to include undated or incorrectly dated absentee or mail-in ballots in the pre-canvass or canvass; and
- f. Grant any other relief this Court deems necessary and appropriate.

Respectfully submitted,

Dated: October 16, 2022

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Exhibit A



**GUIDANCE CONCERNING EXAMINATION OF
ABSENTEE AND MAIL-IN BALLOT RETURN
ENVELOPES**

Updated: September 26, 2022

Version: 3.0

EXAMINATION OF ABSENTEE AND MAIL-IN BALLOT RETURN ENVELOPES

1 BACKGROUND:

The Pennsylvania Election Code describes processes that a qualified voter follows to apply for, receive, complete and timely return an absentee or mail-in ballot to their county board of election. These processes include multiple secure methods used by the voter's county board of election to verify that the qualified voter's absentee or mail-in application is complete and that the statutory requirements are satisfied. These include voter identification verification confirmed by either a valid driver's license number, the last four digits of the voter's social security number or other valid photo identification, and unique information on the application including the voter's residence and date of birth. Before sending the ballot to the applicant, the county board of elections confirms the qualifications of the applicant by verifying the proof of identification and comparing the information provided on the application with the information contained in the voter record. If the county is satisfied that the applicant is qualified, the application must be approved. This approval shall be final and binding, except that challenges may be made only on the grounds that the applicant was not a qualified voter, and those challenges must be made to the county prior to five o'clock p.m. on the Friday prior to the election.

Once the qualified voter's absentee or mail-in application is approved, the voter is mailed a ballot with instructions and two envelopes. The outer envelope includes both a unique correspondence ID barcode that links the envelope to the qualified voter's application and a pre-printed Voter's Declaration that the voter must sign representing that the voter is qualified to vote the enclosed ballot and has not already voted. This Guidance addresses the examination of the Voter's Declaration on the ballot return envelope. This Guidance assumes that the voter has satisfactorily completed the steps described above as to application for, receipt and return of an absentee or mail-in ballot.

2 RECORDING THE DATE, RETURN METHOD AND BALLOT STATUS FOR RETURNED BALLOTS:

County boards of elections should have processes in place to record the date, return method, and ballot status for all voted ballots received. County boards of elections must store and maintain returned ballots in a secure location until the ballots are to be pre-canvassed or canvassed.

The county board of elections should stamp the date of receipt on the ballot-return. County boards of elections should record the receipt of absentee and mail ballots daily in the SURE system. To record a ballot as returned, the staff should scan the

correspondence ID barcode on the outside of the envelope. The correspondence ID on the envelope is unique to each absentee or mail-in voter and each issuance of a ballot to a voter. Once a correspondence ID has been recorded as returned in the SURE system, it cannot be recorded again. Further, if a ballot issuance record is cancelled by the county board of elections (e.g. voided to reissue a replacement ballot) in the SURE system, the correspondence ID on the cancelled ballot will become invalid. If the same barcode is subsequently scanned, the SURE system will not allow the returned ballot to be marked as being approved for counting.

The county boards of elections should record the date the ballot is received (not the date that the returned ballot is processed). In the event a county board of elections is entering the ballot on a date other than the date the ballot was received, the county personnel should ensure that the SURE record reflects the date of receipt, rather than the date of entry, since by default, SURE will automatically populate both the 'Date Received' and 'Vote Recorded' fields with the current date and time unless users manually correct the date to reflect the date received.

3 EXAMINATION OF DECLARATION ON BALLOT RETURN ENVELOPES:

The county board of elections is responsible for approving ballots to be counted during pre-canvassing and canvassing.

To promote consistency across the 67 counties, the county boards of elections should follow the following steps when processing returned absentee and mail-in ballots.

After setting aside ballots of electors who died prior to the opening of the polls, the county board of elections shall examine the Voter's Declaration on the outer envelope of each returned ballot and compare the information on the outer envelope, i.e., the voter's name and address, with the information contained on the list of absentee and mail-in voters.

If the Voter's Declaration on the return envelope is not signed, that ballot return envelope must be set aside and not counted. If the board determines that a ballot should not be counted, the final ballot disposition should be noted in SURE. The ballot return status (Resp Type) should be noted using the appropriate drop-down selection.

If the Voter's Declaration on the return envelope is signed and the county board is satisfied that the declaration is sufficient, the mail-in or absentee ballot should be approved for the pre-canvass or canvass unless the application was challenged in accordance with the Pennsylvania Election Code.

Any ballot-return envelope that is undated or dated with an incorrect date but that has been timely received by the county shall be included in the pre-canvass and canvass.

