

No. 20-574

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In the Supreme Court of the United States

JOSEPH B. SCARNATI, III, *ET AL.*,  
*Petitioners*

*v.*

KATHY BOOCKVAR, IN HER OFFICIAL CAPACITY AS  
SECRETARY OF PENNSYLVANIA, *ET AL.*,  
*Respondents*

ON PETITION FOR WRIT OF CERTIORARI TO  
THE SUPREME COURT OF PENNSYLVANIA

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**BRIEF IN OPPOSITION TO  
PETITION FOR CERTIORARI**

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## QUESTIONS PRESENTED

Before the 2020 Presidential election—in light of the exigencies induced by the COVID-19 pandemic and slowdowns in the operation of the United States Postal Service—the Pennsylvania Supreme Court held that the Pennsylvania Constitution required a one-time, three-day extension of the “received-by” date for mail-in ballots. Fewer than 10,000 ballots were received during those three days. Pennsylvania has since certified its presidential election results. There is no federal election in Pennsylvania whose outcome would be altered if those ballots were counted. Petitioners, the Pennsylvania Senate President Pro Tempore and the Senate Majority Leader (collectively, “Petitioners”) assert that the Pennsylvania Supreme Court’s decision violates the Elections Clause, U.S. Const. art. I, § 4, cl. 1, the Electors Clause, U.S. Const. art. II, § 1, cl. 2, and federal statutes establishing Election Day.

- I. Whether Petitioners’ claims are moot.
- II. Whether Petitioners have Article III standing to pursue their claims under the Elections and Electors Clauses.
- III. Whether the Elections and Electors Clauses forbid the Pennsylvania Supreme Court’s state law remedy for a state statute’s as-applied violation of the state constitution.
- IV. Whether the Pennsylvania Supreme Court’s remedy, which did not alter the statutory deadline for casting a ballot, violated federal statutes establishing a uniform federal Election Day.

## PARTIES TO THE PROCEEDING

Petitioners are Joseph B. Scarnati III, Pennsylvania Senate President Pro Tempore, and Jake Corman, Senate Majority Leader (collectively Petitioners).<sup>1</sup> Respondent is the Secretary of the Commonwealth, Kathy Boockvar. Also respondents, but separately represented, are all 67 Pennsylvania County Boards of Elections and the Pennsylvania Democratic Party.

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<sup>1</sup> Bryan Cutler, Speaker of the Pennsylvania House of Representatives, and Kerry Benninghoff, Majority Leader of the Pennsylvania House of Representatives, joined the petition and purport to be parties to this action. As detailed *infra*, they are not parties.



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### STATEMENT OF THE CASE<sup>2</sup>

#### **A. Mail-in Voting under the Pennsylvania Election Code**

On October 31, 2019, Governor Wolf signed Act 77 of 2019, P.L. 552 (Act 77) into law, allowing, for the first time, no-excuse mail-in voting for all qualified voters. 25 P.S. § 3150.11. Voters had until October 27, 2020, to request a ballot for this year's November 3<sup>rd</sup> General Election. 25 P.S. § 3150.12a(a). Act 77 set 8:00 p.m. on Election Day as the due date for returning those ballots to the county boards of elections. 25 P.S. § 3150.16. The Election Code provides for a variety of safeguards to ensure the integrity of this process. *See* 25 P.S. § 3146.8(g)(3); 25 P.S. § 3146.2c 25 P.S. § 3146.8(g)(4); 25 P.S. § 3150.12b(a)(2).

#### **B. Letter from the United States Postal Service**

On July 29, 2020, Thomas J. Marshall, General Counsel for the USPS, mailed a letter to Secretary

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<sup>2</sup> All citations to the record reference the appendix in *Republican Party of Pennsylvania v. Boockvar*, No. 20-542 (filed Oct. 23, 2020).

