

1           TRUMP v. MONTGOMERY COUNTY BOARD OF ELECTIONS  
2       argued that the new election code has eliminated,  
3       either restricted and/or eliminated, the right of third  
4       parties to challenge any deficiencies such as you're  
5       doing right now. You didn't file a reply brief. They  
6       only filed their materials yesterday. What is your  
7       reply to that? You touched upon it.

8           MR. GOLDSTEIN: Yeah. So our reply is  
9       that they misperceived what is going on. These  
10      challenge procedures are still in the statute. They're  
11      still viable and vital. And the place where they say a  
12      challenge could be made is a place where a challenge  
13      cannot be made. The Friday before the election, those  
14      ballots are still locked in a sealed container, so I  
15      can't examine them. I can't challenge them. And what  
16      they propose as a scheme for challenging defies the  
17      plain language of the statute, defies the procedures  
18      that are in use everywhere in the state. We have to be  
19      able to challenge them in this way or it yields the  
20      certain results I've indicated.

21                    If the Board had allowed somebody to  
22      vote and they couldn't vote and we all knew it, under  
23      their scheme, we would just have to allow it because  
24      this person applied for something some manner of weeks  
25      ago.

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2 THE COURT: In your petition, which is  
3 right before me -- and I read it several times -- you  
4 don't claim that any electors or the Board of the  
5 County were guilty of fraud, correct? That's correct?

6 MR. GOLDSTEIN: Your Honor, accusing  
7 people of fraud is a pretty big step. And it is rare  
8 that I call somebody a liar, and I am not calling the  
9 Board of the DNC or anybody else involved in this a  
10 liar. Everybody is coming to this with good faith.  
11 The DNC is coming with good faith. We're all just  
12 trying to get an election done. We think these were a  
13 mistake, but we think they are a fatal mistake, and  
14 these ballots ought not be counted.

15 THE COURT: I understand. I am asking  
16 you a specific question, and I am looking for a  
17 specific answer. Are you claiming that there is any  
18 fraud in connection with these 592 disputed ballots?

19 MR. GOLDSTEIN: To my knowledge at  
20 present, no.

21 THE COURT: Are you claiming that there  
22 is any undue or improper influence upon the elector  
23 with respect to these 592 ballots?

24 MR. GOLDSTEIN: To my knowledge at  
25 present, no.

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2 THE COURT: Does it make a difference  
3 whether a claim of irregularity or technical  
4 noncompliance with the election code is made with or  
5 without an accompanying claim of fraud or improper  
6 influence?

7 MR. GOLDSTEIN: It does not. I mean, to  
8 claim the technical defects are immaterial, which is in  
9 some sense some of the thrust of what the DNC argued,  
10 is really to misperceive what is going on in the  
11 election code. The election code is technical.

12 These requirements are all technical.  
13 And some of them sit in that code for reasons that are  
14 a mystery for all of us. I mean, I sort of recounted  
15 for you my view of why the elector signing in his own  
16 hand is material. The DNC have their reasons for why  
17 they think it is material or immaterial. The fact of  
18 the matter is, it is in the code. The code is itself  
19 technical. Those technicalities are part and parcel of  
20 the law and a violation of the results in a ballot that  
21 can't be counted.

22 THE COURT: All right. I don't have any  
23 questions for you.

24 I have a question for generally whoever  
25 prepared the stipulation. So I will ask it of you and