

IN THE CHANCERY COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

HARRIETT OPPENHEIM, et al.

VS.

MICHAEL D. WATSON, JR., in his official capacity as the Mississippi Secretary of State, et al.

FILED
SEP 02 2020

PLAINTIFFS

CAUSE NO. G2020-961 0/3

BY JEAN CARR CHANCERY CLERK
V. Moton D.C.

DEFENDANTS

ORDER OF THE COURT

THIS MATTER is before the court on the plaintiffs' *Complaint for Declaratory and Injunctive Relief*, filed August 11, 2020. The plaintiffs brought this suit seeking a declaratory judgment regarding the meaning of the absentee ballot provision in Mississippi law (and its most recent addition) in the context of the challenges encountered during this COVID-19 epidemic. Confusion exists about who can vote absentee in Mississippi in light of the effects and outcomes of the COVID-19 disease. The issue before this court is whether the plaintiffs qualify to vote by absentee ballot due to their individual circumstances. This *Complaint* raises claims under the laws of the State of Mississippi. The relief sought in this case are requests in equity. Therefore, subject-matter jurisdiction over this suit lies with this court. Miss. Const. art. VI, § 159(a). This court is authorized to grant declaratory relief pursuant to Mississippi Rule of Civil Procedure 57(a). See also *Tellus Operating Grp., LLC v. Texas Petroleum Inv. Co.*, 105 So. 3d 274, 282 (Miss. 2012). Venue is proper because a suit against the State must be brought in the county where the seat of government is located. Miss. Code § 11-45-1. Having heard argument, reviewed filings, and applying law, the court rules as follows:

“No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined. Our Constitution leaves no room for

classification of people in a way that unnecessarily abridges this right” *Wesberry v. Sanders*, 376 U.S. 1, 17–18, 84 S. Ct. 526, 535, 11 L. Ed. 2d 481 (1964).

None other than James Madison stated “[w]ho are to be the electors . . . ? Not the rich more than the poor; not the learned more than the ignorant; not the haughty heirs of distinguished names, more than the humble sons of obscure and unpropitious fortune. The electors are to be the great body of the people of the United States” *The Federalist*, No. 57 (Cooke ed. 1961), at 385.

Mississippi Secretary of State Michael Watson said that he and his office “do not believe voters should have to choose between casting a ballot and risking their own health.” On this point, the court and both parties agree.

The Mississippi Constitution enshrines the right to vote. Miss. Const. art. XII, § 240. Mississippi election law provides for in-person voting and, in certain limited circumstances where an elector qualifies, by absentee ballot. Miss. Code Ann. § 23-15-713(a) through (h) outlines when an elector qualifies to vote by absentee ballot. The plaintiffs’ claims deal exclusively with Miss. Code Ann. § 23-15-713(d), which allows for the following to vote by absentee ballot:

[a]ny person who has a temporary or permanent physical disability and who, because of such disability, is unable to vote in person without substantial hardship to himself, herself or others, or whose attendance at the voting place could reasonably cause danger to himself, herself or others. For purposes of this paragraph (d), “temporary physical disability” shall include any qualified elector who is under a physician-imposed quarantine due to COVID-19 during the year 2020 or is caring for a dependent who is under a physician-imposed quarantine due to COVID-19 beginning with the effective date of this act and the same being repealed on December 31, 2020.

Paragraph (d) has two parts; first, it allows for electors to vote by absentee in the first “original” sentence of the statute, i. e., “[a]ny person who has a temporary or permanent physical disability and who, because of such disability, is unable to vote in person without substantial hardship to himself, herself or others, or whose attendance at the voting place could reasonably cause danger to himself, herself or others.” For the purposes of this matter, the court will refer to this first part of paragraph (d) as “Category One”. However, in response to the coronavirus pandemic, the Mississippi state legislature expanded the qualifications under paragraph (d) in July 2020 to include those under a physician-imposed quarantine due to COVID-19 or those that were caring for someone under a physician-imposed quarantine due COVID-19. For the purposes of this matter, the court will refer to second part of paragraph (d) as “Category Two”. This court notes this addition to paragraph (d) was an expansion of those persons qualified to vote by absentee ballot and, therefore, a voter qualified to vote by absentee ballot under Category One of paragraph (d) need not look to the Category Two addition to paragraph (d) to determine their eligibility.