The Pennsylvania Election Code does not authorize the county board of elections to set

aside returned absentee or mail-in ballots based solely on signature analysis by the county board of elections.

Version	Date	Description	Author
1.0	9.11.2020	Initial document release	Bureau of Elections
2.0	5.24.2022	Updates related to court decisions	Bureau of Elections
3.0	9.26.2022	Updates related to court decisions	Bureau of Elections

EXHIBIT B

Acting Secretary Of State Issues Statement On SCOTUS Order On Undated Mail Ballots

10/11/2022

Harrisburg, PA – Acting Secretary of State Leigh M. Chapman issued the following statement in response to today's U.S. Supreme Court order regarding undated mail ballots:

"Every county is expected to include undated ballots in their official returns for the Nov. 8 election, consistent with the

[https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/2022-09-Department of State's guidance26-Examination-Absentee-Mail-In-Ballot-Return-Envelopes-3.0.pdf](https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/2022-09-Department%20of%20State's%20guidance%2026-Examination-Absentee-Mail-In-Ballot-Return-Envelopes-3.0.pdf)

. That guidance followed the most recent ruling of the Pennsylvania Commonwealth Court holding that both Pennsylvania *and* federal law prohibit excluding legal votes because the voter omitted an irrelevant date on the ballot return envelope.

"Today's order from the U.S. Supreme Court vacating the Third Circuit's decision on mootness grounds was not based on the merits of the issue and does not affect the prior decision of Commonwealth Court in any way. It provides no justification for counties to exclude ballots based on a minor omission, and we expect that counties will continue to comply with their obligation to count all legal votes."

ra-st-press@pa.gov

MEDIA CONTACT: Grace Griffaton, (<mailto:ra-st-press@pa.gov>)

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EXHIBIT C

Voter's Declaration

YOUR BALLOT WILL NOT BE COUNTED UNLESS:

- You sign and date the voter's declaration in your own handwriting
- You seal your ballot inside the blue secrecy envelope ("Official Election Ballot") and place it in here

SU BOLETA NO SERÁ CONTADA A MENOS QUE:

- Firme y feche la declaración del votante con su propia letra
- Selle su boleta dentro del sobre secreto azul ("Boleta oficial de elecciones") y colóquelo aquí

Voter's declaration

- I hereby declare that
 - I am qualified to vote in this election;
 - that I have not already voted in this election;
 - and I further declare that I marked my ballot in secret.
- I am qualified to vote the enclosed ballot.
- I understand I am no longer eligible to vote at my polling place after I return my voted ballot.
- However, if my ballot is not received by the county, I understand I may only vote by provisional ballot at my polling place, unless I surrender my balloting materials, to be voided, to the judge of elections at my polling place.

Declaración del votante

- Por la presente afirmo que
 - reúno los requisitos para votar en estas elecciones;
 - que no he votado aún en estas elecciones;
 - y declaro además que marqué mi papeleta de manera secreta.
- Reúno los requisitos para votar con la papeleta adjunta.
- Comprendo que ya no será elegible para votar en mi lugar de votación después de devolver mi papeleta con mi voto.
- Sin embargo, si el condado no recibe mi papeleta, comprendo que solo podré votar con una papeleta provisional en mi lugar de votación, a menos que le entregue mis materiales de votación al juez de elecciones en mi lugar de votación para que los anule.

Voter, sign or mark here (Required) / Votante, firme o marque aquí (se requiere)

X

Today's Date (Required) / Fecha de Hoy (se requiere)

Declaración del Votante

To be completed by **Voter Unable to Sign their Declaration Because of Illness or Physical Disability**: I hereby declare that I am unable to sign my declaration for voting my ballot without assistance because I am unable to write by reason of my illness or physical disability. I have made or received assistance in making my mark in lieu of my signature.

El **votante que no pueda firmar su declaración debido a una enfermedad o discapacidad física debe completar lo siguiente**: Por la presente declaro que no puedo firmar mi declaración para finalizar mi papeleta sin ayuda, ya que no puedo escribir debido a mi enfermedad o discapacidad física. He puesto mi marca o recibí ayuda para ponerla, en lugar de mi firma.

Voter, mark here / Votante, marque aquí.

X

Today's Date / Fecha de Hoy

Witness, address (street) / Testigo, dirección (calle)

Witness, address (city, zip code) / Testigo, dirección (ciudad, código postal)

Witness, sign here / Testigo, firme aquí



EXHIBIT D



HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

October 13, 2022

Leigh Chapman
Acting Secretary
Pennsylvania Department of State
302 North Office Building, 401 North Street
Harrisburg, PA 17120

Dear Acting Secretary Chapman:

We are writing to request the Department of State update its September 26, 2022, "Guidance Concerning Examination of Absentee and Mail-in Ballot Return Envelopes" to require undated ballots be segregated following canvassing.

