

Docket Sheet

Filed 11/15/2020 Commonwealth Court

Case Description

Case ID: 201100875
Case Caption: IN RE: CANVASS OF ABSENTEE & MAIL-IN BALLOTS 2020
Filing Date: Tuesday , November 10th, 2020
Court: PETITIONS
Location: City Hall
Jury: NON JURY
Case Type: ELECTION MATTERS
Status: ORDER ENTERED - FINAL DISPOS

Related Cases

No related cases were found.

Case Event Schedule

No case events were found.

Case Motions

No motions were found.

Case Parties

Seq #	Assoc	Expn Date	Type	Name
1			ATTORNEY FOR PETITIONER	KERNS ESQ, LINDA A
Address:	1420 LOCUST STREET SUITE 200 PHILADELPHIA PA 19102 (215)731-1400	Aliases:	none	
10			ATTORNEY FOR RESPONDENT	FURST, LYDIA
Address:	1515 ARCH ST 15TH FLOOR PHILADELPHIA PA 19102 (215)683-3573	Aliases:	none	
11	10		ATTORNEY FOR RESPONDENT	FIELD, BENJAMIN H
Address:	DEPUTY CITY SOLICITOR CITY OF PHILADELPHIA LAW DEPT. 1515 ARCH STREET, 17TH FLOOR PHILADELPHIA PA 19102 (215)683-5024	Aliases:	none	
12	9		ATTORNEY FOR INTERVENOR	WILLIAMS, KAHLIL C
Address:	1735 MARKET ST 51ST FLOOR PHILADELPHIA PA 19103 (215)864-8346	Aliases:	none	
13	9		ATTORNEY FOR INTERVENOR	MCDONALD, MICHAEL R
Address:	1735 MARKET STREET FL 51 PHILADELPHIA PA 19103 (215)864-8425	Aliases:	none	
14	10		ATTORNEY FOR RESPONDENT	HANGLEY ESQ, MICHELE D
Address:	HANGLEY ARONCHICK SEGAL PUDLIN ONE LOGAN SQUARE 27TH FL PHILADELPHIA PA 19103 (215)568-6200	Aliases:	none	
15	10		ATTORNEY FOR RESPONDENT	COIT, JOHN G
Address:	1245 LOMBARD STREET PHILADELPHIA PA 19147 (215)568-6200	Aliases:	none	
2	1		PETITIONER	DONALD J TRUMP FOR PRESIDENT INC
Address:	C/O LINDA A. KERNS, ESQUIRE SUITE 200 PHILADELPHIA PHILADELPHIA PA 19102	Aliases:	none	
3	1		PETITIONER	ELKIN, ELIZABETH J.
Address:	2047 NAUDAIN STREET PHILADELPHIA PA 19146	Aliases:	none	
4	10		RESPONDENT	PHILADELPHIA COUNTY BOARD OF ELECTIONS
Address:	CITY HALL JFK BLVD PHILADELPHIA PA 19102	Aliases:	none	
5	10		RESPONDENT	DEELEY, LISA
Address:	CITY HALL JFK BLVD PHILADELPHIA PA 19102	Aliases:	none	

6	10	RESPONDENT	SCHMIDT, AL
Address:	CITY HALL JFK BLVD PHILADELPHIA PA 19102	Aliases:	<i>none</i>
7	10	RESPONDENT	SABIR, OMAR
Address:	CITY HALL JFK BLVD. PHILADELPHIA PA 19102	Aliases:	<i>none</i>
8		JUDGE	CRUMLISH III, JAMES
Address:	CITY HALL PHILADELPHIA PA 19107	Aliases:	<i>none</i>
9		ATTORNEY FOR INTERVENOR	VAHEY, MATTHEW IAN
Address:	BALLARD SPAHR LLP 1735 MARKET ST 51ST FLOOR PHILADELPHIA PA 19103 (215)864-8485	Aliases:	<i>none</i>