The Category Two addition “[f]or purposes of this paragraph. . . .”) to Miss. Code Ann. § 23-15-713(d) clearly *broadens* the number of voters eligible to vote by absentee ballot in order to combat the obstructions and inherent dangers of COVID-19. Pursuant to this statute, a voter requesting to cast an absentee ballot under this paragraph (d) would mark the declaration “I have a temporary or permanent physical disability, which may include, but is not limited to, a physician-imposed quarantine due to COVID-19 during the year 2020. Or, I am caring for a dependent that is under an imposed quarantine due to COVID-19” in order to be, by this court, designated “Category One” or “Category Two”.

The plaintiffs ask this court to issue a declaratory judgment that (1) an underlying physical condition that places a voter at a higher risk of severe illness from COVID-19 is a “physical disability” that “could reasonably cause danger to [the voter] or others” and, therefore, a voter with such a condition be permitted to vote absentee, (2) guidance from the MDH, the CDC, or other physicians who are public health experts to avoid public gatherings qualifies as a “physician-imposed quarantine” and, if such guidance exists during the period for absentee voting, a voter following that guidance may choose to rely on it and vote absentee, and (3) anyone who is being cared for constitutes a “dependent” and anyone providing care or support to someone under a “physician-imposed quarantine” may vote absentee.

Parties stipulated to the following: “(1) . . . that all objections as to admissibility are waived to all exhibits filed by the opposing party and that all filed exhibits may be considered by the court as evidence, but the parties reserve their right to argue that little or no weight should be given to any and all of the opposing parties’ filed exhibits.” The defendants did not stipulate as to the admissibility of website links in the *First Amended Complaint* and the plaintiffs’ *Trial Brief* not otherwise covered by paragraph 1). The parties also agree that the term “dependent” as used in the statute means “someone who relies upon another for support”.¹

In determining an electors’ eligibility under Category One, the Election Code does not define the term “temporary or permanent physical disability.” An undefined term in a statute “must be given its common and ordinary meaning” *Buffington v. Mississippi State Tax Comm’n*,

¹MR MATHENY: Mr. McDuff is correct. We agree with them that dependent in the statute means someone who relies upon another for support. So if you - - if the statute phrase (physician)-imposed quarantine is interpreted our way, we are fine with that. We’ll accept, you know, the dependent definition either way. (Trans. Page 28, lines 18-24).

43 So. 3d 450, 455 (¶16) (Miss. 2010) and dictionary definitions are authoritative in analyzing undefined statutory terms. *Id.* The noun “disability” means a “physical . . . condition that impairs, interferes with, or limits a person’s ability to engage in certain tasks or actions or participate in typical daily activities and interactions” or an “impaired function or ability.” *Disability*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/disability> (last visited September 2, 2020). As it pertains to a definition of “disability”, the Americans with Disabilities Act, 42 U.S.C.A. § 12102, states:

(4) Rules of construction regarding the definition of disability

The definition of “disability” in paragraph (1) shall be construed in accordance with the following:

(A) The definition of disability in this chapter shall be construed in favor of *broad coverage of individuals* under this chapter, *to the maximum extent permitted* by the terms of this chapter.

(B) The term “substantially limits” shall be interpreted consistently with the findings and purposes of the ADA Amendments Act of 2008.

(C) *An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.*

(D) *An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.*

(E)(i) The determination of whether an impairment substantially limits a major life activity *shall be made without regard to the ameliorative effects of mitigating measures* such as--

(I) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;

(II) use of assistive technology;

(III) *reasonable* accommodations or auxiliary aids or *services*; or

(IV) *learned behavioral* or adaptive neurological *modifications*

(emphasis added).

Category One also requires that because of such disability, the elector is unable to vote in person without substantial hardship to himself, herself or others, or whose attendance at the voting place could reasonably cause danger to himself, herself or others.

In determining whether an elector qualifies under Category Two, a physician-imposed quarantine of the elector or someone who relies on the elector is required. A “physician-imposed quarantine” requires a personal physician or a Mississippi Department of Health’s (“MDH’s”) physician to impose quarantine individually on the elector or someone who relies on the elector.

An elector may rely on his personal physician or the directives of the MDH and its physicians.

