

[Center for Coalfield Justice v. Washington County Board of Elections](#) (2024). Judge Neuman authored the opinion.

Holding: The Court granted partial summary judgment in favor of Plaintiffs, holding that the Washington County mail-in ballot policy violated procedural due process rights under the U.S. and Pennsylvania Constitutions. The Court granted a permanent injunction ordering that the Board notify voters whose mail-in packets are segregated due to disqualifying errors and requiring that the Board to accurately reflect the status of mail-in packets in the SURE system; provide voters with the packet status upon request; and indicate in the district poll registers that individuals with segregated ballots are considered not to have “voted,” thus allowing them to vote provisionally at the polls. The Court denied the defendant’s cross-motion for summary judgment on the issue of whether the voters with disqualifying errors are entitled to cast a provisional ballot. The Court denied summary judgment on all other issues presented by both parties finding that there were genuine issues of material fact.

Analysis: *Mathews v. Eldridge balancing test.* The Court found the proper test was *Mathews v. Eldridge balancing test*, not Anderson/Burdick. The Court reasoned that the claim involved a procedural due process challenge—not a general election regulation—and required assessing the adequacy of notice and opportunity to be heard rather than balancing election burdens. Anderson/Burdick was inapplicable since the case did not center on First or Fourteenth Amendment challenges to election laws. Under the test, the Court weighed the individual voter’s right to know whether their vote would be counted; the risk of erroneous deprivation, finding it high, since no notice was given; and the government’s interest, finding it low, because the county had previously provided notice in 2023 and had systems in place to do so again. ***Distinction from Boockvar.*** The Court **rejected the Board’s reliance on *Pennsylvania Democratic Party v. Boockvar***, distinguishing that case because it did not involve procedural due process claim. ***“Cure” vs. Provisional ballot.*** The Court held that the act of submitting a **provisional ballot** does not “cure” a disqualified mail-in ballot and **does not substitute for due process protections.**

Preliminary issues: *Legislative Act Doctrine.* The Court found, the Board’s actions were adjudicative, not legislative, and therefore not protected under the Legislative Act Doctrine. The Court reasoned that the Board’s actions involved individualized decisions affecting a limited number of voters based on specific ballot errors, rather than broad, prospective rulemaking. As a result, the actions were not protected. ***Standing.*** The Court held the individual Plaintiffs had standing. As well, the Court found the non-profits had organization standing. It reasoned that the Board’s policy interfered with the organizations’ missions to promote civic engagement and provide accurate voting information. The policy diverted organizational resources away from their core initiatives and caused concrete harm, in light of the impending election. ***Ripeness/Mootness.*** The Court held that the case was ripe and not moot.

Background: The case arose after the Washington County Board implemented a new policy. The prior policy allowed defective mail-in ballots to receive notice and either cure the defect at the election office, request a replacement packet, or vote provisionally on Election Day. Under this revised approach, all mail-in ballot packets were marked in Pennsylvania’s Statewide Uniform Registry of Electors (SURE) system as “record-ballot-returned,” regardless of whether the packet

was ultimately accepted or segregated due to a disqualifying error. Voters who inquired about their ballot's status were only informed whether it had been received—not whether it was flagged for rejection. As a result, approximately 259 mail-in ballots—representing about 2% of total packets—were not counted in the election. None of the affected voters cast provisional ballots or challenged the rejection of their votes under 25 P.S. § 3157. The Plaintiffs, a group of seven individuals, the Washington NAACP, and the Center for Coalfield Justice, filed suit, asserting the policy violated due process. The parties agreed to proceed on cross-motions for summary judgment, supported by joint stipulation of facts.