Boockvar stating that, based on the USPS’s expected delivery times during the General Election, “there is a significant risk that \* \* \* ballots may be requested in a manner that is consistent with [Pennsylvania’s] election rules and returned promptly, and yet not be returned in time to be counted.” USPS Letter at 2.<sup>3</sup> Critically, the letter explained that Pennsylvania’s election law “deadlines for requesting and casting mail-in ballots are incongruous with the USPS’s delivery standards.” *Id.* at 1. “This mismatch creates a risk that ballots requested near the deadline under state law would not be returned by mail in time to be counted under your laws as we understand them.” *Ibid.*<sup>4</sup>

**C. *Pennsylvania Democratic Party v. Kathy Boockvar*, 238 A.3d 345 (Pa. 2020)**

The Pennsylvania Democratic Party and several Democratic candidates (collectively the Democratic Party) originally filed suit in the Commonwealth Court of Pennsylvania against Secretary Boockvar and the 67 County Boards raising challenges to the mail-in ballot process. Relevant here, the Democratic Party argued that, in light of the current COVID-19 pandemic and the delays in mail delivery, the due date for receipt of mail-in ballots violated the Pennsylvania Constitution’s Free and Equal Elections Clause. PA. CONST., art.

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<sup>3</sup> See Attachment 1.

<sup>4</sup> See also, *Commonwealth of Pennsylvania v. DeJoy*, CV 20-4096, 2020 WL 5763553, at \*43 (E.D. Pa. Sept. 28, 2020) (finding that the Commonwealth’s “administration of the upcoming election has been and will continue to be frustrated as a result of mail delays”).



I, § 5.<sup>5</sup> Pennsylvania’s primaries demonstrated that the unexpected number of requests for mail-in ballots and the COVID-19 pandemic strained some election boards’ timely receipt and processing of mail-in and absentee ballots. Appx. 29a-30a; 48a-49a.<sup>6</sup>

The Democratic Party sought an injunction to allow any ballot postmarked by election night to be counted if received by the boards by November 10—seven days after the election. Petitioners intervened and opposed any extension.

The Secretary asked the Pennsylvania Supreme Court to exercise extraordinary jurisdiction over the matter.<sup>7</sup> Although the Secretary initially opposed any

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<sup>5</sup> The Free and Equal Elections Clause provides that “[e]lections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right to suffrage.” PA. CONST. art. I, § 5. This provision “guarantees, to the greatest degree possible, a voter’s right to equal participation in the electoral process for the selection of his or her representatives in government.” *League of Women Voters v. Commonwealth*, 178 A.3d 737, 804 (Pa. 2018).

<sup>6</sup> During the 2020 primaries, the election boards of Delaware and Bucks counties had such a difficult time that they sought, and received, a seven-day extension of the date for the return of mail-in ballots from the county courts. Appx. 29a-30a. Governor Wolf, pursuant to the Emergency Management Services Code, 35 Pa.C.S. § 7301(c), extended the received-by date for six additional counties during the primary through executive order. *Ibid.*

<sup>7</sup> The Pennsylvania Supreme Court may assume, at its discretion, plenary jurisdiction over any matter of immediate public importance that is pending before another court of the Commonwealth. See 42 Pa.C.S. § 726. See e.g., *League of Women Voters*, 178 A.3d at 766–67. This power arises, not only from statute, but from

extension, the Secretary recognized that a three-day extension of the mail-in ballot receipt date was necessary following the USPS's acknowledgment that its capabilities conflicted with Pennsylvania's election deadlines.

Given the unprecedented circumstances and “the near-certain delays that will occur in Boards processing the mail-in applications,” Appx. 46-47a, the Pennsylvania Supreme Court, pursuant to, *inter alia*, the Free and Equal Elections Clause of the Pennsylvania Constitution, exercised its “broad authority to craft meaningful remedies when required.” Appx. 47a (quoting *League of Women Voters*, 178 A.3d at 822). Despite requests for a greater extension, the Pennsylvania Supreme Court exercised that authority to extend the ballot receipt due date by three days, until November 6, 2020 at 5:00 p.m. Appx. 49a (Opinion). Thus, “rather than allowing the chaos to brew, creating voter confusion regarding whether extensions will be granted, for how long, and in what counties[,]” the Pennsylvania Supreme Court acted well in advance of Election Day in order to bring clarity to the mail-in ballot process. Appx. 47a-48a. The Pennsylvania Supreme Court did not extend the deadline for voters to cast a ballot.

