

[J-96-2020][M.O. - Baer, J.]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

PENNSYLVANIA DEMOCRATIC PARTY, : No. 133 MM 2020
NILOFER NINA AHMAD, DANILO :
BURGOS, AUSTIN DAVIS, DWIGHT :
EVANS, ISABELLA FITZGERALD, :
EDWARD GAINEY, MANUEL M. GUZMAN, :
JR., JORDAN A. HARRIS, ARTHUR :
HAYWOOD, MALCOLM KENYATTA, : SUBMITTED: September 8, 2020
PATTY H. KIM, STEPHEN KINSEY, PETER :
SCHWEYER, SHARIF STREET, AND :
ANTHONY H. WILLIAMS :

v. :

KATHY BOOCKVAR, IN HER CAPACITY :
AS SECRETARY OF THE :
COMMONWEALTH OF PENNSYLVANIA; :
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 :

mail-in ballots by third parties is manifest, *see, e.g., id.* §3150.16(a) (requiring *the elector* to mail or deliver a ballot), and the enforceability of this policy is weakened by the use of non-statutory, unmanned drop boxes. This, to me, suggests against a permissive interpretation of the Election Code.

Relative to the deadline for receiving mail-in ballots, I join Part II of Justice Donohue's concurring and dissenting opinion, as this most closely hews to the express legislative intent that the election be concluded by 8:00 p.m. on election night.

Finally, although the majority decision appears to be designed to accommodate only ballots actually mailed on Election Day or before, the majority does not so much as require a postmark. Particularly in combination with the allowance of drop boxes, this substantially increases the likelihood of confusion, as well as the possibility that votes will be cast after 8:00 p.m. on Election Day, thus greatly undermining a pervading objective of the General Assembly.

Justice Mundy joins this concurring and dissenting opinion.