

**IN THE COURT OF COMMON PLEAS OF BUCKS COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW**

DAVID MCCORMICK,  
REPUBLICAN NATIONAL COMMITTEE, and  
REPUBLICAN PARTY OF PENNSYLVANIA

v.

BUCKS COUNTY BOARD OF ELECTIONS

NO. 2024-07228

Notice: A Copy of the Supreme Court of Pennsylvania's Order, No. 622, dated 8/27/24, and governing Election Appeals, is attached as Exhibit "A."

**ANSWER TO PETITION FOR REVIEW**

Respondent Bucks County Board of Elections, by and through undersigned counsel, hereby files this Answer, and in support avers as follows:

1. Admitted.
2. Denied. The Pennsylvania Supreme Court issued a Per Curiam Order on November 1, 2024, which did not rule on the merits of an Emergency Application for Extraordinary Relief with regards to undated or mis-dated mail-in and absentee ballots. Rather, the Pennsylvania Supreme Court stayed the Commonwealth Court's Order in *Baxter v. Philadelphia Board of Elections*, 2024 Pa. LEXIS 1628, No. 76 EM 2024; 77 EM 2024, pending litigation of the merits of a Petition for Review, and on the basis of its concern that a ruling issued shortly before a General Election and during the pendency of our electorate submitting mail-in and absentee ballots, would disrupt the imminent election. *See* Exhibit "B."
3. Denied. Republican Petitioners' characterization and legal conclusions regarding the legal landscape of mail-in and absentee ballots is erroneous and denied. In *Baxter*, the Court stayed the Commonwealth Court's Order which permitted mis-dated and un-dated mail-in and absentee ballots to be canvassed, pending a decision on the merits.<sup>1</sup> In *New Pa. Project Education*

<sup>1</sup> On November 12, 2024, the Republican National Committee and Republican Party of Pennsylvania filed a Petition for Allowance of Appeal in *Baxter*, seeking reversal of the Commonwealth Court's decision to permit canvassing of undated and mis-dated mail-in and absentee ballots. *See* 395 EAL 2024 and 396 EAL 2024. Two days later, on

*Fund*, which was decided on October 5, 2024, the Pennsylvania Supreme Court clearly stated that it would not “impose nor countenance substantial alterations to existing laws and procedures during the pendency of an ongoing election.” *See New Pa. Project Education Fund v. Schmidt, et al*, 2024 Pa. LEXIS 1478 (Pa. October 5, 2024) (emphasis added). A copy of the Supreme Court’s Order is attached as Exhibit “C.” Election Day ended on November 5, 2024, and therefore it is now entirely appropriate for post-election litigation to occur as contemplated by the Pennsylvania Supreme Court.

Petitioners cite *Black Political Empowerment Project* in support of its position, without advising this Court that *BPEP* was vacated on procedural grounds and not on the merits. *See Black Political Empowerment Project v. Schmidt*, 2024 Pa. LEXIS 1348, NO. 68 MAP 2024. In *Ball v. Chapman*, 289 A.3d 1 (Pa. 2022), the Supreme Court was not asked to consider whether the canvassing of undated or mis-dated ballots violated the Free and Equal Elections Clause of the Pennsylvania Constitution, Pa. Const. art. I, §5<sup>2</sup>, and were evenly divided in the question of whether failing to canvas those ballots violated the materiality provision of the federal Civil Rights Act. Further, the *Ball* Court specifically stated, “[C]ounty Boards of Elections retain authority to evaluate the ballots that they receive in future elections – including those that fall within the date ranges derived from statutes indicating when it is possible to send out mail-in and absentee ballots – for compliance with the Election Code.” *Ball v. Chapman*, 289 A.3d 1, 23 (Pa. 2022). Republican Petitioners further misconstrue the Pennsylvania Supreme Court’s holding in

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November 14, 2024, the Republican National Committee and Republican Party of Pennsylvania also filed an Application seeking to invoke the Pennsylvania Supreme Court’s King’s Bench Powers to exercise extraordinary jurisdiction over this same issue, which was docketed at 136 MM 2024.