The Pennsylvania Supreme Court also instructed that ballots received without a legible postmark would be presumed to have been mailed by Election Day un-

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the Pennsylvania Supreme Court's constitutionally granted “supreme judicial power.” PA. CONST. art. V, § 2(a); 42 Pa.C.S. § 501. This power is used “sparingly” and only for matters requiring immediate resolution. *See In re Bruno*, 101 A.3d 635, 676 (Pa. 2014).

less a preponderance of the evidence demonstrates otherwise. Appx. 48a n.26. This holding “require[d] that all votes be cast by Election Day but [did] not disenfranchise a voter based upon the absence or illegibility of a USPS postmark that is beyond the control of the voter once she places her ballot in the USPS delivery system.” Appx. 36 n.20.

Thereafter, Petitioners and the Republican Party of Pennsylvania asked the Pennsylvania Supreme Court to stay its order pending appeal to this Court. The Pennsylvania Supreme Court denied those requests, prompting the current petition. This Court also denied a stay, and subsequently, denied a motion for expedited consideration.

#### **D. 2020 General Election**

On November 3, 2020, the Commonwealth conducted the 2020 General Election. Over 6.9 million Pennsylvanians voted in that election, with 2,628,599 of those voters using mail-in or absentee ballots. Counties reported only 9,428 ballots were received within the three-day extension at issue, and only 669 of those lacked a legible postmark. There is no dispute that these ballots are insufficient to affect the outcome of any federal race.<sup>8</sup> The presidential election results

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<sup>8</sup> There was no United States Senate race in Pennsylvania’s General Election. And no United States Congressional race was decided by less than 12,000 votes in any district. *See* Pa. Department of State, <https://www.electionreturns.pa.gov/General/OfficeResults?OfficeID=11&ElectionID=undefined&ElectionType=undefined&IsActive=undefined> (last visited 11/25/2020).

were certified, and Governor Wolf signed the Certificate of Ascertainment, on November 24, 2020.<sup>9</sup>

### REASONS FOR DENYING THE WRIT

The Petition for Writ of Certiorari adopts whole cloth the arguments for certiorari by the Republican Party of Pennsylvania in *Republican Party of Pennsylvania v. Boockvar*, No. 20-542 (filed Oct. 23, 2020). Pet. at 5. And like the petitioner in that case, Petitioners ask this Court to hold that the Elections and Electors Clauses immunize state legislatures from the state constitutional systems that create them and define their lawful powers. To reach that result, Petitioners further ask the Court to overrule one of its own recent precedents. This would be a breathtaking request under any circumstance. But it is especially unjustified here, for a bevy of independently sufficient reasons. As the Secretary sets forth in her opposition to the petition filed in No. 20-542, this entire case is moot. Petitioners' constitutional claims are not implicated here and lack merit. And Petitioner's statutory arguments rest upon clear legal error and seek nothing more than fact-bound error correction of a decision that is immaterial to the outcome of the election.

For the efficiency of the Court, the Secretary will not repeat the elements of her opposition to the petition for certiorari filed in No. 20-542, which she incorporates by reference here. Instead, the Secretary focuses on the only unique aspect of this petition, which provides yet another independent ground for dismissal: Petitioners' lack of standing to pursue their claims.

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<sup>9</sup> See Attachments 2 and 3.

## **I. Petitioners Lack Standing to Bring a Claim under the Elections and Electors Clauses.**

The jurisdiction of the federal judiciary is confined to “Cases” and “Controversies.” U.S. Const. art. III, § 2. To comply with Article III, a party cannot rely upon a mere “generalized grievance” shared “generally with the public at large in the proper application of the Constitution and laws.” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 573 (1992). They must instead prove that they have suffered a concrete and particularized injury. *See Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1548 (2016).