Earlier this week, in *Ritter v. Migliori*, the Supreme Court of the United States vacated the decision by the Third Circuit Court of Appeals that required undated no-excuse absentee ballots be counted as valid ballots in Pennsylvania's elections.

While we continue to believe the plain language of §3150.16 of the Pennsylvania Election Code is clear that no-excuse absentee ballots must be dated to be valid, conflicting judicial interpretations, coupled with frequently revised guidance from your department, has created ambiguity over this provision.

As it relates to undated ballots, the current guidance makes no provision for ballot segregation post-canvass. Given the high likelihood of new litigation over this provision, segregating undated ballots is the only guarantee these ballots will be easily preserved.

As always, ensuring elections are properly conducted and current election law is followed remains a top concern for all Pennsylvanians. We hope you see the utility in requiring undated ballot segregation post-canvass in ensuring confidence in our elections.

Sincerely,

Handwritten signature of Kerry A. Benninghoff in black ink.

Kerry A. Benninghoff, Majority Leader
171st District
Pennsylvania House of Representatives

Handwritten signature of Bryan Cutler in black ink.

Bryan Cutler, Speaker of the House
100th District
Pennsylvania House of Representatives

EXHIBIT E

Pa. House GOP: Segregate undated ballots

pennlive.com

HARRISBURG — House Republican leaders are urging the state's top election official to direct the segregation of undated mail-in ballots after counting them so county officials can be prepared in the event those ballots become the focus of litigation.

In a letter sent Thursday to acting Secretary of State Leigh Chapman, the leaders wrote that conflicting state and federal court rulings along with guidance from the department has created ambiguity over this provision in the election law.

"Given the high likelihood of new litigation over this provision, segregating undated ballots is the only guarantee these ballots will be easily preserved," states the letter signed by House Speaker Bryan Cutler, R-Lancaster County, and House Majority



Leader Kerry Benninghoff, R-Centre County.

A spokeswoman for the department said it is reviewing the lawmakers' letter.

On Tuesday, the U.S. Supreme Court invalidated a lower court ruling in a Lehigh County case that said undated no-excuse absentee ballots are valid ballots. The high court's decision made on procedural grounds failed to address the central issue of whether undated ballots are to be counted.

Further muddying the waters, a Commonwealth Court judge ruled in June in a separate ballot-counting case that undated ballots should be counted. But knowing of the case brewing in federal courts, she ordered those ballots be kept separate.

Following the Supreme Court ruling on Tuesday, Ms. Chapman issued a statement advising counties to count the undated ballots in their official count for the Nov. 8 election. She said the justices' decision "provides no justification for counties to exclude ballots based on a minor omission, and we expect that counties will continue to comply with their obligation to count all legal votes."

Officials from Cumberland, Dauphin, Lebanon and York counties said they plan to segregate the undated mail-in ballots even without guidance from the Department of State.

"It's easier to add them in than it is to pull them back out," said York County Chief Clerk Greg Monskie.

"No matter what direction we get, we will segregate those ballots," said Lebanon County elections director Sean Drasher. "That's just

prudent."

House Republican spokesman Jason Gottesman said the GOP leaders, who maintain the election law clearly disallows the counting of undated ballots, felt the department should issue guidance to give election officials in all 67 counties the same instruction.

"But given the ambiguity here in this renewed opening for further interpretation by the courts certainly this is an issue that has been litigated before multiple times and now likely will be litigated again," he said. "It just makes sense that everybody prepares for that and does so in a way that these ballots aren't mingled and can be counted later or not counted."

Current guidance on the department's website doesn't address the issue of segregating undated mail-in ballots, only that those ballots should be counted.

EXHIBIT F

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: Lancaster



POLICE CRIMINAL COMPLAINT
COMMONWEALTH OF PENNSYLVANIA
VS.

Magisterial District Number: **02-2-02**
 MDJ: Hon. **BRUCE A. ROTH, ESQ**
150 NORTH QUEEN STREET
SUITE 120
 Address: **LANCASTER, PA 17603**
 Telephone: **717-295-2000**

DEFENDANT: **(NAME and ADDRESS):**
CHERYL MIHALIAK
 First Name Middle Name Last Name Gen
831 3RD ST
LANCASTER PA 17603

NCIC Extradition Code Type

<input type="checkbox"/> 1-Felony Full	<input type="checkbox"/> 5-Felony Pend.	<input type="checkbox"/> C-Misdemeanor Surrounding States	<input type="checkbox"/> Distance:
<input type="checkbox"/> 2-Felony Ltd.	<input type="checkbox"/> 6-Felony Pend. Extradition Determ.	<input type="checkbox"/> D-Misdemeanor No Extradition	
<input type="checkbox"/> 3-Felony Surrounding States	<input type="checkbox"/> A-Misdemeanor Full	<input type="checkbox"/> E-Misdemeanor Pending	
<input type="checkbox"/> 4-Felony No Ext	<input checked="" type="checkbox"/> B-Misdemeanor Limited	<input type="checkbox"/> F-Misdemeanor Pending Extradition Determ.	

