

**UNITED STATES COURT OF APPEALS FOR THE
THIRD CIRCUIT**

BETTE EAKIN, *et al.*,

Plaintiffs-Appellees,

v.

ADAMS COUNTY BOARD OF ELECTIONS, *et al.*,

Defendants-Appellees,

REPUBLICAN NATIONAL COMMITTEE, *et al.*,

Intervenors-Appellants.

On Appeal from the United States District Court for the
Western District of Pennsylvania, Case No. 1:22-cv-340

**MOTION FOR LEAVE TO FILE AMICUS BRIEF OF THE
PENNSYLVANIA DEPARTMENT OF STATE AND SECRETARY
OF THE COMMONWEALTH AL SCHMIDT**

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June 4, 2025

The Pennsylvania Department of State and Secretary of the Commonwealth Al Schmidt seek leave to file the attached amicus brief.¹

The Department of State is Pennsylvania's state-level executive agency responsible for administering elections in the Commonwealth. 71 P.S. § 273. The Department of State is led by the Secretary of the Commonwealth, who is Pennsylvania's Chief Election Official and the foremost authority on Pennsylvania's elections.

The Secretary and the Department have a strong interest in ensuring that all Pennsylvanians qualified to vote are permitted to exercise their right to do so.

Among other obligations, the Secretary is required to prescribe the form of the declaration that appears on mail-ballot envelopes, and all

¹ Counsel for amici contacted each represented party to this appeal for their position on this filing. Adams, Allegheny, Bedford, Berks, Bucks, Chester, Clarion, Crawford, Delaware, Erie, Franklin, Greene, Lackawanna, Lehigh, Luzerne, Montgomery, Perry, Philadelphia, Potter, Susquehanna, Tioga, Washington, and York Counties do not oppose. Nor do the Pennsylvania Attorney General, the Republican Committee parties, or the Democrat Committee parties.

The following represented counties did not respond to a request for their position: Cambria, Cumberland, Juniata, Lancaster, Lycoming, McKean, Schuylkill, Sullivan, Warren, Westmoreland, and Wyoming.

No party opposed the filing of this amicus brief.

counties are required to use that declaration. *See* 25 P.S. §§ 3146.4, 3150.14(b). Similarly, the Secretary has broad authority to prescribe the form of the return envelope that carries the declaration, as well as the form of the enclosed instructions. *See id.* §§ 3146.4, 3150.14(b) & (c). The Secretary has used this authority to redesign mail ballot materials to reduce the frequency of inadvertent voter errors, including dating errors.

As the Commonwealth's top election official, the Secretary has a unique understanding of Pennsylvania's election administration and a unique statewide perspective on how elections are conducted in Pennsylvania. The Department and Secretary's brief will provide this Court with a historical explanation of what the declaration date at the center of this appeal was meant to do, explain why that date no longer serves any purpose, and answer why, therefore, there is no interest in rejecting timely ballots from qualified voters based on declaration-date errors. The Department and Secretary's brief will also explain why requiring election officials to review declaration dates undermines the sound administration of Pennsylvania's elections.

These issues are relevant to this Court's resolution of appeal, which will involve weighing the purported interests in rejecting timely received

mail ballots from qualified voters because of declaration-date errors against the burdens imposed by enforcing that ballot-rejection rule.

CONCLUSION

For the above reasons, the Court should grant this motion to file the attached amicus brief.

June 4, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Jacob B. Boyer, hereby certify that a copy of this document has been served on all counsel of record using the Court's CM/ECF system.

June 4, 2025

/s Jacob B. Boyer

Jacob B. Boyer

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