Docket Entries

Filing Date/Time	Docket Type	Filing Party	Disposition Amount	Approval/Entry Date
10-NOV-2020 11:03 PM	ACTIVE CASE			11-NOV-2020 08:16 AM
Docket Entry: E-Filing Number: 2011016979				
10-NOV-2020 11:03 PM	1 - COMMENCEMENT BY PETITION	KERNS ESQ, LINDA A		11-NOV-2020 08:16 AM
Documents: Final Cover				
Docket Entry: PETITION FOR ELECTION MATTERS FILED.				
10-NOV-2020 11:03 PM	2 - PETITION FILED	KERNS ESQ, LINDA A		11-NOV-2020 08:16 AM
Documents: Notice of Appeal via Petition for Review of County BOE Decision - Category 4.pdf Elections, Meeting of the Commissioners -transcript.pdf				
Docket Entry: 96-20110896 (FILED ON BEHALF OF DONALD J. TRUMP FOR PRESIDENT, INC., ELIZABETH J. ELKIN.)				
11-NOV-2020 08:39 AM	MOTION ASSIGNED			11-NOV-2020 08:39 AM
Docket Entry: 96-20110896 PETITION FILED ASSIGNED TO JUDGE: CRUMLISH, JAMES . ON DATE: NOVEMBER 11, 2020				
11-NOV-2020 06:01 PM	LISTED FOR HEARING			11-NOV-2020 06:01 PM
Docket Entry: 96-20110896				
11-NOV-2020 06:01 PM	3 - SCHEDULING ORDER ISSUED			11-NOV-2020 12:00 AM
Documents: SASOI_6.pdf				
Docket Entry: 96-20110896 A HEARING ON THE ABOVE APPEAL IS SCHEDULED FOR NOVEMBER 13TH, 2020, AT 10:00 AM IN THE MOTIONS COURTROOM, PHILADELPHIA MUNICIPAL COURT TRAFFIC BUILDING, 8TH AND SPRING GARDEN STREETS, PHILADELPHIA, PENNSYLVANIA.				
11-NOV-2020 06:01 PM	NOTICE GIVEN UNDER RULE 236			11-NOV-2020 06:10 PM
Docket Entry: NOTICE GIVEN ON 11-NOV-2020 OF SCHEDULING ORDER ISSUED ENTERED ON 11-NOV-2020.				
12-NOV-2020 02:52 PM	4 - ENTRY OF APPEARANCE	FURST, LYDIA		13-NOV-2020 08:58 AM
Documents: EOA LF BF 201100875.pdf				
Docket Entry: ENTRY OF APPEARANCE OF LYDIA FURST AND BENJAMIN H FIELD FILED. (FILED ON BEHALF OF OMAR SABIR, AL SCHMIDT, LISA DEELEY AND PHILADELPHIA COUNTY BOARD OF ELECTIONS)				
12-NOV-2020 02:52 PM	CITY CHARGE SUBSEQUENT FILINGS	FURST, LYDIA		13-NOV-2020 08:58 AM
Docket Entry: <i>None.</i>				
12-NOV-2020 03:58 PM	5 - ENTRY OF APPEARANCE	VAHEY, MATTHEW IAN		13-NOV-2020 08:59 AM
Documents: 201100875 - EOA.pdf				
Docket Entry: ENTRY OF APPEARANCE OF MICHAEL R MCDONALD, KAHLIL C WILLIAMS AND MATTHEW IAN VAHEY FILED. (FILED ON BEHALF OF PROPOSED INTERVENORS DNC SERVICES CORP. / DEMOCRATIC NATIONAL COMMITTEE)				

