

## Relief from an Absentee-Ballot Application Deadline Because of an Overwhelmed Website

*Nicholas Jones for Congress v. Idaho Secretary of State (B. Lynn Winmill, D. Idaho 1:20-cv-242)*

During the 2020 Covid-19 global infectious pandemic, a federal district judge extended the absentee-ballot application deadline by one week because the secretary of state's application website was overwhelmed.

*Subject:* Absentee and early voting. *Topics:* Absentee ballots; Covid-19; attorney fees; primary election.

On May 19, 2020—the deadline for requesting absentee ballots for a primary election in Idaho that was conducted exclusively by absentee ballot because of the global Covid-19 infectious pandemic—a congressional campaign filed in the U.S. District Court for the District of Idaho a motion for a temporary restraining order and emergency injunctive relief seeking a one-week extension of the deadline as a remedy for the failure of the secretary of state's website to keep up with demand.<sup>1</sup> On the following day, the campaign filed an amended motion adding as plaintiffs two voters who were unable to request absentee ballots because of the website's failures.<sup>2</sup>

On the case's third day, the court set the case for a video hearing before Judge B. Lynn Winmill at 4:00 p.m. on Friday, May 22, the case's fourth day, providing in the public docket sheet information for public attendance.<sup>3</sup>

At the hearing, Judge Winmill granted the plaintiffs immediate relief:

Defendants are ordered to extend the deadline to request an absentee ballot until 8:00 p.m. on May 26, 2020 and reopen the absentee ballot request website for those voters who certify that they attempted to request an absentee ballot before the deadline but were unable to do so. Defendants shall further take necessary measures to notify voters—via news and social media—that they will be able to request an absentee ballot before May 26, 2020 at 8:00 p.m.<sup>4</sup>

---

1. Motion, *Nicholas Jones for Congress v. Idaho Sec'y of State*, No. 1:20-cv-242 (D. Idaho May 19, 2020), D.E. 1; see Thomas Plank, *Idaho Candidate for US House Sues Secretary of State's Office Over May 19 Website Issues*, Idaho Press-Tribune, May 21, 2020, at A1.

2. Amended Motion, *Nicholas Jones for Congress*, No. 1:20-cv-242 (D. Idaho May 20, 2020), D.E. 2.

3. Docket Sheet, *id.* (May 19, 2020) (D.E. 4); see Minutes, *id.* (May 22, 2020), D.E. 10; see also *Hearing for Election Extension Scheduled for Friday Afternoon*, Idaho Press-Tribune, May 22, 2020, at A3.

4. Order, *Nicholas Jones for Congress*, No. 1:20-cv-242 (D. Idaho May 23, 2020), D.E. 9; see John O'Connell, *Congressional Candidate Reflects on His Court "Upset" to Extend Election Deadline*, Idaho Press-Tribune, May 26, 2020, at A5; Betsy Z. Russell, *Federal Judge Extends Deadline for Absentee Ballots to Tuesday*, Idaho Press-Tribune, May 23, 2020, at A1.

In the event, the plaintiff campaign received about twenty percent of the vote,<sup>5</sup> and the voting participation rate was higher for this primary election in Idaho than for any since 1980.<sup>6</sup>

Judge Winmill awarded the plaintiffs \$26,873.50 in attorney fees and costs on September 16, 2020.<sup>7</sup>

---

5. See Betsy Z. Russell, *Jordan Wins Primary, Will Face Risch in November*, Idaho Press-Tribune, June 3, 2020, at A1.

6. See Ryan Suppe, *Idahoans Vote in Record Numbers for May Primary*, Idaho Press-Tribune, June 4, 2020, at A1.

7. Order, *Nicholas Jones for Congress*, No. 1:20-cv-242 (D. Idaho Sept. 16, 2020), D.E. 14, 2020 WL 5549143.