

No. 20-574

IN THE
Supreme Court of the United States

JOSEPH B. SCARNATI, III., *et al.*
Petitioners
v.

PENNSYLVANIA DEMOCRATIC PARTY ET AL. *et al.*
Respondents

On Petition for Certiorari from the Pennsylvania
Supreme Court

***Amicus Curiae* Brief of White House Watch
Fund a project of United States Public Policy
Council *et al.*, for Petitioners**

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¹ *Amici* reviewed every precedent in the Federal Judiciary system mentioning “electoral college.” The choice of precedents relied upon is driven by limited, relevant cases.

INTRODUCTORY STATEMENT:

This brief supports the Petition for a Writ of Certiorari and the substantive requests for relief of THE Petitioners and proposed intervenor, Donald J. Trump for President, Inc. (the principal, official, election campaign committee for the re-election of President Donald J. Trump and Vice President Mike Pence), of candidate for re-election President Donald J. Trump, of Pennsylvania voter (termed an “elector” in Pennsylvania law) Lawrence Roberts, and of Pennsylvania voter David John Henry.

Pursuant to Rule 37.3 of the Rules of the Supreme Court, the parties who have given consent are identified in the motion for leave to file.

INTEREST OF AMICI CURIAE

The White House Watch Fund (WHWF) (formerly White House Defense Fund) is a project of the United States Public Policy Council, a non-profit, public policy organization recognized under Section 501(c)(4) of the IRS code. WHWF monitors and provides information and analysis on public policy proposals or changes by the White House.

WHWF is associated with the Freedom Center Foundation, recognized under Section 501(c)3 of the IRS Tax Code and which has helped pay for expenses associated with the filing of this brief.

Much of the programmatic work of WHWF involved defense against attacks on the White House as an institution. WHWF has over 300,000

active, recent supporters from every state in the union and all Congressional Districts.

WHWF delivered a quarter of a million petitions in a presentation at the House of Representatives on September 23, 2020 concerning Speaker of the House Nancy Pelosi's and House Intelligence Committee Chairman Adam Schiff's dishonesty and malfeasance in the impeachment of the President.

WHWF is especially interested to see that the Constitution is followed in federal elections, especially where it states that only the Congress determines the date of voting, and only the state legislatures determine the details of that voting, such as what time polls close and when late ballots are not to be counted.

In its past work defending the White House against dishonest partisan attacks, WHWF's supporters were alarmed and concerned that no future election in our nation will be trusted if governing laws can be so massively and readily ignored now.

The Conservative Christian Center (CCC) is a project of United States Public Policy Council, with active clubs in York County and Cumberland County. Its central mission is to increase the number of voters from the church-going, faith communities and to increase their interest and influence on public policy questions. They have for eight years published a twice annual Value Voters Guide, in general elections and for primary elections, showing the candidate's response to ten

public policy questions, to enable faith voters to cast an informed vote based upon the issues of interest to them and the position that candidates take on those issues.

Americans for a Conservative Agenda (ACA) (formerly Americans for the Trump Agenda), also a project of United States Public Policy Council, has been supportive during the four years of the Trump Administration of the programs and policies proposed or enacted by President Donald Trump and wishes to have its views represented to the Court through this brief.

Former Representative Will Tallman, on behalf of himself and the GOP majority in both chambers of the Pennsylvania State Legislature, has a fundamental interest in defending the unique prerogatives specifically enumerated in the Constitution regarding the election of a President and the method by which the Electoral College votes are allocated, and wishes to have his views considered by the Court before it renders a decision on this matter.

2020 GOP National Convention Delegates Ronald Wilcox and William E. Saracino, not residents of Pennsylvania, wish to be listed as Amicus because of their interest in helping President Donald Trump and their interest in upholding the Constitution.

Citizens who reside in South Central Pennsylvania, and who do hereby associate with Conservative Christian Center and join as Amicus, include:

Mark Anthony Andrusyszyn, Andrew W. Barbin, Dr. Sherri Chippo, Ph.D., Ross Cleveland, Carter Clews, Michael Ebersole, Mario Eckert, Donna Ellingsen, Julie Haertsch, Donna Hake, Ethan Hake, Col. Frank Hancock, US Army (Ret.), Maxine Kauffman, Robert Kettering, Laszlo Pasztor, Jr., Donna L. Ricupero, and Cynthia A Voggenreiter are residents and voters of Pennsylvania who wish to make sure that their votes in elections such as the 2020 contest for President, are not diminished or reduced by disparate treatment of votes cast in liberal-Democrat controlled cities in Pennsylvania, such as Philadelphia versus the more accurate and strict treatment of the handling of votes, in accordance with the rules approved by the state legislature in accordance with the United States Constitution and they pray that the Court will consider their views as Amicus as stated in this brief.