Thus far, Dr. Thomas Dobbs, the top physician at the MDH, has ordered those with COVID-19 and those that have been exposed to COVID-19 to quarantine.

Pursuant to Mississippi Code Ann. §§ 41-3-51, 41-3-15 *et. seq.*, 41-23-1 *et. seq.*, and the State of Emergency Declaration by the Governor of the State of Mississippi related to the coronavirus COVID- 19 issued on March 14, 2020, I, Thomas Dobbs, MD, MPH, State Health Officer, Executive Director of the Mississippi State Department of Health, hereby issue this statewide Order for the Isolation of Individuals Diagnosed with COVID-19. All persons residing in Mississippi must immediately home-isolate on first knowledge of infection with COVID-19. Persons infected with COVID-19, and not hospitalized, must remain in the home or other appropriate residential location for 14 days from onset of illness (or from the date of a positive test for those who are asymptomatic). If your employer approves and says you are critical, you may return to work 10 days from the day your symptoms started (or from the day you were tested if you had no symptoms) and you have been fever free for at least 24 hours, and you have no other symptoms. The failure or refusal to obey the lawful order of a health officer is, at a minimum, a misdemeanor punishable by a fine of \$500.00 (41-3-59) or imprisonment for six months or both. If a life threatening (sic) disease is involved, failure or refusal to obey the lawful order of a health officer is a felony, punishable by a fine of up to \$5,000.00 or imprisonment for up to five years or both (41- 23-2). Persons infected with COVID-19 should limit exposure to household contacts. No visitors should be allowed in the home. Please stay in a specific room away from others in your home. Use a separate bathroom if available. If you need to be around others in your home, you should wear a facemask. Please see <https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance->

preventsread.html for guidance on preventing transmission in the home. Effective this 4th day of August 2020. Thomas Dobbs, MD, MPH State Health Officer. https://msdh.ms.gov/msdhsite/_static/resources/10134.pdf

MDH has also issued guidance for those with a chronic illness or who are in poor health. The MDH states that people “with a chronic illness such as heart disease, diabetes, or lung disease” and people who otherwise are “in poor health” should “stay home as much as possible.” (Miss. State Dep’t of Health, COVID-19 Guidance and Prevention for Individuals and the Community).

PLAINTIFF HARRIETT OPPENHEIM QUALIFIES TO VOTE BY ABSENTEE BALLOT UNDER CATEGORY ONE OF PARAGRAPH (d)

Plaintiff Harriett Oppenheim is a 37-year-old woman and a resident of Hinds County, Mississippi, where she is a registered voter. She intends to vote in the November 2020 general election. She has lupus (an autoimmune disease), chronic kidney disease and she is a kidney transplant recipient. She states that these conditions leave her immune-compromised. It is clear Ms. Oppenheim has “temporary or permanent physical disabilities”.

Having established she has a physical disability, the court also finds that due to such disability, Ms. Oppenheim is unable to vote in person without substantial hardship to herself, or whose attendance at the voting station could reasonably cause danger to herself. She is concerned that her pre-existing health conditions, including her physical disabilities, may put her at a higher risk of severe illness or death if she contracts COVID-19. Having established Ms. Oppenheim has a disability, the court looks to whether requiring her to vote in person would reasonably cause danger to herself or others. Ms. Oppenheim is following public health guidance to avoid unnecessary public gatherings. The directives of the Mississippi Department of Health (“MDH”) are that people “with a chronic illness such as heart disease, diabetes, or lung disease” and people who otherwise are “in poor health” should “stay home as much as possible.” In

addition, MDH recommends that all people, including those in good health, must “[a]void large social gatherings and community events” and “[f]ollow restrictions on indoor and outdoor gathering sizes.” These restrictions prevent attendance at indoor gatherings where more than ten people are present. Both MDH and the U.S. Centers for Disease Control (“CDC”) recognize that “[e]lections with only in-person voting on a single day are at a higher risk for COVID-19 spread because there will be larger crowds and longer wait times” and have recommended “alternatives to in-person voting if allowed in the jurisdiction.” Due to Ms. Oppenheim having lupus, having had a kidney transplant, and having kidney disease, the court finds that she meets the criteria for Category One. Ms. Oppenheim has a “permanent physical disability and who, because of such disability, is unable to vote in person . . . [and] whose attendance at the voting place could reasonably cause danger to . . . herself” This court finds Ms. Oppenheim qualifies to vote by absentee ballot under Category One of paragraph (d).

