

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Donald J. Trump For President, Inc.;  
and Republican National Committee,  
Petitioners

v.

No. 602 M.D. 2020

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

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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 :

ORDER

AND NOW this 12<sup>th</sup> day of November, 2020, upon consideration of  
 Petitioners' Petition for Review in the Nature of a Complaint in Equity, and the

memoranda of law filed by the parties and the proposed intervenor-respondent, the Court concludes that Respondent Kathy Boockvar, in her official capacity as Secretary of the Commonwealth, lacked statutory authority<sup>1</sup> to issue the November 1, 2020, guidance to Respondents County Boards of Elections insofar as that guidance purported to change the deadline in Section 1308(h) of the Pennsylvania Election Code, Act of June 3, 1937, P.L. 1333, *as amended*, 25 P.S. §3146.8(h), for certain electors to verify proof of identification, based on Secretary Boockvar's interpretation and application of the Pennsylvania Supreme Court's decision in *Pennsylvania Democratic Party v. Boockvar*, \_\_ A.3d \_\_ (Pa., No. 133 MM 2020, filed September 17, 2020).<sup>2</sup>

Accordingly, the Court hereby ORDERS that Respondents County Boards of Elections are enjoined from counting any ballots that have been segregated pursuant to paragraph 1 of this Court's order dated November 5, 2020, granting a special injunction.

  
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MARY HANNAH LEAVITT, President Judge

<sup>1</sup> See Section 703 of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, 71 P.S. §243 (powers and duties of Secretary of Commonwealth); Section 201 of the Pennsylvania Election Code, Act of June 3, 1937, P.L. 1333, *as amended*, 25 P.S. §2621 (same).

<sup>2</sup> In *Pennsylvania Democratic Party*, the Pennsylvania Supreme Court exercised its extraordinary jurisdiction to adopt a three-day extension of the received-by deadline for absentee and mail-in ballots for the 2020 General Election, thereby allowing Respondents County Boards of Elections to count all such ballots that were postmarked by 8:00 p.m. on Election Day, Tuesday, November 3, 2020, and received by the County Boards no later than 5:00 p.m. Friday, November 6, 2020. Secretary Boockvar's interpretation of the Supreme Court's decision as requiring a corresponding three-day extension of the proof of identification deadline highlights the cascading effect that altering one deadline in the Election Code can have on other statutory deadlines. Mindful of this, the petitioners in *Pennsylvania Democratic Party*, *i.e.*, the Pennsylvania Democratic Party and several Democratic elected officials and candidates, asserted that the Supreme Court "has the authority to alter [post-election] deadlines to be consistent with the relief granted" in that case. *Pennsylvania Democratic Party*, \_\_ A.3d at \_\_, slip op. at 26. The petitioners' observation persuades the Court that an amendment of the Supreme Court's order is necessary to achieve Secretary Boockvar's objective.