

PENNSYLVANIA DEMOCRATIC PARTY, Plaintiff,

v.

ERIE COUNTY BOARD OF ELECTIONS, Defendant,

and

PENNSYLVANIA REPUBLICAN PARTY, Intervenor.

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA

CIVIL ACTION – LAW

No. 12666-2024

COMMON PLEAS COURT
ERIE, PA
2024 NOV - 1 PM 4: 08
CLERK OF RECORDS
PROTHONOTARY

ORDER OF THE COURT

On this 1 day of November 2024, this Court has conducted a hearing and oral argument regarding the Plaintiff’s Petition for Special and Preliminary Injunction, and Complaint seeking Mandamus Relief to Enforce Provisions of the Election Code and Injunction Relief to Address Failure to Do So. The Court granted the Consent Order permitting the Pennsylvania Republican Party to formally join the litigation as an Intervenor. After reviewing the pleadings and testimony, and after conducting oral argument, the Court believes that the specific rulings set forth below provide the appropriate remedy and relief in an attempt to ensure all registered voters who did comply with the requirements for mail-in ballots are given full opportunity to complete their right to vote, and also ensure that each individual’s vote will only be counted once.

WHEREAS, the parties in the above-captioned matter held a hearing on October 31, 2024 (the “Hearing”) to address the Pennsylvania Democratic Party’s (“PDP”) Petition for Special and Preliminary Injunction;

WHEREAS, all parties agreed to the intervention of the Pennsylvania Republican Party (“PRP”) in the above-captioned matter;

WHEREAS, the Hearing established the following:

- At minimum, 365 duplicate ballots were sent to voters which contained a mail-in ballot with a barcode corresponding to a separate voter;
- Up to 13,000 – 17,000 Erie County voters (“Affected Voters”) who timely applied for and requested a mail-in ballot may not have received their ballots through no fault of their own;
- Some unknown number of voters who timely requested mail-in ballots may not have received their mail-in ballots;
- The Erie County Board of Elections (“BOE”), its vendor, ElectionIQ (“Vendor”), and the USPS are unable to accurately determine the delivery status of these 13,000 – 17,000;
- Around 1,200 Erie County voters who temporarily reside out-of-state (“Out of State Voters”) who timely applied for and requested a mail-in ballot may not have received their ballots through no fault of their own;
- The BOE currently is short anticipated ballots that can be scanned by the voting machines and may also be short envelopes used for provisional ballots;
- The BOE is attempting to obtain as many ballots and envelopes as may be required; and
- Primarily due to the failures of the Vendor, there have been administrative challenges necessitating this Court to order and grant the relief herein.

WHEREAS, the Election Code establishes district election boards (a "District Election Board") consisting of a judge of election, a majority inspector of election and a minority inspector of election. 25 P.S. § 2671.

NOW THEREFORE, after conducting oral argument on November 1, 2024, it is HEREBY ORDERED THAT:

1. The BOE shall extend the operating hours to the public of its office in the Erie County Courthouse up to Election Day as follows:

a. Friday, November 1, 2024 and Monday, November 4, 2024, 8:00am – 6:00pm;
and

b. Saturday, November 2, 2024 and Sunday, November 3, 2024: 8:00 – 4:00pm.

2. The BOE shall be required to immediately add an additional printer to its office at the Erie County Courthouse to reduce wait times and shall be required to allow voters who timely applied for a mail-in ballot to cancel their outstanding mail-in ballot request, be issued a new mail-in ballot immediately, and cast that mail-in ballot at the Erie County Courthouse (either through the dropbox at the BOE office or via the dropbox located outside the Erie County Courthouse).

3. The BOE shall ensure that an adequate number of ballots and provisional ballots are available at all polling locations in Erie County.

4. The BOE shall as soon as practicable release the names and email addresses of the Out of State Voters to the parties in the above-captioned matter.

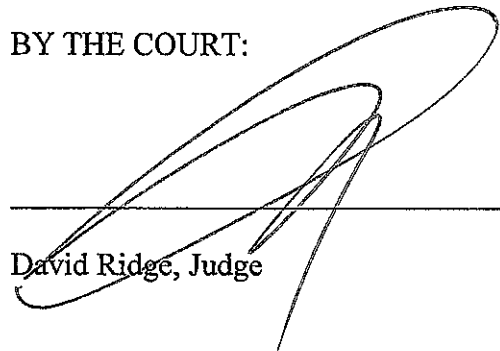
5. The BOE will have discretion to hire and utilize a company that provides overnight delivery services to send a replacement mail-in ballot to any Out of State Voter who properly requested a mail-in ballot.

6. As to the duplicate ballots received by voters, the BOE shall promptly contact all voters who received a duplicate ballot and all voters whose name appeared on a duplicate ballot

intended for another voter. These voters shall be given the opportunity to cancel any previous ballot cast in their name by submitting a new ballot to the BOE. All of these votes shall be segregated. However, provided that a voter does not cast a new ballot, the BOE, with representatives from the PDP and PRP present, shall determine whether the ballot received is accurate by comparing the name and signature on the envelope. Where the name and signature match, that ballot shall be counted. Where the name and signature on the envelope do not match, the BOE shall segregate such ballots for post-Election Day review and treatment.

7. Each party shall be responsible for its own counsel fees and costs.

BY THE COURT:



J.

David Ridge, Judge

cc: Clifford Levine, Esquire
Tim McNair, Esquire
Thomas Talarico, Esquire
Thomas King, Esquire
Kathleen Gallagher, Esquire