



CAPTION

Brian T. Baxter and Susan T. Kinniry

v.

Philadelphia Board of Elections, Republican National Committee, and Republican Party of Pennsylvania

Appeal of: Republican National Committee and Republican Party of Pennsylvania

CASE INFORMATION

Initiating Document: Order Granting Petition for Allowance of Appeal

Case Status: Active

Journal Number:

Case Category: Election

Case Type(s): Election

CONSOLIDATED CASES

RELATED CASES

Docket No / Reason	Type
1 EAP 2025 Lower Court	Consolidated

COUNSEL INFORMATION

Attorney: Gallagher, Kathleen A.
The Gallagher Firm, LLC

Address: The Gallagher Firm LLC
436 Seventh Ave 30th Fl
Pittsburgh, PA 15219

Phone No: (412) 308-5512

Receive Mail: Yes

Representing: Republican National Committee, Appellant

Pro Se: No

IFP Status:

Representing: Republican Party of Pennsylvania, Appellant

Pro Se: No

IFP Status:

Attorney: King, Thomas W., III
Dillon, McCandless, King, Coulter & Graham, LLP

Address: Dillon Mccandless Et Al
128 W Cunningham St
Butler, PA 16001-5742

Phone No: (724) 283-2200

Receive Mail: Yes

Receive EMail: Yes Email:

Representing: Republican National Committee, Appellant

Pro Se: No

IFP Status:

Representing: Republican Party of Pennsylvania, Appellant

Pro Se: No

IFP Status:



COUNSEL INFORMATION

Attorney: De Palma, Claudia
 Public Interest Law Center (The)
 Address: 1500 JFK Blvd, Suite 802
 Philadelphia, PA 19102
 Phone No: (267) 546-1313
 Receive Mail: Yes
 Receive EMail: Yes Email:
 Representing: Baxter, Brian T., Appellee
 Pro Se: No
 IFP Status:
 Representing: Kinniry, Susan T., Appellee
 Pro Se: No
 IFP Status:

Attorney: Stohr, Alison L.
 PHILADELPHIA LAW DEPARTMENT
 Address: 1515 Arch St 15th Fl
 Philadelphia, PA 19102
 Phone No: (215) 817-4365
 Receive Mail: Yes
 Receive EMail: Yes Email:
 Representing: Philadelphia County Board of Elections, Appellee
 Pro Se: No
 IFP Status:

Attorney: Benjet, Brian Howard
 DLA Piper
 Address: DLA Piper Llp
 1650 Market St Ste 5000
 Philadelphia, PA 19103-7300
 Phone No: (215) 656-3311
 Receive Mail: Yes
 Receive EMail: Yes Email:
 Representing: Philadelphia County Board of Elections, Appellee
 Pro Se: No
 IFP Status:

Attorney: Eisenstein, Ilana H.
 DLA Piper LLP (US)
 Address: DLA Piper Llp
 1650 Market St Ste 5000
 Philadelphia, PA 19103
 Phone No: (215) 656-3351
 Receive Mail: Yes
 Receive EMail: Yes Email:
 Representing: Philadelphia County Board of Elections, Appellee
 Pro Se: No
 IFP Status:



COUNSEL INFORMATION

Attorney: Fabens-Lassen, Ben Caldwell
 Address: DLA Piper LLP (US)
 1650 Market St
 Ste 5000
 Philadelphia, PA 19103
 Phone No: (215) 656-3325
 Receive Mail: Yes
 Receive EMail: Yes Email:
 Representing: Philadelphia County Board of Elections, Appellee
 Pro Se: No
 IFP Status:

Attorney: Furst, Lydia Maureen
 Address: City of Philadelphia Law Department
 1515 Arch St
 15th Floor
 Philadelphia, PA 19102
 Phone No: (215) 683-3573
 Receive Mail: Yes
 Receive EMail: Yes Email:
 Representing: Philadelphia County Board of Elections, Appellee
 Pro Se: No
 IFP Status:

Attorney: Geffen, Benjamin David
 Address: Public Interest Law Center (The)
 Public Interest Law Center
 2 Penn Center, 1500 Jfk Blvd Ste 802
 Philadelphia, PA 19102
 Phone No: (267) 546-1308
 Receive Mail: Yes
 Receive EMail: Yes Email:
 Representing: Baxter, Brian T., Appellee
 Pro Se: No
 IFP Status:
 Representing: Kinniry, Susan T., Appellee
 Pro Se: No
 IFP Status:



COUNSEL INFORMATION

Attorney:	Hanlon, Kirsten Marie	
	ACLU of Pennsylvania	
Address:	P.o. Box 60173	
	Philadelphia, PA 19102	
Phone No:	(215) 671-6837	
Receive Mail:	Yes	
Receive EMail:	Yes	Email:
Representing:	Baxter, Brian T., Appellee	
Pro Se:	No	
IFP Status:		
Representing:	Kinniry, Susan T., Appellee	
Pro Se:	No	
IFP Status:		

Attorney:	Josefovits, M. David	
	DLA Piper LLP (US)	
Address:	Dla Piper Llp Us	
	1650 Market St Ste 5000	
	Philadelphia, PA 19103	
Phone No:	(347) 907-1339	
Receive Mail:	Yes	
Receive EMail:	Yes	Email:
Representing:	Philadelphia County Board of Elections, Appellee	
Pro Se:	No	
IFP Status:		

Attorney:	Loney, Stephen Allen	
	ACLU of Pennsylvania	
Address:	P.o. Box 60173	
	Philadelphia, PA 19102	
Phone No:	(215) 592-1513	
Receive Mail:	Yes	
Receive EMail:	Yes	Email:
Representing:	Baxter, Brian T., Appellee	
Pro Se:	No	
IFP Status:		
Representing:	Kinniry, Susan T., Appellee	
Pro Se:	No	
IFP Status:		



COUNSEL INFORMATION

Attorney:	McKenzie, Mary M.	
	Public Interest Law Center (The)	
Address:	Public Interest Law Center Two Penn Center	
	1500 Jfk Blvd Ste 802	
	Philadelphia, PA 19102	
Phone No:	(267) 546-1319	
Receive Mail:	Yes	
Receive EMail:	Yes	Email:
Representing:	Baxter, Brian T., Appellee	
Pro Se:	No	
IFP Status:		
Representing:	Kinniry, Susan T., Appellee	
Pro Se:	No	
IFP Status:		

Attorney:	Pfautz, Michael Wu-Kung	
	Philadelphia Law Department	
Address:	City Of Philadelphia Law Dept	
	1515 Arch St Fl 15	
	Philadelphia, PA 19102	
Phone No:	(215) 683-5233	
Receive Mail:	Yes	
Receive EMail:	Yes	Email:
Representing:	Philadelphia County Board of Elections, Appellee	
Pro Se:	No	
IFP Status:		

Attorney:	Schneider, Marian Karen	
	ACLU of Pennsylvania, Pittsburgh	
Address:	Po Box 60173	
	Philadelphia, PA 19102	
Phone No:	(610) 420-0632	
Receive Mail:	Yes	
Receive EMail:	Yes	Email:
Representing:	Baxter, Brian T., Appellee	
Pro Se:	No	
IFP Status:		
Representing:	Kinniry, Susan T., Appellee	
Pro Se:	No	
IFP Status:		



COUNSEL INFORMATION

Attorney: Steiker-Ginzberg, Kate Ilana
 ACLU of Pennsylvania
 Address: Po Box 60173
 Philadelphia, PA 19102
 Phone No: (917) 444-6803
 Receive Mail: Yes
 Receive EMail: Yes Email:
 Representing: Baxter, Brian T., Appellee
 Pro Se: No
 IFP Status:
 Representing: Kinniry, Susan T., Appellee
 Pro Se: No
 IFP Status:

Attorney: Walczak, Witold J.
 ACLU of Pennsylvania, Pittsburgh
 Address: P.o. Box 23058
 Pittsburgh, PA 15222
 Phone No: (412) 681-7864
 Receive Mail: Yes
 Receive EMail: Yes Email:
 Representing: Baxter, Brian T., Appellee
 Pro Se: No
 IFP Status:
 Representing: Kinniry, Susan T., Appellee
 Pro Se: No
 IFP Status:

Attorney: Levine, Clifford B.
 Dentons Cohen & Grigsby
 Address: Dentons Cohen & Grigsby P.c.
 625 Liberty Ave
 Pittsburgh, PA 15222
 Phone No: (412) 297-4998
 Receive Mail: Yes
 Receive EMail: Yes Email:
 Representing: Pennsylvania Democratic Party, Intervenor
 Pro Se: No
 IFP Status:



COUNSEL INFORMATION

Attorney: Kerns, Linda Ann
 Law Offices of Linda A. Kerns, LLC
 Address: 1420 Locust St Ste 200
 Philadelphia, PA 19102
 Phone No: (215) 731-1400
 Receive Mail: Yes
 Receive EMail: Yes Email:
 Representing: Honest Elections Project, Amicus Curiae
 Pro Se: No
 IFP Status:
 Representing: Restoring Integrity & Trust in Elections, Inc., Amicus Curiae
 Pro Se: No
 IFP Status:

Attorney: Kirkpatrick, Sean Andrew
 Pennsylvania Office of Attorney General, 16th Floor , Strawberry Square, Harrisburg, PA
 Address: Pa Ofc Of Attorney General
 Strawberry Sq 15th Fl
 Harrisburg, PA 17120-0001
 Phone No: (717) 705-2331
 Receive Mail: Yes
 Receive EMail: Yes Email:
 Representing: Commonwealth of Pennsylvania, Amicus Curiae
 Pro Se: No
 IFP Status:

Attorney: Wallen, Zachary Michael
 Chalmers, Adams, Backer & Kaufman, LLC
 Address: Chalmers Adams Backer & Kaufman LLC
 301 S Hills Village Dr Ste LI200420
 Pittsburgh, PA 15241
 Phone No: (412) 200-0842
 Receive Mail: Yes
 Receive EMail: Yes Email:
 Representing: Cutler, Bryan, Amicus Curiae
 Pro Se: No
 IFP Status:
 Representing: Pittman, Joe, Amicus Curiae
 Pro Se: No
 IFP Status:
 Representing: Topper, Jesse, Amicus Curiae
 Pro Se: No
 IFP Status:
 Representing: Ward, Kim, Amicus Curiae
 Pro Se: No
 IFP Status:



COUNSEL INFORMATION

Attorney: Zimolong, Walter S., III
 Zimolong LLC
 Address: Po Box 552
 Villanova, PA 19085
 Phone No: (215) 665-0842
 Receive Mail: Yes
 Receive EMail: Yes Email:
 Representing: Center for Election Confidence Inc., Amicus Curiae
 Pro Se: No
 IFP Status:

Attorney: Bock, William, IV
 Pro Hac Vice

 Address: 1600 Wilson Blvd.
 Ste. 700
 Arlington, VA 22209
 Phone No: (703) 243-9423
 Receive Mail: Yes
 Representing: Honest Elections Project, Amicus Curiae
 Pro Se: No
 IFP Status:
 Representing: Restoring Integrity & Trust in Elections, Inc., Amicus Curiae
 Pro Se: No
 IFP Status:

Attorney: Dickey, Gilbert C.
 Pro Hac Vice

 Address: 1600 Wilson Blvd.
 Ste. 700
 Arlington, VA 22209
 Phone No: (703) 243-9423
 Receive Mail: Yes
 Representing: Honest Elections Project, Amicus Curiae
 Pro Se: No
 IFP Status:
 Representing: Restoring Integrity & Trust in Elections, Inc., Amicus Curiae
 Pro Se: No
 IFP Status:



COUNSEL INFORMATION

Attorney: Woodfin, Conor D.
Pro Hac Vice

Address: 1600 Wilson Blvd.
Ste. 700
Arlington, VA 22209

Phone No: (703) 243-9423

Receive Mail: Yes

Representing: Honest Elections Project, Amicus Curiae
Pro Se: No
IFP Status:

Representing: Restoring Integrity & Trust in Elections, Inc., Amicus Curiae
Pro Se: No
IFP Status:

SUPREME COURT INFORMATION

Appeal From: the order of the Commonwealth Court at No. 1309 CD 2024 entered on October 30, 2024, affirming the Lower Court Order of the Philadelphia County Court of Common Pleas at No. September Term, 2024 NO. 02481, entered on September 28, 2024.

