

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

No. 1162 CD 2020

IN RE: 2,349 BALLOTS IN THE 2020 GENERAL ELECTION

Appeal of: Nicole Zicarelli

BRIEF FOR APPELLANT NICOLE ZICCARELLI

Appeal from the Allegheny County Court of Common Pleas
Memorandum and Order dated November 18, 2020, GD 20-011654

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TABLE OF CONTENTS

I.	STATEMENT OF JURISDICTION.....	1
II.	ORDER IN QUESTION.....	2
III.	STATEMENT OF QUESTION PRESENTED	3
IV.	SCOPE AND STANDARD OF REVIEW.....	4
V.	STATEMENT OF THE CASE	5
VI.	SUMMARY OF ARGUMENT.....	6
VII.	ARGUMENT	7
	A. Under the Supreme Court’s interpretation of the Election Code, a mail-in ballot with an undated signature is per se invalid and, thus, must be set aside.....	7
	B. The Election Code’s requirements relative to the Voter Declaration are mandatory, rather than directory.	10
	1. <i>Boockvar</i> ’s interpretation of the secrecy requirement in Section 3150.16(a) as mandatory applies with equal force to the provision’s Voter Declaration mandate.....	11
	2. The Voter Declaration provision does not fall within the limited exception under which a mandatory provision can be treated as directory.....	12
	C. Courts have already held that where the Election Code requires a dated signature, an elector’s failure to supply the date is a fatal defect.....	17
	D. The Supreme Court’s analysis of the ability to “cure” non-compliant ballots in <i>Boockvar</i> controls the outcome here.....	18
VIII.	CONCLUSION.....	22

TABLE OF AUTHORITIES

Cases

<i>Appeal of Weiskerger</i> , 290 A.2d 108 (Pa. 1972).....	13
<i>Banfield v. Cortes</i> , 110 A.3d 155 (Pa. 2015).....	4
<i>Cozzone ex rel. Cozzone v. W.C.A.B. (Pa Mun./E. Goshen Twp.)</i> , 73 A.3d 526 (Pa. 2013).....	12
<i>In re Canvass of Absentee Ballots of Nov. 4, 2003 Gen. Election (Appeal of Pierce)</i> , 843 A.2d 1223 (Pa. 2004).....	11, 15
<i>In re Morrison-Wesley</i> , 946 A.2d 789 (Pa. Cmwlth. 2008).....	17, 18
<i>In re Nomination Petition of Brown</i> , 846 A.2d 783 (Pa. Cmwlth. 2004)	17
<i>In re November 3, 2020 General Election</i> , __ A.3d __, 2020 WL 6252803 (Pa. 2020).....	8, 9, 15
<i>In re Scroggin</i> , 237 A.3d 1006 (Pa. 2020)	20
<i>In re Silcox</i> , 674 A.2d 224 (Pa. 1996).....	17
<i>Oberneder v. Link Computer Corp.</i> , 696 A.2d 148 (Pa. 1997)	11
<i>Pa. Democratic Party v. Boockvar</i> , 238 A.3d 345 (Pa. 2020).....	passim
<i>Shambach v. Bickhart</i> , 845 A.2d 793 (Pa. 2004)	13
<i>Winston v. Moore</i> , 91 A. 520 (Pa. 1914)	19, 21

Statutes

25 P.S. § 2811	16
25 P.S. § 3146.8	8, 9
25 P.S. § 3150.14	8, 15
25 P.S. § 3150.16	passim
42 Pa.C.S. § 762.....	1

I. STATEMENT OF JURISDICTION

The Court has jurisdiction over this election-related appeal pursuant to Section 762(a)(4) of the Judicial Code, 42 Pa.C.S. § 762(a)(4).

II. ORDER IN QUESTION

Appellant Nicole Zicarelli appeals from the Memorandum and Order of the Court of Common Pleas of Allegheny County dated November 18, 2020, denying her Petition for Review and affirming the decision of the Allegheny County Board of Elections to canvass certain disputed ballots (attached as Exhibit A).

III. STATEMENT OF QUESTION PRESENTED

Does the Election Code require county boards of elections to disqualify mail-in ballots from electors who submitted an undated signature on the outer envelope?

