

## Right to Vote Absentee

*Cunningham v. Leigh*

*(W. Allen Pepper, Jr., N.D. Miss. 1:10-cv-49)*

On Tuesday, March 2, 2010, three voters filed a federal complaint in the Northern District of Mississippi's Eastern Division seeking an injunction requiring absentee ballots for a March 6 meeting of voters to select trustees for the Aberdeen School District.<sup>1</sup> On March 3, the plaintiffs filed a motion for a preliminary injunction.<sup>2</sup>

After a 50-minute telephonic hearing on March 4,<sup>3</sup> Judge W. Allen Pepper, Jr., denied the plaintiffs injunctive relief.<sup>4</sup> Judge Pepper determined that voters do not have a fundamental right to absentee ballots, the plaintiffs had shown no discriminatory intent, and the plaintiffs' evidence of discriminatory impact was weak.<sup>5</sup>

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1. Complaint, [Cunningham v. Leigh](#), No. 1:10-cv-49 (N.D. Miss. Mar. 2, 2010), D.E. 1.

2. Preliminary Injunction Motion, *id.* (Mar. 3, 2010), D.E. 4; *see* Amended Preliminary Injunction Motion, *id.* (Mar. 4, 2010), D.E. 5.

3. Minutes, *id.* (Mar. 4, 2010), D.E. 7.

4. Order, *id.* (Mar. 5, 2010), D.E. 8.

Judge Pepper died on January 24, 2012. Federal Judicial Center Biographical Directory of Federal Judges, <http://www.fjc.gov/history/home.nsf/page/judges.html>.

5. Order, *supra* note 4.