DEFENDANT IDENTIFICATION INFORMATION

Docket Number CR-126-22	Date Filed 06/03/22	OTN/LogScan Number R 300522-5	Complaint 150	Incident Number DA-22-0138	Request Lab Services? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
GENDER <input type="checkbox"/> Male <input checked="" type="checkbox"/> Female	DOB 6/13/1961	POB	Add'l DOB	Co-Defendant(s) <input type="checkbox"/>	
RACE <input checked="" type="checkbox"/> White <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Native American <input type="checkbox"/> Unknown		ETHNICITY <input type="checkbox"/> Hispanic <input checked="" type="checkbox"/> Non-Hispanic <input type="checkbox"/> Unknown			
HAIR COLOR <input checked="" type="checkbox"/> GRY (Gray) <input type="checkbox"/> RED (Red/Aubn.) <input type="checkbox"/> SDY (Sandy) <input type="checkbox"/> BLU (Blue) <input type="checkbox"/> PLE (Purple) <input type="checkbox"/> BRO (Brown) <input type="checkbox"/> BLK (Black) <input type="checkbox"/> ONG (Orange) <input type="checkbox"/> WHI (White) <input type="checkbox"/> XXX (Unk/Bald) <input type="checkbox"/> GRN (Green) <input type="checkbox"/> PNK (Pink) <input type="checkbox"/> BLN (Blonde/Strawberry)					
EYE COLOR <input type="checkbox"/> BLK (Black) <input checked="" type="checkbox"/> BLU (Blue) <input type="checkbox"/> BRO (Brown) <input type="checkbox"/> GRN (Green) <input type="checkbox"/> GRY (Gray) <input type="checkbox"/> HAZ (Hazel) <input type="checkbox"/> MAR (Maroon) <input type="checkbox"/> PNK (Pink) <input type="checkbox"/> MUL (Multicolored) <input type="checkbox"/> XXX (Unknown)					
DNA <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	DNA Location				WEIGHT (lbs.) 160
FBI Number 688907JA3	MNU Number		FL HEIGHT in 5 11		
Defendant Fingerprinted? <input type="checkbox"/> YES <input type="checkbox"/> NO	Fingerprint Classification:				

DEFENDANT VEHICLE INFORMATION

Plate #	State	Hazmat <input type="checkbox"/>	Registration Sticker (MM/YY)	Comm'l Veh. Ind. <input type="checkbox"/>	School Veh. <input type="checkbox"/>	Oth. NCIC Veh. Code	Reg. same as Def. <input type="checkbox"/>
VIN	Year	Make	Model	Style	Color		

Office of the attorney for the Commonwealth Approved Disapproved Because: _____

(The attorney for the Commonwealth may require that the complaint, arrest warrant affidavit, or both be approved by the attorney for the Commonwealth prior to filing. See Pa.R.Crim.P.507.)

Andrew J. Gonzalez [Signature] 6/3/22
 (Name of the attorney for the Commonwealth) (Signature of the attorney for the Commonwealth) (Date)

I, **MARTIN, LARRY** **10158**
 (Name of the Affiant) PSP/MPOETC - Assigned Affiant ID Number and Badge #
 of **LANCASTER CO DETECTIVES** **PA036013A**
 (Identify Department or Agency Represented and Political Subdivision) (Police Agency ORI Number)
 do hereby state: (check appropriate box)

1. I accuse the above named defendant who lives at the address set forth above
 I accuse the defendant whose name is unknown to me but who is described as _____
 I accuse the defendant whose name and popular designation or nickname are unknown to me and whom I have therefore designated as John Doe or Jane Doe

with violating the penal laws of the Commonwealth of Pennsylvania at [**301**] **Lancaster City**
 (Subdivision Code) (Place-Political Subdivision)
150 N QUEEN ST LANCASTER, PA 17603
 in **Lancaster** County [**36**] on or about **Between 04/26/2022 0001 and 04/26/2022 2359**
 (County Code) (Offense Date)



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed: 06/03/2022	OTN/LiveScan Number	Complaint 150	Incident Number DA-22-0138
Defendant Name	First: CHERYL	Middle:	Last: MIHALIAK	

- I ask that a warrant of arrest or a summons be issued and that the defendant be required to answer the charges I have made.
- I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa.C.S. § 4904) relating to unsworn falsification to authorities.
- This complaint consists of the preceding page(s) numbered 1 through 4.
- I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing of confidential information and documents differently than non-confidential information and documents.

