

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

THE REPUBLICAN NATIONAL : No. 136 MM 2024
COMMITTEE AND THE REPUBLICAN :
PARTY OF PENNSYLVANIA, :

Petitioners

v.

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 :
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 :
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 :

CONCURRING STATEMENT

JUSTICE BROBSON

FILED: November 18, 2024

I join the *per curiam* Order in all respects. I write separately to disabuse local elections officials of the notion that they have the authority to ignore Election Code provisions that they believe are unconstitutional.¹ Only the courts under our charter may declare a statute, or provision thereof, unconstitutional. *Thornburgh v. Lewis*, 470 A.2d 952, 955 (Pa. 1983) (“It is the province of the Judiciary to determine whether the Constitution or laws of the Commonwealth require or prohibit the performance of certain acts.”) Indeed, this Court has held that administrative agencies, like county boards of elections, lack the authority to declare unconstitutional the very statutes from which they derive their existence and which they are charged to enforce. *Lehman v. Pa. State Police*, 839 A.2d 265, 275 (Pa. 2003) (“[A]gencies have authority to consider the validity of their regulations . . . , but they must refuse to consider the validity of their organic statutes.”).

Justices Wecht and Mundy join this concurring statement.

¹ See Respondents Philadelphia, Montgomery, and Bucks County Boards of Elections Answer at 8 (claiming, without citation to legal authority, that “each county board (and each [commissioner thereof]) has an independent obligation to consider whether the Constitution requires counting . . . ballots with dating errors—an issue this Court has not resolved on the merits”).