

COURT OF APPEALS OF MARYLAND

In re: Petition for Emergency Remedy by the Maryland State Board of Elections

No. 21, September Term, 2022; COA-REG-0021-2022 · No. No. 21, September Term, 2022; COA-REG-0021-2022 · Decided October 7, 2022

SUMMARY

The Court of Appeals of Maryland affirmed the Circuit Court for Montgomery County's order granting the Maryland State Board of Elections an emergency remedy to permit the early canvassing and tabulation of mail-in ballots for the 2022 Gubernatorial General Election. The court also affirmed the suspension of specified statutory restrictions governing the timing of canvassing, opening ballot envelopes, and releasing unofficial results, and ordered costs against the appellant.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Per Curiam; Fader, C.J.; Watts; Hotten; Booth; Biran; Eaves; Adkins; Sally D. Adkins, Senior Judge, Specially Assigned
JURISDICTION	Maryland
DECIDED	October 7, 2022
DOCKET	No. 21, September Term, 2022; COA-REG-0021-2022
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Circuit Court for Montgomery County concerning an emergency petition to permit early canvassing and tabulation of mail-in ballots for the 2022 Gubernatorial General Election. The Court of Appeals granted the State Board's petition for a writ of certiorari and affirmed the circuit court's order.
PRECEDENTIAL VALUE	Published per curiam order
PARTIES	Daniel Cox v. Maryland State Board of Elections

TOPICS

[election administration](#)[election law](#)[writ of certiorari](#)[appellate procedure](#)[remedies](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Circuit Court for Montgomery County's emergency order permitting early canvassing and tabulation of mail-in ballots and suspending specified statutory timing restrictions should be affirmed.
2. Whether the circuit court's determination that Election Law § 8-103(b)(1) was not unconstitutional and that the circumstances constituted an emergency should stand.

HOLDINGS

1. The Court of Appeals affirmed in all respects the Circuit Court for Montgomery County's Opinion and Order granting the State Board's petition for an emergency remedy and permitting the specified early canvassing, tabulation, and reporting of mail-in ballots for the 2022 Gubernatorial General Election.

KEY QUOTATIONS

“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” (3)

“For reasons to be stated later in an opinion to be filed” (3)

FACTUAL BACKGROUND

The Maryland State Board of Elections sought authority to begin canvassing and tabulating mail-in ballots before the ordinary statutory timetable for the 2022 Gubernatorial General Election. The circuit court found that the undisputed circumstances constituted the emergency circumstances contemplated by Election Law § 8-103(b)(1) and suspended specified restrictions governing when local boards could meet, open ballot envelopes, canvass, tabulate, and release unofficial results. Daniel Cox intervened and challenged the emergency remedy and its constitutionality.

PROCEDURAL HISTORY

On September 2, 2022, the Maryland State Board of Elections petitioned the Circuit Court for Montgomery County under Election Law § 8-103(b)(1) for an emergency remedy permitting early canvassing and tabulation of mail-in ballots. Daniel Cox intervened and opposed the petition. On September 26, 2022, the circuit court granted the petition, found no constitutional defect in § 8-103(b)(1), and suspended specified statutory timing restrictions for the 2022 election. Cox appealed and sought a stay; the Court of Special Appeals denied the stay. The Court of Appeals granted the State Board's petition for a writ of certiorari, conducted expedited review, and affirmed the circuit court's order in all respects.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

None. The mandate was ordered to issue forthwith.

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