<sup>2</sup> The Free and Equal Elections Clause reflects “the framers’ intent that all aspects of the electoral process, to the greatest degree possible, be kept open and unrestricted to the voters of our Commonwealth, and, also, conducted in a manner which guarantees, to the greatest degree possible, a voter’s right to equal participation in the electoral process.” *League of Women Voters v. Commonwealth*, 178 A.3d 737, 804 (Pa. 2018).

*Boockvar*, directing this Court’s attention to page 374 of the holding which addressed a challenge to “notice and cure” procedures and secrecy envelopes for ballots. Neither are at issue here. *See Boockvar*, 238 A.3d 345, 374 (Pa. 2020). Finally, Republican Petitioners’ citation to *In re: Canvass of Absentee and Mail-In Ballots of Nov. 3, 2020 General Election*, ignores the nuanced decision of our Supreme Court, which actually held in 2020 that a voter’s “failure[] to include a handwritten name, address or date in the voter declaration on the back of the outer envelope, while constituting technical violations of the Election Code, do not warrant the wholesale disenfranchisement of thousands of Pennsylvania voters.” *In re: Canvass*, 241 A.3d 1058, 1079 (Pa. 2020).

4. Denied. Republican Petitioners misconstrue the Pennsylvania Supreme Court’s Per Curiam order in *New Pa. Project Education Fund*. If this Court were to accept this interpretation of the Order, this Court would need to necessarily reach the conclusion that the Per Curiam Order prohibited all post-election litigation over justiciable election issues, which would be an absurd result. The proper interpretation of the Per Curiam Order is that our Courts should think carefully about issuing orders during the pendency of an election, as such actions can lead to voter confusion in the midst of an election and disenfranchise the electorate.

5. Admitted, with clarification. The Board voted to canvass 405 mail-in or absentee ballots, which were mis-dated or undated. However, by way of further answer, the Board has segregated these canvassed ballots which allows those ballots to be included in the total vote, while also providing the Court the ability to remove the ballots from the vote totals should this Court or a higher Court so direct.

By way of further response, the County Board of Election began mailing these ballots out on September 30, 2024, and all of the subject mail-in and absentee ballots envelopes were time-

stamped with a return date no later than 8 p.m. on Election Day. The Board is therefore certain, without a shadow of a doubt, that these ballots were filled out and returned within the 37 days leading up to the General Election on November 5, 2024. Therefore, in compliance with the Supreme Court's decision in *Ball v. Chapman*, the Board of Elections voted to properly canvass the subject ballots.

By way of further response, Republican Petitioners mislead this Court regarding pending litigation as to whether failing to count mis-dated or undated ballots violates the Materiality provision of the Civil Rights Act, as Petitioners RNC and Republican Party of Pennsylvania are parties to two pending lawsuits in the U.S. District Court of Pennsylvania, *Pennsylvania State Conference of the NAACP, et al v. Schmidt, et al*, Civil Action 1:22-cv-00339 and *Eakin, et al v. Adams County Board of Elections, et al*, Civil Action 1:22-cv-00340. In both actions the Western District Court has not yet decided the issue on the merits.

6. Denied. Conclusion of law to which no response is required. By way of further answer, the provision which requires the County Board to determine the sufficiency of the date on a ballot emanates from a statute in the Election Code that long pre-dates Act 77. Section §3146.8(g)(3) of the Election Code became effective in 1937, and therefore constitutional analysis by our Courts of this 1937 statute does not relate to the Petitioners' suggestion that Act 77 should be stricken. Further, even if the provision emanated from Act 77, the Commonwealth Court held in *Baxter*, 2024 Pa. Commw. Unpub. LEXIS 582, at 52-53 (Cmwlt. Sep. 23, 2024) that the non-severability provision was not effective or enforceable, pursuant to the standards set forth in *Stilp v. Commonwealth*, 905 A.2d 918, 970 (Pa. 2006).