12-NOV-2020 04:02 PM	6 - PETITION TO INTERVENE	VAHEY, MATTHEW IAN		12-NOV-2020 04:05 PM
	Documents:	201100875 - Petition to Intervene and Order - Philadelphia County - Category 4.pdf 201100875 - Memo in Support of Petition to Intervene - Philadelphia County - Category 4.pdf 201100875 - Proposed Answer - Philadelphia County - Category 4.pdf Motion CoverSheet Form		
	Docket Entry:	48-20111048 PETITION TO INTERVENE (FILED ON BEHALF OF DNC SERVICES CORP. / DEMOCRATIC NATIONAL COMMITTEE)		
12-NOV-2020 08:09 PM	7 - ENTRY OF APPEARANCE	HANGLEY ESQ, MICHELE D		13-NOV-2020 08:59 AM
	Documents:	2020-11-12 - Entry - 875.pdf		
	Docket Entry:	ENTRY OF APPEARANCE OF MICHELE D HANGLEY AND JOHN G COIT FILED. (FILED ON BEHALF OF PHILADELPHIA COUNTY BOARD OF ELECTIONS)		
12-NOV-2020 09:38 PM	8 - ANSWER (MOTION/PETITION) FILED	VAHEY, MATTHEW IAN		13-NOV-2020 09:10 AM
	Documents:	Opposition to Petition for Review.pdf Motion CoverSheet Form		
	Docket Entry:	96-20110896 ANSWER IN OPPOSITION OF PETITION FILED. (FILED ON BEHALF OF DNC SERVICES CORP. / DEMOCRATIC NATIONAL COMMITTEE)		
12-NOV-2020 09:39 PM	9 - ACCEPTANCE OF SERVICE FILED	KERNS ESQ, LINDA A		13-NOV-2020 09:00 AM
	Documents:	Certificate of Service for 201100875.pdf		
	Docket Entry:	SERVICE OF APPEAL FROM BOARD OF ELECTION ACCEPTED BY BENJAMIN FIELD ESQ. ON 11/12/2020 FILED. (FILED ON BEHALF OF ELIZABETH J. ELKIN AND DONALD J. TRUMP FOR PRESIDENT, INC.)		
13-NOV-2020 07:50 AM	10 - BRIEF	HANGLEY ESQ, MICHELE D		13-NOV-2020 09:00 AM
	Documents:	Philadelphia County Board of Elections Response.pdf		
	Docket Entry:	BRIEF FILED. (FILED ON BEHALF OF PHILADELPHIA COUNTY BOARD OF ELECTIONS)		
13-NOV-2020 04:16 PM	11 - ORDER ENTERED - FINAL DISPOS	CRUMLISH III, JAMES		13-NOV-2020 04:16 PM
	Documents:	ORDRF_16.pdf		
	Docket Entry:	96-20110896 UPON CONSIDERATION OF PETITIONER DONALD J. TRUMP FOR PRESIDENT, INC.'S NOTICE OF APPEAL VIA PETITION FOR REVIEW OF THE DECISION OF THE PHILADELPHIA COUNTY BOARD OF ELECTIONS, THE RESPONSE OF THE PHILADELPHIA COUNTY BOARD OF ELECTIONS AND THE SUBMISSIONS ON BEHALF OF INTERVENORS, DNA SERVICES CORP./DEMOCRATIC NATIONAL COMMITTEE AND THE ARGUMENTS OF COUNSEL, IT APPEARING THAT PETITIONER HAS PROPERLY AND TIMELY SOUGHT REVIEW OF THE DECISION OF THE BOARD OF ELECTIONS PURSUANT TO 25 PA. C.S.A. Â§3146(G)(6), IT FURTHER APPEARING THAT PETITIONER IS NOT CONTENDING THAT THERE HAS BEEN FRAUD, THAT THERE IS EVIDENCE OF FRAUD OR THAT THE BALLOTS IN QUESTION WERE NOT FILLED OUT BY THE ELECTOR IN WHOSE NAME THE BALLOT WAS ISSUED, AND IT FURTHER APPEARING THAT PETITIONER DOES NOT ALLEGE FRAUD OR IRREGULARITY IN THE CANVASS AND COUNTING OF THE BALLOTS, AND THE COURT FINDING