

**[J-96-2020]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**MIDDLE DISTRICT**

PENNSYLVANIA DEMOCRATIC PARTY, : No. 133 MM 2020  
NILOFER NINA AHMAD, DANILO :  
BURGOS, AUSTIN DAVIS, DWIGHT : Emergency Applications to Stay  
EVANS, ISABELLA FITZGERALD, :  
EDWARD GAINEY, MANUEL M. GUZMAN, :  
JR., JORDAN A. HARRIS, ARTHUR :  
HAYWOOD, MALCOLM KENYATTA, :  
PATTY H. KIM, STEPHEN KINSEY, PETER :  
SCHWEYER, SHARIF STREET, AND :  
ANTHONY H. WILLIAMS :

v. :

KATHY BOOCKVAR, IN HER CAPACITY :  
AS SECRETARY OF THE :  
COMMONWEALTH OF PENNSYLVANIA; :  
ADAMS COUNTY BOARD OF ELECTIONS; :  
ALLEGHENY COUNTY BOARD OF :  
ELECTIONS; ARMSTRONG COUNTY :  
BOARD OF ELECTIONS; BEAVER :  
COUNTY BOARD OF ELECTIONS; :  
BEDFORD COUNTY BOARD OF :  
ELECTIONS; BERKS COUNTY BOARD OF :  
ELECTIONS; BLAIR COUNTY BOARD OF :  
ELECTIONS; BRADFORD COUNTY :  
BOARD OF ELECTIONS; BUCKS COUNTY :  
BOARD OF ELECTIONS; BUTLER :  
COUNTY BOARD OF ELECTIONS; :  
CAMBRIA COUNTY BOARD OF :  
ELECTIONS; CAMERON COUNTY BOARD :  
OF ELECTIONS; CARBON COUNTY :  
BOARD OF ELECTIONS; CENTRE :  
COUNTY BOARD OF ELECTIONS; :  
CHESTER COUNTY BOARD OF :  
ELECTIONS; CLARION COUNTY BOARD :  
OF ELECTIONS; CLEARFIELD COUNTY :  
BOARD OF ELECTIONS; CLINTON :  
COUNTY BOARD OF ELECTIONS; :  
COLUMBIA COUNTY BOARD OF :

ELECTIONS; CRAWFORD COUNTY :  
BOARD OF ELECTIONS; CUMBERLAND :  
COUNTY BOARD OF ELECTIONS; :  
DAUPHIN COUNTY BOARD OF :  
ELECTIONS; DELAWARE COUNTY :  
BOARD OF ELECTIONS; ELK COUNTY :  
BOARD OF ELECTIONS; ERIE COUNTY :  
BOARD OF ELECTIONS; FAYETTE :  
COUNTY BOARD OF ELECTIONS; :  
FOREST COUNTY BOARD OF :  
ELECTIONS; FRANKLIN COUNTY BOARD :  
OF ELECTIONS; FULTON COUNTY :  
BOARD OF ELECTIONS; GREENE :  
COUNTY BOARD OF ELECTIONS; :  
HUNTINGDON COUNTY BOARD OF :  
ELECTIONS; INDIANA COUNTY BOARD :  
OF ELECTIONS; JEFFERSON COUNTY :  
BOARD OF ELECTIONS; JUNIATA :  
COUNTY BOARD OF ELECTIONS; :  
LACKAWANNA COUNTY BOARD OF :  
ELECTIONS; LANCASTER COUNTY :  
BOARD OF ELECTIONS; LAWRENCE :  
COUNTY BOARD OF ELECTIONS; :  
LEBANON COUNTY BOARD OF :  
ELECTIONS; LEHIGH COUNTY BOARD :  
OF ELECTIONS; LUZERNE COUNTY :  
BOARD OF ELECTIONS; LYCOMING :  
COUNTY BOARD OF ELECTIONS; :  
MCKEAN COUNTY BOARD OF :  
ELECTIONS; MERCER COUNTY BOARD :  
OF ELECTIONS; MIFFLIN COUNTY :  
BOARD OF ELECTIONS; MONROE :  
COUNTY BOARD OF ELECTIONS; :  
MONTGOMERY COUNTY BOARD OF :  
ELECTIONS; MONTOUR COUNTY BOARD :  
OF ELECTIONS; NORTHAMPTON :  
COUNTY BOARD OF ELECTIONS; :  
NORTHUMBERLAND COUNTY BOARD OF :  
ELECTIONS; PERRY COUNTY BOARD OF :  
ELECTIONS; PHILADELPHIA COUNTY :  
BOARD OF ELECTIONS; PIKE COUNTY :  
BOARD OF ELECTIONS; POTTER :  
COUNTY BOARD OF ELECTIONS; :  
SCHUYLKILL COUNTY BOARD OF :  
ELECTIONS; SNYDER COUNTY BOARD :  
OF ELECTIONS; SOMERSET COUNTY :



November 6, 2020, even those lacking a postmark or bearing an illegible postmark, would be counted. *Id.* at \*37. Without further explanation, the majority qualified that such ballots “will be presumed to have been mailed by Election Day unless a preponderance of the evidence demonstrates that it was mailed after Election Day.” *Id.* The Republican Party of Pennsylvania Intervenors argue that virtually no evidence exists to overcome such a presumption, and “the Court’s presumption opens the door to illegally and untimely cast or mailed ballots being counted in, and tainting the results of, the imminent general election in which millions of Pennsylvanians will exercise their right to vote.” Republican Party of Pennsylvania Application for Partial Stay at 4.

Intervenors assert that there is a substantial likelihood that they will be successful on the merits of the stay application and writ of certiorari to be filed in the United States Supreme Court. Citing to *Republican Nat’l Comm. v. Democratic Nat’l Comm.*, 140 S. Ct. 1205 (2020), Intervenors note that the United States Supreme Court stayed a Wisconsin Supreme Court judgment and held that “[e]xtending the date by which ballots may be cast by voters after the scheduled election day fundamentally alters the nature of the election.” *Id.* at 1207. It is reasonable that the United States Supreme Court may view this Court’s presumption regarding ballots lacking a postmark or bearing an illegible postmark in the same light. As a result, I would grant a stay to preserve the public confidence in the integrity of the upcoming election.