Suggested Answer: Yes.

IV. SCOPE AND STANDARD OF REVIEW

This matter calls on the Court to review and determine the meaning of the Election Code. “[S]tatutory interpretation of the Election Code ... as a question of law, is subject to a de novo standard of review and a plenary scope of review.” *Banfield v. Cortes*, 110 A.3d 155, 166 (Pa. 2015).

V. STATEMENT OF THE CASE

On November 10, 2020, the Board decided to canvass 2,349 mail-in ballots that contained a signed—but undated—declaration on the outer mailing envelope (“the Disputed Ballots”). Nicole Zicarelli, a candidate for the 45th Senatorial District (Allegheny and Westmoreland Counties), petitioned the Allegheny County Court of Common Pleas for review of that decision on November 12, 2020. Following a hearing on November 17, 2020, the trial court, by Memorandum and Order dated November 18, 2020 (Exhibit A), denied Candidate Zicarelli’s Petition for Review and affirmed the Board. Nicole Zicarelli filed a notice of appeal of that decision to the Commonwealth Court of Pennsylvania on November 18, 2020.

VI. SUMMARY OF ARGUMENT

This case presents the question of the validity of mail-in ballots where the voter declaration is signed but undated. The Election Code sets forth a mandatory requirement that mail-in ballots be both signed and dated. Construing the relevant Election Code provisions as mandatory, consistent with our Supreme Court's most recent rulings on the Election Code, this Court should reverse the trial court.

VII. ARGUMENT

This Court should reverse the decision of the trial court because it erred in construing the mandatory provisions of the Election Code as directive and allowing canvassing to proceed on unqualified mail-in ballots that contained an undated signature.

A. Under the Supreme Court’s interpretation of the Election Code, a mail-in ballot with an undated signature is per se invalid and, thus, must be set aside.

Under Pennsylvania’s recently implemented mail-in voting regime,¹ any registered elector whose application for a mail-in ballot has been approved, may vote by submitting that ballot to the appropriate county board of elections. However, the Election Code requires mail-in electors—as well as the individual county boards of elections responsible for counting the mail-in ballots—to adhere to certain basic guidelines.

With regard to the voters who have opted to vote by mail-in ballot, Section 3150.16(a) of the Election Code provides, among other things, that the elector must mark the ballot by eight o’clock p.m. on the day of the election, securely seal it in the secrecy envelope, and place it inside

¹ Act of October 31, 2019, P.L. 552, No. 77.

a second envelope bearing a voter declaration form attesting: (i) that the elector is qualified to vote in that particular election; and (ii) that the elector has not already voted in that election (the “Voter Declaration”). See 25 P.S. § 3150.16(a); 25 P.S. § 3150.14 (b) (setting forth the contents of the Voter Declaration). Furthermore, Section 3150.16(a) provides that, prior to mailing the ballot or delivering the same in-person, “the elector *shall . . .* fill out, *date* and *sign* the [Voter Declaration].” *Id.* (emphasis added).

In turn, under Section 3146.8(g)(3), before a county board of elections may count and tally the votes reflected on a mail in ballot (i.e., canvass the ballot), it “is required to determine if the [Voter Declaration] is ‘sufficient.’” *In re November 3, 2020 General Election*, __ A.3d __, 2020 WL 6252803, at *12 (Pa. 2020) (quoting 25 P.S. § 3146.8 (g)(3)). Specifically, incorporating Section 3150.16(a)’s dating and signature requirement, the Supreme Court has explained that “in determining whether the declaration is ‘sufficient’ for a mail-in or absentee ballot at canvassing, the county board is required to ascertain whether the declaration on the return envelope has been filled out, dated, and signed.” *Id.* at *12 (citing 25 P.S. § 3150.16 (a)). Where the

accompanying Voter Declaration is insufficient, the mail-in ballot may not be treated as “verified” and, thus, cannot be “counted and included with the returns of the applicable election district.” 25 P.S.

§ 3146.8(g)(4)(i).

With this framework in mind, the Board’s decision to accept and canvass the undated mail-in ballots is unsustainable.