THAT THE INTERVENOR'S OBJECTION TO THE CONSIDERATION OF THE APPEAL AS AN "ELIGIBILITY CHALLENGE" PURSUANT TO 25 PA. C.S.A. Â§3146.8 IS A MISCHARACTERIZATION OF THE ABOVE-REFERENCED REVIEW (AND THEREFORE A MERITLESS OBJECTION), THE COURT FINDS AS FOLLOWS: 1. PETITIONER ASSERTS A CHALLENGE TO THE DECISION OF THE BOARD OF ELECTIONS TO COUNT THE VOTES REPRESENTED IN THE GROUPING DESIGNATED CATEGORY 4, THOSE BEING 1,259 BALLOTS ON WHICH THE OUTER ENVELOPE CONTAINS ONLY THE ELECTOR'S SIGNATURE AND HAND-PRINTED ADDRESS BUT WHICH DO NOT HAVE THE DATE ON WHICH THE ELECTOR SIGNED THE ENVELOPE. 2. THE ENVELOPE PROVIDED TO THE ELECTOR FROM THE SECRETARY OF STATE OF THE COMMONWEALTH CONTAINS A DIRECTION IN THE FORM OF A CHECKLIST ON THE BACK OF THE ENVELOPE THAT DIRECTS THE ELECTOR TO SIGN THE DECLARATION, BUT MAKES NO MENTION OF FILLING OUT THE DATE OR OTHER INFORMATION. 3. THE ELECTION CODE PROVIDES THAT A VOTER SHALL "FILL OUT, DATE AND SIGN THE DECLARATION" ON THE OUTER ENVELOPE. 4. THE TERM "FILL OUT" IN THE CODE IS NOT A DEFINED TERM AND IS AMBIGUOUS. 5. THE PRE-PRINTED BALLOT ALREADY CONTAINS THE ELECTOR'S NAME AND ADDRESS ON THE PRE-PRINTED EXTERIOR ENVELOPE. 6. NEITHER A DATE NOR THE ELECTOR'S FILLING OUT OF THE PRINTED NAME OR OF THE ADDRESS ARE REQUIREMENTS NECESSARY TO PREVENT FRAUD. 7. THE PETITIONER CONCEDES THAT ALL BALLOTS BY A QUALIFIED ELECTOR IN THIS CATEGORY WERE TIMELY RECEIVED. 8. THE ELECTION CODE DIRECTS THE COURT OF COMMON PLEAS IN CONSIDERING APPEALS FROM THE COUNTY BOARD OF ELECTIONS TO MAKE SUCH DECREE AS RIGHT AND JUSTICE MAY REQUIRE. 25 PA. C.S.A. Â§3157 WHEREFORE, THE COURT ORDERS AND DECREES THAT THE PETITION IS DENIED. THE COURT FURTHER ORDERS AND DECREES THAT THE DECISION OF THE PHILADELPHIA COUNTY BOARD OF ELECTIONS IN CANVASSING AND COUNTING 1,259 ABSENTEE AND MAIL-IN BALLOTS CONTAINING THE ELECTOR'S SIGNATURE, HAND-PRINTED NAME AND ADDRESS ON THE DECLARATION ENVELOPE BUT MISSING THE DATE IS AFFIRMED AS IN ACCORDANCE WITH THE PROVISIONS OF THE ELECTION CODE AND THE DECISIONS OF THE COURTS INTERPRETING THE CODE. ...BY THE COURT - CRUMLISH, J., 11-13-20		
13-NOV-2020 04:16 PM	NOTICE GIVEN UNDER RULE 236			13-NOV-2020 04:36 PM
	Docket Entry:	NOTICE GIVEN ON 13-NOV-2020 OF ORDER ENTERED - FINAL DISPOS ENTERED ON 13-NOV-2020.		
14-NOV-2020 06:20 PM	12 - APPEAL TO COMMONWEALTH COURT	KERNS ESQ, LINDA A		15-NOV-2020 10:31 AM
	Documents:	Notice of Appeal attach 875.pdf affidavit of service.pdf		
	Docket Entry:	NOTICE OF APPEAL FROM THE DECISION DATED 11/13/2020 AND DOCKETED ON 11/13/2020 BY JUDGE CRUMLISH, JAMES. PROOF OF SERVICE FILED. (FILED ON BEHALF OF ELIZABETH J. ELKIN AND DONALD J TRUMP FOR PRESIDENT INC)		

