

## Right to Vote Absentee

*Cunningham v. Leigh*

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

A federal complaint, which was filed four days before a meeting of voters to select trustees for a school district, sought an injunction requiring absentee ballots for the meeting. After a telephonic hearing two days after the complaint was filed, the district judge 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, so the judge denied immediate relief.

*Subject:* Absentee and early voting. *Topic:* Absentee ballots.

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 Aberdeen's school district.<sup>1</sup> On March 3, the plaintiffs filed a motion for a preliminary injunction.<sup>2</sup>

After a fifty-minute telephonic hearing on March 4,<sup>3</sup> Judge W. Allen Pepper, Jr., denied the plaintiffs injunctive relief.<sup>4</sup> He 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 Article III Federal Judges, [www.fjc.gov/history/judges](http://www.fjc.gov/history/judges).

5. Order, *supra* note 4.