

**IN THE COURT OF COMMON PLEAS
OF ERIE COUNTY, PENNSYLVANIA**

PENNSYLVANIA DEMOCRATIC PARTY,)
 Plaintiff,)
 v.)
 ERIE COUNTY BOARD OF ELECTIONS,)
 Defendant.)

Civil Action No. 12666-24

COMMON PLEAS COURT
 ERIE, PA
 2024 OCT 30 AM 9:59
 CLERK OF RECORDS
 PROTHONOTARY

PETITION FOR SPECIAL AND PRELIMINARY INJUNCTION

Plaintiff, by undersigned counsel, hereby asks this Honorable Court for a special and preliminary injunction ordering that the Defendant: (1) provide a list of affected voters to Plaintiff; (2) produce any correspondence or guidance that was sent to affected voters; (3) provide mechanisms to ensure that affected voters are able to cast a correct ballot in a timely manner; and (4) provide other remedies to ensure the proper and orderly administration of the Election Code. In support, Plaintiffs rely on and incorporate by reference the facts set forth in their Complaint Seeking Mandamus Relief to Enforce Provisions of the Election Code and Injunctive Relief to Address Failure to Do So.

WHEREFORE, Plaintiff asks the Court to enter an injunction in Plaintiff's favor and against the Defendant and asks the Court to:

- a. Enter a special and/or preliminary injunction ordering that:

As to the 315 voters who received incorrect ballots, the BOE must:

- i. Immediately release the names of all affected voters who received duplicate or incorrect ballots;

I, Aubrea Hagerty-Haynes Prothonotary of the Court of Common Pleas of Erie County, PA., do certify that this is a true and correct copy of the original record filed in said court.

Aubrea Hagerty-Haynes
 Prothonotary:
 Date: 10/30/24
 Deputy: *[Signature]*

- ii. Immediately release any and all correspondence which the BOE has sent or provided to affected voters; and
- iii. Agree to a process whereby the BOE, with representatives of the PDP (and any other major political party that so requests) observe the opening of the duplicate ballots from voters who received and submitted such a ballot. If the ballot reflects all races and referendum for which the voter was entitled to vote, it shall be counted in full; if the ballot does not reflect the races and referendum to which the voter was entitled to vote, it otherwise shall be counted only as to the races that the voter would have been entitled to vote. In all cases, votes cast for the President, U.S. Senate, Congress, Statewide Offices, and State Senate shall be counted.

As to the class of approximately 19,308 voters whose approved mail-in ballots have not been issued or were issued belatedly, the BOE must:

- i. Release the names of all affected voters who have been approved for a mail-in ballot but have not yet received one;
- ii. Release the names of all voters among the 1,800 voters for whom the USPS has no record of having received for delivery a mail-in ballot;
- iii. Release the names of all voters for whom the BOE has reason to believe did not receive their mail-in ballots until on or after October 22, 2024, after the time at which such ballots are required to have been mailed or delivered under 25 P.S. § 3150.15.
- iv. Declare that all voters who applied for mail-in ballots but did not submit a ballot by the Polling Book Deadline shall be permitted to cancel said

ballot or ballot application via the Request to Cancel My Ballot Request form, affirm that they have not voted by mail-in ballot, and vote on voting machines;

- v. Provide that thirty (30) blank Request to Cancel My Ballot Request forms are available in each polling district and ensure that these forms are available throughout Election Day;
- vi. Ensure an adequate number of provisional ballots are available at all polling locations in Erie County to accommodate voters who requested, but did not timely receive, mail-in ballots and will be required to vote provisionally;
- vii. Provide for overnight ballot delivery for out-of-state residents who vote by mail-in ballot;
- viii. Segregate all mail-in ballots received after the Polling Book Deadline (November 1, 2024);
- ix. Following Election Day, allow observers from the major political parties and representatives of candidates under the Election Code to compare the segregated mail-in ballots with the voting register and count all mail-in ballots received before November 5, 2024 at 8:00pm unless the register indicates that the voter voted in person;
- x. Establish firm hours to remain open to the public from 8:00am until 9:00pm on weekdays and from 9:00am-5:00pm on weekends through November 4, 2024 and notify the public of these hours;

- xi. Allow those voters who requested a mail-in ballot on or before October 29, 2024 to appear in person to receive a mail-in ballot and submit the completed ballot to the BOE; and
 - xii. Publicize the hours of the BOE and the availability to order a mail-in ballot if the voter timely applied and to submit the completed ballot in the dropbox at the BOE.
- a. Award Plaintiff costs, interest and attorney's fees; and
 - b. Grant such other and further relief that this Court deems equitable, just, and appropriate.

