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Pennsylvania ruling sets up Trump appeal to Supreme Court

Request for emergency order would go to Justice AlitoBy **Art Moore**

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A federal appeals court's dismissal Friday of a Trump campaign lawsuit challenging the presidential vote in Pennsylvania sets up an appeal to the U.S. Supreme Court.

The Trump campaign can now request an emergency order from Justice Samuel Alito, who then can ask his eight colleagues to weigh in. With the recent addition of Amy Coney Barrett, the high court now has at least five votes regarded as "conservative" or "originalist," with Chief Justice John Roberts increasingly assuming the swing-vote role of former Justice Anthony Kennedy.

A three-judge panel of the 3rd U.S. Circuit Court of Appeals ruled Friday the campaign's claims of widespread voters fraud in an election Joe Biden won by 80,000 votes "have no merit."

The Trump lawyers argue the state violated the U.S. Constitution's guarantee of equal protection under the law when seven counties where Biden was leading allowed voters to fix errors in their ballots while other counties did not.

Trump campaign attorney Jenna Ellis said on Twitter after the court ruling that the "activist judicial machinery in Pennsylvania continues to cover up the allegations of massive fraud."

"We are very thankful to have had the opportunity to present proof and the facts to the PA state legislature," she wrote. "On to SCOTUS!"

The appeals court panel upheld U.S. District Judge Matthew Brann's dismissal of the Trump campaign complaint, which, he said, "like Frankenstein's Monster, has been haphazardly stitched together."

In the 3rd Circuit, Judge Stephanos Bibas wrote: "Free, fair elections are the lifeblood of our democracy. Charges of unfairness are serious. But calling an election unfair does not make it so. Charges require specific allegations and then proof. We have neither here."

Should Trump's campaign lawsuit go to the Supreme Court?

Yes No

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Earlier this week, in a separate case brought by Republican lawmakers and candidates, [a judge halted certification of Pennsylvania's vote](#). In Wisconsin, [a judge allowed a petition challenging 150,000 ballots](#) and a Nevada judge [scheduled an evidentiary hearing alleging vote fraud robbed President Trump of victory](#).

Late Wednesday night, [attorney Sidney Powell filed two lawsuits](#) alleging that evidence of massive fraud should overturn the Georgia and Michigan results.

Earlier Wednesday, in Pennsylvania, Trump's personal lawyer Rudy Giuliani, along with state lawmakers, heard witnesses testify of fraud on election night, [including the alleged dump of some 570,000 votes for Biden in the early morning hours after polls closed.](#)

On Election night, Trump led in Pennsylvania by nearly 700,000 votes with 65% reporting.

Authority resides with legislature

The Trump lawsuit names the secretary of the commonwealth, Kathy Boockvar, along with the seven counties.

The lower-court judge, Brann, dismissed the case with prejudice, barring the Trump campaign from filing an amended complaint.

The judge scolded the campaign, asserting it is essentially asking the court "to disenfranchise almost 7 million voters."

"This court has been unable to find any case in which a plaintiff has sought such a drastic remedy in the contest of an election, in terms of the sheer volume of votes asked to be invalidated," he said.

The campaign appealed Brann's denial of a motion to amend the complaint "solely on the basis of undue delay." It asked the Third Circuit to send the matter back down to the lower court "to promptly decide it on the merits and proceed expeditiously to a hearing to enjoin certifying the results of the Presidential Election."

Judicial Watch President Tom Fitton, on Twitter, called the district court's decision in Pennsylvania "a miscarriage of justice and nakedly political," arguing that under the Constitution, "it is ultimately up the Pennsylvania legislature to protect election integrity and appoint a clean slate of electors."