Petitioners cannot make that showing as to their Elections and Electors Clause claims. Petitioners do not assert they have been “singled out for specially unfavorable treatment as opposed to other members” of the General Assembly. *Raines v. Byrd*, 521 U.S. 811, 821 (1997). Instead, they claim that the Pennsylvania Supreme Court “diminish[ed] and usurp[ed] the rights” that the Constitution “vests in the Pennsylvania General Assembly” under the Elections and Electors Clauses, Pet. at 7, and thereby “diminish[ed] . . . their authority under the United States Constitution,” *id.* at 8. But any such injury would inure to the General Assembly as a body, not to any individual legislator. *See Virginia House of Delegates v. Bethune-Hill*, \_\_ U.S. \_\_, 139 S.Ct. 1945, 1953 (2019) (“individual members lack standing to assert the institutional interests of a legislature”); *Raines*, 521 U.S. at 821 (six congressional members who challenged Line Item Veto Act as permitting the president to usurp congressional power lacked standing because that injury “necessarily damage[d]” all members “equally”). Accordingly, as individual members of the state legislature, Petitioners do not

have a sufficient stake in the dispute to confer standing. *Id.* at 830.

Petitioners reliance on *Arizona State Legislature v. Arizona Ind. Redistricting Comm’n*, 576 U.S. 787, 799-800 (2015) (*AIRC*) in an effort establish standing is misplaced. While Petitioners purport to represent the majority caucus in the Pennsylvania Senate, they do not assert that the Senate authorized them to pursue this action. More importantly, “a single House of a bicameral legislature lacks capacity to assert interests belonging to the legislature as whole.” *Bethune-Hill* at 1953-54. Absent authorization from both the Senate and the House of Representatives, Petitioners cannot seek to “vindicate the alleged usurpation of the General Assembly’s rights under the Elections and Electors Clause.” *Bognet v. Sec’y Commonwealth of Pennsylvania*, No. 20-3214, 2020 WL 6686120, at \*7 (3d Cir. Nov. 13, 2020) (Smith, C.J.); see *AIRC*, 576 U.S. at 802 (Arizona Legislature commenced action “after authorizing votes in both of its chambers) (emphasis added); see generally *Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534, 544 (1986) (“Generally speaking, members of collegial bodies do not have standing to perfect an appeal the body itself has declined to take”); see also *Raines*, 521 U.S. at 829 (holding that individual congresspersons lacked standing where they had “not been authorized to represent their respective Houses of Congress”).

Further, Petitioners’ status as leaders of the majority caucus does not bring this case within the limited ambit of *Coleman v. Miller*, 307 U.S. 433 (1933). As the *Raines* Court explained, “*Coleman* stands (at most . . .) for the proposition that legislators whose votes would

have been sufficient to defeat (or enact) a specific legislative Act have standing to sue if that legislative action goes into effect (or does not go into effect), on the ground that their votes have been completely nullified.” *Raines*, 521 U.S. at 823. In other words, the legislators in *Coleman* had standing because “a bill they voted for would have become law if their vote had not been stripped of its validity” by the claimed illegal tie-breaking vote cast by the lieutenant governor. *Id.* at 824 n.7. *Coleman* does nothing to confer standing on individual legislators who, like Petitioners here, seek redress for a claimed “institutional injury (the diminution of legislative power).” *Id.* at 821.

Because Petitioners have not suffered any injury-in-fact as individual senators and the Pennsylvania General Assembly did not authorize them to act on its behalf, Petitioners lack standing to pursue this appeal.

## **II. Messrs. Cutler and Benninghoff Lack Standing to Appeal Any Order Beyond the Denial of Their Motion to Intervene.**

Messrs. Cutler and Benninghoff lack standing “to seek review of the question[s] presented in the petition for certiorari” because they were not parties below and do not challenge the Pennsylvania Supreme Court’s denial of their motion to intervene. *Izumi Seimitsu Kogyo Kabushiki Kaisha v. U.S. Philips Corp.*, 510 U.S. 27, 34

(1993) (citing 28 U.S.C. § 1254) (dismissing writ of certiorari as improvidently granted); see also Pet. at i-ii (Questions Presented).<sup>10</sup>

But even if Messrs. Cutler and Benninghoff had been parties below, the standing analysis that warrants dismissal of the petition would be no different. Like the Petitioners (their colleagues in the Senate) Messrs. Cutler and Benninghoff have not been authorized to bring suit on behalf of Pennsylvania’s House of Representatives. Indeed, in their motion to intervene before the Pennsylvania Supreme Court, Messrs. Cutler and Benninghoff asserted only their purported right to intervene as individual legislators. *Pa. Democratic Party v. Boockvar*, 133 MM 2020 (Pa.), Memo of Law in Support of Petition to Intervene at 12-13 (9/8/2020). Accordingly, they do not have standing to pursue claims under the Elections and Elector Clause either alone or in concert with the Petitioners.