PLAINTIFF DAVE MILLER QUALIFIES TO VOTE BY ABSENTEE BALLOT UNDER CATEGORY ONE OF PARAGRAPH (d)

Plaintiff Dave Miller is a 34-year-old man and a resident of Rankin County, Mississippi where he is a registered voter and has lived for over two (2) years. He intends to vote in the November 2020 general election. Mr. Miller previously had stage three (3) malignant melanoma and underwent surgery to remove the tumor and eighty (80) nodes. He more recently was found to have spots on his lungs, but they were biopsied and were found not to be cancerous. The spots on his lungs are undiagnosed.

Because of the COVID-19 outbreak, Mr. Miller does not think it is safe for him to vote in person for the November 2020 general election. He wishes to vote absentee but understands that he only meets the statutory excuse for disability in the context of the COVID-19 pandemic and

does not meet any of the other statutory excuses. He has a “permanent physical disability and who, because of such disability, is unable to vote in person . . . [and] whose attendance at the voting place could reasonably cause danger to . . . himself . . .” He is concerned that his previous bout of cancer, radiation treatments, and spots of unknown origin on his lungs may place him at a higher risk of severe illness or death if he contracts COVID-19. Mr. Miller’s ailments are physical conditions that impair or interfere with or limit his ability to engage in certain activities and interactions. Furthermore the definition of disability under the ADA includes impairments that are in remission if such impairment would limit major life activities. Mr. Miller is following public health guidance to avoid unnecessary public gatherings. He currently is working in his office two days a week but his office has strict guidelines in place so that only three people may be in the office at a time. Mr. Miller practices social distancing in his office and elsewhere. It is clear from MDA’s guidance that attendance at the voting place could reasonably cause danger to Mr. Miller. The court finds that he meets the criteria for Category One and should be allowed to cast an absentee ballot.

PLAINTIFF JOY PARIKH QUALIFIES TO VOTE BY ABSENTEE BALLOT UNDER CATEGORY ONE OF PARAGRAPH (d)

Plaintiff Joy Parikh is a 44-year-old woman and resident of Hinds County, where she is a registered voter. She intends to vote in the November 2020 general election.

Because of the COVID-19 outbreak, Ms. Parikh does not think it is safe for her to vote in person for the November general election. Ms. Parikh has severe asthma. She is unable to vote in person without substantial hardship to herself and [her] attendance at the voting station could reasonably cause danger to herself. She is concerned that her preexisting health conditions, including her physical disabilities, may put her at a higher risk of severe illness or death if she contracts COVID-19. Ms. Parikh is following public health guidance to avoid unnecessary public

gatherings. It is clear Ms. Parikh has severe asthma, which is a “temporary or permanent physical disability”. This court finds consistent with MDA’s guidance Ms. Parikh’s attendance at a voting place could reasonably cause danger herself. The court finds Ms. Parikh qualifies under Category One and should be allowed to cast an absentee ballot in the November 2020 election.

PLAINTIFF MARY HARWELL QUALIFIES TO VOTE BY ABSENTEE BALLOT UNDER CATEGORY ONE AND TWO OF PARAGRAPH (d)

Plaintiff Mary Harwell is a 45-year-old woman and resident of Hinds County, where she is a registered voter. She intends to vote in the November 2020 general election. Because of COVID-19, Ms. Harwell does not think it is safe for her to vote in person for the November general election. She wishes to vote absentee but understands that she only meets the statutory excuse for a disability in the context of the COVID-19 pandemic and does not meet any of the other statutory excuses. Ms. Harwell has Type 1 Diabetes. One of her children is autistic and has cerebral palsy and multiple autoimmune disorders. She, her husband, and her two children share a house with her mother, who is 77 years old. She is concerned that her diabetes, her son’s medical vulnerabilities, and her mother’s age place them all at a higher risk of severe illness or death if any of them contracts COVID-19. She is concerned that if she contracts COVID-19, she will transmit it other members of her family. As her son’s primary caregiver, she is further concerned about the toll it will take on him if she contracts COVID-19 and cannot take care of him for a significant period of time. Ms. Harwell is following public health guidance to avoid unnecessary public gatherings.

