

Center for Coalfield Justice v. Washington Cnty. Bd. of Elections (2024). Justice Wojcik authored opinion.

Holding: The Court affirmed the trial court's grant of permanent injunctive relief, holding that the Washington County Board of Election's (Board) policy violated due process by failing to inform voters when their mail-in ballot was disqualified, thereby depriving them of the opportunity to cast provisional ballots. The trial court found the election code guarantees such right and the policy improperly denied the right without notice or process. This Court rejected Appellants claim that the case was nonjusticiable, that *Boockvar* controlled Appellee's claims, and that the trial court improperly created a mandatory ballot cure procedure.

Analysis: The Court emphasized that voters have liberty interest protected under Pennsylvania Constitution, which guarantees the right to vote as a fundamental right. Additionally, the Election Code creates statutory right to cast provisional ballots. The Court found the Boards policy constituted adjudicatory action, not legislative policy decision, as it affected only a small number of voters, thus triggering due process protections such as notice and opportunity to be heard. The Court relied on *Genser v. Butler County Board of Election*, where it interpreted the "Having Voted Clause", the "Casting Clause" and the "Timely Received Clause" as preserving the right of voters to cast provisional ballots when their mail-in ballots are rejected. The Court found that the Election Code does not intend for provisional ballots to be effectively meaningless because a mail-in ballot failed. Thus, the Court concluded that the Board's policy violated both the Election Code and constitutional due process requirements.

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. The trial court held the Board's policy violated the Election Code and constitutional due process, granting a permanent injunction and ordering the Board to 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. This appeal followed.