IN RE: CANVASS OF ABSENTEE AND MAIL-IN
BALLOTS OF NOVEMBER 3, 2020 GENERAL
ELECTION

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

NOVEMBER TERM, 2020

No. 201100875

ORDER

AND NOW, to-wit, this 13th day of November, 2020, upon consideration of Petitioner Donald J. Trump for President, Inc.’s Notice of Appeal via Petition for Review of the Decision of the Philadelphia County Board of Elections, the response of the Philadelphia County Board of Elections and the submissions on behalf of Intervenors, DNA Services Corp./Democratic National Committee and the arguments of counsel, it appearing that Petitioner has properly and timely sought review of the decision of the Board of Elections pursuant to 25 Pa. C.S.A. §3146(g)(6), it further appearing that Petitioner is not contending that there has been fraud, that there is evidence of fraud or that the ballots in question were not filled out by the elector in whose name the ballot was issued, and it further appearing that Petitioner does not allege fraud or irregularity in the canvass and counting of the ballots, and the Court finding that the Intervenor’s Objection to the consideration of the appeal as an “eligibility challenge” pursuant to 25 Pa. C.S.A. §3146.8 is a mischaracterization of the above-referenced review (and therefore a meritless objection), the Court finds as follows:

1. Petitioner asserts a challenge to the decision of the Board of Elections to count the votes represented in the grouping designated Category 4, those being 1,259 ballots on which the outer envelope contains only the Elector’s signature and hand-printed address but which do not have the date on which the Elector signed the envelope.

2. The envelope provided to the elector from the Secretary of State of the Commonwealth contains a direction in the form of a checklist on the back of the envelope that directs the elector to sign the declaration, but makes no mention of filling out the date or other information.
3. The Election Code provides that a voter shall “fill out, date and sign the declaration” on the outer envelope.
4. The term “fill out” in the Code is not a defined term and is ambiguous.
5. The pre-printed ballot already contains the elector’s name and address on the pre-printed exterior envelope.
6. Neither a date nor the elector’s filling out of the printed name or of the address are requirements necessary to prevent fraud.
7. The Petitioner concedes that all ballots by a qualified elector in this category were timely received.
8. The Election Code directs the Court of Common Pleas in considering appeals from the County Board of Elections to make such decree as right and justice may require.
25 Pa. C.S.A. §3157.

WHEREFORE, the Court ORDERS and DECREES that the Petition is **DENIED**. The Court further ORDERS AND DECREES that the decision of the Philadelphia County Board of Elections in canvassing and counting 1,259 absentee and mail-in ballots containing the elector’s signature, hand-printed name and address on the Declaration envelope but missing the date is

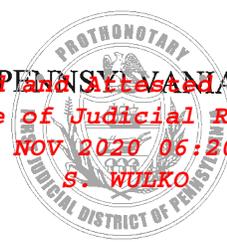
AFFIRMED as in accordance with the provisions of the Election Code and the decisions of the Courts interpreting the Code.

BY THE COURT,


_____ Crumlish, J.

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY, PENNSYLVANIA

Filed and Attested by the
Office of Judicial Records
14 NOV 2020 06:20 pm
S. WULKO



IN RE: CANVASS OF ABSENTEE AND
MAIL-IN BALLOTS OF NOVEMBER 3,
2020 GENERAL ELECTION

No. 201100875

November Term, 2020

NOTICE OF APPEAL

Notice is hereby given that Donald J. Trump for President, Inc.

Above named, hereby appeals to the:

- Superior Court
- Commonwealth Court
- Supreme Court

of Pennsylvania, from the Order entered in the above case,
on the 13th day of November, 2020.

0012_APPEAL_TO_COMMONWEALTH_COURT

Respectfully submitted,

/s/ Linda A. Kerns

Linda A. Kerns, Esquire
Law Offices of Linda A. Kerns, LLC
Attorney ID 84495
1420 Locust Street, Suite 200
Philadelphia, PA 19102
T: 215-731-1413
lak@lindakernslaw.com

and

/s/ Ronald L. Hicks, Jr.

Ronald L. Hicks, Jr. (PA #49520)
Six PPG Place, Third Floor
Pittsburgh, PA 15222
(412) 235-4500 (Telephone)
(412) 235-4510 (Fax)
rhicks@porterwright.com

Counsel for Plaintiff Donald J. Trump for
President, Inc.



