

Standing to Seek an Absentee-Ballot Extension During a Pandemic

Mays v. Thurston

(James M. Moody, Jr., E.D. Ark. 4:20-cv-341)

A district judge denied a request for an order during a global infectious pandemic extending the deadline for absentee ballots from received by election day to mailed by election day, finding that any difficulty that the plaintiffs would have in submitting their absentee ballots on time would arise from the pandemic and not from state action.

Subject: Absentee and early voting. *Topics:* Covid-19; absentee ballots.

In light of an upcoming March 31, 2020, runoff election in Arkansas during a global Covid-19 infectious pandemic, two voters and a coalition of religious leaders filed a federal complaint in the Eastern District of Arkansas on March 26 seeking more accommodations for absentee voters than the governor had ordered.¹ In particular, they wanted absentee ballots to be counted if mailed by election day, not just received by election day.² On the case's second day, the plaintiffs filed a motion for a temporary restraining order and a preliminary injunction.³

On March 30, Judge James M. Moody, Jr., denied the plaintiffs relief, finding that they did not have standing to pursue the complaint: "Any injury caused by Plaintiffs' failing to take advantage of [the governor's additional] available avenues to exercise their rights to vote are not caused by or fairly traceable to the actions of the State, but rather are caused by the global pandemic."⁴

The plaintiffs voluntarily dismissed their complaint on March 31.⁵

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1. Complaint, *Mays v. Thurston*, No. 4:20-cv-341 (E.D. Ark. Mar. 26, 2020), D.E. 1.
 2. *Id.* at 3, 18–19 (requesting a receipt deadline of ten days after election day).
 3. Motion, *id.* (Mar. 27, 2020), D.E. 2.
 4. Opinion at 3, *id.* (Mar. 30, 2020), D.E. 11, 2020 WL 1531359.
 5. Voluntary Dismissal, *id.* (Mar. 31, 2020), D.E. 14.