The acts committed by the accused, as listed and hereafter, were against the peace and dignity of the Commonwealth of Pennsylvania and were contrary to the Act(s) of the Assembly, or in violation of the statutes cited.

(Before a warrant of arrest can be issued, an affidavit of probable cause must be completed, sworn to before the issuing authority, and attached.)

June 3, 2022 (Date) DA P. P. M. J. (Signature of Affiant)

AND NOW, on this date _____ I certify that the complaint has been properly completed and verified.
An affidavit of probable cause must be completed before a warrant can be issued.

02-2-02
(Magisterial District Court Number)

[Signature]
(Issuing Authority)





POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed: 06/03/2022	OTN/LiveScan Number	Complaint 150	Incident Number DA-22-0138
Defendant Name	First: CHERYL	Middle:	Last: MIHALIAK	

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically.

(Set forth a *brief* summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated.

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Over _____
------------------	--	---	---	--

<input checked="" type="checkbox"/> Lead?	1	4101	(a)(3)	of the	PA Crimes Code	1	M1		250
	Offense #	Section	Subsection		PA Statute (Title)	Courts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if Applicable)	Accident Number	<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
------------------------------	-----------------	-------------------------------------	--------------------------------------	------------------------------------

Statute Description (Include the name of the statute or ordinance):

FORGERY-UTTER FORGED WRIT

Acts of the accused associated with this Offense:

PACC 4101(a)3 Forgery

IN THAT, on or about April 26, 2022, THE DEFENDANT did unlawfully utter a writing, namely, a commercial instrument or other document evidencing, creating, transferring, altering, terminating, or otherwise affecting legal relations, which said actor knew to be forged, with intent to defraud or injure TO WIT: Cheryl Mihaliak completed a mail in voter ballot for her deceased mother and signed her mother's name to the ballot. It was returned to the Lancaster County Board of Elections.

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Over _____
------------------	--	---	---	--

<input type="checkbox"/> Lead?	2	3517	-	of the	25	1	M2		
	Offense #	Section	Subsection		PA Statute (Title)	Courts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if Applicable)	Accident Number	<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
------------------------------	-----------------	-------------------------------------	--------------------------------------	------------------------------------

Statute Description (Include the name of the statute or ordinance):

Acts of the accused associated with this Offense:

Any person who shall forge or falsely make the official endorsement on any ballot or wilfully destroy or deface any ballot or wilfully delay the delivery of ant ballot. TO WIT: Cheryl Mihaliak completed a mail in voter ballot for her deceased mother and signed her mother's name to the ballot.



Police Criminal Complaint

Docket Number:	Date Filed: 06/03/2022	OTN/LiveScan Number	Complaint 150	Incident Number DA-22-0138
Defendant Name	First: CHERYL	Middle:	Last: MIHALIAK	

AFFIDAVIT OF PROBABLE CAUSE

1) On April 28, 2022, I (Detective Larry R. Martin) was assigned to investigate an alleged voter fraud incident. I received information from Christa Miller Chief Clerk/ Chief Registrar of the Lancaster County Board of Elections and Registration Commission.

2) Christa Miller stated she received a mail in ballot from Teresa J. Mihaliak signed and dated April 26, 2022. The ballot for the democrat primary was received on April 28, 2022, by her office. However, Christa Miller reported that Teresa J. Mihaliak was deceased on April 14, 2022. Christa Miller said this was confirmed by an obituary and records from the Department of Health. She said Teresa J. Mihaliak was removed from the voter rolls on April 25, 2022.

3) Christa Miller stated that Teresa J. Mihaliak's ballot was requested by Cheryl Mihaliak on March 17, 2022, Cheryl Mihaliak requested her own ballot on March 17, 2022. Christa Miller reported both Teresa Mihaliak and Cheryl Mihaliak's ballots were returned on April 28, 2022.

4) On May 5, 2022, at 1641 hours I spoke with Cheryl Mihaliak. During that conversation Cheryl Mihaliak told me that she did vote for her mother and signed her ballot after her mother died. Cheryl Mihaliak said that she knew who her mother was going to vote for and decided to vote for her after she died. Cheryl Mihaliak said she filled out her mother Teresa J. Mihaliak ballot and signed her ballot.

5) Due to the above information, I request that a summons be issued for defendant Cheryl Mihaliak.