Thomas C. Bivona, Dr. Daniel A. Brubaker, Ph.D., Richard Buck, Dr. Roger Canfield, Ph.D., Gerald R. Geddes, Gary Giordano, Lt. Col. Dennis Gillem, US Army (Ret.), Sant Gupta, Owen Jones, Jim Logue, Greg Penglis, Kevin E. Peterson, Dr. John J. Sainsbury, Ph.D. are residents of other states who have an interest in the Constitutional issues raised in this brief because the same issues may affect the outcome of their elections in their respective states about who will be leading this country for the next four years, and who thus wish to have their views considered by the Court as Amicus as stated in this brief.

SUMMARY OF ARGUMENT

Amici Curiae (hereafter “Amici”) propose to assist the Court by presenting a different and deeper conceptual analysis of the matter presented by the Petitioners (who will be presumably Appellants) of the relationship of Article II, Section 1, of the U.S. Constitution (the "Elector Clause") and state action. The Elector Clause governs the selection of electors to the Electoral College who vote for the President and the vice President. The language could not be more clear, "Each State shall appoint, **in such manner as the Legislature thereof may direct**, a number of electors, equal to the whole of number of Senators and Representatives to which the State may be entitled in the Congress...."*[emphasis added]*. The Elector Clause expressly delegates federal power to the state legislatures to direct the selection of electors.

In this case, the legislature of the Commonwealth of Pennsylvania established a process for the acceptance of votes by mail mandating that to be counted, the ballot must be received by the date established by Congress as election day. On September 17, 2020, without any legislative approval, the Supreme Court of Pennsylvania decided to change the date by which an eligible vote must be received to be counted.

The Elector Clause in Article II, Section 1, delegated federal authority to the legislature of the Commonwealth of Pennsylvania, but not to the Supreme Court of Pennsylvania. Only to the legislature of Pennsylvania. During the election, Pennsylvania election officials accepted and

counted ballots that were ineligible under the statutory law enacted by the Pennsylvania legislature but purportedly authorized by the Pennsylvania Supreme Court.

As a result, any votes certified by the Commonwealth of Pennsylvania for the election of electors to the Electoral College are void as long as it contains ineligible ballots received after the date set by the United States Congress as election day, as mandated by the Pennsylvania legislature under the Elector Clause.

Because Pennsylvania apparently counted the valid ballots received by the statutory deadline set by the Pennsylvania legislature, even if the actual ballots were not necessarily preserved, it appears possible to redress this violation by excluding from the voting tabulations ballots received after the statutory deadline.

Also, wisely or unwisely, the state legislature did not establish for the purpose of elections for U.S. President a procedure for the correction of defectively completed or submitted absentee ballots.

Whereas 3 U.S.C. § 1, sets one and only one uniform nationwide day for the election, Pennsylvania's legislature provided for limited ability to vote by mail under precise conditions and requirements. Since November 3, 2020, was the date of the election set by federal statute in 3 U.S.C. § 1, voting by absentee ballot is the exception, not the default.

We recall Justice Amy Coney Barrett in her confirmation hearing saying that she rejected the courts substituting their own ideas for those of the legislature and saying that as a Justice she cannot impose “the law of Amy.” However tempting it might be to let absentee voters correct their defective ballots, doing so is incompatible with Article II, Section 1 of the U.S. Constitution. Indeed, the concept of voting remotely by mail is incompatible with a voter coming to the election office to correct a ballot in person.

ARGUMENT

In Act 77, the Pennsylvania legislature authorized mail-in ballots to be counted only if **received** by the election day established by the United States Congress. In a questionable exercise of judicial authority, the Pennsylvania Supreme Court usurped the power of the Pennsylvania legislature and decreed that ballots would be counted if received within seven days **after** the date established by Congress as election day as long as they were postmarked by election day. The Pennsylvania Supreme Court reasoned that the COVID epidemic amounted to a natural disaster that somehow authorized it to extend the received by deadline for mail-in ballots. *Pennsylvania Democratic Party v. Kathy Boockvar*, Case no. 133 MM 2020 (September 17, 2020) [Slip Op. 35].