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<sup>10</sup> Messrs. Cutler and Benninghoff claim the Pennsylvania Supreme Court “wrongly and inexplicably denied [their] motion to intervene,” speculating that the denial was “possibly” done “in an effort to evade this Court’s jurisdiction.” Pet. at 10. But unlike Petitioners, who timely filed a motion to intervene, Messrs. Cutler and Benninghoff did not file their motion until “close to [the] deadline for supplemental filings.” Appx.13a, n.11. The Pennsylvania Supreme Court acted well within its discretion in denying their untimely filing in light of the “adequate advocacy” that had already been provided to the Court and the need to resolve the case expeditiously. *Ibid.* And the court in fact denied a motion to intervene filed by the Leader for the Senate Democratic Caucus the day before the House Leaders’ filed their motion for the same reasons. *Ibid.* This belies their baseless assertion that the Pennsylvania Supreme Court engaged in a “procedural sleight of hand” when it denied their application to intervene. Pet. at 5-6.



**CONCLUSION**

For the reasons set forth above and in the Secretary's opposition to the petition for certiorari filed in No. 20-542, the Court should deny the petition for certiorari.

Respectfully submitted,

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DATE: November 30, 2020

**ATTACHMENT 1**



July 29, 2020

Honorable Kathy Boockvar  
Secretary of the Commonwealth of Pennsylvania  
302 North Capitol Building  
Harrisburg, PA 17120-0001

Dear Secretary Boockvar:

Re: Deadlines for Mailing Ballots

With the 2020 General Election rapidly approaching, this letter follows up on my letter dated May 29, 2020, which I sent to election officials throughout the country. That letter highlighted some key aspects of the Postal Service's delivery processes. The purpose of this letter is to focus specifically on the deadlines for requesting and casting ballots by mail. In particular, we wanted to note that, under our reading of Pennsylvania's election laws, certain deadlines for requesting and casting mail-in ballots are incongruous with the Postal Service's delivery standards. This mismatch creates a risk that ballots requested near the deadline under state law will not be returned by mail in time to be counted under your laws as we understand them.

As I stated in my May 29 letter, the two main classes of mail that are used for ballots are First-Class Mail and USPS Marketing Mail, the latter of which includes the Nonprofit postage rate. Voters must use First-Class Mail (or an expedited level of service) to mail their ballots and ballot requests, while state or local election officials may generally use either First-Class Mail or Marketing Mail to mail blank ballots to voters. While the specific transit times for either class of mail cannot be guaranteed, and depend on factors such as a given mailpiece's place of origin and destination, most domestic First-Class Mail is delivered 2-5 days after it is received by the Postal Service, and most domestic Marketing Mail is delivered 3-10 days after it is received.

To account for these delivery standards and to allow for contingencies (e.g., weather issues or unforeseen events), the Postal Service strongly recommends adhering to the following timeframe when using the mail to transmit ballots to domestic voters:

- **Ballot requests:** Where voters will both receive and send a ballot by mail, voters should submit their ballot request early enough so that it is received by their election officials at least 15 days before Election Day at a minimum, and preferably long before that time.
- **Mailing blank ballots to voters:** In responding to a ballot request, election officials should consider that the ballot needs to be in the hands of the voter so that he or she has adequate time to complete it and put it back in the mail stream so that it can be processed and delivered by the applicable deadline. Accordingly, the Postal Service recommends that election officials use First-Class Mail to transmit blank ballots and allow 1 week for delivery to voters. Using Marketing Mail will result in slower delivery times and will increase the risk that voters will not receive their ballots in time to return them by mail.

