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IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION – CIVIL

BRIAN T. BAXTER and SUSAN T. : SEPTEMBER TERM, 2024
KINNIRY, :
 :
 : NO. 02481
 Petitioners, :
 :
 : ELECTION MATTER
 v. :
 :
 : Control No. 24094566
 PHILADELPHIA BOARD OF :
 ELECTIONS, :
 :
 :
 Respondent. :
 :

DOCKETED

SEP 26 2024

R. POSTELL
COMMERCE PROGRAM

ORDER

AND NOW, this 26th day of September, 2024, upon consideration of petitioners' Petition for Review in the Nature of a Statutory Appeal pursuant to 25 P.S. § 3157 from respondent's decision on September 21, 2024, not to count petitioners' and sixty-seven other registered voters' mail-in ballots in the September 17, 2024 Special Election because the date written on the outer envelope was missing or incorrect, and after a hearing on the Petition at which petitioners and respondent stipulated to the operative facts underlying their dispute, it is **ORDERED** as follows:

1. The Petition is **GRANTED** and the September 21, 2024 decision of the Philadelphia Board of Elections in which it refused to count petitioners' and the sixty-seven other registered voters' mail-in ballots is **REVERSED**:
 - a. Based on the stipulation and representations made on the record as set forth in the transcript of the hearing held on September 25, 2024, which is attached hereto as an exhibit; and

ORDER-Baxter Etal Vs Philadelphia Board Of Elections [RCP]



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Case ID: 240902481

- b. Because the refusal to count a ballot due to a voter's failure to "date . . . the declaration printed on [the outer] envelope" used to return his/her mail-in ballot, as directed in 25 P.S. §§ 3146.6(a) and 3150.16(a), violates Art. I, § 5 of the Constitution of the Commonwealth of Pennsylvania, which states that "Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage."
2. Respondent Board of Elections shall cause petitioners' and the sixty-seven other registered voters' date-disqualified mail-in ballots from the Special Election to be verified, counted if otherwise valid, and included in the results of the Special Election.

BY THE COURT:


CRUMLISH, III, J.