Ms. Harwell qualifies for Category One. She “has a temporary or permanent physical disability and who, because of such disability, is unable to vote in person without substantial hardship to himself, herself or others, or whose attendance at the voting place could reasonably

cause danger to . . . herself or others. The court finds she is Category One and qualified to vote absentee in the November 2020 election.

As stated above, the court has been presented with evidence as to why these first four would be eligible to vote because they presented to the court with their respective ailments and disabilities, including lupus, chronic kidney disease, tumors and asthma which are physical conditions - "disability" means a "physical . . . condition that impairs, interferes with, or limits a person's ability to engage in certain tasks or actions or participate in typical daily activities and interactions" or an "impaired function or ability." *Id*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/disability> - included in the broad definition of disability agreed to by both parties and this court. It is reasonable for the plaintiffs to rely on the Mississippi Department of Health's and the CDC's guidance that those with chronic illnesses or those in poor health are at risk of severe illness or death if they contract COVID-19. Therefore attendance for these plaintiffs at the voting stations would reasonably cause danger to themselves.

PLAINTIFF MARTIN CLAPTON DOES NOT QUALIFY TO VOTE BY ABSENTEE BALLOT UNDER PARAGRAPH (d)

Plaintiff Martin Clapton is a 46-year-old man and resident of Hinds County where he is a registered voter. He intends to vote in the November 2020 general election. Because of the COVID-19 outbreak, Mr. Clapton does not think it is safe for him or his wife if he votes in person for the November general election. He wishes to vote absentee but understands that he only meets the statutory excuse for a disability in the context of the COVID-19 pandemic and does not meet any of the other statutory excuses.

Mr. Clapton is a healthy adult and has been caring for his wife during the COVID-19 pandemic. Mr. Clapton's wife has partial kidney failure and must take medication that leaves her

immuno-compromised. She has also undergone two hip replacements due to the medication prescribed to her. Mr. Clapton is concerned that his wife's preexisting health conditions may put her at a higher risk of severe illness or death if she contracts COVID-19. Mr. Clapton is concerned that, should he vote in person in November, he may contract COVID-19 and, in turn, pass it to his wife. If he were to vote in person on Election Day, therefore possibly exposing himself to COVID-19, Mr. Clapton would be unable to undergo the CDC-recommended 14-day self-quarantine, because he must see to his wife's needs constantly. Mr. Clapton and his wife are isolating for the most part and following public health guidance to avoid unnecessary public gatherings.

Mr. Clapton does not meet the criteria for Category One. He has not presented any evidence of a personal disability and only requests the court to provide relief based on his wife's disability. While the court sympathizes with Mr. Clapton's dilemma, under the statute he does not meet the criteria for Category Two unless he or his dependent is under a physician-imposed quarantine due to COVID-19. There is no evidence that Mr. Clapton's wife has consulted with a physician or has been instructed by a physician to limit her public attendance. While the MDH has quarantined certain individuals that order is limited to those who have contracted COVID-19 or have been exposed to COVID-19. Mr. Clapton's inability to vote under paragraph (d) can easily be cured by his wife's physician recommending that his wife quarantine due to the high risk of severe illness or death if she contracts COVID 19.²

If after consulting a physician it is recommended that his wife quarantine, Mr. Clapton can in good faith vote absentee under paragraph (d) as he is a "qualified elector who is . . . caring

² While not an issue presented for this court, his wife would qualify for an absentee ballot under Category One.

for a dependent who is under a physician-imposed quarantine due to COVID-19.” This court finds his situation at this time does not meet the criteria to cast an absentee ballot under paragraph (d) in the November 2020 election.

PLAINTIFF MICHELLE COLON DOES NOT QUALIFY TO VOTE BY ABSENTEE BALLOT UNDER PARAGRAPH (d)

Plaintiff Michelle Colon is a 47-year-old woman and resident of Hinds County, where she is a registered voter. She intends to vote in the November 2020 general election. Because of the COVID-19 outbreak, Ms. Colon does not think it is safe for her to vote in person for the November general election. She wishes to vote absentee. Ms. Colon has no underlying conditions but she is concerned about the risk of contracting COVID-19 if she goes to a polling place on Election Day and the risk of unknowingly transmitting it to others if she already unknowingly contracted it. Ms. Colon is following public health guidance to avoid unnecessary public gatherings. Ms. Colon does not meet the criteria for Category One as she has neither a “permanent physical disability and who, because of such disability, is unable to vote in person . . . [and] whose attendance at the voting place could reasonably cause danger to . . . herself or others” nor is she Category Two because she is not a “qualified elector who is under a physician-imposed quarantine due to COVID-19 during the year 2020 or is caring for a dependent who is under a physician-imposed quarantine due to COVID-19. . . .” Based on the evidence presented Ms. Colon does not qualify to vote absentee under paragraph (d).