I, LARRY MARTIN, BEING DULY SWORN ACCORDING TO THE LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

I CERTIFY THAT THIS FILING COMPLIES WITH THE PROVISIONS OF THE CASE RECORDS PUBLIC ACCESS POLICY OF THE UNIFIED JUDICIAL SYSTEM OF PENNSYLVANIA THAT REQUIRE FILING OF CONFIDENTIAL INFORMATION AND DOCUMENTS DIFFERENTLY THAN NO-CONFIDENTIAL INFORMATION AND DOCUMENTS.

Larry R. Martin
(Signature of Affiant)

Sworn to me and subscribed before me this _____ day of _____, _____.

_____, Date _____, Magisterial District Judge

My commission expires first Monday of January,

SEAL

Magisterial District Judge 02-2-02

DOCKET TRANSCRIPT

Docket Number: MJ-02202-CR-0000126-2022

Criminal Docket



Commonwealth of Pennsylvania
v.
Cheryl Mihaliak

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CASE INFORMATION

<u>Judge Assigned:</u>	Magisterial District Judge Bruce A. Roth	<u>Issue Date:</u>	06/03/2022
<u>OTN:</u>	R 300522-5	<u>File Date:</u>	06/03/2022
<u>Arresting Agency:</u>	Lancaster County, District Attorney	<u>Arrest Date:</u>	
<u>Complaint No.:</u>	DA-22-0138	<u>Incident No.:</u>	DA-22-0138
<u>Disposition:</u>	Waived for Court	<u>Disposition Date:</u>	07/25/2022
<u>County:</u>	Lancaster	<u>Township:</u>	Lancaster City
<u>Case Status:</u>	Closed		

STATUS INFORMATION

<u>Case Status</u>	<u>Status Date</u>	<u>Processing Status</u>
Closed	07/25/2022	Completed
	06/03/2022	Awaiting Preliminary Hearing

CALENDAR EVENTS

<u>Case Calendar</u>	<u>Schedule</u>			<u>Judge Name</u>	<u>Schedule</u>
<u>Event Type</u>	<u>Start Date</u>	<u>Start Time</u>	<u>Room</u>		<u>Status</u>
Preliminary Hearing	06/29/2022	2:00 pm		Magisterial District Judge Bruce A. Roth	Continued
<i>Continuance Reason: Defendant Attorney Request</i>					
<i>Requested By: Attorney Michael Todd Winters</i>					
Preliminary Hearing	07/25/2022	2:00 pm		Magisterial District Judge Bruce A. Roth	Scheduled
Formal Arraignment	08/26/2022	9:00 am	Courtroom A		Scheduled

DEFENDANT INFORMATION

<u>Name:</u>	Mihaliak, Cheryl	<u>Sex:</u>	Female
<u>Date of Birth:</u>	06/13/1961	<u>Race:</u>	
<u>Address(es):</u>			
<u>Other</u>			
831 Third Street Lancaster, PA 17603			

Advised of His Right to Apply for Assignment of Counsel?	Yes
Public Defender Requested by the Defendant?	No
Application Provided for Appointment of Public Defender?	No
Has the Defendant Been Fingerprinted?	No

Magisterial District Judge 02-2-02

DOCKET TRANSCRIPT

Docket Number: MJ-02202-CR-0000126-2022

Criminal Docket



Commonwealth of Pennsylvania
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CASE PARTICIPANTS

<u>Participant Type</u>	<u>Participant Name</u>	<u>OTN/LOTN</u>	<u>Docket Number</u>	<u>Was Sworn In?</u>	<u>Has Testified?</u>
Prosecution	Commonwealth of Pennsylvania				
Arresting Officer	Martin, Larry R.				
Defendant	Mihaliak, Cheryl				
Witness for the Commonwealth	Miller, Christa				

BAIL

<u>Bail Action Type</u>	<u>Bail Action Date</u>	<u>Bail Type</u>	<u>Percentage</u>	<u>Amount</u>	<u>Nebbia Status:</u>
Set	07/25/2022	Unsecured		\$2,500.00	None

CHARGES

<u># Charge</u>	<u>Grade</u>	<u>Description</u>	<u>Offense Dt.</u>	<u>Disposition</u>
1 18 § 4101 §§ A3	M1	Forgery - Utters Forged Writing	04/26/2022	Withdrawn
2 25 § 3517	M2	Forging And Destroying Ballots	04/26/2022	Waived for Court

DISPOSITION/SENTENCING DETAILS

<u>Case Disposition</u>	<u>Disposition Date</u>	<u>Was Defendant Present?</u>
Waived for Court	07/25/2022	Yes