Respectfully submitted,

By: /s/ Timothy D. McNair

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Dated: October 30, 2024
5056134

*Attorneys for Plaintiff, the Pennsylvania
Democratic Party*

**IN THE COURT OF COMMON PLEAS
OF ERIE COUNTY, PENNSYLVANIA**

PENNSYLVANIA DEMOCRATIC PARTY,)	Civil Action No. _____
)	
Plaintiff,)	
)	
v.)	
)	
ERIE COUNTY BOARD OF ELECTIONS,)	
)	
Defendant.)	

ORDER

AND NOW, this __ day of October, 2024, IT IS HEREBY ORDERED that Defendant the Erie County Board of Elections shall:

As to the 315 voters who received incorrect ballots, the BOE must:

- i. Immediately release the names of all affected voters who received duplicate or incorrect ballots;
- ii. Immediately release any and all correspondence which the BOE has sent or provided to affected voters; and
- iii. Agree to a process whereby the BOE, with representatives of the PDP (and any other major political party that so requests) observe the opening of the duplicate ballots from voters who received and submitted such a ballot. If the ballot reflects all races and referendum for which the voter was entitled to vote, it shall be counted in full; if the ballot does not reflect the races and referendum to which the voter was entitled to vote, it otherwise shall be counted only as to the races that the voter would have been entitled to vote. In all cases, votes cast for the Presidential, U.S. Senate, Congress, Statewide Offices, and State Senate shall be counted.

As to the approximately 19,308 voters whose approved mail-in ballots have not been issued or were issued belatedly, the BOE must:

- i. Release the names of all affected voters who have been approved for a mail-in ballot but have not yet received one;
- ii. Release the names of all voters among the 1,800 voters for whom the USPS has no record of having received for delivery a mail-in ballot;
- iii. Release the names of all voters for whom the BOE has reason to believe did not receive their mail-in ballots until on or after October 22, 2024, after the time at which such ballots are required to have been mailed or delivered under 25 P.S. § 3150.15.
- iv. Declare that all voters who applied for mail-in ballots but did not submit a ballot by the Polling Book Deadline shall be permitted to cancel said ballot or ballot application via the Request to Cancel My Ballot Request form, affirm that they have not voted by mail-in ballot, and vote on voting machines;
- v. Provide that thirty (30) blank Request to Cancel My Ballot Request forms are available in each polling district and ensure that these forms are available throughout Election Day;
- vi. Ensure an adequate number of provisional ballots are available at all polling locations in Erie County to accommodate voters who requested, but did not timely receive, mail-in ballots and will be required to vote provisionally;

- vii. Provide for overnight ballot delivery for out-of-state residents who vote by mail-in ballot;
- viii. Segregate all mail-in ballots received after the Polling Book Deadline;
- ix. Following Election Day, allow observers from the major political parties and their represented candidates under the Election Code to compare the segregated mail-in ballot with the voting register and count all votes within mail-in ballots received before November 5, 2024 at 8:00pm unless the register indicates that the voter voted in person; and
- x. Establish firm hours to remain open to the public from 8:00am until 9:00pm on weekdays and from 9:00am-5:00pm on weekends through November 4, 2024, for the purpose of issuing substitute ballots to any voter who has requested a mail-in ballot and not yet returned one, and notify the public of these hours.
- xi. Allow those voters who requested a mail-in ballot on or before October 29, 2024 to appear in person to receive a mail-in ballot and submit the completed ballot to the BOE; and
- xii. Publicize the hours of the BOE and the availability to order a mail-in ballot if the voter timely applied and to submit the completed ballot in the dropbox at the BOE.

By the Court:

_____, J

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Pennsylvania Democratic Party

Signature: /s/ Timothy D. McNair

Name: Timothy D. McNair

Attorney No.: 34304

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petition for Special and Preliminary Injunction has been served this 30th day of October, 2024 via email upon:

Erie County Board of Elections
c/o Thomas Talarico, Esq.
Solicitor for the Erie County Board of Elections
Erie County Courthouse
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/s/ Timothy D. McNair _____