7. Denied. Republican Petitioners misconstrue *Bush v. Gore*, 531 U.S. 98 (2000) to convince this Court that lack of uniformity implicates constitutional violations, when in fact our

Courts have held that “Bush [v. Gore] does not stand for the proposition that every rule or system must ensure uniform treatment.” See *Donald J. Trump for President, Inc. v. Boockvar*, 502 F.Supp. 3d 899 (M.D. Pa.) *aff’d sub nom. Donald J. Trump for President, Inc. v. Sec’y of Pennsylvania*, 830 F. App’x 377 (3d. Cir. 2020).

8. Admitted in part; denied in part. To the best of the Board’s knowledge, Philadelphia County Board of Elections, Centre County Board of Elections, and Montgomery County Board of Elections have also voted to count mis-dated or un-dated mail-in and absentee ballots. The Board is not aware if other county boards of election have also done so.

9. Denied. This Court should uphold the Board’s decision to count the subject ballots, as failure to do so will violate these voters’ constitutional rights under the Pennsylvania Constitution.

10. No response necessary.

11. Admitted.

12. Admitted that David McCormick is the Republican candidate for U.S. Senate. The Board is unaware as to the statewide vote count; therefore, this averment is denied.

13. The Board does not have sufficient information to admit or deny the averments of this paragraph.

14. The Board does not have sufficient information to admit or deny the averments of this paragraph.

15. Admitted.

16. The Board admits that it counted 405 mail-in and absentee ballots; however it denies the Republican Petitioners’ characterization that its decision did not comply with a “date requirement.” Further, the Board has segregated these canvassed ballots which allows those

ballots to be included in the total vote, while also providing the Court the ability to remove the ballots from the vote totals should this Court or a higher Court so direct.

17. Admitted.

18. Admitted in part; denied in part. Petitioners' legal conclusions and characterizations of the statute are denied.

19. Admitted.

20. Denied. Republican Petitioners misconstrue the rulings of our appellate courts. In *Ball v. Chapman*, 289 A.3d 1 (Pa. 2022), the Supreme Court was not asked to consider whether the canvassing of undated or mis-dated ballots violated the Free and Equal Elections Clause of the Pennsylvania Constitution, Pa. Const. art. I, §5<sup>3</sup>, and were evenly divided on the question of whether failing to canvas those ballots violated the materiality provision of the federal Civil Rights Act. Further, the *Ball* Court specifically stated, [C]ounty Boards of Elections retain authority to evaluate the ballots that they receive in future elections – including those that fall within the date ranges derived from statutes indicating when it is possible to send out mail-in and absentee ballots – for compliance with the Election Code. *Ball v. Chapman*, 289 A.3d 1, 23 (Pa. 2022).

21. Denied. Republican Petitioners misconstrue the rulings of our appellate courts. In *New Pa. Project Education Fund*, which was decided on October 5, 2024, the Pennsylvania Supreme Court clearly stated that it would not “impose nor countenance substantial alterations to existing laws and procedures during the pendency of an ongoing election.” See *New Pa. Project Education Fund*, 2024 Pa. LEXIS 1478 (Pa. October 5, 2024) (emphasis added). Election Day ended on November 5, 2024, and therefore it is now entirely appropriate for post-election litigation

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<sup>3</sup> The Free and Equal Elections Clause reflects “the framers’ intent that all aspects of the electoral process, to the greatest degree possible, be kept open and unrestricted to the voters of our Commonwealth, and, also, conducted in a manner which guarantees, to the greatest degree possible, a voter’s right to equal participation in the electoral process.” *League of Women Voters v. Commonwealth*, 178 A.3d 737, 804 (Pa. 2018).

to occur as contemplated by the Pennsylvania Supreme Court. In *Baxter v. Philadelphia Board of Elections*, the Pennsylvania Supreme Court did not rule on the merits of an Emergency Application for Extraordinary Relief with regards to undated or mis-dated mail-in and absentee ballots, but rather stayed the Commonwealth Court's Order pending litigation of the merits of a Petition for Review, and so as to not disrupt the imminent election.

22. Admitted in part with clarification; denied in part. The litigants, including Petitioner Republicans, continue to litigate whether the dating provisions violate the federal materiality provision of the Civil Rights Act, and fail to inform this Court that the Third Circuit Court of Appeals remanded the case to the U.S. District Court for the Western District of Pennsylvania for a decision on the merits.