<u>Offense Seq./Description</u>	<u>Offense Disposition</u>
1 Forgery - Utters Forged Writing	Withdrawn
2 Forging And Destroying Ballots	Waived for Court

ATTORNEY INFORMATION

Private	Assistant District Attorney
<u>Name:</u> Michael Todd Winters, Esq.	<u>Name:</u> Jennifer Lauren Ponessa, Esq.
<u>Representing:</u> Mihaliak, Cheryl	<u>Representing:</u> Commonwealth of Pennsylvania
<u>Counsel Status:</u> Active	<u>Counsel Status:</u> Active
<u>Supreme Court No.:</u> 077976	<u>Supreme Court No.:</u> 319222
<u>Phone No.:</u> 717-584-1895	<u>Phone No.:</u> 717-299-8100
<u>Address:</u> 53 N Duke St Ste 318 Lancaster, PA 17602	<u>Address:</u> Lancaster County Da's Office 50 N Duke St Lancaster, PA 17602-2805

Magisterial District Judge 02-2-02

DOCKET TRANSCRIPT

Docket Number: MJ-02202-CR-0000126-2022

Criminal Docket



Commonwealth of Pennsylvania
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Cheryl Mihaliak

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DOCKET ENTRY INFORMATION

Filed Date	Entry	Filer	Applies To
07/25/2022	Bail Set	Magisterial District Court 02-2-02	Cheryl Mihaliak, Defendant
07/25/2022	Formal Arraignment Scheduled	Magisterial District Court 02-2-02	Cheryl Mihaliak, Defendant
07/25/2022	Waiver of Preliminary Hearing	Cheryl Mihaliak	Cheryl Mihaliak, Defendant
07/25/2022	Waived for Court	Magisterial District Judge Bruce A. Roth	Cheryl Mihaliak, Defendant
07/25/2022	Docket Transcript Printed	Magisterial District Court 02-2-02	Cheryl Mihaliak, Defendant
07/22/2022	Attorney Active	Jennifer Lauren Ponessa, Esq.	Commonwealth of Pennsylvania, Prosecution
06/24/2022	First Class Summons Accepted	Magisterial District Court 02-2-02	Cheryl Mihaliak, Defendant
06/13/2022	Subpoena Issued	Magisterial District Court 02-2-02	Christa Miller, Witness for the Commonwealth
<i>Event: Preliminary Hearing-07/25/2022 2:00PM- 2:05PM</i> <i>Testify On Behalf Of: Commonwealth of Pennsylvania</i>			
06/13/2022	First Class Subpoena Issued	Magisterial District Court 02-2-02	Christa Miller, Witness for the Commonwealth
06/13/2022	Preliminary Hearing Scheduled	Magisterial District Court 02-2-02	Cheryl Mihaliak, Defendant
06/13/2022	Preliminary Hearing Continued	Magisterial District Court 02-2-02	Cheryl Mihaliak, Defendant
06/09/2022	Attorney Active	Michael Todd Winters, Esq.	Cheryl Mihaliak, Defendant
06/06/2022	Certified Summons Accepted	Magisterial District Court 02-2-02	Cheryl Mihaliak, Defendant
06/06/2022	Certified Fingerprint Order Accepted	Magisterial District Court 02-2-02	Cheryl Mihaliak, Defendant
06/03/2022	Summons Issued	Magisterial District Court 02-2-02	Cheryl Mihaliak, Defendant
06/03/2022	Subpoena Issued	Magisterial District Court 02-2-02	Christa Miller, Witness for the Commonwealth
<i>Event: Preliminary Hearing-06/29/2022 2:00PM- 2:15PM</i> <i>Testify On Behalf Of: Commonwealth of Pennsylvania</i>			
06/03/2022	First Class Subpoena Issued	Magisterial District Court 02-2-02	Christa Miller, Witness for the Commonwealth
06/03/2022	Certified Summons Issued	Magisterial District Court 02-2-02	Cheryl Mihaliak, Defendant
06/03/2022	First Class Fingerprint Order Issued	Magisterial District Court 02-2-02	Cheryl Mihaliak, Defendant
06/03/2022	Fingerprint Order Issued	Magisterial District Court 02-2-02	Cheryl Mihaliak, Defendant
<i>Report to Agency: Lancaster Police Dept</i> <i>Authority: Roth, Bruce A.</i> <i>Report From: 6/3/2022 12:00:00 AM</i> <i>Report To: 6/29/2022 12:00:00 AM</i>			
06/03/2022	Certified Fingerprint Order Issued	Magisterial District Court 02-2-02	Cheryl Mihaliak, Defendant
06/03/2022	Preliminary Hearing Scheduled	Magisterial District Court 02-2-02	Cheryl Mihaliak, Defendant
06/03/2022	Criminal Complaint Filed	Magisterial District Court 02-2-02	

