

Circuit Court for Montgomery County
Case No. C-15-CV-22-003258
Argued: October 7, 2022

IN THE COURT OF APPEALS

OF MARYLAND

No. 21

September Term, 2022

**IN RE: PETITION FOR EMERGENCY
REMEDY BY THE MARYLAND STATE
BOARD OF ELECTIONS**

Fader, C.J.,
Watts
Hotten
Booth
Biran
Eaves
Adkins, Sally D.
(Senior Judge, Specially Assigned)
JJ.

PER CURIAM ORDER

Filed: October 7, 2022

**IN RE: PETITION FOR EMERGENCY
REMEDY BY THE MARYLAND
STATE BOARD OF ELECTIONS**

* **IN THE**
* **COURT OF APPEALS**
* **OF MARYLAND**
* **COA-REG-0021-2022**
* **No. 21**
* **September Term, 2022**

PER CURIAM ORDER

Upon consideration of the filings by Daniel Cox, Appellant, and the Maryland State Board of Elections (the “State Board”), Appellee, and oral argument conducted in the above-captioned case on October 7, 2022,

WHEREAS, on September 2, 2022, the State Board filed in the Circuit Court for Montgomery County a Petition for Emergency Remedy by the Maryland State Board of Elections in which the State Board petitioned the circuit court pursuant to § 8-103(b)(1) of the Election Law Article of the Maryland Code for an emergency remedy permitting the early canvassing and tabulation of mail-in ballots for the 2022 Gubernatorial General Election; and

WHEREAS, on September 14, 2022, Appellant filed in the Circuit Court for Montgomery County a motion to intervene and a response in opposition to the petition and a memorandum in support thereof, and on September 16, 2022, the Circuit Court for Montgomery County granted Appellant’s Motion to Intervene; and

WHEREAS, on September 26, 2022, after a hearing, the Circuit Court for Montgomery County entered an Opinion and Order, in which the court: (1) granted the

Petition for Emergency Remedy by the State Board; and (2) ruled that it did “not find the provisions of § 8-103(b)(1) of the Election Law Article to be unconstitutional” and that “the undisputed facts of this case amount[ed] to emergency circumstances envisioned in the law”; and

WHEREAS, the Circuit Court for Montgomery County ordered the following:

that the restriction imposed by [Election Law Article (“EL”)] § 11-302(a), requiring each local board to meet “[f]ollowing an election” in order to canvass mail-in ballots was suspended from application to the 2022 Gubernatorial General Election,

that the restriction imposed by EL § 11-302(b)(1), forbidding a local board of canvassers from opening “any envelope of an absentee ballot prior to 8 a.m. on the Wednesday following election day” was suspended from application to the 2022 Gubernatorial General Election,

that all local boards of canvassers may meet and open envelopes, canvass, and tabulate mail-in ballots no earlier than 8:00 a.m. on October 1, 2022,

that the requirement imposed by EL § 11-302(e), directing each local board to “prepare and release a report of the unofficial results of the absentee ballot vote tabulation” at the end of each day of canvassing was suspended from application to the 2022 Gubernatorial General Election, and

that all local boards of election may prepare and release an unofficial report of the mail-in ballot tabulation no earlier than the closing of the polls on election day, November 8, 2022, and thereafter at the end of each day of canvassing,

and

WHEREAS, on September 27, 2022, Appellant noted an appeal to the Court of Special Appeals and sought a stay of the circuit court’s order and an expedited schedule for resolving the appeal; and

WHEREAS, on September 28, 2022, the State Board filed in this Court a Petition for Writ of Certiorari and Request for Expedited Review; and

WHEREAS, on September 29, 2022, the Court of Special Appeals issued an order denying Appellant's motion for stay; and

WHEREAS, on September 30, 2022, Appellant filed in this Court a response to the State Board's petition for writ of certiorari in which he agreed that the petition should be granted; and

WHEREAS, on September 30, 2022, this Court granted the petition for writ of certiorari and ordered expedited briefing; and

WHEREAS, on October 7, 2022, this Court held oral argument,

For reasons to be stated later in an opinion to be filed, it is this 7th day of October, 2022,

ORDERED, by the Court of Appeals of Maryland, that the Opinion and Order entered on September 26, 2022 by the Circuit Court for Montgomery County are **AFFIRMED** in all respects; and it is further

ORDERED, that costs are to be paid by Appellant and the mandate is to issue forthwith.

Pursuant to Maryland Uniform Electronic Legal Materials Act
(\$§ 10-1601 et seq. of the State Government Article) this document is authentic.



Suzanne C. Johnson, Clerk

/s/ Matthew J. Fader
Chief Judge