Probable Jurisdiction Noted: Docketed Date: January 17, 2025

Allocatur/Miscellaneous Granted: January 17, 2025 Allocatur/Miscellaneous Docket No.: 396 EAL 2024

Allocatur/Miscellaneous Grant Order: AND NOW, this 17th day of January, 2025, the Petition for Allowance of Appeal is GRANTED, LIMITED TO the issues set forth below. Allocatur is DENIED as to all remaining issues. The issues, rephrased for clarity, are:

- (1) Did the Commonwealth Court err in barring enforcement of the Election Code's mail-in and absentee ballot envelope dating requirements, see 25 P.S. §§3146.6(a), 3150.16, upon the rationale that those requirements violate the "Free and Equal Elections Clause" found in Article I, Section 5 of the Pennsylvania Constitution?
- (2) If the Commonwealth Court did not so err, does its ruling activate the nonseverability clause included in Section 11 of the Act of October 31, 2019, Pub. L. 552, No. 77 ("Act 77") (see 25 P.S. §2602, Note), so as to require invalidation of the entirety of Act 77?

The Application to Intervene of Proposed Intervenor-Respondent and Proposed Answer to Petition for Allowance of Appeal filed by the Pennsylvania Democratic Party is GRANTED.

Respondents Brian T. Baxter and Susan T. Kinniry are DIRECTED to satisfy the requirements of Pa.R.A.P. 521(a) (relating to the provision of notice to the Attorney General of Pennsylvania of a constitutional challenge to a statute where neither the Commonwealth nor any officer thereof is a party).

Justice Donohue files a concurring and dissenting statement in which Justice McCaffery joins .

FEE INFORMATION

Fee Dt	Fee Name	Fee Amt	Receipt Dt	Receipt No	Receipt Amt
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Supreme Court of Pennsylvania



Appeal Docket Sheet

Docket Number: 2 EAP 2025

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March 12, 2025

INTERMEDIATE APPELLATE COURT INFORMATION

Court Name:	Commonwealth	Docket Number:	1309 CD 2024
Date of Order:	October 30, 2024	Rearg/Recon Disp Date:	
Judge(s):	Cohn Jubelirer, Renee McCullough, Patricia A. Wojcik, Michael H. Ceisler, Ellen Wolf, Matthew S.	Rearg/Recon Disposition:	
Intermediate Appellate Court Action:	Affirmed		
Referring Court:			

AGENCY/TRIAL COURT INFORMATION

Court Below:	Philadelphia County Court of Common Pleas		
County:	Philadelphia	Division:	Philadelphia County Civil Division
Date of Agency/Trial Court Order:	September 27, 2024		
Docket Number:	September Term, 2024 NO. 02481		
Judge(s):	Crumlish, James C., III	OTN:	
Order Type:	Order		

ORIGINAL RECORD CONTENT

Original Record Item	Filed Date	Content/Description
Original Record	January 17, 2025	

Record Remittal:

BRIEFING SCHEDULE

Amicus Curiae	Appellee
Center for Election Confidence Inc.	Baxter, Brian T.
Brief	Brief
Due: February 26, 2025 Filed: February 26, 2025	Due: March 31, 2025 Filed:
Commonwealth of Pennsylvania	Kinniry, Susan T.
Brief	Brief
Due: February 26, 2025 Filed: February 21, 2025	Due: March 31, 2025 Filed:
Honest Elections Project	Philadelphia County Board of Elections
Brief	Brief
Due: February 26, 2025 Filed: February 26, 2025	Due: March 31, 2025 Filed:
Pittman, Joe	
Brief	
Due: February 26, 2025 Filed: February 26, 2025	
Restoring Integrity & Trust in Elections, Inc.	
Brief	
Due: February 26, 2025 Filed: February 26, 2025	



BRIEFING SCHEDULE

Amicus Curiae

Topper, Jesse
Brief

Due: February 26, 2025 Filed: February 26, 2025

Ward, Kim
Brief

Due: February 26, 2025 Filed: February 26, 2025

Appellant

Republican National Committee
Brief

Due: February 26, 2025 Filed: February 26, 2025

Reply Brief

Republican Party of Pennsylvania
Brief

Due: February 26, 2025 Filed: February 26, 2025

Reply Brief

Reproduced Record

Due: February 26, 2025 Filed: February 26, 2025

DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
January 17, 2025	Allocatur Granted		Per Curiam

Comments:

AND NOW, this 17th day of January, 2025, the Petition for Allowance of Appeal is GRANTED, LIMITED TO the issues set forth below. Allocatur is DENIED as to all remaining issues. The issues, rephrased for clarity, are:

(1) Did the Commonwealth Court err in barring enforcement of the Election Code's mail-in and absentee ballot envelope dating requirements, see 25 P.S. §§3146.6(a), 3150.16, upon the rationale that those requirements violate the "Free and Equal Elections Clause" found in Article I, Section 5 of the Pennsylvania Constitution?