- **Mailing completed ballots to election officials:** To allow enough time for ballots to be returned to election officials, domestic voters should generally mail their completed ballots at least one week before the state's due date. So, if state law requires ballots to be returned by Election Day, voters should mail their ballots no later than Tuesday, October 27.

Under our reading of your state's election laws, as in effect on July 27, 2020, certain state-law requirements and deadlines appear to be incompatible with the Postal Service's delivery standards and the recommended timeframe noted above. As a result, to the extent that the mail is used to transmit ballots to and from voters, there is a significant risk that, at least in certain circumstances, ballots may be requested in a manner that is consistent with your election rules and returned promptly, and yet not be returned in time to be counted.

Specifically, it appears that a completed ballot must be received by Election Day to be counted. If that understanding is correct, we accordingly recommend, as noted above, that voters who choose to mail their ballots do so no later than Tuesday, October 27. However, it further appears that state law generally permits voters to request a ballot as late as 7 days before the November general election. If a voter submits a request at or near that deadline, and the ballot is transmitted to the voter by mail, there is a significant risk that the voter will not have sufficient time to complete and mail the completed ballot back to election officials in time for it to arrive by the state's return deadline. That risk is exacerbated by the fact that the law does not appear to require election officials to transmit a ballot until 48 hours after receiving a ballot application.

To be clear, the Postal Service is not purporting to definitively interpret the requirements of your state's election laws, and also is not recommending that such laws be changed to accommodate the Postal Service's delivery standards. By the same token, however, the Postal Service cannot adjust its delivery standards to accommodate the requirements of state election law. For this reason, the Postal Service asks that election officials keep the Postal Service's delivery standards and recommendations in mind when making decisions as to the appropriate means used to send a piece of Election Mail to voters, and when informing voters how to successfully participate in an election where they choose to use the mail. It is particularly important that voters be made aware of the transit times for mail (including mail-in ballots) so that they can make informed decisions about whether and when to (1) request a mail-in ballot, and (2) mail a completed ballot back to election officials.

We remain committed to sustaining the mail as a secure, efficient, and effective means to allow citizens to participate in the electoral process when election officials determine to utilize the mail as a part of their election system. Ensuring that you have an understanding of our operational capabilities and recommended timelines, and can educate voters accordingly, is important to achieving a successful election season. Please reach out to your assigned election mail coordinator to discuss the logistics of your mailings and the services that are available as well as any questions you may have. A list of election mail coordinators may be found on our website at: <https://about.usps.com/election-mail/politicalection-mail-coordinators.pdf>.

We hope the information contained in this letter is helpful, and please let me know if you have any questions or concerns.

Sincerely,



Thomas J. Marshall

**ATTACHMENT 2**



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE

November 24, 2020

TO THE GOVERNOR:

In accordance with Section 1409 of the Pennsylvania Election Code, I do hereby certify that the attached is a true and correct copy of the returns received from the sixty-seven County Boards of Elections for the office of President of the United States for the General Election held November 3, 2020.

Witness my hand and the seal of  
my office this twenty-fourth day of  
November, 2020.



A handwritten signature in cursive script that reads "Kathy Boockvar".