23. Admitted.

24. Admitted with clarification that the Pennsylvania Supreme Court did not wish to decide such an issue close in time to Election Day. Here, that concern is no longer relevant.

25. Admitted that the Commonwealth Court in *Baxter* struck down the requirement that a mail-in ballot or absentee ballot be dated on its outer envelope, and admitted that the Order was stayed pending litigation on the merits. The characterization of the Justices' comments is denied, as such comments and frustrations were directed at the litigants raising the arguments too close in time to the imminent election. However, here, the election has been concluded and it is now entirely appropriate for the issue of whether refusal to count mail-in and absentee ballots lacking a correct date violates the Free and Equal Elections Clause of the Pennsylvania Constitution to be litigated. There is no other time at which the issue will arise for justiciable review other than on the heels of an election.

26. Admitted.

27. Denied that the Board's decision to count the undated or mis-dated ballots violates the law, as it believes not counting the ballots would violate these voters' constitutional rights under the Pennsylvania Constitution, an opinion shared by an *en banc* panel of the Commonwealth Court. The Board would also highlight for this Court that Justice Wecht, in his dissenting opinion in *BPEP*, stated that the Pennsylvania Supreme Court should have granted King's Bench review of the issue of whether enforcement of the dating provision violated the voters' rights under the Free and Equal Elections Clause of the Pennsylvania Constitution. Respectfully, the Board disagrees with Petitioner Republicans' view that this issue has been ruled upon or is well-settled law.

28. Admitted.

29. Denied.

30. Denied. *See* Answer to No. 2, No. 3, and No. 4, *supra*, which are not restated here for the sake of brevity.

31. Denied. Conclusion of law to which no response is required. By way of further answer, the provision which requires the County Board to determine the sufficiency of the date on a ballot emanates from a statute in the Election Code that long pre-dates Act 77. Section §3146.8(g)(3) of the Election Code became effective in 1937, and therefore constitutional analysis by our Courts of this 1937 statute does not relate to the Petitioners' suggestion that Act 77 should be stricken. Further, even if the provision emanated from Act 77, the Commonwealth Court held in *Baxter*, 2024 Pa. Commw. Unpub. LEXIS 582, at 52-53 (Cmwlt. Sep. 23, 2024) that the non-severability provision was not effective or enforceable, pursuant to the standards set forth in *Stilp v. Commonwealth*, 905 A.2d 918, 970 (Pa. 2006).



32. Denied. *See* Answer to No. 7, *supra*, which is not restated here for the sake of brevity.

33. Denied. *See* Answer to No. 7, *supra*, which is not restated here for the sake of brevity.

34. Denied. *See* Answer to No. 7, *supra*, which is not restated here for the sake of brevity.

35. Denied.

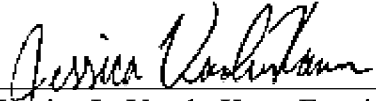
36. Denied.

WHEREFORE, Respondent Bucks County Board of Elections respectfully requests that this Honorable Court affirm the decision of the Bucks County Board of Elections to count the votes by 405 Bucks County voters.

Respectfully submitted,

Date: November 16, 2024

/s/ Amy M. Fitzpatrick, Esquire  
County Solicitor  
Attorney I.D. No. 324672  
Daniel Grieser, Esquire  
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2 North State Street  
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*Attorneys for Respondent,  
Bucks County Board of Elections*

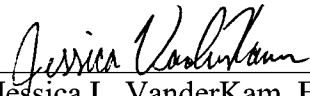
**IN THE COURT OF COMMON PLEAS OF BUCKS COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW**

DAVID MCCORMICK,	:	NO. 2024-07228
REPUBLICAN NATIONAL COMMITTEE, and	:	
REPUBLICAN PARTY OF PENNSYLVANIA	:	
	:	
v.	:	
	:	
BUCKS COUNTY BOARD OF ELECTIONS	:	