Above all else, the Supreme Court has already held that mail-in ballots with undated declarations are not “sufficient” and, thus, must be set aside. Specifically, the Supreme Court has already held that in assessing a Voter Declaration’s sufficiency, “the county board is required to ascertain whether the declaration on the return envelope has been filled out, dated, and signed.” *In re November 3, 2020 General Election*, 2020 WL 6252803, at *12. As such, *In re Nov. 3 2020 Gen. Election*, by its plain terms, confirms that the sufficiency of a mail-in ballot is predicated on three factors, each of which must be satisfied. Specifically, the Voter Declaration must be: (1) filled out; (2) dated; and (3) signed. Indeed, neither the Election Code, nor any other legal principle governing the Board’s conduct, permits it to exercise discretion relative to the examination of mail-in ballots or alter the scope and

nature of its duties. Moreover, nothing in the Supreme Court’s decision concerning the Board’s duties in this regard suggests that a mail-in ballot with an undated Voter Declaration is any less defective than one with an unsigned Voter Declaration.²

In short, by directing the Disputed Ballots to be canvassed, the Board has ignored a core feature of its statutory duty to examine a mail-in ballot’s sufficiency and improperly attempted to exercise discretion it has not been granted.

B. The Election Code’s requirements relative to the Voter Declaration are mandatory, rather than directory.

As previously noted, Section 3150.16(a) provides that “the elector *shall* . . . fill out, *date* and sign the [Voter Declaration]” prescribed by statute. 25 P.S. § 3150.16(a) (emphasis added). Because “the word ‘shall’ carries an imperative or mandatory meaning,” this requirement is

² Although the plain language of the statute makes recourse to the administrative pronouncements unnecessary, it is notable that the Department of State’s Guidance issued on September 28, 2020 also directs the county boards of elections to set aside mail-in ballots with undated Voter Declarations. See Pa. Dep’t of State, *Guidance Concerning Civilian Absentee and Mail-In Ballot Procedures*, at 5 (Sept. 28, 2020), available at <https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/DOS%20Guidance%20Civilian%20Absentee%20and%20Mail-In%20Ballot%20Procedures.pdf> (“A ballot-return envelope with a declaration that is not filled out, dated, and signed is not sufficient and must be set aside, declared void and may not be counted.”); see also *id.* at 9 (“At the pre-canvass

presumptively mandatory. *In re Canvass of Absentee Ballots of Nov. 4, 2003 Gen. Election*, 843 A.2d 1223, 1231 (Pa. 2004) (*Appeal of Pierce*); see also *Oberneder v. Link Computer Corp.*, 696 A.2d 148, 150 (Pa. 1997) (“By definition, ‘shall’ is mandatory.”).

When examined in light of the Election Code’s broader statutory scheme and the governing caselaw, Section 3150.16(a)’s requirements are indeed mandatory. As such, where the Voter Declaration contains a voter declaration that has been signed, but not dated, the enclosed ballot is invalid.

1. *Boockvar’s interpretation of the secrecy requirement in Section 3150.16(a) as mandatory applies with equal force to the provision’s Voter Declaration mandate.*

As an initial matter, to the extent this Court has any doubt regarding the proper interpretation of Section 3150.16’s requirement that a Voter Declaration “shall” be dated, it should look no further than the Supreme Court’s recent interpretation of that very same provision. *Pennsylvania Democratic Party v. Boockvar*, 238 A.3d 345 (Pa. 2020). Specifically, examining that provision’s directive that the elector’s ballot “shall” be enclosed in a secrecy envelope, the Court held that “the

or canvass, as the case may be, the county board of elections should . . . [s]et aside

secrecy provision language in Section 3150.16(a) is mandatory and the mail-in elector’s failure to comply with such requisite by enclosing the ballot in the secrecy envelope renders the ballot invalid.” *Id.* at 380.

