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New Lawsuit Seeks to Ensure Pennsylvania Voters Can Obtain Ballots in Face of High Volume, Mail Delays

HARRISBURG, Penn. – During the Commonwealth’s primary election this past summer, as election officials worked to fulfill an overwhelming number of mail ballot requests due to the Covid-19 pandemic, many Pennsylvania voters did not receive their previously-requested mail or absentee ballot in time to cast it. Fair Elections Center and Hogan Lovells today filed a complaint in the Commonwealth Court of Pennsylvania on behalf of a Pennsylvania voter who in June was disenfranchised when she was forced to choose between her health (and that of her aged mother) and her right to have her voice heard. She wishes to avoid that same fate this November, as the Covid-19 pandemic continues.

Though many voters successfully voted by mail this past June, the absence of a failsafe for late-delivered or non-arriving ballots left thousands of Pennsylvania voters forced to choose between their health and their right to vote, including the plaintiff, Jacquelyn Cramer, 72, a registered voter in Allegheny County. In May, she applied for a ballot for the primary election held on June 2, 2020 but did not receive the ballot she requested. Ms. Cramer drove to her polling place to see whether she could safely vote in person, but due to overcrowding, she quickly realized it would be unsafe for her to vote in person because of the danger of contracting Covid-19. In addition to protecting her own health, Ms. Cramer also lives with and cares for her 94-year-old mother and cannot risk transmitting Covid-19 to her.

The lawsuit seeks to ensure that voters who have not received their timely-requested ballots and who cannot vote in person due to the risk of contracting or transmitting Covid-19 have a failsafe option so that they can still receive their ballots in time to vote, including:

- Requiring the Commonwealth to electronically deliver replacement absentee and mail ballots to voters who timely requested them but did not receive them in time to vote.

- Authorizing voters to use a downloadable write-in ballot if their requested ballots do not arrive on time.
- Permitting a voter to designate a person to pick up their previously requested but undelivered ballot in the week before the election.

“This lawsuit is about protecting the fundamental right to vote guaranteed by the Pennsylvania Constitution, and providing a failsafe option to ensure no Pennsylvania voter has to choose between their health and their fundamental right to vote,” said Fair Elections Center Senior Counsel Michelle Kanter Cohen. “We’re looking to ensure that, in this era of the Covid-19 pandemic, every eligible voter has access to a ballot, and they can safely vote.”

“The continued threat posed by Covid-19, and expected delays in the delivery of election mail that both the U.S. Postal Service and Pennsylvania have warned about, make it essential that eligible voters have alternatives for obtaining expedited delivery of ballots if their mail-in or absentee ballots do not arrive on time,” said Hogan Lovells Senior Associate Jasmeet Ahuja.

Read the complaint at: <https://bit.ly/3bmxFOS>

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Fair Elections Center is a national nonpartisan and non-profit voting rights and election reform organization based in Washington, DC whose mission is to use litigation, public education, and advocacy to remove barriers to registration and voting, and to improve election administration.