

No. 22-30

In the
Supreme Court of the United States

DAVID RITTER,
Petitioner,

v.

LINDA MIGLIORI, FRANCIS J. FOX, RICHARD E.
RICHARDS, KENNETH RINGER, SERGIO RIVAS, ZAC
COHEN, AND LEHIGH COUNTY BOARD OF ELECTIONS,
Respondents.

**On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Third Circuit**

**RESPONDENT LEHIGH COUNTY BOARD OF
ELECTIONS RESPONSE IN SUPPORT OF THE
PETITION FOR WRIT OF CERTIORARI**

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August 10, 2022

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QUESTION PRESENTED

Pennsylvania requires voters to sign and date a declaration when they vote by mail. In a private lawsuit filed after a local election, the Third Circuit held that this dating requirement was preempted by the materiality provision of the Civil Rights Act of 1964, 52 U.S.C. § 10101(a)(2)(B). That decision “is very likely incorrect,” as three Justices have explained, and “could well affect the outcome of the fall elections.” *Ritter v. Migliori*, 2022 WL 2070669 (U.S. June 9), at *3, *1 (Alito, J., dissental). The Third Circuit’s decision raises uncertainly regarding its application and impact on future elections.

The question presented is:

Should this Court vacate the Third Circuit’s decision under *United States v Munsingwear, Inc.*, 3470 U.S. 36 (1950)?

RELATED PROCEEDINGS

Pennsylvania State Court:

Ritter v. Lehigh Cnty. Bd. Of Elections, 2022
WL 16577 (Commw. Ct. Jan 3)

United States District Court:

Migliori v. Lehigh County Board of Elections,
2022 WL 802159 (E.D. Pa. Mar. 16)

United States Court of Appeals:

Migiori v. Cohen, 36 F.4th 153 (3d Cir. 2022)

United States Supreme Court:

Ritter v. Migliori, 142 S. Ct. 1824 (2022)

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52 U.S.C. § 10101(a)(2)(B)	1

OPINIONS BELOW

The Third Circuit's opinion is reported at 36 F.4th 153 and is reproduced at App. 1-26 of the Petition for Certiorari filed on behalf of David Ritter. The Eastern District of Pennsylvania's opinion is reported at 397 F.Supp.3d 126 and is reproduced at App. 32-67 of the Petition for Certiorari filed on behalf of David Ritter.

JURISDICTION

The Third Circuit issued its decision on May 27, 2022. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

The materiality provision of the Civil Rights Act of 1964 states:

No person acting under color of law . . . deny the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election.

52 U.S.C. § 10101(a)(2)(B).

REASONS FOR GRANTING THE PETITION

Petitioner adopts in full the argument set forth in the petition submitted on behalf of David Ritter.

CONCLUSION

The Court should grant the petition.

Respectfully submitted,

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