I. FEDERAL POWER DELEGATED TO STATE LEGISLATURES

A. The Election for President and Vice President is a Federal Function under Federal Constitutional Authority.

As authorized by the United States Constitution, Congress established election day in **3 U.S.C. § 1**, specifically the Tuesday next after the first Monday in November in every fourth year.

In 2020, November 3 was the day Congress established, not the entire month of November, not November 10. One day. Only One day.

Congress established the date of the election, but the Constitution delegated **federal** authority to each state legislature to direct the manner of selection of the electors to the Electoral College, which, by congressional enactment, meets on the first Monday after the second Wednesday in December following their appointment. 3 U.S.C § 7. Accordingly, the Electoral College is scheduled to meet on December 14, 2020.

This Court should make clear once and forever that the selection of the United States President is exclusively and unalterably a **federal** function arising exclusively from the United States Constitution and is not an exercise of state government authority.

If this important detail is not clarified, we fear

that future United states elections will devolve into chaos and corruption.

The United States elects its President and Vice President through the Electoral College, which is a body of electors appointed by each state in proportion to its representation in the Senate and the House of Representatives. Article II, §1, of the United States Constitution and the Twelfth Amendment. The candidate that receives a majority of those electors' votes wins the presidency. See *id.* Amend. XII, cl. 1. *Lyman v. Baker*, 954 F.3d 351, 354-355 (1st Cir. 2020)

“The presidential electors exercise a **federal function** in balloting for president and vice president but they are not federal officers or agents any more than the state elector who votes for congressmen. They act by authority of the state that in turn receives its authority from the federal constitution.” *Ray v. Blair*, 343 U.S. 214, 224-225, 72 S.Ct. 654, 96 L.Ed. 894 (1952)

In *Bush v. Palm Beach County Canvassing Bd.*, 531 U.S. 70 (2000) this Court made the matter unmistakably clear. Although the Court would normally defer to a state court's interpretation of the state statute,

But in the case of a law enacted by a state legislature applicable not only to elections to state offices, but also to the selection of presidential electors, the legislature is not acting solely under the authority given it by the people of the state, but by virtue of a direct grant of authority made under

Art. II, § 1, cl. 2, of the United States Constitution.

Similarly,

And although presidential electors are not federal officials, they exercise a federal function. See *Ray v. Blair*, 343 U.S. 214, 224, 72 S.Ct. 654, 96 L.Ed. 894 (1952) ("The presidential electors exercise a federal function in balloting for President and Vice-President but they are not federal officers or agents any more than the state elector who votes for congressmen.").

Baca v. Colo. Dep't of State, 935 F.3d 887, 907 (10th Cir. 2019).

Fitzgerald v. Green, 10 S.Ct. 586, 134 U.S. 377, 33 L.Ed. 951 (1890), also may appear to be to the contrary, but is distinguishable. It was argued that the State could not prosecute crimes of fraudulent voting because the selection of electors to the Electoral College is a federal function. But in *Fitzgerald*, the U.S. Supreme Court argued that the Electoral College is “no more” of a federal function than the state legislature appointing a U.S. Senator.

Arguably, both are federal functions. To say that choosing a U.S. President is “no more” a federal function than choosing a U.S. Senator is not really making a distinction useful to us here now -- except that Senators are no longer chosen by state

legislatures. See, U.S. Constitution, Seventeenth Amendment.

**B. The Plain Text of the Elector Clause
Delegated Federal Authority to the
State Legislature and to No Other
State Body or Official**

1. Exclusive Federal Authority Delegation

In *Democratic Nat'l Comm. v. Wis. State Legislature*, 20A66, this Court declined to take up the full case but denied the application to vacate a stay that had issued by the Court of Appeals of a District Court's change to Wisconsin's election rules. In his concurring opinion in footnote 1, Justice Kavanaugh addressed precisely the situation in this case:

[U]nder the U. S. Constitution, the state courts do not have a blank check to rewrite state election laws for federal elections. Article II expressly provides that the rules for Presidential elections are established by the States "in such Manner as the Legislature thereof may direct." §1, cl. 2 (emphasis added). The text of Article II means that "the clearly expressed intent of the legislature must prevail" and that a state court may not depart from the state election code enacted by the legislature. *Bush v. Gore*, 531 U. S. 98, 120 (2000) (Rehnquist, C. J., concurring) ...

