

UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

Organization for Black Struggle v. John R. Ashcroft

No. 20-3121, United States Court of Appeals for the Eighth Circuit (October 23, 2020)

SUMMARY

The Eighth Circuit stayed a preliminary injunction that had required Missouri to allow mail-in ballots to be returned in person, holding that the state's requirement that mail-in ballots be returned only by U.S. mail—while absentee ballots could be returned in person—did not violate the Equal Protection Clause. Applying the Anderson-Burdick framework, the court found the burden on voters was de minimis because in-person voting remained available, and the state's interests in orderly elections and preventing voter fraud justified the reasonable, nondiscriminatory restriction. The court emphasized that there is no constitutional right to vote by mail when in-person voting is an option, and that courts should not alter election rules on the eve of an election under Purcell. The dissent argued the differential treatment created an undue risk of disenfranchisement for mail-in voters without adequate state justification.

CASE DETAILS

COURT	United States Court of Appeals for the Eighth Circuit
WRITING FOR THE COURT	Shepherd; Kelly; Grasz
JURISDICTION	Federal
DECIDED	October 23, 2020
DOCKET	20-3121
DISPOSITION	other
PROCEDURAL POSTURE	Appeal from the district court's grant of a preliminary injunction; motion for stay pending appeal.
PRECEDENTIAL VALUE	published
PARTIES	John R. Ashcroft, in his official capacity as Missouri Secretary of State v. Organization for Black Struggle; St. Louis A. Philip Randolph Institute; Greater Kansas City A. Philip Randolph Institute; National Council of Jewish Women, St. Louis; Missouri Faith Voices

TOPICS

equal protection

constitutional law

fourteenth amendment

civil rights

injunctions

appellate procedure

standard of review

QUESTIONS PRESENTED

1. Whether the requirement that mail-in ballots be returned only by mail, while absentee ballots can be returned by mail or in person, violates the Equal Protection Clause.

HOLDINGS

1. The Secretary has shown a strong likelihood of success on the merits because the mail-in return requirement imposes a minimal burden and is a reasonable, nondiscriminatory restriction, so the state's interests are sufficient under the Anderson-Burdick framework.

KEY QUOTATIONS

“Because the requirement that mail-in ballots be returned by USPS mail is a minimal burden and a reasonable, nondiscriminatory restriction, the Secretary has shown a strong likelihood of success on the merits of his appeal.” (at 6)

“The district court concluded that this differential treatment causes mail-in voters to ‘run the risk of total disenfranchisement in the form of their vote not being counted because of delays not of the voter’s own making.’” (at 9)

FACTUAL BACKGROUND

In response to the COVID-19 pandemic, Missouri enacted a law allowing all registered voters to cast mail-in ballots for the 2020 elections, but requiring mail-in ballots to be returned only by mail, while absentee ballots could be returned by mail or in person. Plaintiffs, organizations advocating for voting rights, challenged the mail-in return requirement as an equal protection violation. The district court granted a preliminary injunction ordering the state to allow mail-in ballots to be returned in person. The Secretary appealed and moved for a stay pending appeal.

PROCEDURAL HISTORY

The district court entered a preliminary injunction requiring Missouri to allow mail-in ballots to be returned in person, then entered a temporary administrative stay. The Secretary appealed and moved for a stay pending appeal in the Eighth Circuit.

DISPOSITION

other

CASES CITED

- *Brakebill v. Jaeger*, 905 F.3d 553 (8th Cir. 2018)
- *Hilton v. Braunskill*, 481 U.S. 770 (1987)

- *Anderson v. Celebrezze*, 460 U.S. 780 (1983)
- *Burdick v. Takushi*, 504 U.S. 428 (1992)
- *Timmons v. Twin Cities Area New Party*, 520 U.S. 351 (1997)
- *Common Cause Ind. v. Lawson*, No. 20-2911, 2020 WL 6042121 (7th Cir. Oct. 13, 2020)
- *New Ga. Project v. Raffensperger*, No. 20-13360, 2020 WL 5877588 (11th Cir. Oct. 2, 2020)
- *Ferguson v. Skrupa*, 372 U.S. 726 (1963)
- *Abbott v. Perez*, 138 S. Ct. 2305 (2018)
- *Maryland v. King*, 567 U.S. 1301 (2012)
- *Republican Nat’l Comm. v. Democratic Nat’l Comm.*, 140 S. Ct. 1205 (2020)
- *Purcell v. Gonzalez*, 549 U.S. 1 (2006)
- *Dataphase Sys. v. C L Sys.*, 640 F.2d 109 (8th Cir. 1981)
- *Dunn v. Blumstein*, 405 U.S. 330 (1972)
- *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181 (2008)
- *Democratic Exec. Comm. of Fla. v. Lee*, 915 F.3d 1312 (11th Cir. 2019)
- *Harper v. Va. State Bd. of Elections*, 383 U.S. 663 (1966)
- *Wesberry v. Sanders*, 376 U.S. 1 (1964)
- *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224 (4th Cir. 2014)
- *Obama for Am. v. Husted*, 697 F.3d 423 (6th Cir. 2012)
- *Mo. State Conf. of NAACP v. Missouri*, 2020 WL 5988505 (Mo. Oct. 9, 2020)
- *New Motor Vehicle Bd. of Cal. v. Orrin W. Fox Co.*, 434 U.S. 1345 (1977)
- *Raysor v. DeSantis*, 140 S. Ct. 2600 (2020)

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