

1 TRUMP v. MONTGOMERY COUNTY BOARD OF ELECTIONS
2 argued that the new election code has eliminated,
3 either restricted and/or eliminated, the right of third
4 parties to challenge any deficiencies such as you're
5 doing right now. You didn't file a reply brief. They
6 only filed their materials yesterday. What is your
7 reply to that? You touched upon it.

8 MR. GOLDSTEIN: Yeah. So our reply is
9 that they misperceived what is going on. These
10 challenge procedures are still in the statute. They're
11 still viable and vital. And the place where they say a
12 challenge could be made is a place where a challenge
13 cannot be made. The Friday before the election, those
14 ballots are still locked in a sealed container, so I
15 can't examine them. I can't challenge them. And what
16 they propose as a scheme for challenging defies the
17 plain language of the statute, defies the procedures
18 that are in use everywhere in the state. We have to be
19 able to challenge them in this way or it yields the
20 certain results I've indicated.

21 If the Board had allowed somebody to
22 vote and they couldn't vote and we all knew it, under
23 their scheme, we would just have to allow it because
24 this person applied for something some manner of weeks
25 ago.

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2 THE COURT: In your petition, which is
3 right before me -- and I read it several times -- you
4 don't claim that any electors or the Board of the
5 County were guilty of fraud, correct? That's correct?

6 MR. GOLDSTEIN: Your Honor, accusing
7 people of fraud is a pretty big step. And it is rare
8 that I call somebody a liar, and I am not calling the
9 Board of the DNC or anybody else involved in this a
10 liar. Everybody is coming to this with good faith.
11 The DNC is coming with good faith. We're all just
12 trying to get an election done. We think these were a
13 mistake, but we think they are a fatal mistake, and
14 these ballots ought not be counted.

15 THE COURT: I understand. I am asking
16 you a specific question, and I am looking for a
17 specific answer. Are you claiming that there is any
18 fraud in connection with these 592 disputed ballots?

19 MR. GOLDSTEIN: To my knowledge at
20 present, no.

21 THE COURT: Are you claiming that there
22 is any undue or improper influence upon the elector
23 with respect to these 592 ballots?

24 MR. GOLDSTEIN: To my knowledge at
25 present, no.

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2 THE COURT: Does it make a difference
3 whether a claim of irregularity or technical
4 noncompliance with the election code is made with or
5 without an accompanying claim of fraud or improper
6 influence?

7 MR. GOLDSTEIN: It does not. I mean, to
8 claim the technical defects are immaterial, which is in
9 some sense some of the thrust of what the DNC argued,
10 is really to misperceive what is going on in the
11 election code. The election code is technical.

12 These requirements are all technical.
13 And some of them sit in that code for reasons that are
14 a mystery for all of us. I mean, I sort of recounted
15 for you my view of why the elector signing in his own
16 hand is material. The DNC have their reasons for why
17 they think it is material or immaterial. The fact of
18 the matter is, it is in the code. The code is itself
19 technical. Those technicalities are part and parcel of
20 the law and a violation of the results in a ballot that
21 can't be counted.

22 THE COURT: All right. I don't have any
23 questions for you.

24 I have a question for generally whoever
25 prepared the stipulation. So I will ask it of you and