

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
ARKANSAS

Bryan Norris and Norris for Arkansas v. Tim Griffin and Cole Jester

Norris · No. 5:26-CV-5005 · Decided June 1, 2026

SUMMARY

The United States District Court for the Western District of Arkansas grants the defendants’ motion for judgment on the pleadings and denies the plaintiffs’ motion to amend as futile. The court holds that Arkansas Act 728, which prohibits remaining within 100 feet of a polling location except for lawful voting-related purposes, regulates speech as applied to exit polling but is constitutional under nonpublic-forum and, alternatively, time-place-manner analysis. The court also concludes that the plaintiffs retain standing based on planned exit polling during future elections.

CASE DETAILS

COURT	United States District Court for the Western District of Arkansas
JURISDICTION	United States District Court for the Western District of Arkansas
DECIDED	June 1, 2026
DOCKET	5:26-CV-5005
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved for judgment on the pleadings under Federal Rule of Civil Procedure 12(c), and plaintiffs moved for leave to file a second amended complaint. The court granted the motion for judgment on the pleadings and denied leave to amend as futile.
STANDARD OF REVIEW	A Rule 12(c) motion is governed by the same standard as a Rule 12(b) (6) motion. The court accepts well-pleaded factual allegations as true, construes reasonable inferences in plaintiffs' favor, and may consider materials embraced by the pleadings or part of the public record. Judgment is proper when no material issue of fact remains and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Unknown
PARTIES	Bryan Norris, Norris for Arkansas v. Tim Griffin, in his official capacity as Attorney General of Arkansas, Cole Jester, in his official capacity as Secretary of State of Arkansas

TOPICS

first amendment

election law

motion for judgment on the pleadings

standing

injunctions

PRACTICE AREAS

constitutional law

election law

civil procedure

civil rights

remedies

QUESTIONS PRESENTED

1. Whether Norris continued to have standing and whether the dispute remained justiciable after he lost the 2026 primary runoff.
2. Whether Act 728 regulates speech, as applied to Norris's proposed exit polling.
3. Whether the area within 100 feet of a polling place is a nonpublic forum on election day and, if so, whether Act 728 is reasonable and viewpoint neutral.
4. Alternatively, whether Act 728 satisfies the requirements for a content-neutral time, place, and manner restriction in a traditional public forum.
5. Whether leave to file a second amended complaint should be denied because amendment would be futile.

HOLDINGS

1. Norris continued to have standing because his concrete plans to conduct exit polling during the 2026 general election and the 2030 primary preserved a live controversy.
2. As applied to Norris's proposed exit polling, Act 728 regulates speech because the statute's anti-influence and anti-electioneering purposes are implicated by communication of a message to voters.
3. The area within 100 feet of a polling place on election day is a nonpublic forum, and Act 728 is reasonable in light of the forum's purpose of voting and is not an effort to suppress expression because of the speaker's viewpoint.
4. Even assuming the area around a polling place is a traditional public forum, Act 728 is constitutional as a content-neutral time, place, and manner restriction because it is narrowly tailored to significant governmental interests and leaves ample alternative channels for communication.
5. Leave to file the proposed second amended complaint was properly denied because amendment would be futile.

KEY QUOTATIONS

“The Court therefore concludes that, like the interior of a polling location, the area surrounding it on election day is a nonpublic forum.” (III.C)

“Under either the nonpublic forum analysis adopted by the Court here or the more stringent standard applicable to public forums, Act 728 is constitutional.” (III.C)

“Because the Second Amended Complaint is legally infirm for the same reasons as the First Amended Complaint—explained above—amendment would be futile.” (IV)

FACTUAL BACKGROUND

Arkansas Act 728, codified at Arkansas Code section 7-1-103(a)(24), prohibits entering or remaining within 100 feet of the primary exterior entrance to a building where voting is taking place, subject to a limited exception for persons entering or leaving for lawful purposes. Bryan Norris, a candidate for Arkansas Secretary of State, sought to conduct exit polling during the 2026 primary and planned additional exit polling during the 2026 general election. The State justified the statute as a prophylactic measure to prevent electioneering, intimidation, improper influence, interference, and disorder around polling places.

PROCEDURAL HISTORY

Norris filed suit asserting that Arkansas Act 728 violated his First Amendment rights and sought a preliminary injunction allowing him to conduct exit polling during the March 2026 primary. The court denied preliminary relief after an evidentiary hearing. Norris subsequently filed an amended complaint, lost the primary runoff, but alleged plans to conduct exit polling during the November 2026 general election and to seek office again in 2030. The defendants moved for judgment on the pleadings, and Norris moved to amend again. The court held that Norris continued to have standing, rejected his constitutional challenge, granted judgment on the pleadings, and denied amendment as futile.

DISPOSITION

other

CASES CITED

- *Waldron v. Boeing Co.*, 388 F.3d 591, 593 (8th Cir. 2004)
- *Westcott v. City of Omaha*, 901 F.2d 1486, 1488 (8th Cir. 1990)
- *Erickson v. Pardus*, 551 U.S. 89, 93 (2007)
- *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)
- *Ashley County v. Pfizer, Inc.*, 552 F.3d 659, 665 (8th Cir. 2009)
- *Porous Media Corp. v. Pall Corp.*, 186 F.3d 1077, 1079 (8th Cir. 1999)
- *Whitfield v. Thurston*, 3 F.4th 1045, 1047 (8th Cir. 2021)
- *Redlich v. City of St. Louis*, 51 F.4th 283, 288 (8th Cir. 2022)
- *TikTok Inc. v. Garland*, 604 U.S. 56, 68, 70–71 (2025)
- *Arcara v. Cloud Books, Inc.*, 478 U.S. 697, 703–04 (1986)
- *Ness v. City of Bloomington*, 11 F.4th 914, 923 (8th Cir. 2021)
- *Virginia v. Hicks*, 539 U.S. 113, 123 (2003)
- *United States v. O’Brien*, 391 U.S. 367, 377 (1968)
- *Texas v. Johnson*, 491 U.S. 397, 407 (1989)
- *International Society for Krishna Consciousness, Inc. v. Lee*, 505 U.S. 672, 678 (1992)
- *Minnesota Voters Alliance v. Mansky*, 585 U.S. 1, 12–15 (2018)
- *McCullen v. Coakley*, 573 U.S. 464, 465, 476, 486 (2014)

- *Hague v. Committee for Industrial Organization*, 307 U.S. 496, 516 (1939)
- *Burson v. Freeman*, 504 U.S. 191, 197, 200–11 (1992)
- *Greer v. Spock*, 424 U.S. 838 (1976)
- *Miller v. Thurston*, 967 F.3d 727, 740 (8th Cir. 2020)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 664 (2009)

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