

No. 22-30

---

In the  
**Supreme Court of the United States**

---

DAVID RITTER,

*Petitioner,*

v.

LINDA MIGLIORI, FRANCIS J. FOX, RICHARD E.  
RICHARDS, KENNETH RINGER, SERGIO RIVAS, ZAC  
COHEN, AND LEHIGH COUNTY BOARD OF ELECTIONS,  
*Respondents.*

---

**On Petition for Writ of Certiorari to the  
United States Court of Appeals  
for the Third Circuit**

---

**RESPONDENT LEHIGH COUNTY BOARD OF  
ELECTIONS RESPONSE IN SUPPORT OF THE  
PETITION FOR WRIT OF CERTIORARI**

---

LUCAS J. REPKA

*Counsel of Record*

LEHIGH COUNTY

DEPARTMENT OF LAW

17 South 7th Street, Room 440

Allentown, PA 18101

(610) 782-3180

Lucas@repkamazinlaw.com

*Counsel for Respondent*

August 10, 2022

---

Becker Gallagher · Cincinnati, OH · Washington, D.C. · 800.890.5001

**QUESTION PRESENTED**

Pennsylvania requires voters to sign and date a declaration when they vote by mail. In a private lawsuit filed after a local election, the Third Circuit held that this dating requirement was preempted by the materiality provision of the Civil Rights Act of 1964, 52 U.S.C. § 10101(a)(2)(B). That decision “is very likely incorrect,” as three Justices have explained, and “could well affect the outcome of the fall elections.” *Ritter v. Migliori*, 2022 WL 2070669 (U.S. June 9), at \*3, \*1 (Alito, J., dissental). The Third Circuit’s decision raises uncertainly regarding its application and impact on future elections.

The question presented is:

Should this Court vacate the Third Circuit’s decision under *United States v Munsingwear, Inc.*, 3470 U.S. 36 (1950)?

RETRIEVED FROM DEMOCRACYDOCKET.COM

**RELATED PROCEEDINGS**

Pennsylvania State Court:

*Ritter v. Lehigh Cnty. Bd. Of Elections*, 2022  
WL 16577 (Commw. Ct. Jan 3)

United States District Court:

*Migliori v. Lehigh County Board of Elections*,  
2022 WL 802159 (E.D. Pa. Mar. 16)

United States Court of Appeals:

*Migliori v. Cohen*, 36 F.4th 153 (3d Cir. 2022)

United States Supreme Court:

*Ritter v. Migliori*, 142 S. Ct. 1824 (2022)

RETRIEVED FROM DEMOCRACYDOCKET.COM

**TABLE OF CONTENTS**

QUESTION PRESENTED.....i

RELATED PROCEEDINGS ..... ii

TABLE OF AUTHORITIES.....iv

OPINIONS BELOW .....1

JURISDICTION .....1

STATUTORY PROVISIONS INVOLVED.....1

REASONS FOR GRANTING THE PETITION.....2

CONCLUSION .....2

RETRIEVED FROM DEMOCRACYDOCKET.COM

**TABLE OF AUTHORITIES**

28 U.S.C. § 1254(1) ..... 1  
52 U.S.C. § 10101(a)(2)(B) ..... 1

RETRIEVED FROM DEMOCRACYDOCKET.COM

## OPINIONS BELOW

The Third Circuit's opinion is reported at 36 F.4th 153 and is reproduced at App. 1-26 of the Petition for Certiorari filed on behalf of David Ritter. The Eastern District of Pennsylvania's opinion is reported at 397 F.Supp.3d 126 and is reproduced at App. 32-67 of the Petition for Certiorari filed on behalf of David Ritter.

## JURISDICTION

The Third Circuit issued its decision on May 27, 2022. This Court has jurisdiction under 28 U.S.C. § 1254(1).

## STATUTORY PROVISIONS INVOLVED

The materiality provision of the Civil Rights Act of 1964 states:

No person acting under color of law . . . deny the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election.

52 U.S.C. § 10101(a)(2)(B).

**REASONS FOR GRANTING THE PETITION**

Petitioner adopts in full the argument set forth in the petition submitted on behalf of David Ritter.

**CONCLUSION**

The Court should grant the petition.

Respectfully submitted,

LUCAS J. REPKA

*Counsel of Record*

LEHIGH COUNTY

DEPARTMENT OF LAW

17 South 7th Street, Room 440

Allentown, PA 18101

(610) 782-3180

Lucas@repkamazinlaw.com

*Counsel for Respondent*

*Lehigh County Board of Elections*

August 10, 2022