**CERTIFICATE OF SERVICE**

I, Jessica L. VanderKam, Esquire, hereby certify that on this date a copy of the Answer to Petition for Review was served on all parties of record via the Court's electronic notification system, as well as via email on the following:

Walter S. Zimolong, Esquire  
wally@zimolonglaw.com  
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By:   
Jessica L. VanderKam, Esquire  
Attorney I.D. 208337  
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215.968.4700  
*Attorney for Bucks County Board of Elections*

Dated: November 16, 2024

Case# 2024-07228-2 - JUDGE:34 Received at County of Bucks Prothonotary on 11/16/2024 3:38 PM. Fee = \$0.00. The filer certifies 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. E-Filed by: JESSICA L VANDERKAM, Esq.

# EXHIBIT A

**IN THE SUPREME COURT OF PENNSYLVANIA**

IN RE: TEMPORARY MODIFICATION AND : NO. 622  
SUSPENSION OF THE RULES OF :  
APPELLATE PROCEDURE AND JUDICIAL : JUDICIAL ADMINISTRATION DOCKET  
ADMINISTRATION FOR APPEALS ARISING:  
UNDER THE PENNSYLVANIA ELECTION :  
CODE :

**ORDER**

**PER CURIAM**

**AND NOW**, this 27<sup>th</sup> day of August, 2024, upon consideration of the requirements of the Electoral Count Reform Act of 2022, see 3 U.S.C. § 5, to expedite appeals in matters arising under the Pennsylvania Election Code with respect to the November 5, 2024 General Election, and pursuant to Article V, Section 10 of the Pennsylvania Constitution, it is **ORDERED** as follows:

Rule 903(c)(1)(ii) of the Pennsylvania Rules of Appellate Procedure, which provides for a 10-day appeal period from an order in any matter arising under the Pennsylvania Election Code, is **TEMPORARILY MODIFIED** to provide for a 3-day appeal period; further, Pa.R.A.P. 1113(c)(1), which provides for a 10-day period for filing a petition for allowance of appeal from an order in any matter arising under the Pennsylvania Election Code, is **TEMPORARILY MODIFIED** to provide for a 3-day period. All cross-appeals and cross-petitions for allowance of appeal must also be filed within 3 days of the challenged order.

Additionally, Pa.R.A.P. 107 and Pa.R.J.A. 107 are **TEMPORARILY SUSPENDED** to the extent they specify that weekends and holidays are to be excluded in calculating the above 3-day periods.

Case# 2024-07228-2 - JUDGE:34 Received at County of Bucks Prothonotary on 11/16/2024 3:38 PM. Fee = \$0.00. The filer certifies 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. E-Filed by: JESSICA L VANDERKAM, Esq.

Answers to jurisdictional statements and petitions for allowance of appeal, and separate motions to quash or dismiss appeals, will not be received in these matters. Any objection to the propriety of the appeal, including questions surrounding the appellate court's jurisdiction, are to be raised in the appellees' merits briefs.

In appeals that fall within the purview of this order, appellants shall file briefs within 24 hours of the filing their notice of appeal and, where applicable, jurisdictional statement. Appellees' briefs are due within 24 hours of the filing of appellants' briefs. Further, Pa.R.A.P. 2113 (regarding reply briefs) is **TEMPORARILY SUSPENDED** in these matters; no reply briefs will be permitted absent order of court.

All filings related to matters encompassed by this order shall be filed electronically when counsel or the litigants have a PACFile account. Otherwise, counsel or the litigants shall contact the relevant filing office to make alternative arrangements to ensure that the filing office receives the submissions by the applicable deadline.

Pa.R.A.P. 1931(a) and (c) (regarding the deadline for transmittal of the record when complete) are **TEMPORARILY SUSPENDED** in matters subject to this order, and the record shall be transferred as soon as practicable. The lower court may transmit partially completed records in the interest of facilitating prompt resolution of any appeal in these matters.

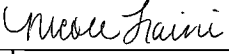
Applications for reconsideration or reargument will not be received on matters falling under this order.

Any court deciding a matter that arises under the Pennsylvania Election Code in relation to the November 5, 2024 General Election shall append a copy of this order to its decision.