In a case involving the 2020 election, the Eighth Circuit Court of Appeals decided a remarkably

similar case. In *James Carson, Eric Lucero v. Steve Simon, et al*, Record No. 20-3139, U.S. Court of Appeals For the Eighth Circuit (October 29, 2020)), the Minnesota Alliance for Retired Persons Education give fund had sued the Minnesota Secretary of State and entered into a consent decree purporting to change rules established by the Minnesota legislature by which the Secretary would count as the ballots received up to a week after election date, notwithstanding Minnesota law. Candidates for Electoral College filed an action in the District Court to enjoin the consent decree. The District Denied the injunction. On appeal, the Eighth Circuit reversed finding that the electors are likely to succeed on the merits because the Secretary's action in altering the deadline for mail-in ballots likely violated the Electors Clause of Article II, Section 1 of the United States Constitution. The Court reasoned that the Electors Clause that the power to determine the manner of selecting electors in the legislature of each state. [Slip op. at 11-12.]

As long ago as 1879 in *Pherson v. Blacker*, 146 U.S. 1, 27, 13 S.Ct. 3, 36 L.Ed. 869 (1892) , this Court recognized that the Constitution leaves the selection of Electoral College electors to the state legislatures exclusively. In *Pherson*, the legislature of the state of Michigan had established that the electors to the Electoral College would be chosen by popular election. Several potential electors insisted that the legislature as a body politic had the obligation to choose the electors. Confirming that the state legislature was the sole authority in determining how electors would be chosen, the state legislature had every right to establish that it

would be by popular election.

Arizona State Legislature v. Arizona Independent Redistricting Commission, 576 U.S. 787 (2015). is not to the contrary. In the Arizona case, this Court approved of the Arizona citizens exercising legislative authority under the Arizona Constitution through citizen initiative, stating that the initiative process qualified as part of the authority of the legislature under Article II, Section 1.

Each state has three branches of government: legislative, executive, and judicial. In the Arizona case, the Arizona Constitution authorized legislative authority to be exercised by initiative petition. In the present case, the Pennsylvania judicial branch does not have and cannot properly exercise legislative authority the United States Constitution delegated to the Pennsylvania legislature.

There is another substantial difference between the Arizona case in the present case: The Arizona redistricting of congressional and legislative districts within Arizona did not change the rules or procedures for choosing electors to the Electoral College. The lines drawn for each congressional district every ten years are not an alteration of rules or procedures of how a state chooses its electors.

2. No State Government Official or Agency May Redesign Elections for President.

The plain text of the United States Constitution's Elector Clause delegates federal authority to the state legislatures alone the duty to determine that manner of choosing Electors of the Electoral College. The text of the Elector Clause implicitly and necessarily excludes any role for any other State government officials, authorities, or agencies in the process of setting the rules and procedures for electing the President.

To the extent that they alter, re-interpret, waive, modify, suspend, or rewrite the procedures, rules, laws, rights, and/or obligations for choosing the electors previously established by the state legislature, all of the following state actions are null and void because they fall outside the delegated federal authority: -

- A State Governor's decisions, orders, guidance, interpretations, or instructions.
- A State Secretary of State's decisions, orders, guidance, interpretations, or instructions from.
- Decisions, orders, guidance, interpretations, or instructions from a State, County, local, precinct, or district election official.
- Consent orders entered or approved by any court.
- Decisions, orders, injunctions, or interpretations from a State, County, or local court.

Furthermore,

- Ballots received that fail to conform to law

enacted by the state legislature in its federally delegated power are void without discretion or decision.

- Ballots received after the deadlines established by the state legislature under its federally delegated power might potentially be accepted as votes for State or local offices, ***but not for the selection of electors for the President, which is fundamentally and Constitutionally distinct.***
- Ballots for the election of President received after the deadline established by the state legislature acting under federally delegated power are null and void and may not be considered.
- Modifications to ballot signature requirements established by the state legislature acting under federally delegated power are null and void with regard to the election of the President.
- Modifications to absentee ballot witness requirements are void for to the election of the President if the modifications depart from the legislature's federally delegated enactment.
- Ballots that do not comply with the state legislature's pre-existing statutory law enacted under its federally delegated power for selection of electors for the Electoral College in presidential elections are void.