Given that parts of statutes relating to “the same persons or things or to the same class of persons or things” are to be read *in pari materia*, *Cozzone ex rel. Cozzone v. W.C.A.B. (Pa Mun./E. Goshen Twp.)*, 73 A.3d 526, 536 (Pa. 2013), *Boockvar*’s interpretation of the term “shall” in the context of Section 3150.16(a)’s secrecy provision applies with equal force to the requirement that the Voter Declaration “shall” be dated. Hence, absent a compelling showing of a material distinction between two passages within the same subsection—i.e., within, Section 3150.16(a)—the Board’s decision to canvass the Disputed Ballots is untenable under *Boockvar*’s holding.

2. The Voter Declaration provision does not fall within the limited exception under which a mandatory provision can be treated as directory.

Further, the *Boockvar* panel’s detailed rendition of the mandatory-versus-directory dichotomy in the context of the Election Code also undermines the Board’s construct. Specifically, although the *Boockvar*

any ballots without a filled out, dated and signed declaration envelope.”).

panel acknowledged that it has occasionally construed mandatory language as merely directory, it declined to expand the scope of those decisions. To the contrary, carefully distinguishing its prior decisions in *Shambach v. Bickhart*, 845 A.2d 793 (Pa. 2004), and *Appeal of Weiskerger*, 290 A.2d 108 (Pa. 1972), the Court clarified that it has treated a mandatory provision as directory only under limited circumstances. *See Boockvar*, 238 A.3d at 378-79 (“[T]his case is distinguishable from those cases relied upon by the Secretary, which deemed mandatory language merely directory and without consequence.”). Concluding that neither *Bickhart*, nor *Weiskerger* supplied the proper framework, the Court relied on *Appeal of Pierce*—which it characterized as “most analogous to the . . . case” before it—and its holding that “the Election Code’s ‘in-person’ ballot delivery requirement was mandatory, and that votes delivered by third persons must not be counted.” *Boockvar*, 238 A.3d at 379 (internal citations omitted).

Against the foregoing backdrop, Section 3150.16(a)’s requirement relative to voter declarations, like the secrecy portion of the provision at issue in *Boockvar*, are plainly mandatory, rather than directory.

(a) The Voter Declaration provision is mandatory because it pertains to the manner in which a ballot is cast, rather than the manner in which it is canvassed.

To begin, in contrast to *Bickhart* and *Weiskerger*, both of which examined provisions governing the manner in which a qualified voter's marked ballot is canvassed, the Voter Declaration requirement, like the requirements at issue in *Boockvar* and *Appeal of Pierce*, precedes the canvassing of a ballot. Indeed, the distinction between statutes concerning the *marking* of ballots, as compared to the *casting* of ballots, which was at the core of *Appeal of Pierce*, cannot be overstated. To illuminate, while laws regulating ballot completion presupposes that the ballot is being cast by an elector whose qualification to vote in that election has been established, provisions relating to the submission of ballots exist for the precise purpose of ensuring that the ballot is cast by a qualified elector.

(b) The Voter Declaration provision is mandatory because a dated Voter Declaration is a safeguard against fraud.

Moreover, because the requirement that a declaration be dated is a necessary safeguard against fraud, under the framework established by *Appeal of Pierce*—and applied more recently in *Boockvar*—that

directive is mandatory, such that failure to strictly comply with its dictate renders the ballot invalid. 238 A.3d at 380 (“The clear thrust of *Appeal of Pierce* . . . is that, even absent an express sanction, where legislative intent is clear and supported by a weighty interest like fraud prevention, it would be unreasonable to render such a concrete provision ineffective for want of deterrent or enforcement mechanism.”). Indeed, as aptly articulated in *Appeal of Pierce*, “there is an obvious and salutary purpose—grounded in hard experience—behind the limitation upon the delivery of absentee ballots.” 843 A.2d at 1232.

In this regard, it also bears repeating that by executing the Voter Declaration, the mail-in elector is not only attesting to the ballot’s timely submission but also representing, under penalty of law, that the voter is: (i) qualified to cast the enclosed ballot; and (ii) the voter did not already vote in the election for which the ballot was issued. 25 P.S. § 3150.14(b); *see also In re Nov. 3, 2020 Gen. Election*, No. 149 MM 2020, 2020 WL 6252803, at *1 (Pa. Oct. 23, 2020) (“The voter’s declaration is a pre-printed statement required to appear on the ballot return envelope containing a voter’s absentee or mail-in ballot declaring: that the voter is qualified to vote the ballot enclosed in the

envelope, and that the voter did not already vote in the election for which the ballot was issued.”).

