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Judge rejects vote challenge by Sauerbrey

*Problems she found
are minor, he says;
appeal is filed*

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A judge rejected yesterday Republican Ellen R. Sauerbrey's challenge to the gubernatorial election, saying the procedural problems she uncovered in Baltimore were too minor to justify throwing out the results.

Anne Arundel County Circuit Judge Raymond G. Thieme Jr., who noted that he voted for Mrs. Sauerbrey, said her case was flawed by faulty data and unsupported conclusions.

"There is simply no evidence of any systematic omissions or a pattern of misconduct throughout the state," the judge said in an eight-page decision he read from the bench. "Petitioners have simply failed to meet their burden of proof."

Mrs. Sauerbrey immediately filed an appeal with the Maryland Court of Appeals. Arguments are scheduled for Monday afternoon.



GARO LACHINIAN/SUN STAFF PHOTO

Ellen R. Sauerbrey said she still believes that there were "serious problems with this election."

One of her lawyers said a second legal challenge in U.S. District Court in Baltimore is likely. The Sauerbrey camp is also considering asking a court to postpone Wednesday's scheduled inauguration of Gov.-elect

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Parris N. Glendening, a Sauerbrey lawyer said.

"This is the end of Round One," Mrs. Sauerbrey said after the ruling. "I believe today as strongly as I did a month ago that there were serious problems with this election."

Standing on the State House steps, where he is to give his inaugural address Wednesday, Mr. Glendening applauded the judge's ruling and said he had "absolutely never" doubted the outcome of her challenge.

"I thought the case was ludicrous or ridiculous at best and had no credibility," the governor-elect said. "People have to know that in an election, as in a good basketball game, there's a winner and a loser, and you have to accept the outcome."

"I do think it is unfortunate that it does go to a subsequent appeal," he said. "In fact, this has been an embarrassment to the state, an affront to the voters and an extraordinary waste of money."

Mrs. Sauerbrey, who lost to Mr. Glendening by 5,993 votes out of 1.4 million cast, filed suit Dec. 27 alleging that irregularities and fraud had cost her the election.

Judge Thieme said Mrs. Sauerbrey had challenged 3,664 votes, a fraction of the 47,000 questioned in her original lawsuit.

More than 1,800 of the challenged votes were cast by people who technically should have been purged from Baltimore voter rolls because

they had not voted in five years.

Judge Thieme pointed to an appellate court ruling that such voters cannot be challenged after the election. "The right to vote is too precious for the court to take that right away under these circumstances," he said.

The judge concluded that Baltimore elections administrator Barbara Jackson had made mistakes — such as not purging some voters from the rolls — that warranted further review.

But he added, "To this court, she is a dedicated and conscientious government employee who made a mistake. I think she has done, and will continue to do, yeoman work under what seem to be extremely difficult circumstances."

Judge Thieme saved his harshest words for Arnold B. Urken, a New Jersey political science professor brought in as an expert by Mrs. Sauerbrey's legal team.

His conclusions were based on flawed data and his testimony "is simply not believable," the judge said.

Departing momentarily from his written ruling, Judge Thieme said: "It's been some time since I heard testimony that was so . . . let's leave it at that," prompting laughter throughout the packed second-floor courtroom.

Dr. Urken's testimony included a claim that the Baltimore vote count appeared to be off by 1 million ballots, a conclusion he drew based on information provided by the Sauerbrey camp. The official count

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JUDGE RAYMOND G. THIEME

showed about 151,000 Baltimore voters, and the city has fewer than 1 million residents.

Surrounded by reporters and dozens of supporters outside the red-brick courthouse, Mrs. Sauerbrey vowed to push on.

Despite news reports questioning many of her claims, Mrs. Sauerbrey continued to insist that she had turned up hard evidence of voting fraud, including ballots supposedly cast in the names of the dead or people who were behind bars on Election Day.

And she said that her case was crippled by adverse rulings from the judge during the trial and by and resistance from government officials to provide documents she needed.

"The only evidence the judge used to render his decision was that which made it through the very narrow eye of the needle," she said. "When I decided to fight City Hall, I didn't think I'd have to do so with both hands tied behind my back."

In his ruling, Judge Thieme responded to such criticisms, which were sounded repeatedly during the

five-day trial by Mrs. Sauerbrey and her supporters.

"This court is not some Byzantine bazaar where we allow anyone to come in at any time and say whatever they want," the judge said.

He said he imposed a tight deadline on the trial to accommodate the wishes of both sides to have the matter decided before the scheduled inaugural.

The judge theorized that no matter what he ruled, the public had already decided whether the Nov. 8 gubernatorial election was fair.

"I fully understand that these opinions will not in the slightest be changed by what I am about to say," he said.

As one of her supporters before the election, he said, he could appreciate Mrs. Sauerbrey's "frustration" at coming so close.

John M. Carbone, Mrs. Sauerbrey's lead attorney and the man who directed the investigation of the election by volunteers, had little to say about the outcome.

"I'm not unhappy with the way the case proceeded," he said as he left the courthouse.

Mrs. Sauerbrey said this week that she has spent more than \$250,000 on the case, a figure that she said would increase significantly. Last night, Senate Majority Leader Bob Dole of Kansas appeared at a fund-raiser on her behalf at the BWI Marriott Hotel.

Mr. Glendening estimated this week that he, too, will spend at least \$250,000, money that he plans to

raise from private donations.

In closing arguments, Mrs. Sauerbrey's attorneys said that although they found no evidence of organized fraud, their case showed ample evidence of Baltimore election board mismanagement.

"Fraud is hard to find. Fraud is difficult to uncover," said Mr. Carbone, an election specialist from New Jersey who was the lead attorney for Mrs. Sauerbrey.

"The actions and inactions of Baltimore City, I believe, have put a cloud over the election," Mr. Carbone said. At one point in his argument, he referred to Ms. Jackson, the election board administrator, as "the Baltimore bungler."

In his closing argument, Glendening attorney Bruce L. Marcus said the Maryland electoral process has been held up to national humiliation because of Mrs. Sauerbrey's contentions of fraud.

He accused her of making frivolous accusations based on reams of computer printouts "that an elementary school child would have been able to see through."

Deputy Attorney General Ralph S. Tyler III, representing state election officials in the case, said Mrs. Sauerbrey's claims boiled down to throwing out 1.4 million votes cast simply because "1,816 people weren't purged from the Baltimore City voting list and 1,322 people didn't change their address."

Sun staff writer John W. Frece contributed to this article.