The state legislatures act exclusively under delegated federal authority and do not act simply as creatures of their respective states when they

direct manner of selecting electors under the Elector Clause.

The Pennsylvania Supreme Court excused its changing of the date and process for determining eligible mail in votes because of the pandemic. A failure to plan is not an emergency.

3. The United States Constitution Has No Pandemic Exception

The Pennsylvania Supreme Court had no authority to revise the manner of selection of electors established by the Pennsylvania legislature under its federally delegated power.

In his concurring opinion denying the motion to stay in Democratic *Nat'l Comm.*, *supra*, Justice Kavanaugh made it clear that there is no pandemic exception in the United States Constitution. [Slip Op. at 12.]

Each State legislature has been fully aware of circumstances possibly arguing for modifications of their statutes since the President of the United States issued a National Public Health Emergency on January 31, 2020,² followed by a March 13, 2020, more standard declaration of a National

2 “Secretary Azar Declares Public Health Emergency for United States for 2019 Novel Coronavirus,” Press Office, U.S. Department of Health and Human Services, January 31, 2020, <https://www.hhs.gov/about/news/2020/01/31/secretary-azar-declares-public-health-emergency-us-2019-novel-coronavirus.html>

Emergency.³ Similarly, all voters had extensive knowledge of concerns about the impact of the pandemic on the election. It is difficult to conjure up by speculation a scenario in which a voter worried about voting in person would need to or have a right to mail an absentee ballot at the last minute, so that it arrived days late, after the statutory deadline. Might someone do so? Yes. Does the law provide a “right” to vote late? No. The national discussion from March 2020 constantly debated these concerns. No one was taken by surprise that the election was on November 3, 2020, and that the volume of mailed-in ballots would be enormous. Waiting until the last minute might be human, but there exists no legal right to vote late.⁴

In summary, the Pennsylvania Supreme Court usurped federal power delegated to the Pennsylvania legislature, resulting in many ineligible votes being cast in the selection for Elector of the Electoral College. The unfortunate result is that the Secretary of State certification of the results of the Pennsylvania election for the President and Vice President is invalid and void.

3 Charlie Savage, “Trump Declared an Emergency Over Coronavirus.,” *The New York Times*, March 13, 2020, <https://www.nytimes.com/2020/03/13/us/politics/coronavirus-national-emergency.html>

4 Charlie Savage, “Trump Declared an Emergency Over Coronavirus.,” *The New York Times*, March 13, 2020, <https://www.nytimes.com/2020/03/13/us/politics/coronavirus-national-emergency.html>

II. REMEDIES AVAILABLE TO THE PENNSYLVANIA LEGISLATURE

A. The Statutory Deadlines

The United States Congress provided date for presidential elections in **3 U.S.C. § 1**, specifically "the Tuesday next after the first Monday in November, in every fourth year...." Accordingly, November 3, 2020, was the one and only day designated for electing a President.

3 U.S.C. § 7, Meeting and vote of electors, provides that the electors shall meet and give their votes on the first Monday after the second Wednesday in December next following their appointment...." The Electoral College is required to meet and vote on December 14, 2020.

B. Two Possible Remedies.

Amici understand that this Court may be concerned about potential disenfranchisement of voters who acted in reliance on the usurpation of power by the Pennsylvania Supreme Court. Amici see this as a political issue. The Pennsylvania voters have every right and opportunity to cast their ballots in a state election for Pennsylvania Supreme Court to express their concerns over any disenfranchisement resulting from the Pennsylvania Supreme Court's usurpation of state legislative power in violation of the United States Constitution. If restoration of the integrity of the 2020 Election results in disenfranchisement of Pennsylvania voters, it will have been the justices of the Pennsylvania Supreme Court

disenfranchised them by refusing to conform to the United States Constitution.

The Commonwealth of Pennsylvania has at least two remedies which may be exercised by its legislature. 1) the legislature may direct emergency legislation appointing electors to the Electoral College consistent with the Electors Clause and 3 U.S.C. §2 which allows the state legislature to direct the appointment of electors after election day. If the state fails to make the choice on the day prescribed by Congress; or 2) the Pennsylvania legislature may decline to certify any electors for any presidential and vice presidential candidate.