Magisterial District Judge 02-2-02

DOCKET TRANSCRIPT

Docket Number: MJ-02202-CR-0000126-2022

Criminal Docket



Commonwealth of Pennsylvania
v.
Cheryl Mihaliak

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DOCKET ENTRY INFORMATION

Filed Date	Entry	Filer	Applies To
06/03/2022	First Class Summons Issued	Magisterial District Court 02-2-02	Cheryl Mihaliak, Defendant

July 25, 2022

Date

A handwritten signature in black ink, appearing to read "Bruce A. Roth".

Magisterial District Judge Bruce A. Roth



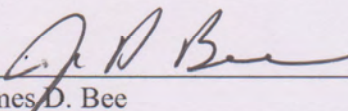
VERIFICATION

I hereby aver that the statements of fact contained in the attached **Petitioners' Application for the Exercise of Extraordinary Jurisdiction or King's Bench Power** are true and correct to the best of my knowledge and belief and are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

By: David Ball
David Ball

VERIFICATION

I hereby aver that the statements of fact contained in the attached **Petitioners' Application for the Exercise of Extraordinary Jurisdiction or King's Bench Power** are true and correct to the best of my knowledge and belief and are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

By:  _____
James D. Bee

VERIFICATION

I hereby aver that the statements of fact contained in the attached **Petitioners' Application for the Exercise of Extraordinary Jurisdiction or King's Bench Power** are true and correct to the best of my knowledge and belief and are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

By: Gwendolyn M. Deluca
Gwendolyn Mae Deluca

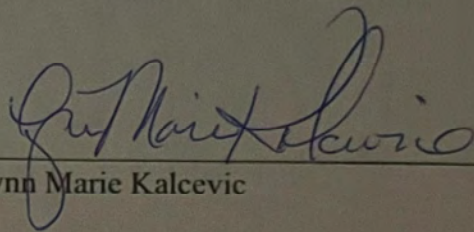
VERIFICATION

I hereby aver that the statements of fact contained in the attached **Petitioners' Application for the Exercise of Extraordinary Jurisdiction or King's Bench Power** are true and correct to the best of my knowledge and belief and are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

By: Ross M. Farber
Ross M. Farber

VERIFICATION

I hereby aver that the statements of fact contained in the attached **Petitioners' Application for the Exercise of Extraordinary Jurisdiction or King's Bench Power** are true and correct to the best of my knowledge and belief and are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

By: 
Lynn Marie Kalcevic

VERIFICATION

I hereby aver that the statements of fact contained in the attached **Petitioners' Application for the Exercise of Extraordinary Jurisdiction or King's Bench Power** are true and correct to the best of my knowledge and belief and are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

By: _____

Vallerie Siciliano-Biancanello

A handwritten signature in black ink, appearing to read 'Vallerie Siciliano-Biancanello', written over a horizontal line.

VERIFICATION

I hereby aver that the statements of fact contained in the attached **Petitioners' Application for the Exercise of Extraordinary Jurisdiction or King's Bench Power** are true and correct to the best of my knowledge and belief and are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.


By: _____

S. Michael Streib

A handwritten signature in black ink, appearing to read 'S. Michael Streib', is written over a horizontal line. The signature is stylized and cursive.

VERIFICATION

I hereby aver that the statements of fact contained in the attached **Petitioners' Application for the Exercise of Extraordinary Jurisdiction or King's Bench Power** are true and correct to the best of my knowledge and belief and are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

By: 

Angela Alleman, Executive Director
Republican Party of Pennsylvania

VERIFICATION

I hereby aver that the statements of fact contained in the attached **Petitioners' Application for the Exercise of Extraordinary Jurisdiction or King's Bench Power** are true and correct to the best of my knowledge and belief and are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

By: 
Donald Rickard, Regional Political Director
National Republican Congressional Committee

VERIFICATION

I hereby aver that the statements of fact contained in the attached **Petitioners' Application for the Exercise of Extraordinary Jurisdiction or King's Bench Power** are true and correct to the best of my knowledge and belief and are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

By: 

Philip Valenziano
RNC Regional Political Director

**CERTIFICATE OF COMPLIANCE
WITH PUBLIC ACCESS POLICY**

I certify that this filing complies with the provisions of the *Public Access Policy of the United Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

GALLAGHER GIANCOLA LLC

Dated: October 16, 2022

/s/ Kathleen A. Gallagher

Kathleen A. Gallagher

Russell D. Giancola

Counsel for Petitioners