Kathy Boockvar  
Secretary of the Commonwealth

## President of the United States

COUNTY	JOSEPH R BIDEN DEMOCRATIC	DONALD J TRUMP REPUBLICAN	JO JORGENSEN LIBERTARIAN
ADAMS	18,207	37,523	810
ALLEGHENY	429,065	282,324	8,344
ARMSTRONG	8,457	27,489	424
BEAVER	38,122	54,759	1,241
BEDFORD	4,367	23,025	182
BERKS	92,895	109,736	2,909
BLAIR	17,636	45,306	653
BRADFORD	8,046	21,600	513
BUCKS	204,712	187,367	4,155
BUTLER	37,508	74,359	1,438
CAMBRIA	21,730	48,085	759
CAMERON	634	1,771	29
CARBON	11,212	21,984	433
CENTRE	40,055	36,372	1,066
CHESTER	182,372	128,565	3,565
CLARION	4,678	14,578	237
CLEARFIELD	9,673	29,203	546
CLINTON	5,502	11,902	221
COLUMBIA	10,532	20,098	541
CRAWFORD	12,924	28,559	521
CUMBERLAND	62,245	77,212	2,138
DAUPHIN	78,983	66,408	1,977
DELAWARE	206,423	118,532	2,976
ELK	4,522	12,140	244
ERIE	68,286	66,869	1,928
FAYETTE	20,444	41,227	468
FOREST	728	1,882	36
FRANKLIN	22,422	57,245	1,116
FULTON	1,085	6,824	68
GREENE	4,911	12,579	179
HUNTINGDON	5,445	17,061	286
INDIANA	12,634	28,089	475
JEFFERSON	4,527	17,960	337
JUNIATA	2,253	9,649	141
LACKAWANNA	61,991	52,334	1,085
LANCASTER	115,847	160,209	4,183
LAWRENCE	15,978	29,597	501
LEBANON	23,932	46,731	989
LEHIGH	98,288	84,259	2,166
LUZERNE	64,873	86,929	1,519
LYCOMING	16,971	41,462	821
MCKEAN	5,098	14,083	285
MERCER	21,067	36,143	744
MIFFLIN	4,603	16,670	229
MONROE	44,060	38,726	1,043
MONTGOMERY	319,511	185,460	5,186
MONTOUR	3,771	5,844	156
NORTHAMPTON	85,087	83,854	2,001
NORTHUMBERLAND	12,677	28,952	654
PERRY	5,950	18,293	409
PHILADELPHIA	603,790	132,740	4,847
PIKE	13,019	19,213	322

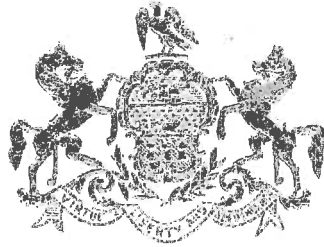
## President of the United States

COUNTY	JOSEPH R BIDEN DEMOCRATIC	DONALD J TRUMP REPUBLICAN	JO JORGENSEN LIBERTARIAN
POTTER	1,726	7,239	99
SCHUYLKILL	20,727	48,871	1,005
SNYDER	4,910	13,983	247
SOMERSET	8,654	31,466	423
SULLIVAN	921	2,619	55
SUSQUEHANNA	6,236	15,207	309
TIOGA	4,955	15,742	378
UNION	7,475	12,356	284
VENANGO	7,585	18,569	374
WARREN	6,066	14,237	347
WASHINGTON	45,088	72,080	1,310
WAYNE	9,191	18,637	261
WESTMORELAND	72,129	130,218	2,350
WYOMING	4,704	9,936	218
YORK	88,114	146,733	3,624
<b>PENNSYLVANIA</b>	<b>3,458,229</b>	<b>3,377,674</b>	<b>79,380</b>



**ATTACHMENT 3**

# Commonwealth of Pennsylvania



## Governor's Office

### CERTIFICATE OF ASCERTAINMENT OF PRESIDENTIAL ELECTORS

IN THE NAME AND BY THE AUTHORITY OF THE  
COMMONWEALTH OF PENNSYLVANIA

Pursuant to the Laws of the United States, I, Tom Wolf, Governor of the Commonwealth of Pennsylvania, do hereby certify that in accordance with the provisions of the Pennsylvania Election Code, Act of June 3, 1937 (P.L. 1333, No. 320), the Secretary of the Commonwealth, on receiving and computing the returns of the election of Presidential Electors, shall lay them before the Governor, who shall enumerate and ascertain the number of votes given for each person so voted for, and shall cause a certificate of election to be delivered to each person so chosen. It appears from the returns so laid before me by the Secretary of the Commonwealth, that at an election for that purpose held on the Tuesday next following the first Monday in November, being the third day of November, A.D. 2020, the votes given for each person so voted for were:

Nina Ahmad	3,458,229	Jordan Harris	3,458,229
Val Arkoosh	3,458,229	Malcolm Kenyatta	3,458,229
Cindy Bass	3,458,229	Gerald Lawrence	3,458,229
Rick Bloomingdale	3,458,229	Clifford Levine	3,458,229
Ryan Boyer	3,458,229	Virginia McGregor	3,458,229
Paige Gebhardt Cognetti	3,458,229	Nancy Mills	3,458,229
Daisy Cruz	3,458,229	Marian Moskowitz	3,458,229
Kathy Dahlkemper	3,458,229	Josh Shapiro	3,458,229
Janet Diaz	3,458,229	Sharif Street	3,458,229
Charles Hadley	3,458,229	Connie Williams	3,458,229

as Presidential Electors for Joseph R. Biden for President and Kamala D. Harris for Vice President of the United States;

Bob Asher	3,377,674	Ash Khare	3,377,674
Bill Bachenberg	3,377,674	Thomas Marino	3,377,674
Lou Barletta	3,377,674	Lisa Patton	3,377,674
Ted Christian	3,377,674	Pat Poprik	3,377,674
Ted Coccodrilli	3,377,674	Andy Reilly	3,377,674
Bernadette Comfort	3,377,674	Lance Stange	3,377,674
Sam DeMarco	3,377,674	Lawrence Tabas	3,377,674
Marcela Diaz-Myers	3,377,674	Christine Toretta	3,377,674
Josephine Ferro	3,377,674	Calvin Tucker	3,377,674
Robert Gleason	3,377,674	Carolyn "Bunny" Welsh	3,377,674

as Presidential Electors for Donald J. Trump for President and Michael R. Pence for Vice President of the United States;

Kyle Burton	79,380	Paul V. Nicotera	79,380
Henry William Conoly	79,380	Paul Rizzo	79,380
Daniel A. Cooper	79,380	Richard Schwartzman	79,380
Thomas H. Eckman	79,380	William Martin Sloane	79,380
Greg Faust	79,380	Kathleen S. Smith	79,380
Kevin Gaughen	79,380	Jake Towne	79,380
Willie J. Harmon	79,380	Glenn J. Tuttle	79,380
Ken V. Krawchuk	79,380	Stephen Wahrhaftig	79,380
Brandon M. Magoon	79,380	John M. Waldenberger	79,380
Roy A. Minet	79,380	Daniel S. Wassmer	79,380

as Presidential Electors for Jo Jorgenson for President and Jeremy Spike Cohen for Vice President of the United States;

WHEREUPON it appears by the final ascertainment, under and in pursuance of the laws of the United States of America and of this Commonwealth, of the number of votes given or cast for each and all qualified persons voted for, for whose election or appointment any votes have been given or cast, that

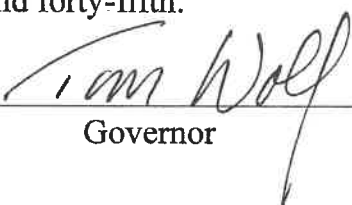
Nina Ahmad	Jordan Harris
Val Arkoosh	Malcolm Kenyatta
Cindy Bass	Gerald Lawrence
Rick Bloomingdale	Clifford Levine
Ryan Boyer	Virginia McGregor
Paige Gebhardt Cognetti	Nancy Mills
Daisy Cruz	Marian Moskowitz
Kathy Dahlkemper	Josh Shapiro
Janet Diaz	Sharif Street
Charles Hadley	Connie Williams

have received the greatest number of votes for Electors of President and Vice President of the United States for the Commonwealth of Pennsylvania, and therefore are the persons duly elected and appointed Electors of President and Vice President of the United States, to meet at the seat of Government of this Commonwealth (being in the city of Harrisburg) on the first Monday after the second Wednesday in December next following their appointment, being the fourteenth day of December, A.D. 2020, agreeably to the laws of this Commonwealth and of the United States, then and there to vote for President and Vice President of the United States for the respective terms prescribed by the Constitution of the United States, to begin on the twentieth day of January, A.D. 2021, and to perform such other duties as devolve upon them under the Constitution and Laws of the United States.

GIVEN under my hand and the Great Seal of the State, at the City of Harrisburg, this twenty-fourth day of November in the year of our Lord two thousand and twenty, and of the Commonwealth the two hundred and forty-fifth.



Attest:

  
Governor

  
Secretary of the Commonwealth