Amici are not saying that these are the only remedies possible or the best remedies, but only that there are at least two remedies available.

While the process for choosing electors cannot violate Equal Protection of the Law concerns of voters, an invalid election may require the state legislature to remedy an invalid election by making its best judgment, which may include the legislature selecting the electors to the Electoral College. Legislators selecting the electors has historical precedent in the United States.:

In *Pherson v. Blacker*, 146 U.S. 1, 13 S.Ct. 3, 36 L.Ed. 869 (1892) this Court noted that in the second presidential election this country, nine of the state legislators chose the electors to the Electoral College. In the third presidential election, nine states again appointed the electors.

In *Lyman v. Baker*, 954 F.3d 351 (1st Cir. 2020),

potential electors to the Electoral College challenged the Massachusetts statutory scheme by which the election of Electoral College electors was winner take all. Affirming the District Court's dismissal of the complaint, the Court of Appeals in footnote 7 noted that in 1800, " the Massachusetts legislature took back the appointment power from its citizens and picked the electors itself."

Justice Alito's dissent in *Ariz. v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1, 133 S.Ct. 2247, 186 L.Ed.2d 239 (2013) similarly acknowledges our history in which legislatures selected the electors to the Electoral College.

FOOTNOTE 2. As late as 1824, six State Legislatures chose Electoral College delegates, and South Carolina continued to follow this model through the 1860 election. 1 Guide to U.S. Elections 821 (6th ed. 2010). Legislatures in Florida in 1868 and Colorado in 1876 chose delegates, *id.*, at 822, and in recent memory, the Florida Legislature in 2000 convened a special session to consider how to allocate its 25 electoral votes if the winner of the popular vote was not determined in time for delegates to participate in the Electoral College, see James, *Election 2000: Florida Legislature Faces Own Disputes over Electors*, Wall Street Journal, Dec. 11, 2000, p. A16, though it ultimately took no action. See *Florida's Senate Adjourns Without Naming Electors*, Wall Street Journal, Dec. 15, 2000, p. A6.

If the Pennsylvania legislature does not otherwise act, the invalid and void certification by the Secretary of State of Pennsylvania will result in Pennsylvania's electoral votes not being counted toward the 270 electoral votes necessary for the election of the President and Vice President.

III. CONCLUSION

Amici respectfully urge this Court to grant Certiorari to clarify that the Pennsylvania Supreme Court wrongfully usurped federal power when it changed the Pennsylvania legislature's statutory rule for what constituted an eligible vote in the 2020 election. Unless the Secretary of State can demonstrate that the state segregated the mail-in ballots received after election day and that the number is less than the improperly certified margin of victory for Joseph Biden, the Pennsylvania election should be declared void and any certification a nullity.

Respectfully submitted,
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CERTIFICATE OF COMPLIANCE

I certify that this petition is formatted and printed in typeface Century Schoolbook, 12 point font size, and contains 4407 words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1(d).

/s David W. T. Carroll
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CERTIFICATE OF SERVICE

Amici, by counsel, certifies that a copy of the foregoing Motion for Leave to File Amicus Curiae Brief with the Proposed Amicus Brief attached

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Also, in compliance with Rule 29 of the Rules of the Supreme Court, an electronic copy of this Brief was also sent by electronic mail (email) on the same date in electronic / computer PDF format to all attorneys for the principal parties.

s/ David W. T. Carroll
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White house Watch Fund, a project of the United States Public Policy Council, a Virginia nonprofit corporation

Christian Center of Pennsylvania, a project of the United States Public Policy Council, a Virginia nonprofit corporation.

Americans for a Conservative Agenda, a project of the United States Public Policy Council, a Virginia corporation

Former Pennsylvania State Representative
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Ronald Wilcox, 2020 GOP National Convention
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APPENDIX

The following are attached:

1. Pennsylvania Act 77
2. Pennsylvania Democratic Party *et al.* v. Kathy Boockvar *et al.*, Supreme Court of Pennsylvania, case number 133MM 2020, 2020 WL 5554644 (September 17, 2020)
3. *James Carson, Eric Lucero v. Steve Simon, et al.*, Record No. 20-3139, U.S. Court of Appeals For the Eighth Circuit (October 29, 2020)
4. *Democratic Nat'l Comm.* v. Wisc. United States Supreme Court Case No. 20A66 (Justice Kavanaugh, concurring)