

No. 25-962

IN THE
Supreme Court of the United States

REPUBLICAN NATIONAL COMMITTEE, ET AL.,
Petitioners,

v.

BETTE EAKIN, ET AL.,
Respondents.

**On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Third Circuit**

**BRIEF OF PERRY COUNTY BOARD OF
ELECTIONS AND FRANKLIN COUNTY
BOARD OF ELECTIONS IN RESPONSE TO
PETITION FOR A WRIT OF CERTIORARI**

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DISCUSSION

Respondent Bette Eakin, a resident of Erie County, Pennsylvania, filed a lawsuit against all 67 Pennsylvania county boards of elections because her mail-in ballot was rejected by the Erie County Board of Elections during the 2022 general election. This rejection was based on Eakin's failure to comply with an envelope-dating requirement imposed by Pennsylvania statute. Despite the inclusion of all 67 Pennsylvania county boards of elections as defendants, at its core, this matter is a legal dispute between the Democratic Senatorial Campaign Committee and the Republican National Committee. In the background, this matter also represents a legal dispute between the Pennsylvania Department of State and the Pennsylvania Attorney General's Office. Although Respondents Perry County Board of Elections and Franklin County Board of Elections are named as defendant-appellants, their involvement is solely on the fringes of this litigation.

At the county level, a board of elections simply counts the votes that it legally is required to count and, inversely, does not count the votes that it legally is prohibited from counting. If the relevant law changes, or judicial interpretation of existing laws changes, the county-level board of elections will adjust its protocols accordingly. This mechanical application of the law is where the interest of the Perry County Board of Elections and Franklin County Board of Elections ends. What the election law should be – and whether the desired law is constitutional – is beyond the purview of these entities. Accordingly, during the district court proceedings, neither the Perry County

Board of Elections nor Franklin County Board of Elections played an active role in this litigation.

On March 31, 2025, the district court entered an order holding that the envelope-dating requirement at issue is unconstitutional. The RNC appealed from the district court's order granting summary judgment, but no county election board joined in the appeal. On the contrary, on April 28, 2025, the Perry County Board of Elections and Franklin County Board of Elections notified the Third Circuit Court of Appeals that they did not intend to participate in the appeal. At oral argument, counsel for the RNC and the Pennsylvania Attorney General's Office argued on behalf of the appellant-defendants, while counsel for the DSCC and the Pennsylvania Department of State argued on behalf of the appellee-plaintiffs. Again, no county board of elections substantively participated in oral argument. Ultimately, the Third Circuit Court of Appeals affirmed the district court's order without any input from either the Perry County Board of Elections or the Franklin County Board of Elections.

Given the limited involvement of the Perry County Board of Elections and Franklin County Board of Elections, in conjunction with the unique procedural posture and identity of parties participating in this case, these Respondents respectfully take no position on whether this Honorable Court should grant certiorari.

CONCLUSION

Respondents Perry County Board of Elections and Franklin County Board of Elections take no position as to the appropriate disposition of the petition for a writ of certiorari.

Respectfully submitted,

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