**Request for Transcript or Copy
Philadelphia County**

Request Form must be emailed to: transcripts@courts.phila.gov

Pursuant to Pa.R.J.A. 4007(A), this form must be completed by any person requesting a transcript for any court proceeding. Additional requirements may be found in the local rules of court for each judicial district. Local rules may be found by following the appropriate link at: <http://www.pacourts.us/courts/courts-of-common-pleas/>. If the cost of the transcript presents an economic hardship, there are reduced rates available to those who qualify. See Pa.R.J.A. 4007 (E). Copies of this request must be served in accordance with Pa.R.J.A. 4007(B). A deposit in the amount of 95% of the estimated cost of the transcript is required. All payments must be by check or money order payable to: "First Judicial District of Pennsylvania-Transcripts." No cash payments will be accepted. Direct payments to court reporters are not permitted.

I. Case Information			
In re Canvass of Absentee and Mail In Ballots of Nov 3 General		201100874/875/876/877/878	
Case Caption Crumlish		Docket Number Traffic Court/Zoom	
Presiding Judge or Arraignment Court Magistrate November 13, 2020		Courtroom	
Date(s) of Proceeding Jennifer Venneri/jennifer.venneri@courts.phila.gov		Co-Defendant docket # (If applicable)	
Court Reporter Name (If available)			
Type of proceeding: (check the appropriate box)			
<input type="checkbox"/> Criminal <input type="checkbox"/> Civil <input type="checkbox"/> Family <input type="checkbox"/> Orphans' Court <input type="checkbox"/> Juvenile <input checked="" type="checkbox"/> Other: (specify) <u>ELECTION LAW MATTER</u>			
Is this transcript request associated with an appeal? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Children's Fast Track <input type="checkbox"/> Yes <input type="checkbox"/> No			
II. Requestor Information			
I am Counsel for Donald J. Trump for President, Inc. <input type="checkbox"/> Self-Represented <input type="checkbox"/> Not a party to this action			
Court Appointed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Does this request qualify for a reduced rate pursuant to Rule 4007(E)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
If Yes, please provide proof of authorization for a reduced rate or an affidavit required by Rule 4008(B)(4) requesting waiver of all or a portion of the costs.			
Linda A. Kerns, Esquire/84495			
Name of requestor/Attorney ID Number (if applicable)			
Law Offices of Linda A. Kerns, LLC			
Agency/Firm			
1420 Locust Street, Suite 200, Philadelphia, PA 19102			
Street Address		City	State Zip
linda@lindakernslaw.com		215-731-1400	215-701-4154
Email		Phone	Fax
III. Transcript Items Requested <input type="checkbox"/> Check if Digital Recording			
<input checked="" type="checkbox"/> Entire proceeding <input type="checkbox"/> Jury Voir Dire <input type="checkbox"/> Opening statements <input type="checkbox"/> Closing arguments <input type="checkbox"/> Jury Instructions			
<input type="checkbox"/> Testimony (specify each witness):			
<input type="checkbox"/> Pre/Post trial hearing (specify):			
<input type="checkbox"/> Preliminary Arraignment <input type="checkbox"/> Other (specify):			
IV. Private Party Transcript Delivery and Cost			
For original transcript requests, please select from the following:			
Delivery Time:	<input type="checkbox"/> Original/Ordinary	<input type="checkbox"/> Expedited	<input type="checkbox"/> Daily <input checked="" type="checkbox"/> Same Day
Cost per page	\$3.00 page	\$4.50 per page	\$6.00 per page \$9.00 per page
Manner of Delivery:	<input checked="" type="checkbox"/> Electronic (PDF) format <input type="checkbox"/> Hard Copy		
Other (if offered, extra charges may apply):	<input type="checkbox"/> Real-time \$11.00 per page <input type="checkbox"/> Real Time Streaming - \$250.00 per day		
Special requests (if offered):	<input type="checkbox"/> Word Index <input type="checkbox"/> ASCII <input type="checkbox"/> Other:		
Are you requesting a copy of an existing transcript? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (For Rates, please see Phila.R.J.A. No. *4008			

