

extraordinary measures. Their delay in presenting this matter to the Court until the eleventh hour, less than seven (7) weeks prior to a presidential election, and a few days prior to the start of mail-in voting, when they had ample time to do so beforehand, should not support this Court's exercise of either Kings Bench or Extraordinary Jurisdiction.

2. As noted in Petitioners' Application, counties, including Lehigh, will be sending out mail-in ballots within a few days. Lehigh, in accordance with its policies, will be notifying voters of issues with their mail-in ballots and affording them the opportunity to cure them. Notification of errors can occur as early as the first day such ballots are available. When a mail-in ballot is requested in person, filled out and immediately returned, the Lehigh employee at the counter accepting the mail-in ballot may identify a mistake. Therefore, it is entirely possible that Lehigh will be allowing voters to cure issues with their mail-in ballots as soon as those ballots are available, and well before this litigation is resolved. Changing the curing process mid-election would not be equitable for the voters, if this Court were to rule that curing is not permissible after some voters had already done so. Maintaining the status quo for this election is the more equitable result, and therefore the Application should be denied at this time.
3. As Petitioners have recently argued in pending federal litigation on the issue of date requirements for mail-in ballots, "It is simply too late for this Court to grant Plaintiffs any relief on their claims for the imminent 2024 general elections. *See Purcell v. Gonzalez*, 549 U.S. 1 (2006)." This quote is from Petitioners' response filed September 13, 2024 in *NAACP v. Chapman*, 22-cv-339. Under the *Purcell* principle cited by Petitioners, courts should not

change election rules during the period of time just prior to an election because doing so could confuse voters and create problems for officials administering the election. This Court should follow *Purcell* and deny Petitioners' Application.

4. Lehigh joins in the reasoning presented by those other county Boards of Election who oppose this Application.

For all the foregoing reasons, Lehigh respectfully requests that this Honorable Court deny the Application for the Exercise of Kings Bench or Extraordinary Jurisdiction.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I, Catharine M. Roseberry, certify that this filing complies with the provisions of the Public Access Policy of the Unified 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.

Respectfully submitted,

Date: September 20, 2024

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