The accuracy of both representations is contingent on the date on which the representation was made. *First*, whether a person is a “qualified elector” entitled to vote at a particular election depends on the specific date on which that individual either became a resident of a given district or ceased residing there. *See* 25 P.S. § 2811 (explaining that every citizen of the Commonwealth eighteen years of age or older is qualified to vote, provided, *inter alia*, “[h]e or she shall have resided in the election district where he or she shall offer to vote at least thirty days immediately preceding the election, except that if qualified to vote in an election district prior to removal of residence, he or she may, if a resident of Pennsylvania, vote in the election district from which he or she removed his or her residence within thirty days preceding the election.”). *Second*, whether an elector has already voted in the election for which the ballot was issued, by its very nature, depends on the date on which the declaration was signed.

C. Courts have already held that where the Election Code requires a dated signature, an elector’s failure to supply the date is a fatal defect.

While recognizing the settled principle that “the Election Code is to be construed so as not to deny a candidate the opportunity to run or deprive the electorate of the right to vote for the candidate of choice[.]” *In re Nomination Petition of Brown*, 846 A.2d 783, 787 (Pa. Cmwlth. 2004), the Commonwealth Court has repeatedly held that where the Election Code requires an elector to record the date of signing, failure to do so is a fatal defect that will result in the voter’s signature being struck. *See id.* (invalidating several signatures “because the signer did not record the date of signing” and noting that the Commonwealth Court “has held that a signature will be struck when the signer omits only the year in the date of signing”); *In re Morrison-Wesley*, 946 A.2d 789, 795 (Pa. Cmwlth. 2008) (“The failure to provide the date of one’s signing violates Section 908 of the Election Code and, thus, invalidates the signature.” (citing *In re Silcox*, 674 A.2d 224, 225 (Pa. 1996)). In short, far from being a minor defect that can be overlooked, the Commonwealth Court has explained that “[t]he date is essential to

determine the validity of the signature.” *In re Morrison-Wesley*, 946 A.2d at 795.

D. The Supreme Court’s analysis of the ability to “cure” non-compliant ballots in *Boockvar* controls the outcome here.

In addition to the above-discussed analysis of “directory” versus “mandatory” provisions in the Election Code, the bulk of the issues presented in this appeal appear to have been resolved (or at least the resolution was substantially presaged) in the Supreme Court’s *Boockvar* opinion. To explain, the Petition for Review at issue there demanded (in addition to relief from the secrecy envelope provisions) that county boards of elections, Allegheny’s included, be directed to provide citizens with the opportunity to “cure” so-called “minor” errors on the outer envelope of mail-in ballots. *See id.* at 353, 372-74; *see also* Petition for Review at ¶ 123, *Pennsylvania Democratic Party v. Boockvar*, No. 407 MD 2020 (Pa. Cmwlth.) (“Balancing the impacts of disenfranchising electors for minor inconsistencies, against the (non-existent) governmental interest the harm to the voter is overwhelming; thus, electors should be allowed to cure a facial defect on their Mailing Envelope.”). The Court—unanimously on this particular issue—

expressly declined to provide such relief. Instead, it agreed with the Secretary of the Commonwealth and held that the General Assembly alone had the right to provide a procedure to “cure” purportedly “minor” defects, and in the absence of such a procedure from the legislature, none could be supplied by a court. *See Boockvar*, 238 A.3d at 374; *see also Winston v. Moore*, 91 A. 520 (Pa. 1914) (“The power to regulate elections is legislative, and has always been exercised by the lawmaking branch of the government.”) (cited favorably in *Boockvar*, 238 A.3d at 373-74).