This order shall be effective August 29, 2024, and shall apply to appeals or petitions for allowance of appeal filed from orders entered after that date.

This order shall remain in effect pending further order of this Court.

A True Copy Nicole Traini  
As Of 08/27/2024

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

# EXHIBIT B

IN THE SUPREME COURT OF PENNSYLVANIA  
EASTERN DISTRICT

BRIAN T. BAXTER AND SUSAN T.  
KINNIRY

: No. 76 EM 2024

v.

PHILADELPHIA BOARD OF ELECTIONS,  
REPUBLICAN NATIONAL COMMITTEE,  
AND REPUBLICAN PARTY OF  
PENNSYLVANIA

PETITION OF: REPUBLICAN NATIONAL  
COMMITTEE AND REPUBLICAN PARTY  
OF PENNSYLVANIA

BRIAN T. BAXTER AND SUSAN T.  
KINNIRY

: No. 77 EM 2024

v.

PHILADELPHIA BOARD OF ELECTIONS,  
REPUBLICAN NATIONAL COMMITTEE,  
AND REPUBLICAN PARTY OF  
PENNSYLVANIA

PETITION OF: REPUBLICAN NATIONAL  
COMMITTEE AND REPUBLICAN PARTY  
OF PENNSYLVANIA

ORDER

**PER CURIAM**

**AND NOW**, this 1st day of November, 2024, the Emergency Application for  
Extraordinary Relief Pending Filing of Petition for Allowance of Appeal is **GRANTED** only



to the extent that the Commonwealth Court's decision docketed at 1305 C.D. 2024 and 1309 C.D. 2024 is stayed and shall not be applied to the November 5, 2024 General Election. This stay is entered without prejudice to the filing and due consideration on the merits of any petition for allowance of appeal that the parties may file or the disposition of an appeal should this Court grant such petition.

The Application for Leave to File Amicus Brief on Behalf of Restoring Integrity and Trust in Elections, Inc. and the Application for Leave to File Amicus Brief by Pennsylvania Department of State and Secretary of the Commonwealth Al Schmidt are **GRANTED**. The Proposed Intervenor-Respondents' Combined Application to Intervene and Response to the RNC's and RPP's Emergency Stay Application by the Democratic National Committee and Pennsylvania Democratic Party is **DENIED** as moot without prejudice to renew their request in connection with any forthcoming petition for allowance of appeal or appeal in the above-captioned matter.

Justice Donohue files a concurring statement in which Chief Justice Todd joins.

Justice Dougherty files a concurring statement.

# EXHIBIT C

**IN THE SUPREME COURT OF PENNSYLVANIA  
MIDDLE DISTRICT**

NEW PA PROJECT EDUCATION FUND, : No. 112 MM 2024  
NAACP PENNSYLVANIA STATE :  
CONFERENCE, COMMON CAUSE :  
PENNSYLVANIA, LEAGUE OF WOMEN :  
VOTERS OF PENNSYLVANIA, BLACK :  
POLITICAL EMPOWERMENT PROJECT, :  
POWER INTERFAITH, MAKE THE ROAD :  
PENNSYLVANIA, ONE PA ACTIVISTS :  
UNITED, CASA SAN JOSE, AND :  
PITTSBURGH UNITED, :  
:

Petitioners

v.