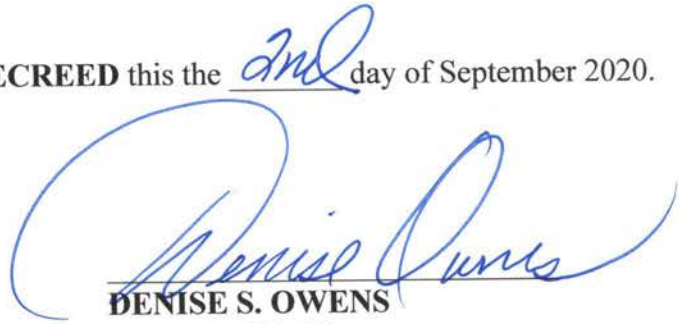
It is not up to the Clerk to decide whether any individual’s physical condition or ailments rise to the level of a disability nor is it the Clerk’s responsibility to determine whether a person is at severe risk of illness or death if they were to contract COVID-19. Any such determination shall be made by the elector in good faith.

The plaintiffs ask this court to issue a declaratory judgment that (1) an underlying physical condition that places a voter at a higher risk of severe illness from COVID-19 is a “physical disability” that “could reasonably cause danger to [the voter] or others” and, therefore, a voter with such a condition be permitted to vote absentee, (2) guidance from the MDH, the CDC, or other physicians who are public health experts to avoid public gatherings qualifies as a “physician-imposed quarantine” and, if such guidance exists during the period for absentee voting, a voter following that guidance may choose to rely on it and vote absentee, and (3) anyone who is being cared for constitutes a “dependent,” and anyone providing care or support to someone under a “physician-imposed quarantine” may vote absentee.

For the reasons set forth here, the plaintiffs’ *Amended Complaint*, and the relief requested thereby, as it pertains to the issue of 1) whether Mississippi Code § 23-15-713(d) permits any voter with pre-existing conditions that cause COVID-19 to present a greater risk of severe illness or death to vote by absentee ballot during the COVID-19 pandemic – is well-taken and the relief sought is hereby GRANTED to the extent that such pre-existing “physical . . . condition impairs, interferes with, or limits a person’s ability to engage in certain tasks or actions or participate in typical daily activities and interactions” or an “impaired function or ability” that interferes thereof; the issue of 2) whether Mississippi Code § 23-15-713(d) permits any voter to vote absentee if he or she wishes to avoid voting in-person at a polling place due to guidance from the MDH, the CDC, or public health authorities to avoid unnecessary public gatherings during the COVID-19 pandemic – is not well-taken and the relief sought on that issue is hereby DENIED – however, a voter will be allowed to vote absentee if he or she or any dependent has consulted with a physician who recommends, because of that individual’s physical disability or that of their dependent, not attending any public gathering because of the possibility of contracting COVID-

19 – is well-taken and the relief sought is hereby GRANTED; the issue of 3) the issuance of a preliminary and permanent injunction that would order the defendant Secretary of State to instruct county elections officials about the application of Mississippi Code § 23-15-713(d) as declared by this court and ordering the defendants to take steps to educate the public about their right to vote by absentee ballot under Mississippi Code § 23-15-713(d) as declared by this court during the COVID-19 pandemic – is not well-taken and the relief sought on that issue is hereby DENIED; and the issue of 4) whether to award the plaintiffs' attorneys' fees in this action – is not well-taken and the relief sought on that issue is hereby DENIED; and the issue of 5) whether or not to award the plaintiffs their costs of suit – is not well-taken and the relief sought on that issue is hereby DENIED.

SO ORDERED, JUDGED, and DECREED this the 2nd day of September 2020.


DENISE S. OWENS
CHANCELLOR