In concurrence, Justice Wecht took the Court’s majority holding on so-called “minor” defects and projected it even further than a mere question about the right to cure. He observed that where mail-in ballots, once received, suffered from “objective” defects, including “the failure to ‘fill out, date and sign the declaration printed on’ the ballot return envelope,” that there is “no offense to the Free and Equal Elections Clause” when those ballots are rejected. *See id.* at 389 (Wecht, J., concurring). Justice Wecht so concluded because such facial defects were subject to “uniform, neutrally applicable election regulation,” rather than “subjective assessments,” which are susceptible to

“inconsistency and arbitrariness[.]” *See id.* As is acutely material here, he further observed that distinguishing between purported “minor” versus “major” “defects and omissions” was not, at least on the record before that Court, subject to “judicially manageable criteria[.]” *See id.*

There are two critical takeaways from this portion of the *Boockvar* opinion for present purposes.

First, the Supreme Court, the Secretary of the Commonwealth, and the petitioners were in utter agreement that deficiencies on the mailing envelope were “defects” under the Election Code that required a “cure” to remediate them. *See id.* at 377. It does not appear any party argued that in the absence of a cure—and, critically, none was observed in the Election Code nor supplied by the Court—that these defects could be simply ignored. Indeed, it appears the very premise of the dispute in *Boockvar* was that absent judicial intervention, ballots would be rejected based on “minor” defects. With the Supreme Court having, rightly, refused to provide that cure (which only the General Assembly can supply), the clear inference is that such “minor” defects render the ballots with which they are affiliated incurable and void. *See In re Scroggin*, 237 A.3d 1006, 1018 (Pa. 2020) (“It is well-settled that the ‘so-

called technicalities of the Election Code’ must be strictly enforced, ‘particularly where ... they are designed to reduce fraud.’”).

Second, at a minimum, the *Boockvar* decision foretells the outcome of this appeal. Indeed, Justice Wecht’s concurrence takes the narrow issue presented by the petitioners there—the right to cure—and projected it forward to the obvious next case: one involving un-cured ballots. His projection, albeit his alone, is that such ballots are invalid. *See id.* at 389. His analysis of the matter should be adopted here, since the Election Code’s mandate is clear—the declaration on the outer envelope must be fully completed, the date included—and there is no judicial right to line-item-veto out those parts of the Election Code that a court might otherwise deem unwise or unimportant. *See id.* at 373 (majority opinion) (citing *Winston*, 91 A. at 522 for the proposition that “[t]he power to regulate elections is legislative”). As Justice Wecht observed, applying a uniform in-or-out, objective analysis to such defects offends neither the Election Code nor the Pennsylvania Constitution. The Court here should adopt the same reasoning and thus require all boards of elections to count only those ballots that were objectively complete, as the Election Code demands, and not count those

that were objectively incomplete. Simply put, ballots not validly cast as the Election Code requires should not be made valid by simply ignoring provisions of the statute.

VIII. CONCLUSION

This Court should reverse the Allegheny County Court of Common Pleas, as the provisions of the Election Code are clear that mail-in ballots must be both signed and dated by the elector. The provisions setting forth this requirement should be construed as mandatory and any ballots that do not meet this requirement, like the Disputed Ballots, should be deemed invalid.

Respectfully submitted,

Dated: November 19, 2020

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WORD COUNT CERTIFICATION

I hereby certify that the above brief complies with the word count limits of Pa.R.A.P. 2135. Based on the word count feature of the word processing system used to prepare this brief, this document contains 3473 words, exclusive of the cover page, tables, and the signature block.

Dated: November 19, 2020

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Exhibit A

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION**

NICOLE ZICCARELLI,

No. GD 20-011654

Petitioner,

v.

MEMORANDUM AND ORDER OF COURT

ALLEGHENY COUNTY BOARD OF
ELECTIONS,

Honorable Joseph M. James

Respondent,

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and

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PENNSYLVANIA DEMOCRATIC PARTY
AND JAMES BREWSTER,

Intervenors.

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION**

NICOLE ZICCARELLI,

Petitioner,

v.

ALLEGHENY COUNTY BOARD OF
ELECTIONS,

Respondent,

and

PENNSYLVANIA DEMOCRATIC
PARTY AND JAMES BREWSTER,

Intervenors.

No. GD 20-011654

MEMORANDUM AND ORDER OF COURT

James, J.

