



## Supreme Court to decide if two Trump election fraud cases can proceed this month

LIZ GEORGE

FEBRUARY 05, 2021

Former President Donald Trump still has two challenges to last year's presidential election waiting to be addressed by the Supreme Court, despite Joe Biden swearing-in as president over two weeks ago. The high court will determine whether the cases can proceed at the next conference on Feb. 19.

In one of the cases, Donald J. Trump for President, Inc. v. Kathy Boockvar, Secretary of Pennsylvania, et al, Trump's team alleges statutory requirements including signature verification, the right to challenge invalid mail ballots, mandates regarding dates and signatures and the right of campaigns to observe mail ballot canvassing were eliminated.

According to the lawsuit, ignoring these rules resulted in roughly 2.6 million mail ballots being counted in violation of the law as established by the Pennsylvania Legislature.

“According to public reports, without these protections, the resulting disqualification rate of invalid ballots was anemic—meaning over 110,000 invalid ballots were illegally counted—more than enough to have affected the outcome of the election, where the margin between the two principal candidates for President currently stands at 80,558,” the suit argued.

The other suit, Donald J. Trump, et al. v. Joseph R. Biden, et al, the former president's allies allege that Wisconsin violated election code, calling for 50,125 absentee ballots to be set aside and not included in post-recount vote totals.

The suit argued that “the election in Wisconsin ‘failed’” and electors should have been chosen by the Wisconsin Legislature via Section 2, Article II of the United States Constitution.

There are also more than half a dozen other cases related to the election pending in the Supreme Court, but the nation's top court likely won't discuss the pending lawsuits until at least Feb. 19 — almost one month after Biden's inauguration — and analysts don't expect the justices to hear the majority of the cases, the Washington Times reported.

“The closer we get to Feb. 19 without a call for a response, the more likely it is that the petitions are dead in the water, and the court will just deny review after the Feb. 19 conference,” said Amy Howe, a writer for SCOTUSblog.

Rick Hasen, an election law scholar and professor at the University of California, Irvine, said the delay is likely due to maintaining peaceful transition of power and the impending second impeachment trial of former President Donald Trump.

“The court may have wanted to wait so as not to interfere with the peaceful transition of power or, now, the Senate trial of Trump,” Hasen said.

The Supreme Court under Chief Justice John Roberts’ leadership is known for avoiding politically-driven lawsuits. Earlier this year, a request for expedited review of the election challenges was denied.

The cases are on a normal schedule now, allowing defendants to file responses, in addition to allowing other parties to file briefs with their thoughts on the case.

Another pending case, Republican Party of Pennsylvania v. Boockvar, challenges the state’s executive branch extending the deadline for mail-in ballots and allowing ballots that weren’t postmarked to be assumed received at the proper time.

The General Assembly in Pennsylvania had previously set a deadline and mail-in ballot standards, and the Republican Party argues that the secretary of state’s move violated the Constitution.

Still, some say the changes did not impact the outcome of the election.

“...the ballots in dispute are fewer than the margin — but the issue of how far a state court can go in rewriting state election law before it becomes a federal issue will continue coming up and needs to be settled by the Supreme Court,” said Ilya Shapiro of the Cato Institute Supreme Court Review.

With the Inauguration Day in the past and a peaceful transition of power executed, Committee for Justice president Curt Levey said now is the perfect time for the justices to exercise their “civic duty” to address the legality of state officials changing state assemblies’ election laws.

“No one can get too upset with what they would decide,” Levey said.