(2) If the Commonwealth Court did not so err, does its ruling activate the nonseverability clause included in Section 11 of the Act of October 31, 2019, Pub. L. 552, No. 77 ("Act 77") (see 25 P.S. §2602, Note), so as to require invalidation of the entirety of Act 77?

The Application to Intervene of Proposed Intervenor-Respondent and Proposed Answer to Petition for Allowance of Appeal filed by the Pennsylvania Democratic Party is GRANTED.

Respondents Brian T. Baxter and Susan T. Kinniry are DIRECTED to satisfy the requirements of Pa.R.A.P. 521(a) (relating to the provision of notice to the Attorney General of Pennsylvania of a constitutional challenge to a statute where neither the Commonwealth nor any officer thereof is a party).

Justice Donohue files a concurring and dissenting statement in which Justice McCaffery joins .



DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
January 17, 2025	Electronically filed		Commonwealth Court of Pennsylvania
February 7, 2025	Praecipe for Withdrawal of Appearance		Kerns, Linda Ann
February 21, 2025	Amicus Curiae Brief	Amicus Curiae	Commonwealth of Pennsylvania
February 25, 2025	Praecipe for Appearance Baxter, Brian T. Kinniry, Susan T.	Appellee Appellee	Hanlon, Kirsten Marie Hanlon, Kirsten Marie
February 25, 2025	Motion for Admission Pro Hac Vice of Ari J. Savitzky, Esquire Baxter, Brian T. Kinniry, Susan T.	Appellee Appellee	Loney, Stephen Allen Loney, Stephen Allen
February 25, 2025	Motion for Admission Pro Hac Vice of Daniel Yablon, Esquire Baxter, Brian T. Kinniry, Susan T.	Appellee Appellee	Loney, Stephen Allen Loney, Stephen Allen
February 25, 2025	Motion for Admission Pro Hac Vice of Elisabeth S. Theodore, Esquire Baxter, Brian T. Kinniry, Susan T.	Appellee Appellee	Loney, Stephen Allen Loney, Stephen Allen
February 25, 2025	Motion for Admission Pro Hac Vice of John A. Freedman, Esquire Baxter, Brian T. Kinniry, Susan T.	Appellee Appellee	Loney, Stephen Allen Loney, Stephen Allen
February 25, 2025	Motion for Admission Pro Hac Vice of Orion De Nevers, Esquire Baxter, Brian T. Kinniry, Susan T.	Appellee Appellee	Loney, Stephen Allen Loney, Stephen Allen
February 25, 2025	Motion for Admission Pro Hac Vice of Sophia Lin Lakin, Esquire Baxter, Brian T. Kinniry, Susan T.	Appellee Appellee	Loney, Stephen Allen Loney, Stephen Allen
February 25, 2025	Motion for Admission Pro Hac Vice of John M. Gore, Esquire Republican Party of Pennsylvania Republican National Committee	Appellant Appellant	Gallagher, Kathleen A. Gallagher, Kathleen A.
February 25, 2025	Motion for Admission Pro Hac Vice of E. Stewart Crosland, Esquire Republican Party of Pennsylvania Republican National Committee	Appellant Appellant	Gallagher, Kathleen A. Gallagher, Kathleen A.
February 26, 2025	Appellant's Brief	Appellant Appellant	Republican Party of Pennsylvania Republican National Committee



DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
February 26, 2025	Appellant's Reproduced Record Filed	Appellant	Republican Party of Pennsylvania
February 26, 2025	No Answer Letter to Appellant's Motion for Admission Pro Hac Vice	Appellee Appellee	Baxter, Brian T. Kinniry, Susan T.
February 26, 2025	Amicus Curiae Brief	Amicus Curiae Amicus Curiae Amicus Curiae	Ward, Kim Pittman, Joe Topper, Jesse
February 26, 2025	Amicus Curiae Brief	Amicus Curiae	Center for Election Confidence Inc.
February 26, 2025	Amicus Curiae Brief	Amicus Curiae	Honest Elections Project
February 26, 2025	Amicus Curiae Brief	Amicus Curiae Amicus Curiae	Honest Elections Project Restoring Integrity & Trust in Elections, Inc.

CROSS COURT ACTIONS

Docket Number:	1309 CD 2024
Docket Number:	396 EAL 2024
Docket Number:	77 EM 2024