November 18, 2020

Petitioner Nicole Zicarelli, candidate for the Senate of Pennsylvania from the 45th Senatorial District, filed a Petition for Review of Decision by the Respondent Allegheny County Board of Elections (“the Board”) on November 12, 2020, seeking to invalidate

2,349 mail-in ballots cast by voters in the November 3, 2020 General Election. Petitioner seeks review of the Board's decision to overrule Petitioner's objection to count these ballots. Petitioner alleges that these ballots were cast in violation of the Election Code because they do not contain a date penned by the elector on the outer envelope. The Court conducted a hearing on November 17, 2020 via Microsoft Teams. The Pennsylvania Democratic Party and James Brewster moved to intervene in the action. Petitioner and the Board did not object and the motion was granted by the Court. Petitioner stated that she was not claiming any voter fraud regarding the challenged ballots. The Board argues that the failure to place a date on the outer envelope does not invalidate a ballot.

Section 3150.16(a) of the Election Code states:

- (a) General rule--At any time after receiving an official mail-in ballot, but on or before eight o'clock p.m. the day of the primary or election, the mail-in elector shall, in secret, proceed to mark the ballot only in black lead pencil, indelible pencil or blue, black or blue-black ink, in fountain pen or ball point pen, and then fold the ballot, enclose and securely seal the same in the envelope on which is printed, stamped or endorsed "official election ballot." This envelope shall then be placed in the second one, on which is printed the form of declaration of the elector, and the address of the elector's county board of election and the local election district of the elector. The elector shall then fill out, date and sign the declaration printed on such envelope. Such envelope shall then be securely sealed and the elector shall send same by mail, postage prepaid, except where franked, or deliver it in person to said county board of election.

The Election Code Section 3146.8(g)(3) vests the Board with the duty of determining the sufficiency of the declaration of a mail-in ballot. If the Board determines that the declaration is sufficient, then the Board "shall provide a list of the names of electors whose absentee ballots or mail-in ballots are to be pre-canvassed or canvassed." Id. Any ballots cast by electors whose applications have been challenged are set aside

unopened, but all other ballots that have been verified under subsection (g)(3) shall be counted. 25 P.S. Section 3146.8(g)(4).

The Court agrees with the Board that the Section 3150.16(a) date provision is directory not mandatory. Specifically, the use of the word “shall” does not make a statutory phrase mandatory. It is well settled Pennsylvania law that election laws should be construed liberally in favor of voters, and that “[t]echnicalities should not be used to make the right of the voter insecure.” Pennsylvania Democratic Party v. Boockvar, 238 A.3d 345, 373 (Pa. 2020) *citing* Appeal of James, 105 A.2d 64, 65-66 (Pa. 1954). “Ballots containing mere minor irregularities should only be stricken for compelling reasons.” Shambach v. Bickhart, 845 A.2d 793, 798 (Pa. 2004).

The ballots at issue here are sufficient even without a voter supplied date. They were processed in the Statewide Uniform Registry of Electors (“SURE”) system and timestamped when they were timely delivered to the Board on or before November 3, 2020. They were signed and have been otherwise properly completed by a qualified elector. In light of the fact that there is no fraud, a technical omission on an envelope should not render a ballot invalid. The lack of a written date on an otherwise qualified ballot is a minor technical defect that does not render it deficient. The Court finds that the Board properly overruled Petitioner’s objections to the 2,349 challenged mail-in ballots. These ballots must be counted. The Petition for Review is denied and the Board’s decision is affirmed.

Joseph M. James

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION**

NICOLE ZICCARELLI,

Petitioner,

v.

ALLEGHENY COUNTY BOARD OF
ELECTIONS,

Respondent,

and

PENNSYLVANIA DEMOCRATIC
PARTY AND JAMES BREWSTER,

Intervenors.

No. GD 20-011654

ORDER OF COURT

And NOW, this 18th day of November 2020, upon consideration of the Petition For Review In the Nature Of A Statutory Appeal filed by Nicole Zicarelli, and any responses thereto, it is hereby ORDERED that the Petitioner's appeal is dismissed and the decision of the Board of Elections is affirmed.

BY THE COURT:

Joseph M. James