Requestor's Name

Date

Temp. 06-2020

IN RE: CANVASS OF ABSENTEE AND MAIL-IN
BALLOTS OF NOVEMBER 3, 2020 GENERAL
ELECTION

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

NOVEMBER TERM, 2020

No. 201100875

ORDER

AND NOW, to-wit, this 13th day of November, 2020, upon consideration of Petitioner Donald J. Trump for President, Inc.'s Notice of Appeal via Petition for Review of the Decision of the Philadelphia County Board of Elections, the response of the Philadelphia County Board of Elections and the submissions on behalf of Intervenor, DNA Services Corp./Democratic National Committee and the arguments of counsel, it appearing that Petitioner has properly and timely sought review of the decision of the Board of Elections pursuant to 25 Pa. C.S.A. §3146(g)(6), it further appearing that Petitioner is not contending that there has been fraud, that there is evidence of fraud or that the ballots in question were not filled out by the elector in whose name the ballot was issued, and it further appearing that Petitioner does not allege fraud or irregularity in the canvass and counting of the ballots, and the Court finding that the Intervenor's Objection to the consideration of the appeal as an "eligibility challenge" pursuant to 25 Pa. C.S.A. §3146.8 is a mischaracterization of the above-referenced review (and therefore a meritless objection), the Court finds as follows:

1. Petitioner asserts a challenge to the decision of the Board of Elections to count the votes represented in the grouping designated Category 4, those being 1,259 ballots on which the outer envelope contains only the Elector's signature and hand-printed address but which do not have the date on which the Elector signed the envelope.

2. The envelope provided to the elector from the Secretary of State of the Commonwealth contains a direction in the form of a checklist on the back of the envelope that directs the elector to sign the declaration, but makes no mention of filling out the date or other information.
3. The Election Code provides that a voter shall “fill out, date and sign the declaration” on the outer envelope.
4. The term “fill out” in the Code is not a defined term and is ambiguous.
5. The pre-printed ballot already contains the elector’s name and address on the pre-printed exterior envelope.
6. Neither a date nor the elector’s filling out of the printed name or of the address are requirements necessary to prevent fraud.
7. The Petitioner concedes that all ballots by a qualified elector in this category were timely received.
8. The Election Code directs the Court of Common Pleas in considering appeals from the County Board of Elections to make such decree as right and justice may require.
25 Pa. C.S.A. §3157.

WHEREFORE, the Court ORDERS and DECREES that the Petition is **DENIED**. The Court further ORDERS AND DECREES that the decision of the Philadelphia County Board of Elections in canvassing and counting 1,259 absentee and mail-in ballots containing the elector’s signature, hand-printed name and address on the Declaration envelope but missing the date is

AFFIRMED as in accordance with the provisions of the Election Code and the decisions of the Courts interpreting the Code.

BY THE COURT,


_____ Crumlish, J.

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY, PENNSYLVANIA

Filed and Attested by the
Office of Judicial Records
14 NOV 2020 06:20 pm
S. WULKO

IN RE: CANVASS OF ABSENTEE AND
MAIL-IN BALLOTS OF NOVEMBER 3,
2020 GENERAL ELECTION

No.

November Term, 2020

AFFIDAVIT OF SERVICE

I, Linda A. Kerns, Esquire, hereby certify that I am this 14th day of November 2020 serving a true and correct copy of the Notice of Appeal together with the Order of Transcript, be electronic mail except where indicated and by the Court's electronic filing system, to the following:

Jennifer Venneri, Court Reporter
Land Title Building, 100 South Broad Street, 2nd Floor
Philadelphia, PA 19110
Jennifer.venneri@courts.phila.gov

Judge James Crumlish
Philadelphia City Hall, Room 534
Philadelphia, PA 19107
Facsimile 215-686-7048
James.crumlish@courts.phila.gov

Facsimile

Danielle O'Connor, Deputy Court Administrator
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Respectfully submitted,

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and

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Counsel for Plaintiff Donald J. Trump for
President, Inc.