AL SCHMIDT, IN HIS OFFICIAL CAPACITY :  
AS SECRETARY OF THE :  
COMMONWEALTH, AND ALL 67 COUNTY :  
BOARDS OF ELECTIONS (ADAMS :  
COUNTY BOARD OF ELECTIONS; :  
ALLEGHENY COUNTY BOARD OF :  
ELECTIONS; ARMSTRONG COUNTY :  
BOARD OF ELECTIONS; BEAVER :  
COUNTY BOARD OF ELECTIONS; :  
BEDFORD COUNTY BOARD OF :  
ELECTIONS; BERKS COUNTY BOARD OF :  
ELECTIONS; BLAIR COUNTY BOARD OF :  
ELECTIONS; BRADFORD COUNTY :  
BOARD OF ELECTIONS; BUCKS COUNTY :  
BOARD OF ELECTIONS; BUTLER :  
COUNTY BOARD OF ELECTIONS; :  
CAMBRIA COUNTY BOARD OF :  
ELECTIONS; CAMERON COUNTY BOARD :  
OF ELECTIONS; CARBON COUNTY :  
BOARD OF ELECTIONS; CENTRE :  
COUNTY BOARD OF ELECTIONS; :  
CHESTER COUNTY BOARD OF :  
ELECTIONS; CLARION COUNTY BOARD :  
OF ELECTIONS; CLEARFIELD COUNTY :  
BOARD OF ELECTIONS; CLINTON :  
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COUNTY BOARD OF ELECTIONS; :  
COLUMBIA COUNTY BOARD OF :  
ELECTIONS; CRAWFORD COUNTY :  
BOARD OF ELECTIONS; CUMBERLAND :  
COUNTY BOARD OF ELECTIONS; :  
DAUPHIN COUNTY BOARD OF :  
ELECTIONS; DELAWARE COUNTY :  
BOARD OF ELECTIONS; ELK COUNTY :  
BOARD OF ELECTIONS; 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; :  
LACKAWANNA COUNTY BOARD OF :  
ELECTIONS; LANCASTER COUNTY :  
BOARD OF ELECTIONS; LAWRENCE :  
COUNTY BOARD OF ELECTIONS; :  
LEBANON COUNTY BOARD OF :  
ELECTIONS; LEHIGH COUNTY BOARD OF :  
ELECTIONS; LUZERNE COUNTY BOARD :  
OF ELECTIONS; LYCOMING COUNTY :  
BOARD OF ELECTIONS; MCKEAN :  
COUNTY BOARD OF ELECTIONS; :  
MERCER COUNTY BOARD OF :  
ELECTIONS; MIFFLIN COUNTY BOARD :  
OF ELECTIONS; MONROE COUNTY :  
BOARD OF ELECTIONS; MONTGOMERY :  
COUNTY BOARD OF ELECTIONS; :  
MONTOUR COUNTY BOARD OF :  
ELECTIONS; NORTHAMPTON COUNTY :  
BOARD OF ELECTIONS; :  
NORTHUMBERLAND COUNTY BOARD OF :  
ELECTIONS; PERRY COUNTY BOARD OF :  
ELECTIONS; PHILADELPHIA COUNTY :  
BOARD OF ELECTIONS; PIKE COUNTY :  
BOARD OF ELECTIONS; POTTER :  
COUNTY BOARD OF ELECTIONS; :  
SCHUYLKILL COUNTY BOARD OF :  
OF :

ELECTIONS; 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

**ORDER**

**PER CURIAM**

**AND NOW**, this 5<sup>th</sup> day of October, 2024, Petitioners’ Application for the Exercise of King’s Bench or Extraordinary Jurisdiction is hereby **DENIED**. This Court will neither impose nor countenance substantial alterations to existing laws and procedures during the pendency of an ongoing election. See *Crookston v. Johnson*, 841 F.3d 396, 398 (6th Cir. 2016) (“Call it what you will — laches, the *Purcell*<sup>1</sup> principle, or common sense — the idea is that courts will not disrupt imminent elections absent a powerful reason for doing so.”).<sup>2</sup>

<sup>1</sup> *Purcell v. Gonzalez*, 549 U.S. 1, 4-5 (2006) (*per curiam*) (“Court orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls. As an election draws closer, that risk will increase.”).

<sup>2</sup> However, we will continue to exercise our appellate role with respect to lower court decisions that have already come before this Court in the ordinary course. See, e.g., (continued...)

The application of Republican National Committee and Republican Party of Pennsylvania to intervene is **DISMISSED AS MOOT**.

Justice Brobson files a concurring statement in which Justice Mundy joins.

Justice Donohue files a statement in support of denial in which Justice McCaffery joins.

Chief Justice Todd files a dissenting statement.

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*Genser v. Butler Cty. Bd. of Elections, 26 & 27 WAP 2024; Cntr. for Coalfield Justice v. Washington Cty. Bd. of Elections, 28 WAP 2024.*