

EXHIBIT A

From: Marks, Jonathan <jmarks@pa.gov>
Sent: Tuesday, November 1, 2022 6:50 PM
To: Marks, Jonathan <jmarks@pa.gov>
Subject: Important DOS Email re: Undated Ballots
Importance: High

Dear county election official,

Please be advised that the Supreme Court of Pennsylvania issued the attached order this afternoon directing county boards of elections to “refrain from counting any absentee and mail-in ballots received for the November 8, 2022 general election that are contained in undated or incorrectly dated outer envelopes.” The Court also directed that counties “**segregate** and **preserve** any ballots contained in undated or incorrectly dated outer envelopes.”

This order means that you **must remember to do two things** as you pre-canvass and canvass absentee and mail-in ballots:

1. Segregate AND preserve these undated and incorrectly dated ballots; and
2. Do not count the votes cast on ballots with undated or incorrectly dated ballots

Warmest regards,

Jonathan Marks | Deputy Secretary for Elections and Commissions (*he, him, his*)

Office of the Secretary

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**[J-85-2022]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

DAVID BALL, JAMES D. BEE, JESSE D. : No. 102 MM 2022
DANIEL, GWENDOLYN MAE DELUCA, :
ROSS M. FARBER, LYNN MARIE :
KALCEVIC, VALLERIE SICILIANO- :
BIANCANIELLO, S. MICHAEL STREIB, :
REPUBLICAN NATIONAL COMMITTEE, :
NATIONAL REPUBLICAN :
CONGRESSIONAL COMMITTEE, AND :
REPUBLICAN PARTY OF PENNSYLVANIA, :

Petitioners

v.

LEIGH M. CHAPMAN, IN HER OFFICIAL :
CAPACITY AS ACTING SECRETARY OF :
THE COMMONWEALTH, AND ALL 67 :
COUNTY BOARDS OF ELECTIONS, :

Respondents

PER CURIAM

DECIDED: November 1, 2022

AND NOW, this 1st day of November, 2022, upon review of the briefs of the parties and *amici*, the Petitioners' request for injunctive and declaratory relief is granted in part and denied in part. The Pennsylvania county boards of elections are hereby **ORDERED** to refrain from counting any absentee and mail-in ballots received for the November 8, 2022 general election that are contained in undated or incorrectly dated outer envelopes. See 25 P.S. §3146.6(a) and §3150.16(a).

The Court is evenly divided on the issue of whether failing to count such ballots violates 52 U.S.C. §10101(a)(2)(B).

We hereby **DIRECT** that the Pennsylvania county boards of elections segregate and preserve any ballots contained in undated or incorrectly dated outer envelopes.

The Republican National Committee, the National Republican Congressional Committee, and the Republican Party of Pennsylvania have standing. Petitioners David Ball, James D. Bee, Jesse D. Daniel, Gwendolyn Mae Deluca, Ross M. Farber, Lynn Marie Kalcevic, Vallerie Siciliano-Biancaniello, and S. Michael Streib are hereby **DISMISSED** from the case for lack of standing.

Opinions to follow.

Chief Justice Todd and Justices Donohue and Wecht would find a violation of federal law.

Justices Dougherty, Mundy and Brobson would find no violation of federal law.

EXHIBIT B

TLP:WHITE



**Guidance on Undated and Incorrectly Dated
Mail-in and Absentee Ballot Envelopes Based on
the Pennsylvania Supreme Court's Order in *Ball
v. Chapman*, issued November 1, 2022**

Date: November 3, 2022

Version: 1.0

Guidance on Undated and Incorrectly Dated Mail-in and Absentee Ballot Envelopes Based on the Pennsylvania Supreme Court’s Order in *Ball v. Chapman*, issued November 1, 2022

On November 1, 2022, the Pennsylvania Supreme Court issued an Order regarding undated and incorrectly dated outer envelopes containing mail-in and absentee ballots. A copy of that Order is attached. This email follows an initial communication from Deputy Secretary Jonathan Marks on the evening of November 1, 2022 and provides additional guidance to counties regarding the Court’s Order.

In light of the Court’s Order, the Department’s September 26, 2022 Guidance Concerning Examination of Absentee and Mail-In Return Envelopes (“Envelope Guidance”) and Guidance Concerning Civilian Absentee and Mail-In Ballot Procedures as it relates to undated and incorrectly dated outer envelopes is modified as stated below and counties are directed as follows:

- Returned ballots should be scanned into the SURE system immediately upon receipt. County election offices should ensure that previously received mail-in and absentee ballots have been scanned into SURE.
 - As a reminder, election offices should date-stamp return envelopes for all mail-in and absentee ballots immediately upon receipt.
- Examine all mail-in and absentee ballots received to determine if the return envelopes for those ballots are signed and dated.
- For ballots which are administratively determined to be undated or incorrectly dated, code that ballot as CANC – NO SIGNATURE within the SURE system.
- Further, for those ballots that have been administratively determined to be undated or incorrectly dated, the ballots must be segregated from other ballots. Counties may prefer to keep segregated undated and incorrectly dated ballots organized by precinct, and alphabetically by last name within each precinct.
 - The department strongly recommends that counties also segregate into separate groups undated ballots versus incorrectly dated ballots.
- For voters returning their ballots in person to election offices, office personnel should remind voters to confirm that they signed and correctly dated their ballots, and to provide them an opportunity to do so prior to submission.

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Version	Date	Description
1.0	11/3/22	Original issue