



ANTHONY G. BROWN, MARYLAND ATTORNEY GENERAL

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Media Contacts:
press@oag.state.md.us
410-576-7009

Attorney General Defends Civil Rights Act Provision to Prevent Voter Disenfranchisement

BALTIMORE, MD (April 22, 2024) –Attorney General Anthony G. Brown joined a coalition of eight attorneys general to defend a crucial provision of Title I of the Civil Rights Act of 1964, the Materiality Provision, which prevents the disenfranchisement of voters for making immaterial errors – meaning those that should have no effect – on voting paperwork.

The coalition filed an [amicus brief](#) in the case of *Pennsylvania State Conference of NAACP Branches v. Secretary of the Commonwealth of Pennsylvania* in the United States Court of Appeals for the Third Circuit, urging the court to re-hear the case after a panel of the Third Circuit ruled that Pennsylvania voters who omitted or wrote an incorrect date on a declaration on the outside envelope used to return their absentee ballots could have their votes thrown out.

“For decades African Americans and women fought for fair treatment, including the right to have every person’s voice and vote count, equally. I will not tolerate using irrelevant mistakes on absentee ballot envelopes to disqualify and silence voters,” **said Attorney General Brown**. “I’ll always protect Marylanders’ right to vote and support efforts to safeguard voter rights, and ensure every vote is counted.”

The Materiality Provision at issue prohibits denying the right to vote because of an error on paperwork relating to an “act requisite to voting” if the error is “not material in determining whether such individual is qualified under State law to vote.” In Pennsylvania, voters who choose to vote absentee must sign and date a declaration on the outside of the return envelope stating, among other things, that they are qualified to vote in the election. The date on the outside of the envelope is not used to determine whether the voter is qualified to vote or whether the ballot was received on time. A coalition of Pennsylvania voters and civil rights groups sued, arguing that rejecting ballots based on an omitted or incorrect date on this declaration violates the Materiality Provision.

In a 2-1 decision, a panel of the Court of Appeals ruled that rejecting a ballot because of an omitted or incorrect date does not violate the Materiality Provision. The panel reasoned that the Materiality Provision only applies to paperwork related to determining a voter’s qualifications to

vote, such as voter registration forms, and that the declaration at issue does not constitute paperwork related to determining a voter's qualifications to vote.

In the brief, the coalition argues that the Materiality Provision does apply to the declaration at issue. The coalition explains that under Pennsylvania law and practice, the declaration does relate to determining a voter's qualifications because it certifies, at the time the voter votes, that they are qualified to do so. Accordingly, the coalition argues that ballots cannot be invalidated based solely on omissions or errors in the date on the declaration.

In submitting the brief, Attorney General Brown joins the attorneys general of Connecticut, Delaware, the District of Columbia, New York, Maine, Nevada, and Washington.

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