



Written by [Luis Miguel](#) on November 29, 2020

## PA Supreme Court Dismisses GOP Case Against Unconstitutional Mail-in Ballot Law

The Pennsylvania Supreme Court on Saturday night dismissed a case brought by Representative Mike Kelly (R-Penn.) and a group of Republican voters seeking to halt further certification of the state's votes and overturn a law from last year creating no-excuse mail-in voting.

Pennsylvania certified Joe Biden as the winner of the state's presidential contest on Tuesday, but Judge Patricia McCullough on the next day ordered the state to stop its certification "to the extent that there remains any further action to perfect the certification."



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Last year, Pennsylvania passed universal mail-in voting with Act 77; Kelly sought to have that law overturned and have all mail-in votes in the 2020 election deemed illegal.

"As a remedy, Petitioners sought to invalidate the ballots of the millions of Pennsylvania voters who utilized the mail-in voting procedures established by Act 77 and count only those ballots that Petitioners deem to be 'legal votes,'" read the [opinion](#) for the Pennsylvania Supreme Court.

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The court added that petitioners should have challenged the law when it was first passed in 2019, rather than waiting until the election was over a year later.

"Petitioners filed this facial challenge to the mail-in voting statutory provisions more than one year after the enactment of Act 77. At the time this action was filed on November 21, 2020, millions of Pennsylvania voters had already expressed their will in both the June 2020 Primary Election and the November 2020 General Election and the final ballots in the 2020 General Election were being tallied, with the results becoming seemingly apparent," the opinion asserts.

The court continued:

Nevertheless, Petitioners waited to commence this litigation until days before the county boards of election were required to certify the election results to the Secretary of the Commonwealth. Thus, it is beyond cavil that Petitioners failed to act with due diligence in presenting the instant claim. Equally clear is the substantial prejudice arising from Petitioners' failure to institute promptly a facial challenge to the mail-in voting statutory scheme, as such inaction would result in the disenfranchisement of millions of Pennsylvania voters.

On Twitter, Pennsylvania Attorney General Josh Shapiro celebrated the case's dismissal, calling it "another win for democracy."



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□BREAKING: We just notched another win for democracy.

The PA Supreme Court has dismissed the suit that was attempting to throw out the votes of 2.5 million Pennsylvanians and halt certification. <https://t.co/qyMHSNwVbA>

— Josh Shapiro (@JoshShapiroPA) [November 28, 2020](#)

This case was separate from the Trump campaign's lawsuit in the state, which itself experienced a seeming setback after the 3rd U.S. Circuit Court of Appeals in Philadelphia ruled Friday that "The campaign's claims have no merit." The campaign has vowed to take its case to the U.S. Supreme Court.

"Free, fair elections are the lifeblood of our democracy. Charges of unfairness are serious. But calling an election unfair does not make it so. Charges require specific allegations and then proof. We have neither here," Judge Stephanos Bibas, a former law-school professor, wrote in his ruling.

"The activist judicial machinery in Pennsylvania continues to cover up the allegations of massive fraud. We are very thankful to have had the opportunity to present proof and the facts to the PA state legislature. On to SCOTUS!" tweeted Jenna Ellis, President Trump's attorney and campaign advisor.

The Trump campaign has the option of asking for emergency injunctive relief from the Supreme Court, which would go to Justice Samuel Alito, who would then likely ask his eight colleagues to weigh in.

Attorneys for the Trump campaign have focused on absentee ballots in which voters identified themselves as "indefinitely confined," letting them cast an absentee ballot without showing a picture ID. They have also targeted ballots that have a certification envelope with two different ink colors (which indicates a poll worker may have helped complete it), as well as absentee ballots that don't have a separate written record for the request, such as in-person absentee ballots.

On Friday, Republican members of the Pennsylvania General Assembly [introduced a resolution](#) for consideration and adoption of the general body that would declare the results of the 2020 presidential election to be in dispute.

The resolution "declares that the selection of presidential electors and other statewide electoral contest results in this commonwealth is in dispute" and "urges the secretary of the commonwealth and the governor to withdraw or vacate the certification of presidential electors and to delay certification of results in other statewide electoral contests voted on at the 2020 general election."

While the courts seemingly continue to deliver unwanted news to the Trump team, it's looking increasingly likely that it will take nothing short of a U.S. Supreme Court verdict to reverse the stealing of the election.



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