

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA  
CIVIL DIVISION

COVER SHEET

Plaintiff(s) Nicole Zicarelli	
	Case Number : GD - 20 - 11654
Vs	Type of pleading : Petition - Civil Appeal Board of Elections
	Code and Classification : _____
Defendant(s) Allegheny County Board of Elections	Filed on behalf of Nicole Zicarelli
	(Name of the filing party)
	<input checked="" type="checkbox"/> Counsel of Record <input type="checkbox"/> Individual, If Pro Se
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	Attorney's State ID : 85072
	Attorney's Firm ID : _____

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY**

*IN RE: 2,349 Ballots in the 2020 General Election.*

No. \_\_\_\_\_

**ORDER FOR HEARING**

AND NOW, this 12<sup>th</sup> day of November, 202, upon consideration of the Petition For Review In The Nature Of A Statutory Appeal filed by Nicole Zicarelli, it is hereby ORDERED that a hearing is scheduled for the \_\_\_\_\_ day of November, 2020, at \_\_\_\_\_ o'clock \_\_.m., in Courtroom \_\_\_ of the Allegheny County Court of Common Pleas.

\_\_\_\_\_, J.

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY**

*IN RE: 2,349 Ballots in the 2020 General Election.*

No. \_\_\_\_\_

**ORDER**

AND NOW, this 12<sup>th</sup> day of November, 202, upon consideration of the Petition For Review In The Nature Of A Statutory Appeal filed by Nicole Zicarelli, and any responses thereto, the Allegheny County Board of Elections is hereby ORDERED to set aside the 2,349 mail-in ballots containing undated, or otherwise incomplete voter declaration that to the extent any such mail-in ballots have been canvassed, or tabulated, the Allegheny County Board of Elections is FURTHER ORDERED to subtract any votes recorded on said mail-in ballots from the total.

\_\_\_\_\_, J.

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY**

*IN RE: 2,349 Ballots in the 2020 General Election.*

No. \_\_\_\_\_

**PETITION FOR REVIEW IN THE NATURE OF A STATUTORY APPEAL**

Nicole Zicarelli, candidate for the Senate of Pennsylvania from the 45<sup>th</sup> Senatorial District, hereby appeals from the decision of the Allegheny County Board of Elections (the “Board”) directing the acceptance, canvassing, and computation of certain mail-in ballots containing undated voter declarations, and in support thereof, avers as follows:

**INTRODUCTION**

1. This appeal concerns the authority of the Board of Electors to unilaterally alter the statutory criteria governing the casting of ballots via mail for the November 3, 2020 General Election.

**JURISDICTION AND VENUE**

2. The Court has jurisdiction over this statutory appeal and venue is proper in this Court pursuant to Section 3157 of the Election Code. *See* 25 P.S. § 3157(a).

**PARTIES**

3. Petitioner Nicole Zicarelli is the Republican candidate for Senate from the 45<sup>th</sup> Senatorial District, which encompasses parts of Allegheny and Westmoreland Counties.

4. The Board is a local governmental agency generally responsible for overseeing the conduct of all elections in Allegheny County, including, *inter alia*, the pre-canvass and canvass of absentee and mail-in votes. *See id.* at § 2642 (detailing the powers and duties of the county boards of elections); *see also* City of Pittsburgh Charter, Art. X, § 1.10-1006.

#### **DETERMINATION SOUGHT TO BE REVIEWED**

5. Zicarelli appeals from the Board’s decision to canvass 2,349 defective mail-in ballots.

#### **FACTS AND PROCEDURAL BACKGROUND**

6. On October 31, 2019, Governor Tom Wolf signed Act 77 into law, which, among other things, authorized widespread mail-in voting in Pennsylvania, whereby any registered voter could apply for a mail-in ballot and vote by submitting the same to the appropriate county board of elections.

7. The individual county boards of electors must begin processing ballots fifty days prior to the date of an election (*i.e.*, September 14, 2020 for the 2020 General Election). *See* 25 P.S. § 3150.12a.

8. Indeed, in Allegheny County, by September 25, 2020, the Board had delivered over 70,000 mail-in ballots.<sup>1</sup>

9. Concomitantly, the mail-in voting statutory regime established certain safeguards to ensure the integrity of the electoral process.

10. Specifically—and of particular relevance to this matter—Section 3150.16(a) imposes the following requirements:

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<sup>1</sup> <https://pittsburgh.cbslocal.com/2020/09/24/allegheny-county-mail-in-ballots/>