

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

In the Original Jurisdiction

No. 20-001042

REGINA DUGGINS and CHAUNTA R. HAMILTON,

PETITIONERS

v.

JAY LUCAS, as Speaker of the House, and HARVEY PEELER, as President of the Senate

RESPONDENTS

And

SOUTH CAROLINA ELECTION COMMISSION

RESPONDENT/NOMINAL DEFENDANT

BRIEF OF *AMICUS CURIAE* OF
THE LEAGUE OF WOMEN VOTERS OF SOUTH CAROLINA

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ISSUE

Should the South Carolina Supreme Court mandate the South Carolina Election Commission to implement the recommendations outlined in the Commission's July 17, 2020 letter to Respondents Peeler and Lucas for changes to the election procedures because the current election procedures violate the South Carolina Constitution article I, Section 5 and article II, Section 1 by denying voters the right to vote in an environment free of life- threatening dangers due to the unprecedented coronavirus pandemic?

INTEREST OF THE LEAGUE OF WOMEN VOTERS

The League of Women Voters (LWV) was founded one hundred years ago based on the principle that responsible government should be responsive to the will of the people, and that every citizen has the right to vote. LWV is a nonpartisan organization that encourages citizens to take part in government and become informed about governmental issues that impact their lives. The League believes that the right to vote must be protected for every citizen. The League's mission is to protect all voters and safeguard elections.

The current election procedures serve as a barrier to this right to vote for every citizen. These current procedures require voters to subject themselves to a life-threatening situation just to fulfill their constitutional right. The League believes that the recommendations of the South Carolina Election Commission would enhance the ability of all qualified voters to participate in their government and make the will of the people known. The League urges this Court to mandate the South Carolina Election Commission to implement the first five recommendations immediately.

STATEMENT OF THE CASE

A full history of the coronavirus pandemic and related legislative actions is provided in Exhibit A (Petitioners' Proposed Complaint) of their Petition. The League defers to this history for details. Of greatest significance to the current issue is that on May 12, 2020, the Legislature extended absentee voting to all voters for the June 2020 primary. However, in June 2020, the South Carolina Senate and the House of Representatives failed to extend this same protection to voters for the November 2020 election. On July 31, 2020, Petitioners filed a petition in this Court seeking relief for the November 2020 election. The League asks this Court to grant that relief by endorsing the Election Commission's recommendations.

ARGUMENT

The South Carolina Supreme Court should mandate the South Carolina Election Commission to implement the recommendations outlined in the Commission's July 17, 2020 letter to Respondents Peeler and Lucas for changes to the election procedures because the current election procedures violate the South Carolina Constitution article I, Section.5 and article II, Section. 1 by denying voters the right to vote in an environment free of life- threatening dangers due to the unprecedented coronavirus pandemic.

The South Carolina Constitution provides that political power is derived from the people.

S.C. Const. art. I, Section 1. To that end, the Constitution provides:

The right of suffrage, as regulated in this Constitution,
Shall be protected by laws regulating elections and
Prohibiting, under adequate penalties, all undue influence
From power, bribery, tumult or improper conduct.

S.C. Const. art. II, Section 1.

The current election procedures violate the Constitution because tumult would result as voters crammed polling places with not sufficient space to socially distance. Sanitizing polling booths and tables would lengthen the time for voting. The guidelines recommended by The Center for Disease Control (CDC) could not be followed with the exception of wearing masks.

This Court held in Bailey v. S.C. State Election Commission, No. 2020-000642, 2020 WL 2745565 (S.C. May 27, 2020) that “the right to vote is a cornerstone of our constitutional republic.” This right is a cornerstone of the League of Women Voters, and a right for which the League continually advocates. Some of the guiding principles of the League include:

1. LWV believes in representative government and the individual liberties established in the U.S. Constitution
2. LWV believes that democratic government depends upon the informed and active participation of its citizens
3. LWV believes that the right to vote must be protected for every citizen
4. LWV believes that responsible government should be responsive to the will of the people.

For all citizens to have this opportunity to vote in a safe non-threatening environment is essential

to the cause of the League.

LWV strongly endorses the first five recommendations of the Election Commission because these recommendations further the mission of the LWV to protect all voters and safeguard elections. These recommendations are reiterated here:

1. Reinstate the “state of emergency” reason allowing every voter the option to vote absentee, choosing absentee-by-mail, early in person, or election day voting.
2. Allow voters to apply for an absentee ballot online.
3. Remove the witness requirement for absentee return envelopes.
4. Allow the use of drop boxes for the return of absentee ballots in multiple secure locations.
5. Provide election officials with more time to process absentee-by-mail ballots or extend the date by which counties must certify the results of the election.

The interest of LWV is to protect the nonpartisan integrity of this election. In Mims Amusement Co. v. S.C. Law Evf'd Div., 366 S.C. 141, 149, 621 S.E.2d 344, 348 (2005), this Court held that the Court has the responsibility to construe the Constitution and laws of the State “without concern for political or popular opinion.”

CONCLUSION

The League of Women Voters is a nonpartisan advocate for all citizens to have a voice in Government, who the government leaders are and how these leaders run the country. The right to vote is the heart of the League's mission. The League respectfully asks this Court to protect all voters and safeguard the November 3, 2020 election by mandating that the State Election Commission implement the first five recommendations in their July 17, 2020 letter and as enumerated in this brief.

Respectfully submitted by,

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